

ORDINANCE NO. 19-19

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS TO CREATE REGULATIONS FOR THE USE OF FERTILIZERS WITHIN THE VILLAGE; AMENDING ARTICLE V "SCHEDULE OF DISTRICT USE AND DEVELOPMENT STANDARDS", DIVISION 6 "LANDSCAPE STANDARDS", SECTION 30-812 TO SPECIFICALLY AMEND AND CREATE NEW DEFINITIONS; ESTABLISHING SECTION 30-828 TO PROVIDE FERTILIZATION STANDARDS; PROVIDING FOR PENALTIES; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY

WHEREAS, Islamorada, Village of Islands (the "Village") has adopted a comprehensive set of Land Development Regulations (the "LDRs") to implement the Village Comprehensive Plan; and

WHEREAS, the Village desires to amend Chapter 30 "Land Development Regulations" Article V "Schedule of District Use and Development Standards", and

WHEREAS, the provisions of this Ordinance are consistent with the Village Comprehensive Plan and the Principles for Guiding Development within the Florida Keys Area of Critical State Concern; and

WHEREAS, the Village Council of Islamorada, Village of Islands (the "Village Council") finds that the provisions of this Ordinance are intended to advance the public health,

safety, and welfare of the citizens of the Village.

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF
ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:**

Section 1. **Recitals.** The above recitals are true, correct and incorporated herein by this reference.

Section 2. **Amending Section 30-812 related to Landscaping Standards.** Chapter 30 "Land Development Regulations", Article V "Schedule of District Use and Development Standards", Division 6 "Landscaping Standards," Section 30-812 "Definitions" of the Code is hereby amended to read as follows:

Additional text is shown as underlined;

deleted text is shown as strikethrough

Sec. 30-812. - Definitions

The following words, terms and phrases, when used in this division, shall have the following meanings:

Applicator means any Person who applies fertilizer on turf and/or landscape plants.

Best Management Practices means turf and landscape practices, or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

Canopy tree means a tall tree that usually has one vertical stem or main trunk that naturally develops a more or less distinct and elevated crown and provides at maturity a minimum shade crown of 30 feet in diameter.

Clear trunk means the point above the root ball along the vertical trunk or trunks of a tree at which lateral branching or fronds begin.

Clearing means the clearing of land, including the removal of more than 500 square feet of vegetation, and includes the trimming of mangroves to the extent allowed by law. Clearing is a development activity as defined by this chapter.

Clearing and grubbing means the clearing of land, including clearing or removal of vegetation, and including any significant disturbances of vegetation or substrate (soil) manipulation. Clearing and grubbing are development activities as defined by this chapter.

Code Enforcement Officer means any authorized agent or employee of the Village whose duty it is to ensure compliance with the Code.

Guaranteed Analysis means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.

Diameter at breast height (dbh) means, for the purposes of this chapter, a tree diameter as measured from the base of the tree, taken at approximately four feet above the surrounding grade.

Fertilize, Fertilizing, or Fertilization means the act of applying fertilizer to turf, specialized turf, or landscape plants.

Fertilizer means any substance or mixture of substances that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

Ground cover means plant material that normally reaches a maximum height of not more than 18 inches.

Hedge means an evenly spaced planting of shrubs to form a compact, dense, visually opaque living barrier or screen.

Historic tree means a tree that has been determined by the village council to be of notable historic interest because of its age, type, size or historic association and has been so designated as part of the official records of the village.

Institutional Applicator means any person, other than a private, non-commercial or a Commercial Applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional Applicators shall include, but shall not be limited to, owners, managers, or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.

