



## Council Communication

**To:** Mayor and Village Council

**Through:** Maria T. Aguilar, Village Manager

**From:** Cheryl Cioffari, AICP, LEED Green Associate, Director of Planning

**Date:** April 9, 2015

**SUBJECT: PROPOSED ORDINANCE ESTABLISHING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS,” ARTICLE IV “ADMINISTRATIVE PROCEDURES,” DIVISION 6 “PERMIT AND DEVELOPMENT APPROVAL COST RECOVERY,” SECTIONS 30-331 THROUGH 341 OF THE VILLAGE CODE OF ORDINANCES**

---

### **Background:**

Islamorada, Village of Islands, utilized a cost recovery system from 2001 through 2010 to collect payment for processing various types of development applications. The cost recovery system was repealed in 2010 pursuant to Ordinance 10-07. In the years since cost recovery was repealed, there have been numerous applications where the costs of review of the application has exceeded the flat fee. The proposed amendment would provide a flat fee for review of planning applications which would cover internal review (Planning Department, Legal Department, Fire Department, Building Department, Wastewater and Utilities Department, and Public Works Department). Any required additional reviews, including but not limited to, traffic review or stormwater management plan, and any and all required noticing costs would be borne by the applicant proposing the development.

The Local Planning Agency reviewed the proposed Ordinance at its March 9, 2015 meeting and recommended approval through a 7-0 vote. On March 26, 2015 the Village Council adopted the proposed Ordinance on first reading through a 5-0 vote.

### **Analysis:**

The proposed flat fee of the application is intended to cover internal staff time devoted to a particular project. In addition to this flat fee, the applicant would provide a cost recovery deposit which is comparable with the anticipated cost recovery for payment of all additional external reviews and required noticing (mailings and newspaper advertisements).

The cost recovery procedure would add a minor amount of administrative time associated with development review approval as a staff member would be required to contact applicants when deposits run low. However, the proposed amendment will ensure that the true costs for services

related to the review of applications for development approvals and permits is borne by the applicant deriving the benefit of the review, not the general public.

*Additional Reviews and Required Noticing*

The costs reflected for certified mail and newspaper advertisements are presented for consideration. The United States Postal Service sets the price of a one-ounce letter sent certified mail receipt. The cost of newspaper advertising is based on real costs of advertisements that the Village has published. The size of the advertisement is dependent upon the number of titles printed. The costs reflected in the section for *Traffic Review* and *Stormwater Review* was developed by averaging the real costs of consulting fees between 2010 and the present.

*Certified mailings*

Effective January 26, 2014 the cost to mail a one-ounce letter via certified return receipt increased from \$6.11 to \$6.48. This type of notice is required to ensure affected property owners are notified of pending applications with the return receipt serving as proof of notification.

<b>Number of Mailings</b>	<b>Total Cost</b>
4	\$25.92
6	\$38.88
10	\$64.80
20	\$129.60
50	\$324.00
100	\$648.00

The cost of mailings is impacted by the number of property owners within the area affected by the proposed development. For example, an alcoholic beverage use permit requires property owners within 500 feet to be notified whereas a site plan approval requires adjacent property owners to be notified.

*Newspaper Advertising*

The cost of advertising is dependent upon the size the advertisement and the table below provides a summary of costs:

<b>Size of Advertisement</b>	<b>Total Cost</b>
3.5" X 5"	\$147.00
3" X 7"	\$205.80
3" X 11"	\$323.40
3" X 15"	\$441.00
3" X 17"	\$499.80

The size of the advertisement is affected by the number of items scheduled for that specific public hearing. Grouping items together for advertising purposes helps to reduce the overall costs for each individual applicant. In cases where several proposals are advertised for the same meeting, staff will divide the cost of the advertisement among the number of items so that no one applicant is bearing the total cost.

### *Traffic Review*

A traffic impact report (also known as a traffic study) is required for developments that trigger eleven (11) or more vehicular trips a day. Additionally, a thorough review of a proposed development requires review of the vehicular circulation system, both on-site and off-site, to ensure compliance with traffic engineering standards utilized by the Village.

The cost of the review is dependent upon the comprehensiveness and accuracy of the initial submittal. The cost of the review may increase as a developer modifies the proposed design to adequately address any identified concerns.

The table below provides an average cost of traffic review by review type:

<b>Review Type</b>	<b>Average Cost of Review</b>	<b>Cost of Application<sup>1</sup></b>
Site Plan	\$2,067.50	\$1,800.00 for residential \$3,900.00 for nonresidential
Major Conditional Use	\$16,969.79	\$5,220.00
Minor Conditional Use	\$4,309.50	\$3,510.00

### *Stormwater Review*

Each proposed development is required to submit a stormwater management plan that is reviewed to ensure safe management and disposal of stormwater from developed areas, and to protect natural resources to minimize or eliminate potential adverse impacts to surface waters, shallow groundwater, and natural resource areas within the village.

The cost of the review is dependent upon the comprehensiveness and accuracy of the initial submittal. The cost of the review may increase as a developer modifies the proposed design to adequately address any identified concerns.

The table below provides an average cost of stormwater review by review type:

<b>Review Type</b>	<b>Average Cost</b>	<b>Cost of Application<sup>1</sup></b>
Site Plan	\$1,063.46	\$1,800.00 for residential \$3,900.00 for nonresidential
Major Conditional Use	\$1,512.99	\$5,220.00
Minor Conditional Use	\$842.80	\$3,510.00

In the case of all additional reviews and public hearing and noticing requirements, the applicant would be responsible for payment of the actual amount charged to the Village.

