

ORDINANCE NO. 25-01

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, EXTENDING THE TEMPORARY MORATORIUM ESTABLISHED PURSUANT TO ORDINANCE NO. 23-10 RELATING TO THE ACCEPTANCE OF NEW MARKET RATE RESIDENTIAL BUILDING PERMIT ALLOCATION SYSTEM (BPAS) APPLICATIONS (WITH OR WITHOUT LAND DEDICATIONS); PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMERCE; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMERCE.

WHEREAS, in 1972, the Florida Legislature adopted the Environmental Land and Water Management Act, which provided the basis for the state to designate an Area of Critical State Concern ("ACSC"); and

WHEREAS, in 1975, the Florida Legislature designated the Florida Keys, which encompasses Monroe County and its municipalities, including Islamorada, Village of Islands (the "Village"), as an ACSC due to the area's environmental sensitivity and mounting development pressures; and

WHEREAS, the Florida Administration Commission has oversight and authority to promulgate administrative rules that guide local government growth and development decisions related to comprehensive plans and land development regulations; and

WHEREAS, Section 380.0552(4), Florida Statutes, directs the state land planning agency to submit a report to the Florida Administration Commission, describing in detail the progress of the Florida Keys ACSC toward accomplishing the tasks of its Work Program and to provide a recommendation as to whether or not progress toward accomplishing the tasks of the Work Program has been achieved; and

WHEREAS, a system of managed growth was developed to ensure, among other things, the ability to evacuate within the 24-hour evacuation clearance time as required by Section 380.0552(9)(a)2., Florida Statutes; and

WHEREAS, access to and from the Keys is primarily by U.S. Highway 1, and Evacuation of the Florida Keys' population in advance of a hurricane strike is essential for public safety, especially because no hurricane shelters are available in the Florida Keys that are suited to withstand Category 3 to 5 hurricane storm events; and

WHEREAS, as part of the overall evacuation strategy, the Florida Administration Commission adopted a building permit allocation system that caps the number of permits that can be issued for new residential structures and based on existing infrastructure and evacuation strategies, computer modeling indicates that the projected maximum build out for the Florida Keys is the development of an additional 3,550 allocations beginning July 2013, with a portion of these allocations set aside for affordable housing; and

WHEREAS, the ten-year building permit allocation expired in July 2023, and the Florida Division of Emergency Management ("DEM") is currently working to update the hurricane evacuation model for the entire state, including for the work program tasks for the Florida Keys ACSC; and

WHEREAS, the Village previously adopted the Building Permit Allocation System ("BPAS"), thus allowing the Village to regulate growth by issuing a limited number of market rate and affordable residential building permits; and

WHEREAS, the Village Council desires to further study, modify and implement comprehensive regulations concerning future residential development, so that the public safety is protected, and the aesthetic and visual qualities of the Village are protected from impairment by future residential development; and

WHEREAS, the Village Council desires to ensure that during the pendency of the necessary study activity for the formulation and implementation of more comprehensive regulations of future residential development, that the acceptance of new Market Rate Residential BPAS applications (with or without land

dedications) are not initiated, so that the regulations produced by the Village's study activity would be fully effective; and

WHEREAS, on September 21, 2023, the Village Council adopted Ordinance No. 23-10, imposing a temporary moratorium on the acceptance of new Market Rate Residential BPAS applications (with or without land dedications) (the "Moratorium") to protect the public health, safety, and welfare of the residents of the Village; and

WHEREAS, on or about January 12, 2024, the State Department of Commerce ("DOC") issued Final Order No. COM-24-001, approving Ordinance No. 23-10 and allowing it to go into effect; and

WHEREAS, the effective date of the DOC Final Order was February 6, 2024; and

WHEREAS, on June 13, 2024, the Village Council adopted Ordinance No. 24-12, extending the temporary moratorium set forth in Ordinance No. 23-10 for an additional six (6) months; and

WHEREAS, on or about August 22, 2024, the DOC issued Final Order No. COM-24-033 ("Second DOC Final Order"), approving Ordinance No. 24-12 and allowing it to go into effect; and

WHEREAS, the effective date of the Second DOC Final Order was September 12, 2024]; and

WHEREAS, DEM still has not finalized its hurricane evacuation models, and accordingly, the Village desires to temporarily extend the Moratorium for an additional six (6) months pursuant to Section 7 of Ordinance No. 23-10 from February 6, 2025, through August 6, 2025, unless dissolved earlier by the Village Council; and

WHEREAS, the Village's planning staff has diligently worked towards the analysis of potential new regulations to address the market rate residential BPAS provisions; however, a possibility exists that any new regulations adopted by the Village Council may not be legally effective prior to the expiration of the existing Moratorium; and

WHEREAS, pursuant to Resolutions Nos. 24-09-102 and 24-10-121, the Village selected a consultant to prepare an updated Comprehensive Plan and revise the Village Land Development Regulations pursuant to RFP 24-10; and

WHEREAS, in order to continue with the process of review and adoption of potential new regulations, and to additionally ensure that except for applications that are exempt from the Moratorium, no applications for new market rate residential BPAS allocations are submitted, the Village is extending the Moratorium.

WHEREAS, after due notice and hearing, the Village Council finds that this Ordinance is consistent with the Village Comprehensive Plan and the principles for guiding development in the Florida Keys ACSC; and

WHEREAS, the Village Council finds that the provisions of this Ordinance are intended to advance the public health, safety, and welfare of the residents 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 and correct and are incorporated herein by this reference.

Section 2. **Moratorium Extended.** Pursuant to Section 7 of Ordinance No. 23-10, the Village Council hereby extends the moratorium on the acceptance of new market rate residential BPAS applications (with or without land dedications) for an additional six months from February 6, 2025, through August 6, 2025, unless dissolved earlier by the Village Council.

Section 3. **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 4. **Conflicts.** All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 5. **Transmittal.** The provisions of this Ordinance constitute a "land development regulation," as defined by Section 380.031, Florida Statutes. Accordingly, the Village Clerk is authorized to forward a copy of this Ordinance to the DOC for approval pursuant to section 380.05(6) and (11), Florida Statutes.

Section 6. **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 Vice Mayor Horton, who moved for its adoption on first reading. This motion was seconded by Councilwoman Gillis, and upon being put to a vote, the vote was as follows:

Mayor Sharon Mahoney	YES
Vice Mayor Don Horton	YES
Councilman Joseph B. Pinder III	YES
Councilwoman Deb Gillis	YES
Councilman Steve Friedman	YES


PASSED on the first reading this 12th day of December 2024.

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

Mayor Sharon Mahoney	YES
Vice Mayor Don Horton	YES
Councilman Joseph B. Pinder III	YES
Councilwoman Deb Gillis	YES
Councilman Steve Friedman	YES

PASSED AND ADOPTED on the second reading this 9th day of January, 2025.


SHARON MAHONEY, MAYOR

ATTEST:


MARNE MCGRATH, VILLAGE CLERK

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


JOHN J. QUICK, VILLAGE ATTORNEY