Invasive exotic species means plant species that reduce the integrity of native plant community composition and function as identified and categorized on annual basis by the Florida Keys invasive exotics task force (FKIETF). The species include but are not limited to: Australian Pine (*spp. Casuarina*), Brazilian Pepper (*Schinus terebinthifolius*), Latherleaf (*Colubrina asiatica*), Lead Tree (*Leucaena leucocephala*), Oyster Plant (*Rhoeo spathacea*, *R. discolor*, *Tradescantia spathacea*) and Melaleuca (*Melaleuca quinquenervia*). Sapodilla (*Manilkara zapota*) shall be excluded from this definition. The list and category of these species shall be included in the Landscape Manual as discussed in this division.

Landscaping material means the following or a combination thereof, such as, but not limited to: grass, ground covers (not including pavers), shrubs, vines, hedges, trees or palms, and other materials such as rocks, pebbles, sand and topsoil expressly used for aesthetic purposes.

Low Maintenance Zone means an area a minimum of ten (10) feet wide adjacent to surface waters which is planted and managed in order to minimize the need for fertilization, watering, mowing, etc.

Major street means U.S. 1, S.R. 905 and Old Highway for the purposes of this division.

Mulch means an organic material such as wood chips, pine straw or bark placed on the soil to reduce evaporation, prevent erosion, control weeds, enrich the soil and lower soil temperature.

Natural area means an area identified on an approved site plan containing natural vegetation, which will remain undisturbed when the property is fully developed.

Nuisance tree means any tree that is causing damage to structures or that poses a threat to health and safety of a property owner.

Prohibited Application Period means the time period during which a Flood Watch or Warning, or a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning is in effect for any portion of the county, issued by the National Weather Service, or if heavy rain is likely.

Prohibited landscape activity.

(1) Prohibited landscape activity means:

- a. Improper pruning that reduces the height or spread of a tree that has not attained a height or spread of 30 feet, by altering the dominant stem within the tree crown to such a degree as to remove the natural canopy of the tree; or
- b. Improper pruning that leaves stubs, or splitting of limb ends; or
- c. Peeling, stripping or channeling of bark; or the removal of bark to the extent that, if a line is drawn at any height around the circumference of the tree, over one-third of the length of the line falls on portions of the tree where bark no longer remains; or
- d. Using climbing spikes, nails or hooks, except for purposes of total tree removal or as specifically permitted by American National Standards Institute (ANSI A-300) as the same may be amended from time to time; or
- e. Destroying the natural habit of growth which causes irreparable damage and permanent disfigurement to a tree such that, even with regrowth, the tree will never regain the original characteristics of its tree species, or is a danger to the public or property; or
- f. Improper pruning that results in flat-cutting the top or sides of a tree, to sever the leader or leaders or to prune a tree by stubbing off mature wood, except where removal of a branch is necessary to protect public safety.

(2) Exceptions:

- a. The removal of diseased or dead portions of a tree (such as palm fronds) or the removal of interfering, obstructing or weak branches shall not constitute a prohibited landscape activity under this section.
- b. Trimming necessary to prevent interference with or obstruction of streetlights, stop signs or traffic signals, if accomplished by the standards of the American National Standards Institute (ANSI A-300).
- c. Pruning or removal that has received a development permit.
- d. Removal of invasive exotic species pursuant to the requirements of section 30-822.

Prune means the removal of dead, dying, diseased, weak or objectionable branches in a manner consistent with the American National Standards Institute (ANSI A-300) standards as incorporated herein, and as may be amended from time to time.

Regionally important plant species means those native plant species identified as endemic, uncommon, or rare either in the village's regionally important plant species list maintained by the department of planning and development services or as identified by the Center for Plant Conservation, the Florida Natural Areas Inventory, or the Florida Committee on Rare and Endangered Plants and Animals.

Root ball means the root system of a tree or plant bound with burlap into an earthen ball usually for transport purposes.

Restricted Application Period means June 1 to September 30 annually.

Saturated Soil means a soil in which the voids are filled with water. Saturation does not require flow.

Shade tree, for the purposes of this division, means a native canopy tree, usually with one vertical stem or main trunk which naturally develops a more or less distinct and elevated crown and provides at maturity a minimum shade crown of 30 feet in diameter. A list of shade trees shall be compiled by the planning and development services department.

