

ORDINANCE NO. 17-12

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS” ARTICLE II “RULES OF CONSTRUCTION AND DEFINITIONS”; RELATED TO TEMPORARY EMERGENCY HOUSING; AND SPECIFICALLY AMENDING ARTICLE V “SCHEDULE OF DISTRICT USE AND DEVELOPMENT STANDARDS”, DIVISION 8 “TEMPORARY USES INCLUDING PUBLIC ASSEMBLIES” TO ESTABLISH REGULATIONS ALLOWING TEMPORARY HOUSING FOLLOWING A NATURAL OR MANMADE DISTASTER; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Chapter 252.38 (3) (a), Florida Statutes, give authority to political subdivisions to declare and enact a “State of Local Emergency” for a period of up to seven (7) days, thereby waiving the procedures and formalities otherwise required of the political subdivision by law pertaining to specific actions; and

WHEREAS, the Islamorada, Village of Islands (the “Village”) Mayor declared a State of Local Emergency on September 6, 2017 due to Hurricane Irma; and

WHEREAS, Hurricane Irma, a Category 4 hurricane, made landfall in the Florida Keys on September 10, 2017, causing substantial damage to residences, businesses and infrastructure and loss of property throughout the Village; and

WHEREAS, the Village Mayor issued another declaration of a State of Local Emergency on September 13, 2017 due to Hurricane Irma; and

WHEREAS, the aftermath of high winds, storm surge, heavy rains, flooding and tornadoes associated with Hurricane Irma and the ongoing recovery efforts may require expedient action in order to protect the health, safety and welfare of the community; and

WHEREAS, the Village desires to allow temporary emergency housing to be placed on a single-family parcel for temporary occupancy by residents of the same parcels who have been displaced by natural or manmade disaster damage; and

WHEREAS, the Village experienced significant damage to homes, particularly mobile home structures, and must utilize available locations to provide secure temporary housing for the disaster recovery of the community; and

WHEREAS, mobile home parks provide larger areas with utility hook-ups to place FEMA manufactured housing units and travel trailers; and

WHEREAS, the Village Council of Islamorada, Village of Islands (the “Village Council”) finds that the provisions of this Ordinance are intended to advance the public health, safety, and welfare of the citizens of the Village.

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, correct and incorporated herein by this reference.

Section 2. **Definitions.** Chapter 30, “Land Development Regulations,” Article II, “Rules of Construction and Definitions” of the Village Code is hereby amended to read as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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Sec. 30-32. – Specific Definitions.

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Temporary emergency housing means recreational vehicles (RVs) or travel trailers (or similar approved sheltering units) used for temporary occupancy in response to natural or manmade disasters, including, but not limited to, hurricanes and tropical storms, where such RVs or travel trailers (or other approved sheltering units) are provided to residents or relief workers as part of emergency relief efforts.

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Section 3. Temporary Uses Including Public Assemblies. Chapter 30 “Land Development Regulations,” Article V “Schedule of District Use and Development Standards,” Division 8 “Temporary Uses Including Public Assemblies,” of the Code is hereby amended to read as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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Sec. 30-881. - Intent and purpose.

It is the intent and purpose of this division to permit defined temporary uses within the village on a controlled, time-limited basis, while controlling any adverse impacts on the village's permanent uses.

Sec. 30-882. - Definitions.

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

Nonresidential zoning district means property located within the following zoning districts: village center (VC), tourist commercial (TC), commercial fishing (CF), marine use (MR), highway commercial (HC), neighborhood commercial (NC), industrial (I), public and semi-public services (PS), conservation (C), recreation (R) and mariculture (M).

Public assembly means a gathering, whether indoor or outdoor, which is designed to be attended by members of the general public, with or without an admission charge.

Recreational vehicle (RV) means a vehicle designed as temporary living quarters for recreational, camping or travel use, which either has its own mode of power or is mounted on or drawn by another vehicle. Recreational vehicles, when traveling on the public roadways of this state, must comply with the length and width provisions of F.S. § 316.515, as that section may hereafter be amended. Recreational vehicles also include travel trailers, camping trailers, truck campers, motor homes, private motor coaches, van conversions, park trailers, and fifth wheel

trailers, as defined by F.S. ch. 320. No permanent additions, such as but not limited to Florida rooms, shall be permitted.

Residential zoning district means property located within the following zoning districts: native residential (NR), residential estate (RE), residential single-family (R1) and (R1M), residential mobile home (RMH), residential duplex (R2), residential triplex (R3), residential fourplex (R4), multifamily (MF), mobile home park (MH) and settlers residential (SR);.

