



Council Communication

To: Village Council
Through: Maria T. Aguilar, Village Manager
From: Cheryl Cioffari, AICP, LEED Green Associate, Director of Planning
Date: May 28, 2015

SUBJECT: ORDINANCE AMENDING AND RENAMING CHAPTER 22 “FAIR HOUSING” OF THE VILLAGE CODE OF ORDINANCES AS CHAPTER 22 “HOUSING”; CREATING CHAPTER 22, ARTICLE I “IN GENERAL” AND ARTICLE II “FAIR HOUSING” AND ESTABLISHING SECTIONS 22-12 THROUGH 22-60 THEREIN; CREATING ARTICLE III “FIRST TIME HOMEBUYER DOWN PAYMENT ASSISTANCE PROGRAM” AND ESTABLISHING SECTIONS 22-61 THROUGH 22-70

Background:

Based upon direction of the Village council, Village staff has worked work with the Workforce Affordable Housing Citizens Advisory Committee (WAHCAC) to draft regulations implementing a First Time Homebuyer Down Payment Assistance Program (the “Program”).

Staff prepared regulations outlining how the Program would be administered, the qualifying standards, and the Program requirements. On March 16, 2015, the WAHCAC reviewed the draft Program and unanimously recommended approval of the proposed Ordinance.

The Local Planning Agency (LPA) reviewed the proposed Ordinance at its April 13, 2015 meeting and through a 5-0 vote recommended approval with the following modifications:

1. Remove the requirement that an eligible unit have an existing deed restriction and replace with a requirement that any unit is eligible provided that the owner signs a thirty (30) year deed restriction.
2. Limit the fund usage to \$100,000 or 25% of the funds available within the affordable housing trust account, whichever is greater.

Analysis:

The Program has been drafted to include the following parameters:

- Eligible properties shall be an existing single-family or multi-family dwelling unit located within the Village; the unit shall be a deed-restricted affordable residential dwelling unit as defined in Code Section 30-32; have a minimum of five (5) years remaining on the

affordable housing deed restriction at the time the application is submitted and shall pass a Housing Quality Standards inspection as published by the US Department of Housing and Urban Development.

- The assistance provided is a deferred payment loan at zero (0%) percent interest for a maximum loan of \$10,000. If an applicant receives a down payment loan under the Program and occupies the dwelling unit as his/her homesteaded residence for thirty (30) years, then the down payment loan is forgiven. If an applicant sells the affected dwelling unit prior to the end of the thirty (30) year period, then the loan is repaid in full.
- A residential dwelling unit that is purchased with funding from the First Time Homebuyer Down Payment Assistance Program shall pass a Housing Quality Standards inspection as published by the U.S. Department of Housing and Urban Development.
- The applicant to the Program shall be a resident of the Village at the time the application to the Program is submitted and the dwelling unit purchased under the Program will be the applicant's principal residence.

In order to fund the Program, the Village Council may (a) allocate funds from the Affordable Housing Trust Account with such funds available to new potential owners of deed-restricted affordable housing units; or (b) utilize money from the general fund by designating a set amount through the budgetary process. Pursuant to Code Section 30-641(a)(4), all funds deposited into the affordable housing trust account and any accrued interest shall be expended only for the purposes of planning, subsidizing or developing affordable housing within the Village.

The proposed Program would offer a zero percent (0%) \$10,000 loan to an applicant attempting to purchase their first deed-restricted affordable dwelling unit with at least five (5) years remaining on the deed restriction. There are currently approximately 121 deed-restricted affordable housing units within the Village, including multifamily attached units.

Budget Impact:

As of April 6, 2015, the affordable housing fund balance total was approximately \$400,000.00. There are a number of potentially eligible affordable housing units located within the Village that may meet the eligibility requirements of the Program. If the proposed program is adopted and implemented, it is recommended that the Village Council establish a maximum number of loans distributed annually through the Program.

Staff Impact:

Staff impact may include implementing and administering the Program, reviewing and tracking applications, managing the financial aspects (e.g., contracts, invoices, checks), and coordination between various Village departments (e.g., Planning, Finance, Building and Utilities).

Recommendation:

It is recommended that the Village Council consider the recommendations of the LPA and provide direction to staff with regards to any modifications and subsequently pass the proposed Ordinance on first reading.

