

ORDINANCE NO. 24-09

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 2 "ADMINISTRATION," ARTICLE III "CODE COMPLIANCE," DIVISION 2 "ADMINISTRATION AND ENFORCEMENT", SECTION 2-121 "APPEALS OF ORDER"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Village Council finds that it is necessary to clarify the Village Code's compliance with the Florida Rules of Appellate Procedure for the preparation and transmittal of the official record in an appeal of a code enforcement proceeding to the Circuit Court; and

WHEREAS, the Florida Rules of Appellate Procedure govern the preparation and transmittal of an official record on appeal; and

WHEREAS, the Village Code cannot supersede the Florida Rules of Appellate Procedure on matters related to the preparation and transmittal of an official record on appeal; and

WHEREAS, the Village Council finds that the adoption of this Ordinance is in the best interest of the Village.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted and confirmed.

Section 2. Village Code Amended. That Chapter 2 "Administration," Article III "Code Compliance," Division 2 "Administration and Enforcement", Section 2-121 "Appeals Of Order" of the Village Code of Islamorada, Village of Islands, Florida, is hereby amended to read as follows:

Additional text is shown as underlined;

deleted text is shown as ~~strikethrough~~

Chapter 2 – ADMINISTRATION.

ARTICLE III. – Code Compliance.

DIVISION 2. - Administration and Enforcement.

Sec. 2-121. Appeals Of Order.

- (a) An aggrieved party, including the village, may appeal a final order of a code compliance hearing officer to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the code compliance hearing officer. An appeal shall be filed within 30 calendar days of the issuance of the order sought to be overturned. Failure to make such appeal within the prescribed 30-day period shall render the findings of the code compliance hearing officer conclusive, binding and final.
- (b) Unless the findings of the code compliance hearing officer are overturned in a proceeding held pursuant to subsection (a) of this section, the findings of the code compliance hearing officer shall be admissible in any proceeding to foreclose on any lien, collect unpaid fines or notices of assessment.
- (c) For purposes of an appeal, ~~the village clerk shall make available, for public inspection and copying,~~ the record upon which each final order of a code compliance hearing officer is based shall be prepared and transmitted to the circuit court in accordance with the Florida Rules of Appellate Procedure. Should the village be required to prepare and transmit the record on appeal, the village clerk shall make charge a reasonable chargefee to the appellant/petitioner, commensurate with the cost for the preparation of the official record on appeal,

and transmittal thereof to the circuit court, and for making certified copies of any record or portion thereof.

Section 3. Repeal of Conflicting Provisions. The provisions of the Village Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. Severability. 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 be 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 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. Effective Date. This Ordinance shall be effective immediately upon adoption.

[Remainder of this page intentionally left blank]

The foregoing Ordinance was offered by M. Gregg, who moved for its adoption on first reading. This motion was seconded by E. Jolin, 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 on the first reading this 15th day of February, 2024.

[Remainder of this page intentionally left blank]

The foregoing Ordinance was offered by M. Gregg , who moved for its adoption on second reading. This motion was seconded by E. Jolin, 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 12th day of March, 2024.

DocuSigned by:

Joseph B. Pinder III

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JOSEPH B. PINDER, III, MAYOR

ATTEST:

DocuSigned by:

Marne K. McGrath

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MARNE MCGRATH, VILLAGE CLERK

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

DocuSigned by:

John J. Quick

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JOHN J. QUICK, VILLAGE ATTORNEY

