

**Section XII  
Miscellaneous**

**DEPARTMENT OF COMMUNITY AFFAIRS**

STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

In re: A LAND DEVELOPMENT REGULATION  
ADOPTED BY ISLAMORADA VILLAGE OF  
ISLANDS ORDINANCE NO. 07-11

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**AMENDED FINAL ORDER**

The Department of Community Affairs (the "Department") hereby issues its Final Order, pursuant to §§ 380.05(6), Fla. Stat., and § 380.0552(9), Fla. Stat. (2006), rejecting a land development regulation adopted by a local government within the Florida Keys Area of Critical State Concern as set forth below.

**FINDINGS OF FACT**

1. The Florida Keys Area is a statutorily designated area of critical state concern, and Islamorada, Village of Islands is a local government within the Florida Keys Area.
2. On May 22, 2007, the Department received for review Islamorada, Village of Islands Ordinance No. 07-11 ("Ord. No. 07-11") adopted by the Village on May 10, 2007.
3. The purpose of the Ordinance is to amend Section 30-32, "Specific Definitions" of the Village Code with respect to the definition of a room, hotel, or motel; and further amending Article V "Schedule of District Use and Development Standards," Division VII "Off-Street Parking, Loading and Driveway Standards," Section 30-852 "Off-Street Parking" of the Village Code, and Modifying the Parking Requirements of Hotel or Motel Rooms.
4. The existing definition of a room, hotel or motel is found in Section 30-32 and means a unit in a public lodging establishment as defined by F.S. § 509.013(4)(a) intended for transient lodging only for periods not exceeding 30 days. Transient occupancy shall conform to the definition contained in F.S. § 509.103(8) as to transient occupancy. For the purpose of density restriction under this chapter:
  - (1) Hotel or motel rooms may be a single room or a suite and may include a kitchen but no more than 1 1/2 bathrooms;
  - (2) All entrances to a hotel or motel room shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units; and
  - (3) Suites containing more than one bedroom and 1 1/2 baths may be constructed; however, each bedroom/full bath combination shall be considered a hotel/motel unit.

5. The proposed amendment is changing the definition of a hotel/motel room from a unit defined as each bedroom/full bath combination to a unit that can be up to two (2), or three (3) bedrooms, with up to two (2) full bathrooms and one-half bathroom with one (1) kitchen, and one (1) additional living area (excluding bedrooms), not exceeding 2,000 square feet of habitable floor area, provided that the average habitable floor area of all hotel or motel units on the property does not exceed 1,500 square feet.
6. Data and analysis has not been provided to evaluate the net change in maximum potential development for the approximate 1,400 existing hotel and motel units within the Village, the net potential change of density and intensity, the potential impacts to hurricane evacuation as well as potential impacts on potable water supply or the potential impacts to affordable housing/work force housing from the proposed redevelopment of hotels and motels within the Village.
7. The proposed amendment is contrary to the Village Comprehensive Plan Policy 1-2.1.10 "Restrict Development of New Transient Units" which states that "Islamorada, Village of Islands shall cap the number of new transient units at the number of current hotel and motel rooms, campground and recreational vehicle spaces." The proposed amendment would allow for the conversion of an existing one bedroom, one bath hotel unit to a two bedroom, two bath unit with no equivalency redevelopment reduction. An existing one bedroom, one bath, and two bedroom, one bath hotel unit may be redeveloped to a 2,000 square foot three bedroom, two and one-half bath hotel/motel unit with a ninety (90) percent conversion factor.
8. The proposed amendment increases the number of required parking spaces from 1 space per room up to 1.2 spaces for two bedroom units and 1.5 spaces for three bedroom hotel/motel units to accommodate additional vehicles staying at the redeveloped hotel/motel units with an average habitable floor area of 1,500 square feet. The increase in size of the redeveloped hotel and motel units along with the increased required number of parking spaces necessary to accommodate additional vehicles may negatively impact hurricane evacuation clearance times.