ORDINANCE NO.

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING AND RENAMING CHAPTER 22 “FAIR HOUSING” OF THE VILLAGE CODE OF ORDINANCES AS CHAPTER 22 “HOUSING”; CREATING CHAPTER 22, ARTICLE I “IN GENERAL” AND ARTICLE II “FAIR HOUSING” AND ESTABLISHING SECTIONS 22-12 THROUGH 22-60 THEREIN; CREATING ARTICLE III “FIRST TIME HOMEBUYER DOWN PAYMENT ASSISTANCE PROGRAM” AND ESTABLISHING SECTIONS 22-61 THROUGH 22-70 THEREIN TO CREATE A FIRST TIME HOMEBUYER DOWN PAYMENT ASSISTANCE PROGRAM; 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 VILLAGE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY

WHEREAS, Islamorada, Village of Islands, Florida (the “Village”) has experienced a disparity between the sales price of single-family and multi-family dwelling units and the median family income in the Village; and

WHEREAS, as a result, substantial savings for a down payment is required for a home purchase; and

WHEREAS, in Article IV, Division 16 of the Village’s Land Development Regulations (the “LDRs”), the Village has set forth the income requirements for affordable housing in the Village; and

WHEREAS, families that meet the affordable housing income criteria set forth in the LDRs find it difficult to save money for a down payment; and

WHEREAS, the Village has established an Affordable Housing Program fund to address the needs of workforce and affordable housing within the Village and to collect fees and other funds owed by developers and property owners in connection with workforce and affordable

housing contributions under development agreements or otherwise pursuant to the LDRs; and

WHEREAS, the establishment of a first time home buyer assistance program by the Village is in the public interest as it will assist in expanding the privilege of home ownership to individuals of very low, low and moderate income levels by providing no-interest down payment loans; and

WHEREAS, in accordance with Section 166.041, *Florida Statutes*, the Village has conducted duly-noticed public hearings for the proposed adoption of this Ordinance amending the LDRs; and

WHEREAS, on April 13, 2015, the Village Local Planning Agency reviewed this Ordinance in accordance with the requirements of Chapter 163, Florida Statutes; and

WHEREAS, the Village Council finds that the adoption of this Ordinance is in the best interest of the Village and complies with applicable State laws and rules; 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. **In General.** Chapter 22 “Fair Housing” of the Village Code is hereby amended to read as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as striketrough
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FAIR HOUSING

Article I. In General.

Secs. 22-1 – 22-10. Reserved.

Article II. Fair Housing.

Sec. 22-11. - Declaration of policy.

It is hereby the policy of the village, in keeping with the laws of the United States of America and the spirit of the constitution of the state, to promote through fair, orderly and lawful procedure the opportunity for each person so desiring to obtain housing of such person's choice in this jurisdiction without regard to race, color ancestry, national origin, religion, sex, marital status, familial status, handicap or age, and, to that end, to prohibit discrimination in housing by any person.

Sec. 22-12. - Definitions.

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

Administrator means a person appointed by the village manager pursuant to section 22-15.

Age, unless the context clearly indicates otherwise, shall refer exclusively to persons who are 18 years of age or older.

Discriminatory housing practice means an act that is unlawful under section 22-13.

Family means one or more persons living together as a single housekeeping unit in a dwelling.

Housing and *housing accommodation* mean a building, structure, or portion thereof, mobile home or trailer, or other facility which is occupied as or designed or intended for occupancy for the construction or location thereon of any such building, structure, or portion thereof, mobile home or trailer or other facility.

Lending institution means any bank, insurance company, or savings and loan association or any other person or organization regularly engaged in the business of lending money or guaranteeing loans, or sources of credit information, including but not limited to credit bureaus.

Owner means any person, including but not limited to a lessee, sublessee, assignee, manager, or agent, including the village, having the right of ownership or possession or the authority to sell or lease any housing accommodation.

Person means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mortgage companies, joint stock companies, trusts, unincorporated organizations, or public corporations, including but not limited to the village or any department or sub-unit thereof.

Real estate broker or salesman means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is

engaged in the business of listing real property in a publication, or a person employed by or acting on behalf of any of these.

Real estate transaction means the sale, purchase, exchange, rental or lease of real property, and any contract pertaining thereto.