Temporary emergency housing means recreational vehicles (RVs) or travel trailers (or similar approved sheltering units) used for temporary occupancy in response to natural or manmade disasters, including, but not limited to, hurricanes and tropical storms, where such RVs or travel trailers (or other approved sheltering units) are provided to residents or relief workers as part of emergency relief efforts.

Temporary use means those uses that are required for a defined period of time during the construction phase of permitted development or uses that are uniquely temporary or seasonal in nature, including but not limited to holiday tree and decoration sales, seasonal sales of farm produce, temporary emergency shelters, sidewalk sales, construction project offices, storage, or sales offices for the marketing of the property upon which or near where they are located, model homes, flea markets, arts and crafts bazaars, art shows, and seminar/educational events, whether for profit or otherwise. Events and gatherings located within Founder's Park are governed by regulations available through the village clerk and are not governed by this division.

Regulations herein govern both temporary uses and public assemblies and the term "temporary use" used herein includes "public assembly."

Sec. 30-883. - Temporary uses permitted in all zoning districts.

If not already provided for as a permitted or conditional use by this chapter, a temporary use shall be a permitted use in any zoning district of the village provided it meets the criteria set forth in this division. This section shall not override or substitute for any other section of this chapter that requires another type of permit, certification or approval.

Sec. 30-884. - Criteria for temporary uses and public assemblies.

A temporary use permit may be issued to the owner, tenant or legal occupant of any property located within the village. The director of planning and development services may permit a temporary use provided the proposed use meets the following criteria:

- (1) The temporary use must be compatible with the surrounding uses.
- (2) The temporary use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the applicable zoning district.
- (3) If the temporary use is to be held in a residential zoning district and is anticipated to draw 100 or more people at any given time, then it must be approved by the director of planning and development services.

- (4) If the temporary use is to be held in a non-residential zoning district and is anticipated to draw 250 or more people at any given time, then it must be approved by the village manager.
- (5) Any temporary use involving the temporary closure of rights-of-way in any zoning district shall be approved by the village manager.
- (6) If the temporary use is an event, then it may be permitted for a period of time not to exceed three days. Other temporary uses shall propose a maximum time limit based on the minimum amount of time needed to conduct the permitted activity. Regardless of the expiration date on the temporary use permit, construction-related temporary uses shall be removed prior to issuance of the final certificate of occupancy or certificate of completion.
- (7) No more than two temporary use permits may be issued at any given time to the same applicant, unless approved by the village manager.
- (8) The same location on private property may not receive a temporary use permit more than three times within a calendar year, unless approved by the village manager.

Sec. 30-885. - Permit.

- (a) Applications for temporary use permits shall be submitted in a form specified by the planning and development services department for reviewing the application, and shall be accompanied by a fee as established from time to time by the village council to defray the actual cost of processing the application. The procedures of section 30-212 shall be followed, except as provided herein. The completed application shall be submitted as follows:
 - (1) Temporary uses in residential zoning districts anticipated to draw 100 or more people at any given time shall submit an application no less than 30 days prior to the event.
 - (2) Temporary uses in non-residential zoning districts anticipated to draw 250 or more people at any given time shall submit an application no less than 45 days prior to the event.
 - (3) Temporary uses anticipated to involve temporary closure of rights-of-way shall submit an application no less than 60 days prior to the event.
 - (4) The village manager reserves the ability to waive the application submittal timeline under unique circumstances including but not limited to funeral services and emergency related cleanup activities.
- (b) The following information shall be required of all persons making application for a temporary use permit:
 - (1) Name and address of applicant.
 - (2) Name, address and written permission of the property owner if different than the applicant.
 - (3) Legal description of the property where the temporary use is to be conducted.