**CONCLUSIONS OF LAW**

9. The Department is required to approve or reject land development regulations or portions thereof that are enacted, amended, or rescinded by any local government in the Florida Keys Area of Critical State Concern. §§ 380.05(6), Fla. Stat., and § 380.0552(9), Fla. Stat. (2006).
10. Islamorada, Village of Islands is a local government within the Florida Keys Area of Critical State Concern. § 380.0552, Fla. Stat. (2006), and Rule 28-29.002 (superseding Chapter 27F-8), Fla. Admin. Code.

11. "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Fla. Stat. (2006). The regulations adopted by Ord. 07-11 are land development regulations.
12. All land development regulations enacted, amended or rescinded within an area of critical state concern must be consistent with the Principles for Guiding Development (the "Principles") as set forth in § 380.0552(7), Fla. Stat. (2006). See *Rathkamp v. Department of Community Affairs*, 21 F.A.L.R. 1902 (Dec. 4, 1998), *aff'd*, 740 So. 2d 1209 (Fla. 3d DCA 1999). The Principles are construed as a whole and no specific provision is construed or applied in isolation from the other provisions.
13. Ord. 07-11 is inconsistent with the following Principles:
  - (a) To strengthen local government capabilities for managing land use and development so that local government is able to achieve these objectives without the continuation of the area of critical state concern designation.
  - (d) To ensure the maximum well-being of the Florida Keys and its citizens through sound economic development.
  - (j) To make available adequate affordable housing for all sectors of the population of the Florida.
  - (l) To protect the public health, safety, and welfare of the citizens of the Florida Keys and maintain the Florida Keys as a unique Florida Resource.
14. Ordinance 07-11 is neutral in effect on the remaining Principles.
15. Ordinance 07-11 has not demonstrated consistency with the following provisions of the Islamorada, Village of Islands Comprehensive Plan:
 

Policy 1-2.1.10: Restrict Development of New Transient Units, Islamorada shall cap the number of new transient units at the number of current and vested hotel and motel rooms, campground and recreational vehicle spaces existing within the Village as of December 6, 2001.

Policy 2-1.6.3: Adopt a 24 Hour Hurricane Evacuation Time for the Florida Keys.

Policy 3-1.1.8: Mandate Provision of Employee Housing for developers of new or expanded businesses.

Policy 1-2.2.4: Uses that are Non-Conforming Due to Density if legally permitted may be redeveloped to the same density. The Director of Community Planning and Development Services may consider a reduction of any of the applicable regulations upon a finding that the reduction is consistent with the Village Comprehensive Plan.

Policy 1-2.2.6: Enlargement or Extension to Non-Conforming Structures, if any of the existing hotel/motel rooms are non-conforming structures, they may not be expanded or redeveloped with improvements that constitute a substantial improvement.

WHEREFORE, IT IS ORDERED that Ord. 07-11 is found to be inconsistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern, and is hereby REJECTED.

This Order becomes effective 21 days after publication in the F.A.W. unless a petition is filed as described below.

DONE AND ORDERED in Tallahassee, Florida.

#### NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR IN ACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, TO CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, TO SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND TO FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF COMMUNITY AFFAIRS A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION OF THIS NOTICE. A PETITION IS FILED WHEN IT IS RECEIVED BY THE AGENCY CLERK, IN THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100.

THE PETITION MUST MEET THE FILING REQUIREMENTS IN SUBSECTION 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH SUBSECTION 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.

CHARLES GAUTHIER, AICP  
Director, Division of Community Planning  
Department of Community Affairs  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned Agency Clerk of the Department of Community Affairs, and that true and correct copies have been furnished to the persons listed below by the method indicated this 14th day of August, 2007.

Paula Ford, Agency Clerk

By U.S. Mail:  
Honorable Dave Boerner, Mayor  
Islamorada, Village of Islands  
Post Office Box 568  
Islamorada, FL 33036

Beverly Raddatz, Village Clerk  
Islamorada, Village of Islands  
Post Office Box 568  
Islamorada, FL 33036

Nina Boniske, Esq.  
James White, Esq.  
Weiss Serota Helfman Pastoriza  
Guedes Cole & Boniske, P.A.  
3107 Stirling Drive, Suite 300  
Fort Lauderdale, FL 33312-8500

STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS  
In re: A LAND DEVELOPMENT REGULATION  
ADOPTED BY ISLAMORADA, VILLAGE OF  
ISLANDS  
ORDINANCE NO. 07-13

FINAL ORDER

The Department of Community Affairs (the "Department") hereby issues its Final Order, pursuant to §§ 380.05(6), Fla. Stat., and § 380.0552(9), Fla. Stat. (2006), approving a land development regulation adopted by a local government within the Florida Keys Area of Critical State Concern as set forth below.