Rent means payments made pursuant to a lease, sublease, assignment and/or rental, including any contract to do any of the foregoing, or otherwise granting for a consideration the right to occupy premises that are not owned by the occupant.

Respondent means a person against whom a complaint is filed pursuant to this chapter.

Sale means a transfer of interest pursuant to any contract to sell, exchange, convey, transfer or assign legal or equitable title to, or a beneficial interest in, real property.

Cross reference— Definitions generally, § 1-2.

Sec. 22-13. - Unlawful housing practices.

The following shall constitute unlawful housing practices:

- (1) *Unlawful housing practices in sale, rental and advertising.* Except as provided in section 22-14, it shall be unlawful and a discriminatory housing practice for an owner, or any other person engaging in a real estate transaction, or for a real estate broker, as defined in this chapter, because of race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap or age:
 - a. To refuse to engage in a real estate transaction with a person or to otherwise make unavailable or deny housing to any person.
 - b. To discriminate against a person in the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith.
 - c. To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person.
 - d. To refuse to negotiate for a real estate transaction with a person.
 - e. To represent to a person that housing is not available for inspection, sale, rental or lease when, in fact, it is so available, or to fail to bring a property listing to such person's attention, or to refuse to permit him to inspect the housing.
 - f. To steer any person away from or to any housing.
 - g. To make, print, publish, circulate, post or mail, or cause to be made, printed, published or circulated, any notice, statement, advertisement or sign, or to use a form of application or photograph for a real estate transaction or, except in connection with a written affirmative action plan, to make a record or oral or written inquiry in connection with a prospective real estate transaction, which indicates directly or indirectly an intent to make a limitation or specification, or discriminate with respect thereto.
 - h. To offer, solicit, accept, use or retain a listing of housing with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith.
 - i. To induce or attempt to induce any person to transfer an interest in any housing by representations regarding the existing or potential proximity of housing owned, used or occupied by any person protected by the terms of this chapter.
 - j. To make any misrepresentations concerning the listing for sale or rental, or the anticipated listing for sale or rental, of any housing in any area in the village for the

purpose of inducing or attempting to induce any such listing or any of the above transactions.

- k. To retaliate or discriminate in any manner against any person because of his opposing a practice declared unlawful by this chapter, or because he has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or conference under this chapter.
 - l. To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by the provisions of this chapter, or to obstruct or prevent any person from complying with the provisions of this chapter, or any conciliation agreement entered into thereunder.
 - m. By canvassing to compel any unlawful practices prohibited by the provisions of this chapter.
 - n. Otherwise to deny to or withhold any housing accommodations from a person.
 - o. To promote, induce, influence or attempt to promote, induce or influence by the use of postal cards, letters, circulars, telephone, visitation or any other means, directly or indirectly, a property owner, occupant, or tenant to list for sale, sell, remove from, lease, assign, transfer, or otherwise dispose of any housing by referring as a part of a process or pattern of indicating neighborhood unrest, community tension, or fear of racial, color, religious, nationality or ethnic change in any street, block, neighborhood or any other area, to the race, color, religion, neighbors, tenants or other prospective buyers of any housing.
 - p. To place a sign or display any other device either purporting to offer for sale, lease, assignment, transfer or other disposition or tending to lead to the belief that a bona fide offer is being made to sell, lease, assign, transfer or otherwise dispose of any housing that is not in fact available or offered for sale, lease, assignment, transfer or other disposition.
- (2) *Unlawful housing practices in financing.* It shall be unlawful and a discriminatory housing practice for any lending institution to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining housing, or to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining housing, or to discriminate against such person in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap or age of such person or of any person associated with such person in connection with such loan or other assistance, or of the present or prospective owners, lessees, tenants or occupants of the housing in relation to which such loan or other financial assistance is to be made or given; provided that nothing contained in this subsection shall impair the scope or effectiveness of the exceptions contained in section 22-14
- (3) *Unlawful housing practices in brokerage services.* It shall be unlawful and a discriminatory housing practice to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization or other service, organization, or facility related to the business of selling or renting housing, or to discriminate against such person in the terms or conditions of such access, membership or participation because of race, color, ancestry, national origin, religion, sex, marital status, familial status or age.

Sec. 22-14. - Exemptions and exceptions.