Shrub means a bushy, woody plant, usually with several permanent stems, and usually not over ten feet in height at its maturity.

Slow Release, Controlled Release, Timed Release, Slowly Available, or Water Insoluble Nitrogen means nitrogen in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant longer than a reference rapid or quick release product.

Specimen tree means any tree with a diameter at breast height that is 75 percent of the record tree of the same species for the state.

Surface Waters as defined by the Florida Department of Environmental Protection (Fla. Admin. Code 62-340) means waters on the surface of the earth, contained in bunds created naturally or artificially, including the Atlantic Ocean, bays, bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, streams, springs, creeks, branches, sloughs, tributaries, canals, and ditches.

Threatened and endangered plant species means plant species listed as such under the provisions of the Endangered Species Act, 16 USC 1531 et seq., F.S. § 581.185, or the Florida Endangered and Threatened Species Act, F.S. § 372.072.

Topsoil means a medium composed of naturally occurring mineral particles and organic matter that provides physical, chemical and biological properties necessary for plant growth.

Tree means any living, self-supporting woody perennial plant which at maturity attains a trunk diameter of at least three inches or more when measured at a point 4½ feet above ground level and which normally attains an overall height of at least 15 feet, usually with one main stem or trunk and many branches.

Understory tree means a tree or palm that normally attains an overall height between ten to 25 feet at maturity, which provides the mid-level landscaping within the specified height range.

Section 3. Establishing Section 30-828 "Fertilization Standards". Chapter 30

"Land Development Regulations" Article V "Schedule of District Use and Development Standards", Division 6 "Landscaping Standards" Section 30-828 "Definitions" of the Code is hereby amended to establish Section 30-828 "Fertilization Standards" as follows:

Sec. 30-828. – Fertilization Standards.

The purpose of this section is to provide regulations for the proper use of fertilizers by any applicator; require proper training of Commercial and Institutional Fertilizer Applicators; establish training and licensing requirements; establish a Prohibited Application Period; and specify allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, and exemptions.

The standards set forth in this section require the use of Best Management Practices, which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers. These secondary and cumulative effects can impact natural and constructed stormwater conveyances, creeks, canals, estuaries and other water bodies. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well-being of village residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and constructed stormwater conveyances. Regulation of nutrients, including both phosphorous and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

(a) Applicability. These standards shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer, unless such applicator is specifically exempted by the provisions of this section.

(b) No applicator shall apply fertilizers containing nitrogen and/or phosphorous to turf and/or landscape plants during the Prohibited Application Period, or to saturated soils. In addition, fertilizer containing nitrogen or phosphorous shall not be applied to turf or landscape plants during the Restricted Application Period, which is defined as June 1 to September 30 annually.

(c) Fertilizer shall only be applied to actively growing turf and/or landscape plants.

(d) Fertilizer containing nitrogen or phosphorous shall not be applied before seeding or sodding a site, and shall not be applied for the first 30 days after seeding or sodding, except

when hydro-seeding for temporary or permanent erosion control in an emergency situation, or in accordance with the Stormwater Pollution Prevention Plan for that site.

(e) Fertilizer shall not be applied within fifteen (15) feet of any pond, creek, lake, canal, shoreline, or wetland as defined by the Florida Department of Environmental Protection (Fla. Admin. Code 62-340) or from the top of a seawall. Newly planted turf and/or landscape plants may be fertilized in this Zone only for a sixty (60) day period beginning 30 days after planting if needed to allow the plants to become well established. It shall be a violation of this section to allow direct deposition of nutrients into the water.

(f) A voluntary ten (10) foot low maintenance zone is strongly recommended, but not mandated, from any pond, creek, lake, canal, shoreline, wetland, or from the top of a seawall. A swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. No mowed or cut vegetative material may be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent the over-spray of aquatic weed products in this zone.