- (4) Scaled sketch plan of the property where the temporary use is to be conducted, the location of the temporary use, and the surrounding areas which will be impacted by the temporary use, including without limitation, traffic patterns, parking and any pedestrian areas nearby.
 - (5) A short description of the nature and type of temporary use.
 - (6) Information on signage, parking, traffic circulation, fire prevention, insurance, security and police coverage, vendors, and health certificates, where applicable and if requested by the director of planning and development services. If off-site parking is to be used, then written permission from the owner of the property on which parking is proposed shall be included.
 - (7) The estimated number of persons expected to attend the use.
 - (8) If the event is anticipated to take place on village properties or rights-of-way, an indemnification and hold-harmless agreement shall be submitted in a form approved by the village attorney.
 - (9) Any additional information reasonably requested by the village manager or designee necessary to evaluate the impact on the community, infrastructure and citizens.
- (c) In addition to the items required in subsection (b) of this section, the applicant shall provide evidence of current insurance showing the village as a named insured and reflecting insurance in amounts and type as determined by the village manager. For temporary uses that are anticipated to draw 250 or more people at any given time, the applicant may be required to submit a bond or other security agreement, requiring and ensuring that the property be kept clean of all trash and debris, during and immediately after the temporary use.
- (d) Upon a determination that the criteria contained in this division have been met, the director of the planning and development services department shall provide the applicant and adjacent property owners no less than ten days' notice by certified U.S. mail, return receipt requested, of the village's intent to issue the permit.
- (e) In issuing a temporary use permit, the director of planning and development services may prescribe appropriate conditions and safeguards as are necessary to protect the public interest and ensure harmony with the intent and purpose of this chapter. If an applicant fails to meet such conditions, if the use becomes a nuisance, or if any provision of this Code is violated by the use, then the temporary use permit may be revoked by the village manager upon providing the applicant with written notice of the revocation. If the use endangers the public health or safety then the village manager shall revoke the permit immediately. The applicant may appeal the revocation of the temporary use permit to the village council.
- (f) No temporary use permit issued pursuant to this division shall be transferable, assignable, or otherwise alienable.
- (g) No temporary use permit shall be required if the use is part of a construction or other project by, or on behalf of the village.
- (h) A temporary use permit shall only be granted based on a written determination by the director of planning and development services that the proposed use meets all of the criteria set forth in this division, and all other applicable requirements contained in this chapter.

- (i) The director may require that a temporary use application be subject to village council approval.
- (j) A temporary use permit may be denied on the basis of a potential adverse impact on public health or safety or due to any potentially unreasonable burdensome or negative impact to the affected area.

Section 30-886. Temporary Emergency Housing.

- (a) Purpose and Intent.** It is the purpose of this section to provide regulations that allow for the relaxation of the use prohibitions in Chapter 30, Land Use Regulations, Article IV Administrative Procedures, Division 11 Building Permit Allocation System, and Division 8 Temporary Uses Including Public Assemblies, to provide regulatory authority to allow temporary emergency housing, not subject to the Building Permit Allocation System, for temporary occupancy by residents displaced by natural or manmade disaster damage or by relief workers involved in reconstruction activities following the declaration of a state of local emergency by the Village Mayor due to a natural or manmade disaster.

- (b) Timeframe to Submit an Application for Temporary Emergency Housing.** An application in a form specified by the planning and development services department for temporary emergency housing pursuant to section 30-886 shall be submitted by December 31, 2017.

- (c) Placement of temporary emergency housing on single-family parcels.** Notwithstanding the provisions of Chapter 30, Land Use Regulations, Article IV Administrative Procedures, Division 11 Building Permit Allocation System, and Division 8 Temporary Uses Including Public Assemblies, temporary emergency housing may be placed on a single-family parcel for temporary occupancy by residents of the same parcel who have been displaced by natural or manmade disaster damage subject to the following conditions:
 - (1) A lawfully established dwelling unit (i.e., a previously permitted house) existed and it has sustained sufficient damage from the disaster so as to make the dwelling unit uninhabitable, as determined by verifiable photographic evidence provided by the owner to the Village Building Department, and/or an inspection by an official from a federal or state governmental relief agency, the Village Building Department or the Village Code Compliance Department;
 - (2) A no-fee emergency permit must be issued for the placement of the temporary emergency housing, which will be *linked* to the building permit issued for damage repair to the house:
 - a. The Village's Director of Planning and Building Official must approve the unit's siting location on the parcel; and
 - b. Connection to the Village's centralized wastewater treatment system is required or, alternatively, a Department of Health permit or other proof of authorized and continuous on-site disposal of wastewater shall be approved by the Village Building Official and Director of Planning.

- (3) A building permit must be issued for repair of damages caused by the storm to make the house habitable within ninety (90) days of placement of the temporary emergency housing;
- (4) Only one (1) temporary emergency housing unit may be placed on the single-family parcel;
- (5) The temporary emergency housing unit may remain on the property for a period not to exceed one hundred eighty (180) days from the date of building permit issuance or until the final inspection or certificate of occupancy is issued on the repairs made to the dwelling unit, whichever comes first.
 - a. A single extension of up to an additional 180 days may be granted by the Building Official if she/he determines that good cause has been shown for the need for an extension.
 - b. Expiration of the building permit for damage repairs shall require immediate removal of the temporary emergency housing unit from the site;
- (6) Occupants of the temporary housing must comply with all mandatory hurricane evacuation requirements; and
- (7) No clearing or filling of environmentally sensitive lands may occur as a result of a temporary emergency housing unit.
- (8) Nothing shall prevent the Village or any state or federal authority to terminate without notice the authority to keep any temporary emergency housing units otherwise authorized should it be deemed required for the public safety.

