RESOLUTION NO. 12-03-16

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, ESTABLISHING WRITTEN PROCEDURES FOR REFERRING DEVELOPMENT PERMITS TO THE U.S. FISH AND WILDLIFE SERVICE, INCLUSION OF ANY CONDITIONS OR MODIFICATIONS INTO THE DEVELOPMENT PERMITS INVOLVED, AND ENFORCEMENT OF THOSE CONDITIONS OR MODIFICATIONS, AS OUTLINED IN THE REASONABLE AND PRUDENT ALTERNATIVES; AUTHORIZING THE APPROPRIATE VILLAGE OFFICIALS TO AMEND THE WRITTEN PROCEDURES AS NECESSARY FROM TIME TO TIME; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Islamorada, Village of Islands (the “Village”) recently amended its floodplain management regulations in accordance with Federal Emergency Management Agency (“FEMA”) requirements and standards through the adoption of Ordinance No. 11-28 on December 15, 2011; and

WHEREAS, the U.S. Fish and Wildlife Service prepared a Biological Opinion (the “BO”) dated April 30, 2010, which includes Reasonable and Prudent Alternatives (the “RPA”) as amended on December 14, 2010; and

WHEREAS, paragraph 5 of the RPA requires participating communities in the National Flood Insurance Program (NFIP) to establish written procedures, a copy of which is attached hereto as Exhibit “A” (the “Written Procedures”), which outline the process for referring development permits to the U.S. Fish and Wildlife Service, including any conditions or modifications into the development permits involved, and enforcing those conditions or modifications, as outlined in the RPA; and

WHEREAS, it is in the best interest of the Village to continue to participate in the NFIP so that its residents will be eligible to purchase flood insurance; and
WHEREAS, to ensure the Village’s continued participation in the NFIP, the Village Council desires to establish the Written Procedures.

NOW THEREFORE, BE IT RESOLVED 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. Approval of the Written Procedures. The Village Council hereby approves the establishment of the Written Procedures and any additional documents pertaining to the Written Procedures.

Section 3. Authorization. The appropriate Village officials, including the Village Manager and the Floodplain Administrator, are hereby authorized to implement and amend the Written Procedures and any additional documents pertaining to the Written Procedures, as necessary from time to time.

Section 4. Effective Date. This Resolution shall be effective immediately upon its adoption.

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The foregoing Resolution was offered by Vice Mayor Philipson, who moved for its adoption. This motion was seconded by Councilman Achenberg, and upon being put to a vote, the vote was as follows:

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Michael Reckwerdt    Yes
Vice Mayor Ken Philipson    Yes
Councilman Don Achenberg    Yes
Councilman Ted Blackburn    Yes
Councilman Dave Purdo       Yes

PASSED AND ADOPTED THIS 8TH DAY OF MARCH, 2012.

KEN PHILIPSON, VICE MAYOR

ATTEST:

DEBRA E. EASTMAN, MMC
VILLAGE CLERK

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

VILLAGE ATTORNEY
WRITTEN PROCEDURES FOR FLOODPLAIN DEVELOPMENT REVIEW

The following written procedures are established in accordance with paragraph 5 of the Reasonable and Prudence Alternatives (RPA), referenced in the U.S. Fish and Wildlife Service’s (FWS) Biological Opinion dated April 30, 2010 and modified on December 14, 2010. These written procedures outline the Village’s process for referring development permit applications to FWS, inclusion of any conditions or modifications into the development permits involved, and enforcement of those conditions or modifications. For more information, see Chapter 6, Article III of the Islamorada Code of Ordinances or Ordinance No. 11-28, which amended the Village’s Floodplain Management Standards and became effective on February 3, 2012.

Prior to Permit Application:
- The Village shall educate the public on the new floodplain development criteria and procedures—including the Species Focus Area Maps (SFAMs), Real Estate parcel list (RE List), Species Assessment Guides (SAGs), free-roaming cat brochure, and these written procedures—by making the information available on the Internet and at the Planning and Development Services Department (Department) per RPA paragraph 11.

- The Village shall encourage Applicants to review the information available on the Internet and at the Department, prior to submitting an application for a building permit.

- The Village shall encourage Applicants to consult with FWS early in the development process if it appears there would be a “May Affect” outcome, based on the SFAMs, RE List and SAGs.