(g) Fertilizers applied to turf and/or landscape plants shall be applied in accordance with directions provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements for Urban Turf Fertilizers.

(h) Nitrogen or phosphorous fertilizer shall not be applied to turf or landscape plants except as provided in (g) above for turf, or in UF/IFAS recommendations for landscape plants, vegetable gardens, and fruit trees and shrubs, unless a soil or tissue deficiency has been verified by an approved test.

(i) Fertilizer shall be applied to turf and/or landscape at the lowest rate necessary. Nitrogen shall not be applied at an application rate greater than 0.7 lbs of readily available nitrogen per one thousand (1,000) square feet at any one time based on the soluble fraction of formulated fertilizer, with no more than one (1) pound total nitrogen per one thousand (1,000) square feet applied at any one time, and not to exceed the nitrogen recommendations set forth below on an annual basis:

<u>Grass species</u>	<u>Maximum N application rate (lbs/1,000 sq ft/Year)</u>
Bahiagrass	4
Bermudagrass	7
Centipedegrass	3
St. Augustinegrass	6
Zoysia	4.5

(j) No phosphorous fertilizer shall be applied to existing turf and/or landscape plants at application rates which exceed 0.25 pounds phosphorous per one thousand (1,000) square feet per application nor exceed 0.50 pounds phosphorous per one thousand (1,000) square feet per year.

(k) The nitrogen content of fertilizer applied to turf or landscape plans within the Village shall contain at least 50% slow release, controlled release, timed release, slowly available, or water insoluble nitrogen per guaranteed analysis label.

(l) Fertilizers labeled for sports turf at golf courses, parks, and athletic fields within the Village shall have the following:

1. Directions for use not to exceed rates recommended in the document titled SL191 “Recommendations for N, P, K and Mg for Golf Course and Athletic Field Fertilization Based on Mehlich I Extractant”, dated March 2007.
2. Directions for use in accordance with the recommendations in “BMP’s for the Enhancement of Environmental Quality on Florida Golf Courses”, published by the Florida Department of Environmental Protection, dated October 2012. This does not exempt applicators at these sites from the required basic Green Industry BMP training.

(m) Spreader deflector shields are required when fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones and water bodies, including wetlands.

(n) Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces. Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site or returned to the original or other appropriate container. In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances or water bodies.

(o) In no case shall grass clippings, vegetative material, and/or vegetative debris be washed, swept, or blown off into stormwater drains, ditches, conveyances, water bodies, wetlands, or sidewalks or roadways. Any material that is accidentally so deposited shall be immediately removed to the maximum extent practicable.

(p) All commercial and institutional applicators of fertilizer shall abide by and successfully complete the six-hour training program in the “Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries” offered by the Florida Department of Environmental Protection through the university of Florida Extension “Florida-Friendly Landscapes” program, or an approved equivalent.

(q) Private, non-commercial applicators are required to follow the recommendations of the University Florida IFAS *Florida Yards and Neighborhoods* program when applying fertilizers.

(r) All commercial applicators of fertilizer shall abide by and successfully complete training and continuing education requirements in the “Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries,” offered by the Florida Department of Environmental Protection through the University of Florida IFAS

“Florida-Friendly Landscapes” program, or an approved equivalent program, prior to obtaining a Business Tax Certificate or equivalent for any category of occupation which may apply any fertilizer to turf and/or landscape plants. Commercial Fertilizer Applicators shall provide proof of completion of the program.

(s) All commercial applicators of fertilizer shall have and carry in their possession at all times when applying fertilizer, evidence of certification by the Florida Department of Agriculture and Consumer Services as a Commercial Fertilizer Applicator per 5E-14.117(18) F.A.C.

(t) All businesses applying fertilizer to turf and/or landscape plants (including but not limited to residential lawns, golf courses, commercial properties, and multi-family and condominium properties) must ensure that at least one employee has a “Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries” training certificate prior to the business owner obtaining a Local Business Tax Certificate or equivalent. Owners for any category of occupation which may apply any fertilizer to Turf and/or Landscape Plants shall provide proof of completion.