FINDINGS OF FACT

- 1. The Florida Keys Area is a statutorily designated area of critical state concern, and Islamorada, Village of Islands is a local government within the Florida Keys Area.
- 2. On June 1, 2007, the Department received for review Islamorada, Village of Islands Ordinance No. 07-13 ("Ord. No. 07-13") adopted by the Village on May 24, 2007.
- 3. The purpose of the Ordinance is to amend the Village Code's affordable housing Section 30-32 "specific definitions" as follows: 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 30 percent of that amount which represents 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 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 30 years from the date of recording, after which time the restriction shall be extended automatically for successive periods of ten years each.

4. Ord. 07-13 is consistent with the Village Comprehensive Plan.

CONCLUSIONS OF LAW

5. The Department is required to approve or reject land development regulations or portions thereof that are enacted, amended, or rescinded by any local government in the Florida Keys Area of Critical State Concern. §§ 380.05(6), Fla. Stat., and § 380.0552(9), Fla. Stat. (2006).
6. Islamorada, Village of Islands is a local government within the Florida Keys Area of Critical State Concern. § 380.0552, Fla. Stat. (2006), and Rule 28-29.002 (superseding Chapter 27F-8), Fla. Admin. Code.
7. "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Fla. Stat. (2006). The regulations adopted by Ord. 07-13 are land development regulations.
8. All land development regulations enacted, amended or rescinded within an area of critical state concern must be consistent with the Principles for Guiding Development (the "Principles") as set forth in § 380.0552(7), Fla. Stat. (2006). See *Rathkamp v. Department of Community Affairs*, 21 F.A.L.R. 1902 (Dec. 4, 1998), *aff'd*, 740 So. 2d 1209 (Fla. 3d DCA 1999). The Principles are construed as a whole and no specific provision is construed or applied in isolation from the other provisions.
9. Ord. 07-13 promotes and furthers the following Principles:
  - (a) To strengthen local government capabilities for managing land use and development so that local government is able to achieve these objectives without the continuation of the area of critical state concern designation.
  - (j) To make available adequate affordable housing for all sectors of the population of the Florida Keys.
10. Ord. 07-13 is not inconsistent with the remaining Principles. Ord. 07-13 is consistent with the Principles for Guiding Development as a whole.

WHEREFORE, IT IS ORDERED that Ord. 07-13 is found to be consistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern, and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Weekly unless a petition is filed as described below.

DONE AND ORDERED in Tallahassee, Florida.

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE

ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

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THE PETITION MUST MEET THE FILING REQUIREMENTS IN SUBSECTION 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL

PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH SUBSECTION 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

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CHARLES GAUTHIER, AICP  
Director, Division of Community Planning  
Department of Community Affairs  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned Agency Clerk of the Department of Community Affairs, and that true and correct copies have been furnished to the persons listed below by the method indicated this 10th day of August, 2007.

Paula Ford, Agency Clerk

By U.S. Mail:  
Honorable Dave Boerner, Mayor  
Islamorada, Village of Islands  
Post Office Box 568  
Islamorada, FL 33036

Beverly Raddatz, Village Clerk  
Islamorada, Village of Islands  
Post Office Box 568  
Islamorada, FL 33036

Nina Boniske, Esq.  
James White, Esq.  
Weiss Serota Helfman Pastoriza  
Guedes Cole & Boniske, P.A.  
3107 Stirling Drive, Suite 300  
Fort Lauderdale, FL 33312-8500

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Notice of Publication for a New Point Franchise Motor Vehicle Dealer in a County of Less than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that Cobra Scooters, LLC, intends to allow the establishment of Austin Global Enterprises d/b/a New Scooters 4 Less, as a dealership for the sale of motorcycles manufactured by Taiwan Golden Bee (TAIW) at 118 Northwest 14th Avenue, Suite D, Gainesville (Alachua County), Florida 32601, on or after August 6, 2007.