(a) Nothing contained in section 22-13 shall prohibit a religious organization, association, or society, or any nonprofit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting or from advertising the sale, rental or occupancy of housing which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons. nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b) Nothing in section 22-13, other than section 22-13(1)g, shall apply to:

(1) Any single-family house sold or rented by an owner; provided that such private individual owner does not own more than three such single-family houses at any one time; provided, further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any 24-month period; provided further that such owner does not own any interest in, nor is there owned or reserved on such owner's behalf, under any express or voluntary agreement, title to or any rights to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time; provided further that the owner sells or rents such housing (i) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesperson, or of such facilities or services of any person in the business of selling or renting housing, or of any employee or agency of any such broker, agent, salesperson, or person, and (ii) without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of section 22-13(1)g, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies, and other such professional assistance as necessary to perfect or transfer the title; or

(2) Rooms or units in housing containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as such owner's residence, provided that the owner sells or rents such rooms or units (i) without the use in any manner of the sales or rental services of any real estate broker, agent or salesperson, or of such facilities or services of any person in the business of selling or renting housing, or of any employee or agency of any such broker, agent, salesperson, or person, and (ii) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 22-13(1)g, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies, and other such professional assistance as necessary to perfect or transfer the title.

(c) For the purposes of this section a person shall be deemed to be in the business of selling or renting housing if such person:

(1) Has, within the preceding 12 months, participated as principal, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in three or more transactions involving the sale or rental of any housing or any interest therein;

(2) Has, within the preceding 12 months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any housing or any interest therein; or

(3) Is the owner of any housing designed or intended for occupancy by, or occupied by, five or more families.

(d) Nothing in section 22-13 shall be construed to:

(1) Bar any person from restricting sales, rentals, leases or occupancy, or from giving preference to persons of a given age, for bona fide housing intended solely for the elderly or bona fide housing intended solely for minors.

(2) Make it an unlawful act to require that a person have legal capacity to enter into a contract or lease.

(3) Bar any person from advertising or from refusing to sell or rent housing which is planned exclusively for, and occupied exclusively by, individuals of one sex, to any individual of the opposite sex.

(4) Bar any person from selling, renting or advertising any housing which is planned exclusively for, and occupied exclusively by, unmarried individuals to unmarried individuals only.

(5) Bar any person from advertising or from refusing to sell or rent any housing which is planned exclusively for married couples without children or from segregating families with children to special units of housing.

(6) Bar any person from refusing a loan or other financial assistance to any person whose life expectancy, according to generally accepted mortality tables, is less than the term for which the loan is requested.

Sec. 22-15. - Appointment of administrator; powers and duties of administrator.

(a) *Appointment.* The authority and responsibility for administering this chapter shall be vested in the village manager, who shall appoint an administrator.

(b) *General powers and duties.* The administrator shall:

(1) Receive written complaints as provided in section 22-16 relative to alleged unlawful acts under this chapter when a complainant seeks the administrator's good offices to conciliate.

(2) Upon receiving written complaint, make such investigations as the administrator deems appropriate to ascertain facts and issues.

(3) Utilize methods of persuasion, conciliation, and mediation or information adjustment of grievances.

(4) Establish, administer or review programs at the request of the village manager and make reports on such programs to the village manager.

(5) Bring to the attention of the village manager items that may require notice or action by the village to resolve.

(6) Render to the village manager annual written reports of his activities under the provisions of this chapter along with such comments and recommendations as he may choose to make.

(7) Cooperate with and render technical assistance to federal, state, local and other public and private agencies, organizations and institutions which are formulating or carrying on programs to prevent or eliminate the unlawful discriminatory practices covered by the provisions of this chapter.

(c) *Determination of probable cause.* If, after fully processing the complaint in the manner provided in this chapter, the administrator determines that there is probable cause to believe that there has been a violation of the provisions of this chapter, he shall refer the matter, along with the facts he has gathered in his investigations, to the proper county, state or federal authorities for appropriate legal action.

(d) *Promulgation of forms and regulations.* The administrator shall promulgate, publish and distribute the necessary forms, rules and regulations to implement the provisions of this chapter.

Sec. 22-16. - Filing of complaints; answer to complaint; amendment of complaint or answer.