(u) Violation of any provision of this article shall be subject to the following penalties:

- (1) First violation. Written notification and education on regulations.
- (2) Second violation. Fifty dollars (\$50.00).
- (3) Third violation. One hundred dollars (\$100.00).
- (4) Fourth and subsequent violation(s). Five hundred dollars (\$500.00) increasing 10-fold with each subsequent violation.
- (5) Each violation of this section within a three hundred sixty-five (365) days period, beginning the date of the first violation, shall constitute a separate offense. The village may take any other appropriate legal action, including but not limited to emergency injunctive action, to enforce the provisions of this article.

(v) The provisions set forth in this section shall not apply to the following:

(1) Bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14 Florida Statutes provided that fertilizers are applied in accordance with the appropriate Best Management Practices Manual adopted by the state Department of Agriculture and Consumer Services, office of agricultural water policy for the crop in question;

(2) Other properties not subject to or covered under the Florida Right to Farm Act that have pastures for grazing livestock provided that fertilizers are applied in accordance with the appropriate Best Management Practices Manual adopted by the state Department of Agriculture and Consumer Services, office of agricultural water policy for the crop in question;

(3) Any lands used for bona fide scientific research including, but not limited to, research on the effect of fertilizer use on urban stormwater, water quality, agronomics, or horticulture.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Repeal of Conflicting Provisions. The provisions of the Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 5. Inclusion in the Code. It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become a part of the Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Transmittal to the Florida Department of Economic Opportunity. The provisions of this Ordinance constitute a "land development regulation" as State law defines that term. Accordingly, the Village Clerk is authorized to forward a copy of this Ordinance to the Florida Department of Economic Opportunity ("DEO") for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

Section 7. Effective Date. This Ordinance shall not be effective until approved pursuant to a final order by DEO, pursuant to Chapter 380.05, Florida Statutes; or if the final order is challenged, until the challenge to the order is resolved pursuant to Chapter 120, Florida Statutes.

The foregoing Ordinance was offered by Councilman Ken Davis, who moved for its adoption on first reading. This motion was seconded by Mayor Deb Gillis, and upon being put to a vote, the vote was as follows:

Mayor Deb Gillis	YES
Vice Mayor Mike Forster	YES
Councilman Ken Davis	YES
Councilwoman Cheryl Meads	YES
Councilman Jim Mooney	YES

PASSED on the first reading this 29th day of August, 2019.

The foregoing Ordinance was offered by Vice Mayor Mike Forster, who moved for its adoption on second reading. This motion was seconded by Councilwoman Cheryl Meads, and upon being put to a vote, the vote was as follows:

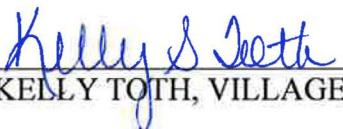
Mayor Deb Gillis	YES
Vice Mayor Mike Forster	YES
Councilman Ken Davis	ABSENT
Councilwoman Cheryl Meads	YES
Councilman Jim Mooney	YES

PASSED AND ADOPTED on the second reading this 19th day of September, 2019.



DEB GILLIS, MAYOR

ATTEST:



KELLY TOTH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY



ROGET V. BRYAN, VILLAGE ATTORNEY

**STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY**

**In re: AMENDMENT TO THE ISLAMORADA, VILLAGE
OF ISLANDS, FLORIDA, LAND DEVELOPMENT
REGULATIONS ADOPTED BY ORDINANCE NO. 19-19**

**FINAL ORDER
APPROVING ISLAMORADA, VILLAGE OF ISLANDS
ORDINANCE NO. 19-19**

The Florida Department of Economic Opportunity (“Department”) hereby issues its Final Order, pursuant to section 380.05(6), Florida Statutes, approving land development regulations adopted by Islamorada, Village of Islands, Florida (“Village”) by Ordinance No. 19-19 (“Ordinance”).

