

ORDINANCE NO. 16-20

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 18 "NUISANCES" OF THE VILLAGE CODE OF ORDINANCES BY AMENDING ARTICLE I "IN GENERAL" TO ESTABLISH SECTION 18-30 ENTITLED "BALLOONS AND SKY LANTERNS" TO REGULATE THE POSSESSION, DISPLAY AND RELEASE OF BALLOONS AND SKY LANTERNS WITHIN THE VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Islamorada, Village of Islands (the "Village") is home to one of the more densely utilized sea turtle nesting beaches in the entire country; and

WHEREAS, pursuant to Section 379.233, Florida Statutes, the Legislature has determined that the release into the atmosphere of large numbers of balloons inflated with lighter-than-air gases poses a danger and nuisance to the environment, particularly to wildlife and marine animals; and

WHEREAS, it has been found that balloons and sky lanterns released into the atmosphere return to the earth as litter; and

WHEREAS, the Village Council of Islamorada, Village of Islands (the "Village Council") has determined that the inadvertent or intentional release of balloons and sky lanterns into the atmosphere pose a danger and nuisance to the environment and wildlife who may ingest this debris; and

WHEREAS, sea turtles and other marine wildlife mistake remains from deflated balloons for food, and once ingested, the balloons damage their digestive systems and may lead to starvation and/or death; and

WHEREAS, even biodegradable balloons do not degrade quickly enough to avoid ingestion by marine wildlife; and

WHEREAS, the Village's park and recreation areas include the beach and other areas immediately adjacent or in close proximity to the beach and the intentional or inadvertent release or improper disposal of all types of balloons within these areas poses a danger to the environment and to the wildlife that may ingest them; and

WHEREAS, in order to limit the number of release balloons and sky lanterns within the Village, the Village Council wishes to also prohibit the release of same from Village-owned property; and

WHEREAS, the Village Council has determined that these regulations are in the best interests of the Village and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORDA, 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. **Amendment to the Village Code.** Chapter 18 "Nuisances", Article I "In General" of the Village Code is hereby amended to create and establish Section 18-30 within the Village Code as follows:

Additional text is shown as <u>underlined</u> ;	Deleted text is shown as strikethrough
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CHAPTER 18 “NUISANCES”

ARTICLE I “IN GENERAL”

SECTION 18-30 “BALLOONS AND SKY LATERNS”

(a) Intent and Purpose.

Pursuant to Section 379.233, Florida Statutes, the Legislature has determined that the release into the atmosphere of large numbers of balloons inflated with lighter-than-air gases poses a danger and nuisance to the environment, particularly to wildlife and marine animals. Therefore, it is the intent and purpose of this Section to provide an efficient procedure for the prohibition of balloons and sky lanterns release within the incorporated areas of the village.

(b) Definitions.

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

Beach means the zone of unconsolidated material that extends landward from the mean low-water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves.

Balloon or floating balloon means a balloon of any type inflated with a gas that is lighter than air.

Park, park grounds or recreation facility or recreational facility area means a park, playground, gymnasium, athletic field or court, recreation center or any other area owned by the Village and devoted to active or passive recreation.

Public property and public property grounds means all property owned by the Village that is designated open to the public

Private property and Private property grounds means all property owned by an individual or group of individuals.

Sky lantern means a device that requires a flame which produces heated air trapped in a balloon-type covering allowing the device to float in the air. Sky lanterns shall not include hot air balloons used for transporting persons.

(c) Prohibition.

For the protection of sea turtles and other wildlife, it is prohibited for any person within any park, recreational facility area, municipal beach, municipal beach area, or other public or private property within the Village's limits to:

- (1) Display, possess or release one or more balloons inflated with a gas that is lighter than air: or
- (2) Display, possess or release one or more sky lanterns.

(d) Exemptions.

The following uses and activities shall be exempt from the provisions of this article:

- (1) Possession of balloons or sky lanterns where such items are moved from a vehicle or structure to another structure where the resulting exposure of such items to the outdoors is *de minimis*.
- (2) Display, possess or release of floating balloons indoors.
- (3) Display, possess or release of sky lanterns indoors.
- (4) Display, possession or release of floating balloons by a governmental agency for scientific or meteorological purposes.
- (5) Balloons that are either biodegradable or photodegradable, as determined by rule of the Fish and Wildlife Conservation Commission, and in accordance with Section 379.233, Florida Statutes.

(e) Penalties and enforcement.

A person violating subsection (c)(1) or (c)(2) shall receive a civil fine of Two Hundred Fifty Dollars (\$250.00) in accordance with the code compliance procedures set forth in Chapter 2, Article III of the Village Code.

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Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance is 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 4. Repeal of Conflicting Provisions. The provisions of the Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 5. Inclusion in Code. It is the intention of the Village Council of Islamorada, Village of Islands that the provisions of this Ordinance shall at some time in the future become and be made a part of the Village Code of Ordinances and that the sections of this Ordinance may be renumbered or re-lettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption.

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

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

PASSED on the first reading this this 13th day of October, 2016.

The foregoing Ordinance was offered by Councilman Mike Forster, who moved for its adoption on second reading. This motion was seconded by Vice Mayor Jim Mooney, and upon being put to a vote, the vote was as follows:

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

PASSED AND ADOPTED on the second reading this 3rd day of November, 2016.



DEB GILLIS, 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