(a) A person who claims that another person has committed a discriminatory housing practice against him may report that offense to the administrator by filing an informal complaint no later than 45 days after the date of the alleged discriminatory housing practice.

(b) The administrator shall treat a complaint referred by the Secretary of Housing and Urban Development or the Attorney General of the United States under the Fair Housing Act of 1968, Public Law 90-284, as an informal complaint filed under subsection (a) of this section.

(c) An informal complaint must be in writing, verified or affirmed, on a form to be supplied by the administrator, and shall contain the following:

(1) Identify and address the respondent.

(2) Date of the offense and date of filing the informal complaint.

(3) General statement of facts of the offense including the basis of the discrimination (race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap or age).

(4) Name and signature of the complainant.

(d) Each complaint shall be held in confidence by the administrator unless and until the complainant and the respondent consent in writing that it shall be made public.

(e) No later than 15 days after the filing of the informal complaint, the administrator shall transmit a copy of the complaint to each respondent named therein by certified mail, return receipt requested. Thereupon, the respondent may file a written, verified informal answer to the informal complaint within 20 days of the date of the receipt of the informal complaint.

(f) An informal complaint or answer may be amended at any time, and the administrator shall furnish a copy of each amended informal complaint or answer to the respondent's complaint, respectively, as promptly as practicable.

(g) The administrator shall assist complainants or respondents when necessary in the preparation and filing of informal complaints or answers or any amendments thereto.

(h) The administrator shall advise complainants of their rights and options provided in F.S. § 760.34.

Sec. 22-17. - Processing of complaints; conciliation agreement.

(a) Within 30 days after the filing of an informal complaint, the administrator shall make such investigation as he deems appropriate to ascertain facts and issues. If the administrator shall deem that there are reasonable grounds to believe that a violation has occurred and can be resolved by conciliation, he shall attempt to conciliate the matter by methods of initial conference and persuasion with all interested parties and such representatives as the parties may choose to assist them. Conciliation conferences shall be informal and nothing said or done in the course of the informal conference with the individuals to resolve the dispute may be public or

used as evidence in a subsequent proceeding by either party without the written consent of both the complainant and the respondent. The administrator or employee of the administrator who shall make public any information in violation of this provision shall be deemed guilty of a violation of a village ordinance and shall be subject to penalty as set forth in section 22-~~1~~21

(b) If the parties desire to conciliate, the terms of the conciliation shall be reduced to writing in the form approved by the administrator and must be signed and verified by the complainant and respondent and approved by the administrator. The conciliation agreement shall be for conciliation purposes only and shall not constitute an admission by any party that the law has been violated.

(c) If the administrator deems that there is no probable cause to believe that the alleged discriminatory housing practice has been committed, the administrator shall take no further action with respect to the alleged offense.

(d) If the administrator, with respect to any matter that involves a contravention of this chapter fails to conciliate a complaint after the parties, in good faith, have attempted such conciliation; or determines that the violation alleged in the complaint cannot be resolved by conciliation, he shall notify both the complainant and the respondent within 30 days of failure or the determination, and he shall proceed as provided in section 22-~~1~~5(c).

Sec. 22-~~1~~8. - Additional remedies.

The procedure prescribed by this chapter does not constitute an administrative prerequisite to another action or remedy available under other law. Further, nothing in this chapter shall be deemed to modify, impair or otherwise affect any right or remedy conferred by the constitution or laws of the United States or the state, and the provisions of this chapter shall be in addition to those provided by such other laws.

Sec. 22-~~1~~9. - Education and public information.

The administrator may conduct educational and public informational activities that are designed to promote the policy of this chapter.

Sec. 22-~~1~~0. - Untruthful complaints and testimony.

It shall be a violation of this chapter for any person knowingly and willfully to make false or untrue statements, accusations or allegations in a complaint filed under this chapter or to give false testimony concerning violations of this chapter.

Sec. 22-~~1~~1. - Penalty.

Any person who violates any provisions of this chapter shall be subject, upon conviction, to a fine up to but not exceeding the sum of \$500.00, or imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment.

Secs. 22-22 - 22-60. Reserved.

Article II. First Time Homebuyer Down Payment Assistance Program.

Sec. 22-61. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affordable housing trust account means the account established in accordance with subsection 30-641(a) to ensure the in-lieu fees collected pursuant to this section are designated and used for the purposes of planning, subsidizing or developing affordable housing within the village.