FINDINGS OF FACT

1. The Florida Keys Area is designated by section 380.0552, Florida Statutes, as an area of critical state concern. The Village is a local government within the Florida Keys Area.
2. The Ordinance was adopted by the Village on September 19, 2019, and rendered to the Department on October 24, 2019.

3. The Ordinance amends Chapter 30, Article V of the Village Code to create Section 30-818 for the purpose of establishing standards for the proper use of fertilizer and to amend Section 30-812 to provide relevant definitions. The new fertilization standards include a requirement for the training of commercial and institutional fertilizer applicators and licensing procedures. The Ordinance also establishes allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, and exemptions.

CONCLUSIONS OF LAW

4. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern. § 380.05(6), Fla. Stat.

5. "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Fla. Stat. The regulations amended by the Ordinance are land development regulations.

6. The Ordinance is consistent with the Village's Comprehensive Plan generally, as required by section 163.3177(1), Florida Statutes, and specifically, Policy 1-1.2.1 and Policy 1-4.2.1.

7. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent and in compliance with the principles for guiding development for that area. *See* § 380.05(6), Fla. Stat. The Principles for Guiding Development for the Village are set forth in section 380.0552(7), Florida Statutes.

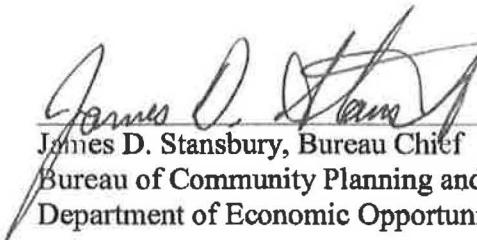
8. The Ordinance is consistent with the Principles for Guiding Development for the Village as a whole, and specifically furthers the following principles:

- (a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.
- (b) Protecting shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat
- (e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.
- (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

WHEREFORE, IT IS ORDERED that the Department finds that Ordinance No. 19-19 is consistent with the Village's Comprehensive Plan and Principles for Guiding Development for the Village and is hereby **APPROVED**.

This Final Order becomes effective 21 days after publication in the *Florida Administrative Register* unless a petition is timely filed as described in the Notice of Administrative Rights below.

DONE AND ORDERED in Tallahassee, Florida.



James D. Stansbury, Bureau Chief
Bureau of Community Planning and Growth
Department of Economic Opportunity

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, BY FILING A PETITION.

A PETITION MUST BE FILED WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY WITHIN 21 CALENDAR DAYS OF THE DATE OF FILING OF THE FINAL ORDER AS INDICATED ON THE CERTIFICATE OF SERVICE. A PETITION IS FILED WHEN IT IS RECEIVED BY:

AGENCY CLERK
DEPARTMENT OF ECONOMIC OPPORTUNITY
OFFICE OF THE GENERAL COUNSEL
107 EAST MADISON ST., MSC 110
TALLAHASSEE, FLORIDA 32399-4128
FAX 850-921-3230
AGENCY.CLERK@DEO.MYFLORIDA.COM

YOU WAIVE THE RIGHT TO ANY ADMINISTRATIVE PROCEEDING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 CALENDAR DAYS OF THE DATE OF THE FILING OF THE FINAL ORDER.

FOR THE REQUIRED CONTENTS OF A PETITION CHALLENGING AGENCY ACTION, REFER TO RULES 28-106.104(2), 28-106.201(2), AND 28-106.301, FLORIDA ADMINISTRATIVE CODE.

DEPENDING ON WHETHER OR NOT MATERIAL FACTS ARE DISPUTED IN THE PETITION, A HEARING WILL BE CONDUCTED PURSUANT TO EITHER SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, OR SECTIONS 120.569 AND 120.57(2), FLORIDA STATUTES.