The name and address of the dealer operator(s) and principal investor(s) of Austin Global Enterprises d/b/a New Scooters 4 Less are dealer operator(s): Collin Austin, 118 Northwest 14th Avenue, Suite D, Gainesville, Florida 32601; principal investor(s): Collin Austin, 118 Northwest 14th Avenue, Suite D, Gainesville, Florida 32601.

The notice indicates intent to establish the new point location in a county of less than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, as amended by Chapter 88-395, Laws of Florida, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312 MS 65, Neil Kirkman Building, 2900, Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by U.S. Mail to: Robert P. Bates, Vice President of Operations, Cobra Powersports, 3939 Royal Drive Northwest, Suite 139, Kennesaw, Georgia 30144.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

Notice of Publication for a New Point Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to section 320.642, Florida Statutes, notice is given that Moto Dealer Import, LLC, intends to allow the establishment of Florida Scooter Source, Inc., as a dealership for the sale of motorcycles manufactured by Shanghai

JMSTAR Motorcycle Co. Ltd. (JMST) at 4300 South Frontage Road, Suite 5, Lakeland (Polk County), Florida 33815, on or after August 9, 2007.

The name and address of the dealer operator(s) and principal investor(s) of Florida Scooter Source, Inc. are dealer operator(s): Tracy O'Dall, 4300 South Frontage Road, Suite 5, Lakeland, Florida 33815; principal investor(s): Tracy O'Dall, 4300 South Frontage Road, Suite 5, Lakeland, Florida 33815.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS 65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by U.S. Mail to: Caesar Guan, Manager, Moto Dealer Import, LLC, 4998-B South Royal Atlanta Drive, Tucker, Georgia 30084.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

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Notice of Publication for a New Point  
Franchise Motor Vehicle Dealer in a County of More  
than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that New Era Trans, Inc., intends to allow the establishment of Mobility Tech, Inc. d/b/a Charlie's Scooter Depot, as a dealership for the sale of Zhejiang Xingyue (ZXYV) motorcycles at 5720 North Florida Avenue, #2, Tampa ( Hillsborough County), Florida 33604, on or after July 13, 2007.

The name and address of the dealer operator(s) and principal investor(s) of Mobility Tech, Inc. d/b/a Charlie's Scooter Depot are dealer operator(s): Carlos Urbizu, 5720 North Florida Avenue #2, Tampa, Florida 33604; principal investor(s): Carlos Urbizu, 5720 North Florida Avenue #2, Tampa, Florida 33604 and Zenaida Urbizu, 5720 North Florida Avenue, #2, Tampa, Florida 33604.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS 65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by U.S. Mail to: Zev Kraiem, New Era Trans, Inc., 3350 Lawson Boulevard, Oceanside, New York 11572.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

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**NOTICE OF WITHDRAWAL**

Notice is hereby given that the publication of West Palm Nissan for relocation as a franchise dealership for the sale of Nissan vehicles in Palm Beach County by Nissan North America, Inc., published in Vol. 33, No. 32, pp. 3731 of the F.A.W., on August 10, 2007, has been withdrawn.

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**BOARD OF TRUSTEES OF THE INTERNAL  
IMPROVEMENT TRUST FUND**

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
REGULATION**

PLEASE NOTE THE INSTRUCTIONS FOR FILING APPLICATIONS FOR THE NEW QUOTA LICENSE DRAWINGS HAS CHANGED. THE APPLICATION PERIOD IS NOW OPEN FOR 45 DAYS AND APPLICATIONS MUST BE RECEIVED BY THE DIVISION BY CLSOE OF BUSINESS ON OCTOBER 3, 2007.

The Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation, announces it will be accepting applications for inclusion in the drawing for new quota liquor licenses beginning August 20, 2007, and continuing through October 3, 2007 for the following counties and amounts: BAY (1), BREVARD (2),

BROWARD (2), CHARLOTTE (1), CLAY (1)\*, COLLIER (1), DADE (4)\*, DUVAL (3), ESCAMBIA (1), FLAGLER (1), HIGHLANDS (2)\*, HILLSBOROUGH (5), INDIAN RIVER (1), LEE (5), MANATEE (1), MARION (1), MARTIN (1), ORANGE (5), OSCEOLA (3), PALM BEACH (3), PASCO (2), POLK (7)\*, ST JOHNS (1), ST LUCIE (2), SANTA ROSA (1), SARASOTA (1), SEMINOLE (1), SUMTER (1), VOLUSIA (1), WAKULLA (1), WALTON (1)

DBPR ABT-6033 is the only application that will be accepted for filing into these drawings. All other application forms from prior drawings will be denied. All interested persons should contact the Division's district office serving their area of interest or visit the Division's Internet website at [www.myflorida.com/dbpr/abt](http://www.myflorida.com/dbpr/abt) to obtain the proper application form. \*One (1) or more revoked licenses re-issued pursuant to Section 561.19(2)(a), F.S.

Further information may also be obtained by calling: (850)488-8284 or writing to Division of Alcoholic Beverages and Tobacco, Bureau of Licensing, New Quota License Drawing, 1940 North Monroe Street, Tallahassee, FL 32399-1021.

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## DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

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### NOTICE OF INTENT TO ISSUE PROPOSED

#### MODIFICATION OF POWER PLANT CERTIFICATION

The Florida Department of Environmental Protection (Department) hereby provides notice of intent to modify the Power Plant Conditions of Certification issued pursuant to the Florida Electrical Power Plant Siting Act, Chapter 403.501 et seq., Florida Statutes, concerning the C.D. McIntosh, Jr. Power Plant, Power Plant Siting Application No. PA74-06L, OGC Case No. 07-0303. On December 29, 2007, the Department received an application to modify the Conditions of Certification for C.D. McIntosh, Jr. Power Plant from City of Lakeland pursuant to Section 403.516(1)(c), Florida Statutes, to upgrade and replace structures and facilities within the Lake Agnes to Osceola Segment of the Lakeland-Taft transmission line. A copy of the proposed modification may be obtained by contacting Michael P. Halpin, P.E., Administrator, Siting Coordination Office, Department of Environmental Protection, 2600 Blair Stone Road, M.S. 48, Tallahassee, Florida 32399-2400, (850)245-8002. Pursuant to Section 403.516(1)(c)2., Florida Statutes, parties to the certification proceeding have 45 days from issuance of notice to such party's last address of record in which to object to the requested modification. Failure of any of the parties to file a response will constitute a waiver of objection to the requested modification. Any person who is not already a party to the

certification proceeding and whose substantial interest is affected by the requested modification has 30 days from the date of publication of this public notice to object in writing. The written objection must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000. If no objections are received, then a Final Order approving the modification shall be issued by the Department. If objections are raised and agreement can not be reached, then pursuant to Chapter 62-17.211, Florida Administrative Code, the applicant may file a petition for modification seeking approval of those portions of the request for modification to which written objections were timely filed. Mediation is not available in this proceeding.

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### FLORIDA STATE CLEARINGHOUSE

The state is coordinating reviews of federal activities and federally funded projects as required by Section 403.061(40), F.S. A list of projects, comments deadlines and the address for providing comments are available at: <http://appprod.dep.state.fl.us/clearinghouse/>. For information, call (850)245-2161. This public notice fulfills the requirements of 15 CFR 930.

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## DEPARTMENT OF HEALTH

On August 10, 2007, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General of the Department of Health, issued an Order of Emergency Suspension with regard to the license of Kimberly A. Mueller, L.M.T., license number MA 40118. This Emergency Suspension Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On August 10, 2007, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General of the Department of Health, issued an Order of Emergency Suspension with regard to the license of Ada Lorraine Allen, L.P.N., license number PN 1350441. This Emergency Suspension Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On August 10, 2007, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General of the Department of Health, issued an Order of Emergency Suspension with regard to the license of Wendy Kay Brooks, L.P.N., license number PN 1087111. This

Emergency Suspension Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On August 10, 2007, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General of the Department of Health, issued an Order of Emergency Suspension with regard to the license of Jane Ann Kelly, R.N., license number RN 9184139. This Emergency Suspension Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On August 10, 2007, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General of the Department of Health, issued an Order of Emergency Suspension with regard to the license of Richard Gardner, M.D., license number ME 13623. This Emergency Suspension Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On August 10, 2007, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General of the Department of Health, issued an Order of Emergency Suspension with regard to the license of Kathleen Mary Flatau, R.N., license number RN 3396432. This Emergency Suspension Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On August 10, 2007, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General of the Department of Health, issued an Order of Emergency Suspension with regard to the license of Loraine Terese Gabbard, L.P.N., license number PN 1113201.