Affordable residential dwelling unit means a dwelling unit that meets the following criteria:

For all residential dwelling units having deed restrictions recorded before January 1, 2007, where monthly rent not including utilities, or monthly mortgage payment (including taxes and insurance, but not including utilities), does not exceed thirty (30) percent of that amount which represents one hundred twenty (120) percent of the monthly median household income for Monroe County, to be enforced by recording of a deed restriction which shall run with and bind the dwelling unit and all subsequent owners of the dwelling unit for a term of twenty (20) years from the date of recording.

For all residential dwelling units having deed restrictions recorded on or after January 1, 2007, the deed restriction shall run with and bind the dwelling unit and all subsequent owners of the dwelling unit for a term of thirty (30) years from the date of recording, after which time the restriction shall be extended automatically for successive periods of ten years each. All deed restrictions shall be submitted in a form approved by the village attorney. The sales price shall not exceed three and three-quarters times the annual median household income for Monroe County for a one bedroom or efficiency unit, four and one-quarter times the annual median household income for Monroe County for a two bedroom unit and four and three-quarters times the annual median household income for Monroe County for a three or more bedroom unit. Additionally, all rental units shall have monthly rent, not including utilities, not exceeding thirty (30) percent of that amount which represents 100 percent of the monthly median household income for Monroe County.

Affordable housing shall meet all applicable requirements of the United States Department of Housing and Urban Development minimum property standards as to room sizes, fixtures, landscaping and building materials, when not in conflict with applicable laws of the village; and does not exceed 1,500 square feet of enclosed living area, however in addition to the 1,500 square feet, an enclosed patio of no greater than ten feet in width along one side of the dwelling and a walkway of no greater than three feet around the entire dwelling; and do not receive negative points according to criteria specified under habitat protection, threatened or endangered animal species, or critical habitat areas in section 30-476(a)(5) or (6) or (7) unless said parcel is located within the RMH, R2, R3, R4, MF, or MH zoning districts. Additionally, parcels located within the R1, R1M, or SR zoning districts may receive negative points according to criteria specified under habitat protection (including Groups 1 and 2 and excluding Groups 3 or 4), threatened or endangered animal species, or critical habitat areas in section 30-476(a)(5) or (6) or (7). Only those SR parcels having the comprehensive plan Future Land Use Map designation of Residential Medium shall qualify.

First Time Homebuyer means a person or persons who have not had an interest in real property for at least the past three years.

Low income person(s) shall mean one or more naturalized persons or a family, the total annual adjusted gross income of which does not exceed eighty (80) percent of the median annual adjusted gross household income for households within Monroe County.

Moderate income person(s) shall mean one or more natural persons or a family, the total annual adjusted gross income of which does not exceed one hundred forty (140) percent of the median annual adjusted gross household income for households within Monroe County.

Resident of the Village means a person whose principal residence and domicile is within the Village.

Very low income person(s) shall mean one or more natural persons or a family, the total annual adjusted gross income of which does not exceed fifty (50) percent of the median annual adjusted gross household income for households within Monroe County.

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Sec. 22-62. Administration

- (a) The “First Time Homebuyer Down Payment Assistance Program” is hereby established. The Village Manager shall establish a separate account to record revenues and expenditures in furtherance of the program hereby established.
- (b) In each fiscal year, the Village Council may appropriate funds during the budget process to the First Time Homebuyer Down Payment Assistance Program, including the transfer of funds from the Village’s Affordable Housing Program fund. In any given Village fiscal year, the amount of down payment loans under this program shall not exceed the unused funds that have been allocated to the program.
- (c) The Director of Planning shall administer the program, or in the alternative, the Village Council may enter into an agreement with a third party to implement and administer the program.
- (d) The Director of Planning may, subject to Village Council approval, adopt administrative forms, applications and rules necessary to carry out the purpose of the program.
- (e) On or before October 1 of each year, the Director of Planning or his/her designee, shall submit to the Village Council a report on transactions involving the program for the preceding fiscal year, including, but not limited to, the following:
 - (1) Number of defaults; and
 - (2) Number of noncompliance incidents; and

- (3) Number of participants refinancing first mortgage loans; and
- (4) The sales price of housing units for the preceding fiscal year; and
- (5) The income and income category (very low, low, and moderate) of each new participant; and
- (6) Any repayments of loans made pursuant to the program.
- (f) The Director of Planning shall also furnish to the Village Council such other reports as requested by the Village Council.
- (g) Loan repayment revenues are deemed appropriated upon receipt and are authorized to be expended for the purposes of the program.