PURSUANT TO SECTION 120.573, FLORIDA STATUTES, AND CHAPTER 28, PART IV, FLORIDA ADMINISTRATIVE CODE, YOU ARE NOTIFIED THAT MEDIATION IS NOT AVAILABLE.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the following persons by the methods indicated this 80th day of December 2019.


John R. Bell
Agency Clerk

By U.S. Mail:

Deb Gillis, Mayor
Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, FL 33036

**Kelly S. Toth, Village Clerk
Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, FL 33036**

Ty Harris, Director of Planning
Planning and Development Services
86800 Overseas Highway
Islamorada, FL 33036

Section XII

Miscellaneous

DEPARTMENT OF STATE

Index of Administrative Rules Filed with the Secretary of State Pursuant to subparagraph 120.55(1)(b)6. – 7., F.S., the below list of rules were filed in the Office of the Secretary of State between 3:00 p.m., Monday, December 16, 2019 and 3:00 p.m., Friday, December 20, 2019.

Rule No.	File Date	Effective Date
5B-40.0055	12/19/2019	1/8/2020
5B-40.008	12/19/2019	1/8/2020
12A-19.100	12/17/2019	1/6/2020
12B-8.001	12/17/2019	1/6/2020
12B-8.003	12/17/2019	1/6/2020
34-7.010	12/20/2019	1/9/2020
34-7.025	12/20/2019	1/9/2020
59A-13.010	12/18/2019	1/7/2020
60GG-4.001	12/20/2019	1/9/2020
60GG-4.002	12/20/2019	1/9/2020
60GG-4.003	12/20/2019	1/9/2020
60GG-4.004	12/20/2019	1/9/2020
60GG-4.005	12/20/2019	1/9/2020
61G1-17.001	12/17/2019	1/6/2020
61G1-17.002	12/17/2019	1/6/2020
64B8-52.003	12/16/2019	1/5/2020
64K-1.008	12/18/2019	1/7/2020
69G-20.0025	12/19/2019	1/8/2020
69V-560.702	12/17/2019	1/6/2020
69V-560.703	12/17/2019	1/6/2020
69V-560.704	12/17/2019	1/6/2020
LIST OF RULES AWAITING LEGISLATIVE APPROVAL SECTIONS 120.541(3), 373.139(7) AND/OR 373.1391(6), FLORIDA STATUTES		

Rule No.	File Date	Effective Date
60FF1-5.009	7/21/2016	**/**/****
60P-1.003	11/5/2019	**/**/****
60P-2.002	11/5/2019	**/**/****
60P-2.003	11/5/2019	**/**/****
64B8-10.003	12/9/2015	**/**/****

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Community Development

DEO Final Order No. DEO-19-049

In re: AMENDMENT TO THE ISLAMORADA, VILLAGE

OF ISLANDS, FLORIDA, LAND DEVELOPMENT REGULATIONS ADOPTED BY ORDINANCE NO. 19-19

19

FINAL ORDER

APPROVING ISLAMORADA, VILLAGE OF ISLANDS ORDINANCE NO. 19-19

The Florida Department of Economic Opportunity (“Department”) hereby issues its Final Order, pursuant to subsection 380.05(6), Florida Statutes, approving land development regulations adopted by Islamorada, Village of Islands, Florida (“Village”) by Ordinance No. 19-19 (“Ordinance”).

FINDINGS OF FACT

1. The Florida Keys Area is designated by section 380.0552, Florida Statutes, as an area of critical state concern. The Village is a local government within the Florida Keys Area.

2. The Ordinance was adopted by the Village on September 19, 2019, and rendered to the Department on October 24, 2019.

3. The Ordinance amends Chapter 30, Article V of the Village Code to create Section 30-818 for the purpose of establishing standards for the proper use of fertilizer and to amend Section 30-812 to provide relevant definitions. The new fertilization standards include a requirement for the training of commercial and institutional fertilizer applicators and licensing procedures. The Ordinance also establishes allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, and exemptions.