### **Budget Impact:**

Staff anticipates a positive budget impact as the costs of additional external review and noticing requirements will be borne by the applicant proposing the development.

---

<sup>1</sup> These items shall incur an additional fee equal to 10% of the initial fee for each (re)submittal beginning on the third submittal [which follows the second notice of deficiencies].

**Staff Impact:**

Staff impact will include tracking and documenting additional reviews and public hearing and noticing requirements associated with each project. When the cost recovery deposit runs low, staff will be required to contact the Applicant to seek additional cost recovery deposit funds.

**Recommendation:**

It is recommended that the Village Council pass and adopt the proposed Ordinance on second reading.

**ORDINANCE NO.**

**AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS,” ARTICLE IV “ADMINISTRATIVE PROCEDURES,” DIVISION 3 “QUASIJUDICIAL PROCEDURES,” OF THE VILLAGE CODE TO CHANGE THE MINIMUM LENGTH OF TIME AN APPLICANT HAS TO REQUEST A CONTINUANCE FOR APPLICATIONS REQUIRING QUASIJUDICIAL REVIEW; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE 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 (the “Comprehensive Plan”); and

**WHEREAS**, the Village finds that the regulation of alcoholic beverage use permits within the Village will preserve the character of the residential and nonresidential areas of the Village; and

**WHEREAS**, the Village Council of Islamorada, Village of Islands (the “Village Council”) desires to amend the length of time that an applicant has to request a continuance for an item the requires quasijudicial review; and

**WHEREAS**, in accordance with the requirements of Chapter 163, Florida Statutes, the Local Planning Agency reviewed this Ordinance on February 9, 2014; and

WHEREAS, the provisions of this Ordinance are consistent with the Village Comprehensive Plan and the principles for guiding development in the Florida Keys Area of Critical State Concern.

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. Quasijudicial Procedures.** Chapter 30 “Land Development Regulations,” Article IV, “Administrative Procedures”, Division 3, “Quasijudicial Procedures” of the Village Code of Ordinances is hereby amended to read as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as <del>strikethrough</del>
---	---

\*\*\*\*\*

**Sec. 30-252. - Applicability.**

Except as may otherwise be provided by statute or ordinance, these procedures shall apply to all applications for site-specific rezonings, administrative relief, beneficial use review, conditional use permits, site plan approval, variances, plats, and any other land use proceeding in which the council acts in a quasijudicial capacity.

**Sec. 30-253. - Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicant* means the owner of record, the owner's agent, or any person with a legal or equitable interest in the property for which an application for a development order has been made and which is subject to quasijudicial proceedings.

*Application* means an application for any one of the following permits:

- (1) ~~Variances.~~ Administrative Relief.
- (2) ~~Conditional use permits.~~ Beneficial use proceedings.
- (3) ~~Site plan approvals.~~ Conditional use permits.

- (4) Plat approvals.
- (5) Site-specific rezonings.
- (6) ~~Vested rights determinations.~~ Site plan approvals.
- (7) ~~Beneficial use proceedings.~~ Variances
- (8) ~~Any other site specific development approval determined to be quasijudicial by the village attorney.~~ Vested rights determinations.
- (9) Any other site-specific development approval determined to be quasijudicial by the village attorney.

\*\*\*\*\*

**Sec. 30-255. - General procedures.**

\*\*\*\*\*

(b) *Duties of village staff.* Staff shall have the responsibility of presenting the case on behalf of the village. The staff report on the application shall be made available to the applicant and the council at least ~~ten~~ twelve working days prior to the quasijudicial hearing on the application.

\*\*\*\*\*

**Sec. 30-256. - Hearing procedures.**

\*\*\*\*\*

(b) The council may, on its own motion or at the request of any person, continue the hearing to a fixed date, time, and place. A written request by the applicant for a continuance shall be granted one time by the director of planning and development services, provided that the request is received at least ~~five~~ seven (7) working days prior to the date that the public hearing is scheduled to occur. If the request is not received within the time period specified above, the request shall be considered by the village council at its sole discretion.

\*\*\*\*\*

**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 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. 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 and be made a part of the Code of Islamorada, Village of Islands, Florida, that the sections of the Ordinance may be renumbered or relettered to accomplish to such intentions, and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

**Section 6. Transmittal to the State 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 State Department of Economic Opportunity for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

**Section 7. Effective Date.** This Ordinance shall not become effective until approved pursuant to final order issued by the State Department of Economic Opportunity pursuant to Chapter 380, 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 Dennis Ward, who moved its adoption on first reading. This motion was seconded by Councilman Chris Sante, and upon being put to a vote, the vote was as follows:

Mayor Mike Forster	YES
Vice Mayor Deb Gillis	YES
Councilman Jim Mooney	ABSENT
Councilman Chris Sante	YES



Councilman Dennis Ward                      YES

PASSED on first reading this 12<sup>TH</sup> day of February, 2015.

The foregoing Ordinance was offered by \_\_\_\_\_, who moved for its adoption. This motion was seconded by \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Mayor Mike Forster	_____
Vice Mayor Deb Gillis	_____
Councilman Jim Mooney	_____
Councilman Chris Sante	_____
Councilman Dennis Ward	_____

PASSED AND ADOPTED on second reading this this \_\_\_\_day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
MIKE FORSTER, 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