Sec. 22-63. Qualifying Standards.

- (a) An applicant for the First Time Homebuyer Down Payment Assistance Program shall meet all of the following requirements:
 - (1) Be a resident of the Village at the time the application is submitted;
 - (2) Agree to occupy the eligible property to be purchased under this program as the applicant's principal residence (provided, however, that this requirement may be temporarily suspended if the applicant has to temporarily relocate due to the applicant or spouse being (i) an armed forces reservist being called to active duty or (ii) an active duty member of the armed forces being called to serve in a conflict area,
 - (3) Be a United States citizen or a resident alien;
 - (4) Be at least eighteen years of age;
 - (5) Have adjusted gross income that meets either the very-low, low, or moderate income requirements set forth in Article II of chapter 30;
 - (6) Shall not have previously received a loan under this program;
 - (7) Shall have the ability to secure first mortgage financing on the property on terms and conditions reasonably acceptable to the Village as approved by the Village Attorney; and
 - (8) Shall provide at least three and one-half percent (3.5%) of the purchase price for the property in cash (or such other percentage as may be required by the FHA, and as amended from time to time).

(b) Eligible properties shall meet the following criteria:

- (1) Existing single family detached dwelling unit located in the Village; or
- (2) Existing residential dwelling unit which is within a multi-family dwelling unit located in the Village.
- (3) All residential dwelling units purchased with funding from the First Time Homebuyer Down Payment Assistance Program shall be an existing deed-restricted affordable residential unit as defined in Section 30-32 of the Village Code; and
- (4) Have a minimum of five (5) years remaining on the affordable housing deed restriction at the time the application is submitted; and
- (4) All residential dwelling units purchased with funding from the First Time Homebuyer Down Payment Assistance Program shall pass a Housing Quality Standards inspection as published by the U.S. Department of Housing and Urban Development.

Sec. 22-64. Down Payment Loans.

- (a) The maximum down payment loan an applicant is eligible for under this program is Ten Thousand Dollars (\$10,000.00).
- (b) An applicant receiving assistance under this program shall occupy the property as their primary residence as evidenced by having filed and maintained a homestead exemption on the property with the Monroe County Property Appraiser's office.
- (c) The assistance provided under this program shall be evidenced by and secured in the form of a subordinate mortgage on the subject property, which at closing shall be recorded in the official records of Monroe County, Florida at the expense of the applicant. The assistance provided is a deferred payment loan at zero percent (0%) interest. In the event of default of any of the provisions of this program, the loan shall be repaid in full to the Village. In no event shall the maximum total loan to value ratio (including the down payment loan) exceed one hundred percent (100%) of the appraised value of the property.
- (d) If the applicant receives a down payment loan under this program, and continues to occupy the dwelling unit as his homestead for the entire thirty (30) year duration of the subordinate mortgage, then the down payment loan shall be forgiven at the end of that thirty (30) year period and the Village will release the lien on the property. If the applicant sells the dwelling unit prior to the end of the thirty (30) year period, then the down payment loan shall be repaid in full from the proceeds of the sale, at which time the Village will release the lien on the property.

Secs. 22-65 - 22-70. Reserved.

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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. Approval by the Florida 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 Florida Department of Economic Opportunity (DEO) for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

Section 7. Effective Date. This Ordinance shall not be effective until after both thirty (30) days following the date it is filed with the Village Clerk, during which time the Ordinance herein shall be subject to appeal as provided in the Code; and following the thirty (30) days, this Ordinance shall not be effective until either sixty (60) days after its transmittal to DEO or until twenty-one (21) days following the publishing in the Florida Administrative Weekly of a final order approving the Ordinance by DEO, pursuant to Chapter 380.05, 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 _____ who moved for its adoption on first reading. 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 on the first reading this ___ day of _____, 2015.

The foregoing Ordinance was offered by _____, who moved for its adoption on second reading. 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 the second reading 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