

**VILLAGE OF ISLAMORADA
ORDINANCE 24-04**

**AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA,
AMENDING CHAPTER 30 "LAND DEVELOPMENT REGULATIONS", ARTICLE IV
"ADMINISTRATIVE PROCEDURES", DIVISION 10 "PLATTING", SECTION 30-
431 OF THE VILLAGE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR
INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, Islamorada, Village of Islands (the "Village") has established Land Development Regulations ("LDRs") to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, The Village has recently become aware of some lot-line adjustments being recorded with the property appraiser's office which have not been approved by the Village; and

WHEREAS, the Village Council desires to amend existing provisions under Division 10, "Platting" of Article IV of the Village's LDRs relating to provisions generally governing platting approval; and

WHEREAS, specifically, the Village Council desires to amend Section 30-431, "Plat approval and recording required", of the Village Code to ensure that lot-line modifications are not recorded with the property appraiser until such modification has been approved by the Village; 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 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 the Village of Islamorada, in the State of Florida, as follows:

SECTION 1: **RECITALS.** The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2: **AMENDMENT.** "Sec 30-431 Plat Approval And

Recording Required" of the Islamorada Village Code is hereby *amended* as follows:

Additional text is shown as underlined;

deleted text is shown as ~~strikethrough~~

AMENDMENT

Sec 30-431 Plat Approval And Recording Required

- (a) Except as provided in subsections (b) and (c) of this section, plat approval shall be required for:
 - (1) The division of land into three or more parcels; or
 - (2) The division of land into two or more parcels where the land involved in the division was previously divided without plat approval within the prior two years; or
 - (3) The division of land into two parcels where the disclosure statement required under subsection (f) of this section is not attached to the conveyance.
- (b) No building permit shall be issued for the construction of any building, structure or improvement unless a final plat has been approved in accordance with the provisions of this division and recorded for the lot on which the construction is proposed or unless the building, structure or improvement qualifies for an exemption pursuant to this division.
- (c) No plat approval is required if the subdivision involved consists only of:
 - (1) A governmentally required dedication and the director of planning and development services finds that it is not necessary that a plat be recorded. In lieu of recording a plat, the dedication shall be required by deed and shall be subject to compliance with the submission of a grading, paving and drainage plan which will meet the requirements of this chapter and the posting of an improvement guarantee or bond as required under section 30-435 before the acceptance of the dedication by the village council.
 - (2) The proposed subdivision is for the purpose of conveying ownership of real property with a single-family unit in a townhouse-type development when such conveyance of real property is the space beneath the unit, plus an area surrounding the unit, which is no greater than the gross ground floor area of the unit. Prerequisites for exceptions to platting in this case are as follows:
 - a. The minimum overall development size shall be the same as

required in the zoning district assigned to the property.

- b. The average building length within the townhouse development shall not exceed 160 feet. However, no such building shall contain more than eight units.
- c. The proposed subdivision is part of a development project for which the village has granted site plan approval, the proposed subdivision is less than five acres in size, and the lots or parcels from which the proposed subdivision is created have been specifically delineated in a recorded plat.

- (3) The combination of two or more previously platted lots to form a single unified building site. However, such combination must be accompanied by a unity of title, in a form approved by the village attorney and recorded in the public records of the clerk of the circuit court of the county.
- (4) A subdivision of land legally recorded prior to September 15, 1986.
- (5) A change in ownership which would result in the formation of a Condominium Association, pursuant to Florida Statute Chapter 718, however in such a case, review of the proposed condominium documents shall be required by the village at the sole cost of the applicant.

- (d) No plat of any subdivision shall be entitled to be recorded in the office of the clerk of the circuit court until it shall have been approved by the village council in the manner prescribed herein and certified by the village clerk.
- (e) If a plat has been previously approved and recorded, technical or minor changes to the plat may be approved by the director of planning and development services. All other changes shall be considered in accordance with the provisions of this division.
- (f) No division of land through a lot-line modification shall be recorded in the county property appraiser's office until after the village has approved the application.

- (g) The conveyance of land that involves the division of the land into two or more parcels may result in the creation of lots that do not meet the minimum building requirements of this chapter, and thus are not buildable lots. For example, the assignment of a tax parcel number by the county appraiser's office does not signify that a parcel is buildable under this chapter. Therefore, to ensure that the public is provided disclosure additional to that which is otherwise required by law of the possible creation of such unbuildable lots by conveyance of property without platting, whenever land is conveyed that involves the division of land into two or more parcels and where plat

approval is not obtained pursuant to this division, such conveyance shall include the following disclosure statement: "The parcel of land described in this instrument is located in incorporated Islamorada, Village of Islands. The use of the parcel of land is subject to and restricted by the goals, policies and objectives of the Islamorada, Village of Islands, Comprehensive Plan and Development Regulations adopted as a part of, and in conjunction with and as a means of implementing the Islamorada, Village of Islands Comprehensive Plan. The land development regulations provide that no building permit shall be issued for any development of any kind unless the proposed development complies with each and every requirement of the regulations, including minimum area requirements for residential development. You are hereby notified that under the Islamorada, Village of Islands land development regulations, the division of land into parcels of land that are not approved as platted lots under the regulations confers no right to develop a parcel of land for any purpose."