CONCLUSIONS OF LAW

4. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern. § 380.05(6), Fla. Stat.

5. "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Fla. Stat. The regulations amended by the Ordinance are land development regulations.

6. The Ordinance is consistent with the Village's Comprehensive Plan generally, as required by section 163.3177(1), Florida Statutes, and specifically, Policy 1-1.2.1 and Policy 1-4.2.1.

7. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent and in compliance with the principles for guiding development for that area. See § 380.05(6), Fla. Stat. The Principles for Guiding Development for the Village are set forth in subsection 380.0552(7), Florida Statutes.

8. The Ordinance is consistent with the Principles for Guiding Development for the Village as a whole, and specifically furthers the following principles:

(a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.

(b) Protecting shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat

(e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.

(n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

WHEREFORE, IT IS ORDERED that the Department finds that Ordinance No. 19-19 is consistent with the Village's Comprehensive Plan and Principles for Guiding Development for the Village and is hereby APPROVED.

This Final Order becomes effective 21 days after publication in the Florida Administrative Register unless a petition is timely filed as described in the Notice of Administrative Rights below. DONE AND ORDERED in Tallahassee, Florida.

/s/James D. Stansbury, James D. Stansbury, Bureau Chief, Bureau of Community Planning and Growth, Department of Economic Opportunity

Notice of administrative rights

Any person whose substantial interests are affected by this order has the opportunity for an administrative proceeding pursuant to section 120.569, Florida statutes, BY FILING A PETITION.

A petition must be filed with the agency clerk of the department of economic opportunity within 21 calendar days of the date of Filing of the final order as indicated on the certificate of service. A petition is filed when it is received by:

Agency Clerk, Department of Economic Opportunity, Office of the general Counsel, 107 East Madison St., MSC 110, Tallahassee, Florida 32399-4128, Fax (850)921-3230, agency.clerk@deo.myflorida.com.

You waive the right to any administrative proceeding if you do not file a petition with the agency clerk within 21 calendar days of the date of the filing of the final order.

For the required contents of a petition challenging agency action, refer to subsections 28-106.104(2), 28-106.201(2), and section 28-106.301, Florida Administrative Code.

Depending on whether or not material facts are disputed in the petition, a hearing will be conducted pursuant to either section 120.569 and subsection 120.57(1), Florida statutes, or Section 120.569 and subsection 120.57(2), Florida statutes.

Pursuant to section 120.573, florida statutes, and chapter 28, part iv, florida administrative code, YOU ARE NOTIFIED THAT mediation is not available.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the following persons by the methods indicated this 20th day of December 2019.

/s/Janay Lovett, Agency Clerk, Department of Economic Opportunity, 107 East Madison Street, MSC 110, Tallahassee, FL 32399-4128

By U.S. Mail:

Deb Gillis, Mayor, Islamorada, Village of Islands, 86800 Overseas Highway, Islamorada, FL 33036

Kelly S. Toth, Village Clerk, Islamorada, Village of Islands, 86800 Overseas Highway, Islamorada, FL 33036

Ty Harris, Director of Planning, Planning and Development Services, 86800 Overseas Highway, Islamorada, FL 33036

BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT

NOTICE OF RULE DEVELOPMENT AND THE SETTING OF FEES BY BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT

In accordance with Chapter 2007-306, Laws of Florida, as amended, the Babcock Ranch Community Independent Special District ("District") hereby gives notice of its intention to develop rules setting fees and charges related to the District's water utilities. The purpose and effect of the proposed rules is to provide for efficient and effective District operations, and to provide sufficient revenues to meet expenses and provide services within the boundaries of the District.

A public hearing will be conducted by the District on January 23, 2020, at 1:00 p.m. at 14750 State Road 31, Punta Gorda, Florida 33982. Specific legal authority for the rule includes Chapter 2007-306, Laws of Florida, as amended, and 120.054,