This Emergency Suspension Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On August 10, 2007, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General of the Department of Health, issued an Order of Emergency Suspension with regard to the license of Linda Geiselman, R.N., license number RN 1966512. This Emergency Suspension Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On August 10, 2007, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General of the Department of Health, issued an Order of Emergency Suspension with regard to the license of Patti Jean Prier-Spurry, R.N., license number RN 9238142. This Emergency Suspension Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On August 10, 2007, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General of the Department of Health, issued an Order of Emergency Suspension with regard to the license of James J. Petrola, D.O., license number OS 7579. This Emergency Suspension Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On August 10, 2007, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General of the Department of Health, issued an Order of Emergency Suspension with regard to the license of Nick Konstantinou, C.R.T., license number CRT 8220. This



Emergency Suspension Order was predicated upon the Secretary’s findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

**FLORIDA HOUSING FINANCE CORPORATION**

The Florida Housing Finance Corporation (“Florida Housing”) announces the availability of funds for the Homeownership Pool (HOP) Program.

It is anticipated that approximately \$10,000,000 in funding will be made available to eligible homebuyers under this program. Funding will be awarded in accordance with Rule Chapter 67-57, Florida Administrative Code (F.A.C.).

The following set-asides will apply:

- 15% Community Housing Development Organizations (CHDOs)
- 10% Self-Help Housing
- 50% Non-Participating Jurisdictions (Non-PJs)
- 25% Participating Jurisdictions (PJs)

Funding will be made available under these set-asides, in the order listed above as applicable, in the form of reservations for eligible homebuyers on a first-come, first-served basis. Any unreserved funds may be reallocated as necessary.

For more information on the HOP Program, including Rule Chapter 67-57, F.A.C., please access Florida Housing’s website at <http://www.floridahousing.org/Home/Developers/HomeownershipPrograms/HOP/default.htm> or contact Bridget Warring at (850)488-4197. If you are hearing or speech impaired, please contact Florida Housing using the dual Party Relay System at 1(800)955-8770 or 1(800)955-8771.

**FINANCIAL SERVICES COMMISSION**

**NOTICE OF FILINGS**

Notice is hereby given that the Office of Financial Regulation, Division of Financial Institution, has received the following applications. Comments may be submitted to the Director, 200 East Gaines Street, Tallahassee, Florida 32399-0371, for inclusion in the official record without requesting a hearing. However, pursuant to provisions specified in Chapter 69U-105, Florida Administrative Code, any person may request a public hearing by filing a petition with the Clerk, Legal Services Office, Office of Financial Regulation, Division of Financial Institutions, 200 East Gaines Street, Tallahassee, Florida 32399-0379. The Petition must be received by the Clerk within twenty-one (21) days of publication of this notice (by 5:00 p.m., September 14, 2007):

**APPLICATION TO ACQUIRE CONTROL**

Financial Institution to be Acquired: TotalBank (Total BancShares Corp.), Miami, Florida

Proposed Purchaser: Banco Popular Español S.A., Madrid, Spain

Received: August 10, 2007

**REQUEST FOR MODIFICATION OF CHARTER APPROVAL ORDER**

Name and Address of Applicant: Floridian Community Bank, Inc., 5599 South University Drive, Davie, Florida 33328

Requested Agency Action: The Petitioner has requested the agency modify the Corrected Final Order of Approval on the Application to Organize Floridian Community Bank, Admin. File No. 4093-B-2/02, dated April 1, 2002. The Order included a condition stating: “That the proposed Director of Marketing, Joanne P. Gaines, will not serve as an executive officer or director of the proposed bank.” The Petitioner requests modification of the Order to allow Joanne P. Gaines to be a director of Floridian Community Bank.

Received: July 16, 2007