Permit Review Procedures:
1) The Applicant submits a complete building permit application to the Permit Clerk in the Planning and Development Services Department.

2) The Permit Clerk starts a new Special Focus Area Assessment Form (Assessment Form). The Permit Clerk determines whether the subject property is within a Species Focus Area on the SFAMs or is on the RE List. Initially, paper or electronic PDF copies of the SFAMs, RE List and Assessment Form will be available for staff to use. Eventually, the SFAMs, RE List and Assessment Form may be incorporated into CityView, which is the Village’s development permit database.

3) For permit applications on property that is not located within a Species Focus Area on the SFAMs and is not identified on the RE List (in other words, a “No Effect” determination), the Permit Clerk places an Assessment Form in the permit file per RPA paragraph 3 indicating the following:
   a) the individual that made the determination;
   b) the date of the determination; and
   c) the date of the SFAMs and RE List used to make the determination.

After the Assessment Form is completed, the Floodplain Administrator may take action on the permit without further concerns for threatened and endangered species (or their critical habitat) per RPA paragraph 3. The Permit Clerk provides the Applicant with a cat brochure at permit issuance per RPA paragraph 6. The permit may be issued.
4) For permit applications on property that is located within a Species Focus Area on the SFAMs or is identified on the RE List as containing potentially suitable habitat, the Permit Clerk routes the permit application to a Planner for review. The Planner uses the SAGs to decide whether the proposed development would result in No Effect, Not Likely to Adversely Affect (NLAA), or May Affect determination per RPA paragraphs 4a and 4b. The determination is made by the Planner through a sequence of steps referenced in the SAGs and documented on the Assessment Form, which must be signed by the Applicant per RPA paragraph 4a.

   a) If the determination reached through use of the SAGs is No Effect or NLAA, then the Planner documents this conclusion on the Assessment Form. If the determination includes any conditions (i.e., eastern indigo snake protection measures, habitat compensation), then the Planner includes these conditions as part of the permit conditions. The Planner completes and signs the Assessment Form per RPA paragraph 4a. When the permit returns to the Permit Clerk, the Permit Clerk ensures that the Applicant signs the Assessment Form, as acknowledgement of the conditions per RPA paragraph 4a. The Permit Clerk provides the Applicant a cat brochure at permit issuance per RPA paragraph 6. The permit may be issued.

   b) If the determination reached through use of the SAGs is May Affect, then the Planner routes the permit application to the Building Services Coordinator, who forwards May Affect applications to FWS on a weekly basis per RPA paragraph 4.

5) After review of the permit application, if FWS determines the proposed development may adversely affect threatened or endangered species or designated critical habitat, then FWS notifies FEMA, the Village, and the Applicant in writing of the “May Affect” determination and the need for any conditions, modifications, or other additional actions to ensure the protection required pursuant to Sections 7 or 10 of the Endangered Species Act per RPA paragraph 4b. The Planner incorporates FWS’s “May Affect” determination letter and any conditions, modifications, or other additional actions into the permit conditions per RPA paragraph 4b. When the permit returns to the Permit Clerk, the Permit Clerk ensures that the Applicant signs the Assessment Form, as acknowledgement of the conditions per RPA paragraph 4a. The Permit Clerk provides the Applicant a cat brochure at permit issuance per RPA paragraph 6. The permit may be issued.

6) In the event of non-compliance with any conditions, modifications, or other additional actions requested by FWS, then the Floodplain Administrator requests that FEMA deny individual flood insurance for the subject property per RPA paragraph 8b. The permit may not be issued.

7) The Floodplain Administrator or other appropriate Village staff reserves the right to refer any permit application to FWS for consultant pursuant to Code Section 6-84(14).

After Permit Issuance:
- The Floodplain Administrator and the Code Compliance Officers shall enforce all FWS conditions that are incorporated as conditions of the building permit per RPA paragraphs 4 and 5, and Code Section 6-83(f). In the event of non-compliance with any permit conditions by the Applicant, the Floodplain Administrator shall request that FEMA deny individual flood insurance for the subject property per RPA paragraphs 5 and 8b.

- The Floodplain Administrator shall maintain the Village’s permit records, containing Assessment Forms and permit conditions. The Floodplain Administrator shall make the Village’s permit records available for review by FEMA during community assistance visits every six months per RPA paragraph 7.