(d) Placement of temporary emergency housing on a nonresidential, mixed-use, mobile home park or on publicly-owned parcel(s). Notwithstanding the provisions of Chapter 30, Land Use Regulations, Article IV Administrative Procedures, Division 11 Building Permit Allocation System and Division 8 Temporary Uses Including Public Assemblies, temporary emergency housing may be placed on a nonresidential, mixed use, mobile home park or publicly-owned parcel(s) excluding lands designated for conservation and resource protection, for temporary occupancy by persons displaced by the storm damage, subject to the following conditions:

- (1) A no-fee emergency permit must be issued for the placement of the temporary emergency housing:
 - a. The Village's Building Official and Director of Planning must approve a site plan indicating the location of the temporary emergency housing unit(s) on the parcel through the building permit process. Water and electrical demands will be reviewed; and
 - b. Connection to the Village's centralized wastewater treatment system is required or, alternatively, a Department of Health permit or other proof of authorized and continuous on-site disposal of wastewater shall be approved by the Village Building Official and Director of Planning.

- (2) The temporary emergency housing unit may remain on the property for a period not to exceed 180 days from the date of permit issuance. A single extension of up to an additional 180 days may be granted by the Building Official if she/he determines that good cause has been shown for the need for an extension.
- (3) Occupants of the temporary housing must comply with all mandatory hurricane evacuation requirements.
- (4) No clearing or filling of environmentally sensitive lands may occur as a result of a temporary emergency housing unit.
- (5) Nothing shall prevent the Village or any state or federal authority to terminate without notice the authority to keep any temporary emergency housing units otherwise authorized should it be deemed required for the public safety.

Section 30-887. Temporary Outdoor Storage following a Natural or Manmade Disaster.

Notwithstanding the provisions of Chapter 30, Land Use Regulations, Article IV Administrative Procedures, Division 8 Temporary Uses Including Public Assemblies, and Article VI, Specific Use Restrictions, Division 8 Outdoor Storage and Display, temporary outdoor storage for purposes of recovery and restoration following the declaration of a state of local emergency by the Village Mayor due to a natural or manmade disaster, may be permitted on a temporary basis on parcels subject to the following conditions:

- (a) A state of emergency has been declared by the Village Mayor.
- (b) A complete application in a form specified by the planning and development services department for temporary outdoor storage shall be submitted by December 31, 2017.
- (c) The temporary use shall be limited to 365 days from the date of approval of the temporary use permit for outdoor storage.
- (d) The temporary use shall be located on a parcel within a non-residential zoning district.
- (e) The temporary storage area shall be secured with a minimum six (6) foot chain link fence with fabric screening and shall be maintained so as to present a neat, clean and orderly appearance.
- (f) Storage or staging of debris is strictly prohibited.
- (g) No clearing or filling of environmentally sensitive lands may occur as a result of a temporary outdoor storage.
- (h) Nothing shall prevent the Village or any state or federal authority to terminate without notice the authority to keep any temporary storage area otherwise authorized should it be deemed required for the public safety.

Section 4. 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 5. **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 6. **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 a part of the Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

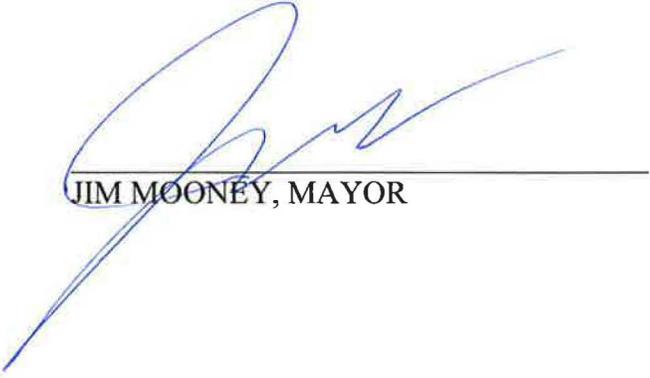
Section 7. **Effective Date.** This Ordinance is enacted under the emergency provisions of section 166.041(3), Florida Statutes and shall be effective upon passage and adoption. The Village Council of Islamorada, Village of Islands hereby waives the notice requirements of subsection (3)(a) of 166.041, Florida Statutes, by a four-fifths vote and declares an emergency exist and that the immediate enactment of this Ordinance is necessary.

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The foregoing Ordinance was offered by Vice Mayor Chris Sante, who moved for its adoption. This motion was seconded by Councilwoman Cheryl Meads, and upon being put to a vote, the vote was as follows:

Mayor Jim Mooney	YES
Vice Mayor Chris Sante	YES
Councilman Mike Forster	YES
Councilwoman Deb Gillis	YES
Councilwoman Cheryl Meads	YES

PASSED AND ADOPTED on the second reading this 5th day of October, 2017.



JIM MOONEY, 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