SECTION 3: REPEALER CLAUSE. The provisions of the Village of Islamorada Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4: SEVERABILITY CLAUSE. The provisions of this Ordinance are declared to be severable and if any sentence, section, clause or phrase of this Ordinance shall for any reason be held to invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses, or phrases of the Ordinance but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5: INCLUSION IN THE CODE. It is the intention of the Village Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Village of Islamorada Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

SECTION 6: TRANSMITTAL. The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Commerce (the "DOC") for approval pursuant to section 380.05, Florida Statutes.

SECTION 7: EFFECTIVE DATE. This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DOC. The DOC notice of intent to find this Ordinance in

compliance shall be deemed to be the final order if no timely petition challenging this Ordinance is filed.

The foregoing Ordinance was offered by Councilmember Jolin, who moved for its adoption on first reading. This motion was seconded by Councilmember Gregg, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	<u>Yes</u>
Vice Mayor Sharon Mahoney	<u>Yes</u>
Councilman Mark Gregg	<u>Yes</u>
Councilwoman Elizabeth Jolin	<u>Yes</u>
Councilman Henry Rosenthal	<u>Yes</u>

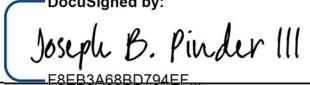
PASSED on the first reading this 14th day of December, 2023.

[Remainder of this page intentionally left blank]

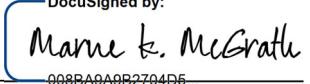
The foregoing Ordinance was offered by Councilmember Gregg, who moved for its adoption on second reading. This motion was seconded by Councilmember, Rosenthal and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III Yes
Vice Mayor Sharon Mahoney Yes
Councilman Mark Gregg Yes
Councilwoman Elizabeth Jolin Yes
Councilman Henry Rosenthal Yes

PASSED AND ADOPTED on the second reading this 11th day of January, 2024.

DocuSigned by:

F8EB3A68BD794EF...
JOSEPH B. PINDER III, MAYOR

ATTEST:

DocuSigned by:

008BA0A0B2704D6...
MARNE MCGRATH, VILLAGE CLERK

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

DocuSigned by:

302DFAA7FD0D417...
JOHN J. QUICK, VILLAGE ATTORNEY



**STATE OF FLORIDA
DEPARTMENT OF COMMERCE**

In re: AMENDMENT TO THE ISLAMORADA, VILLAGE
OF ISLANDS, FLORIDA, LAND DEVELOPMENT
REGULATIONS ADOPTED BY ORDINANCE NO. 24-04

**FINAL ORDER APPROVING ISLAMORADA, VILLAGE OF ISLANDS
ORDINANCE NO. 24-04**

The Department of Commerce (“Department”) hereby issues its Final Order, pursuant to Section 380.05(6), Florida Statutes, approving land development regulations adopted by the Islamorada, Village of Islands, Florida (“Village”), by Ordinance No. 24-04 (the “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 January 11, 2024, and rendered to the Department on January 18, 2024.

3. The Ordinance amends Section 30-431 of the Village’s Code, *Plat Approval and Recording Required*, to more clearly prohibit the division of land through a lot-line modification from being recorded without first obtaining village approval.

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. *See Section 380.05(6)*, Florida Statutes.

5. "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land. Section 380.031(8), Florida Statutes. The regulations adopted 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 is specifically consistent with Goal 1-3, Goal 1-4, Policy 1-3.1.2, Policy 1-4.10.1, and Policy 1-4.10.4.

7. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent with the principles for guiding development for that area. *See Section 380.05(6), Florida Statutes. 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.
- (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. 24-04 is consistent with the Village's Comprehensive Plan and the Principles for Guiding Development for the Village and is hereby **APPROVED**.

This Final Order becomes final 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.



Kate Doyle, Assistant Deputy Secretary
Division of Community Development
Florida Department of Commerce

NOTICE OF ADMINISTRATIVE RIGHTS

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

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.

ANY PETITION MUST BE FILED WITH THE AGENCY CLERK OF THE FLORIDA DEPARTMENT OF COMMERCE WITHIN 21 CALENDAR DAYS OF THE FINAL ORDER BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER. A PETITION IS FILED WHEN IT IS RECEIVED BY:

AGENCY CLERK
FLORIDA DEPARTMENT OF COMMERCE
OFFICE OF THE GENERAL COUNSEL
107 EAST MADISON ST., MSC 110
TALLAHASSEE, FLORIDA 32399-4128
AGENCY.CLERK@COMMERCE.FL.GOV
FAX 850-921-3230

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 FINAL ORDER BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER.

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 March, 2024.


Harris DeGarmo
Agency Clerk
Florida Department of Commerce
107 East Madison Street, MSC 110
Tallahassee, FL 32399-4128

By U.S. Mail:

Joseph "Buddy" Pinder, Mayor
Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, FL 33036

Marne McGrath, Village Clerk
Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, FL 33036

Jennifer DeBoisbriand, Planning Director
Planning and Development Services
86800 Overseas Highway
Islamorada, FL 33036