

ORDINANCE NO. 23-09

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, TOURIST COMMERCIAL (TC) DISTRICT TO ALLOW BOAT DEALERSHIPS AS A MAJOR CONDITIONAL USE; 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 has established Land Development Regulations to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, the proper and reasonable regulation of development patterns, including those within the Tourist Commercial (TC) Zoning District is consistent with the goal of protecting public health, safety, and welfare; and

WHEREAS, current regulations do not permit the operation of boat dealerships within the Tourist Commercial (TC) Zoning District; and

WHEREAS, the inclusion of boat dealerships as a Major Conditional Use within the Tourist Commercial (TC) Zoning District is a proper and reasonable regulatory approach and is consistent with historic and current development patterns within the Tourist Commercial (TC) Zoning District; and

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 and correct and incorporated herein by this reference.

Section 2. Chapter 30, is hereby modified as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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Sec. 30-693. - Tourist commercial (TC) zoning district.

(a) Purpose and intent.

- (1) The purpose of the tourist commercial (TC) zoning district is to accommodate existing tourist lodging, tourist attractions and supportive facilities.
- (2) This zoning district is established within the Mixed Use (MU) FLUM category.

(b) Permitted uses. The following uses are permitted uses if they do not contain a drive-in or drive-through component.

- (1) Single family dwelling units of 25 dwelling units or less, except the conversion of existing hotels or motels to single-family dwelling units is not permitted;
- (2) Deed restricted affordable housing dwelling units of 25 dwelling units or less, except the conversion of existing hotels or motels to dwelling units is not permitted;
- (3) Hotels and motels with 25 rooms or less;
- (4) Recreational equipment rental;
- (5) Restaurants less than 1,500 square feet;
- (6) Brewpubs less than 1,500 square feet; and
- (7) Accessory uses and structures, excluding guesthouses.
- ~~(8) Outdoor storage and display areas on vacant lots fronting US1 pursuant to article VI, division 8 of this chapter.~~

(c) Uses reviewed as a minor conditional use. The following uses are reviewed as minor conditional uses provided that they do not contain a drive-in or drive-through component.

- (1) Any permitted residential use, greater than 25 dwelling units, except that motels and hotels shall not be considered a residential use;
- (2) Bars, taverns and drinking places less than 5,000 square feet;
- (3) Brewpubs of 1,500 to 3,000 square feet;
- (4) Commercial recreational facility less than 5,000 square feet;
- (5) Community pier or public dock;
- (6) Docking facility;
- (7) Hotels or motels having more than 25 rooms and less than 50 rooms;
- (8) Infrastructure and municipal utility facilities;
- (9) Restaurants of 1,500 to 3,000 square feet; and
- (10) Attached wireless facility.
- (11) Outdoor storage and display areas on lots fronting US1 pursuant to article VI, division 8 of this chapter, as an accessory use to a permitted principal use.

(d) Uses reviewed as a major conditional use.

- (1) Hotels or motels having 50 rooms or more;
- (2) Brewpubs of 3,001 to 5,000 square feet;
- (3) Commercial recreational uses of 5,000 square feet or greater;
- (4) Marina redevelopment;
- (5) Restaurants of 3,001 to 5,000 square feet;
- (6) Stealth wireless facility;

- (7) Outdoor storage and display areas on lots not fronting US1 pursuant to article VI, division 8 of this chapter, as an accessory use to a permitted principal use; and
- (8) Boat Dealership as an accessory use to a marina.
- (9) Any use listed above as a permitted or minor conditional use, or a major conditional use listed herein, provided that the use contains a drive-in or drive-through component.

Secs. 30-1404—30-1430. - Reserved.

Section 3. Transmittal. Pursuant to Sections 163.3184, Florida Statutes, the Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO").

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, 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 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 5. Effective Date. This Ordinance shall not become effective until a Notice of Intent has been issued by DEO finding the Comprehensive Plan Amendment to be in compliance as defined in Section 163.3184(1)(b), Florida Statutes. If timely challenged, the Comprehensive Plan Amendment shall not become effective until DEO or the Administration Commission enters a final order determining the adopted Comprehensive Plan Amendments to be in compliance.

The foregoing Ordinance was offered by Mark Gregg, who moved for its adoption on first reading. This motion was seconded by Henry Rosenthal, 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>
Councilman Henry Rosenthal	<u>Yes</u>
Councilwoman Elizabeth Jolin	<u>Yes</u>

PASSED on the first reading this 18 day of May, 2023.

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

Mayor Joseph B. Pinder III	<u>No</u>
Vice Mayor Sharon Mahoney	<u>Yes</u>
Councilman Mark Gregg	<u>Yes</u>
Councilman Henry Rosenthal	<u>Yes</u>
Councilwoman Elizabeth Jolin	<u>Yes</u>

PASSED AND ADOPTED on the second reading this 20 day of July, 2023.

JOSEPH B. PINDER, MAYOR

A handwritten signature in blue ink, reading "Joseph B. Pinder", written over a horizontal line.

ATTEST:

A handwritten signature in blue ink, reading "Marne McGrath", written over a horizontal line.
MARNE MCGRATH, VILLAGE CLERK

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

A handwritten signature in blue ink, reading "John J. Quick", written over a horizontal line.
JOHN J. QUICK, INTERIM 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. 23-09

**FINAL ORDER APPROVING ISLAMORADA,
VILLAGE OF ISLANDS ORDINANCE NO. 23-09**

The Department of Commerce (“Commerce”) 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. 23-09 (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 July 20, 2023 and rendered to Commerce on August 1, 2023.
3. The Ordinance amends Section 30-693 of the Village’s Code to provide that outdoor storage and display areas within Tourist Commercial (TC) zoning district are no longer permitted uses and shall be reviewed either as a minor conditional use or a major conditional use, depending on the location of the lot. The Ordinance also provides that a boat dealership within the TC zoning district is an accessory to a marina and reviewed as a major conditional use.

CONCLUSIONS OF LAW

4. Commerce 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 Policies 1-1.2.1, 1-2.4.1, 1-2.4.6, 1-4.2.1, 1-4.6.1, 1-4.10.3, 1-4.10.6, 5-1.6.2, 5-1.6.8, 5-1.9.1, 8-1.3.1 and Objectives 1-2.4, and 5-1.1.

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.

(d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.

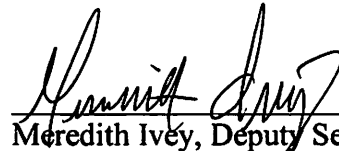
(f) Enhancing natural scenic resources, promote the aesthetic benefits of the natural environment, and ensure that development is compatible with the unique historic character of the Florida Keys.

(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. 23-09 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.



Meredith Ivey, 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.

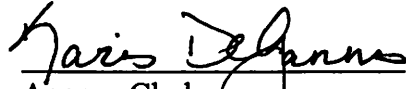
ANY PETITION MUST BE FILED WITH THE AGENCY CLERK OF THE FLORIDA DEPARTMENT OF COMMERCE WITHIN 21 CALENDAR DAYS OF THE FINAL ORDER BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER. A PETITION IS FILED WHEN IT IS RECEIVED BY:

AGENCY CLERK
FLORIDA DEPARTMENT OF COMMERCE
OFFICE OF THE GENERAL COUNSEL
107 EAST MADISON ST., MSC 110
TALLAHASSEE, FLORIDA 32399-4128
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 29th day of September, 2023.



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