

ORDINANCE NO. 15-14

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS”, ARTICLE II “RULES OF CONSTRUCTION AND DEFINITIONS”, SECTION 30-472 “DEFINITIONS” OF THE VILLAGE CODE OF ORDINANCES AND AMENDING ARTICLE IV “ADMINISTRATIVE PROCEDURES”, DIVISION 11 “BUILDING PERMIT ALLOCATION SYSTEM” TO FURTHER DEFINE EXISTING PACKAGE SEWER TREATMENT FACILITIES WITHIN THE VILLAGE AS NONRESIDENTIAL FLOOR AREA; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH 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 APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY

WHEREAS, Islamorada, Village of Islands (the “Village”) has adopted a comprehensive set of Land Development Regulations (the “LDRs”) to implement the Village Comprehensive Plan (the “Comprehensive Plan”); and

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

WHEREAS, on September 16, 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. **Definitions.** Article II, “Rules of Construction and Definitions” of Chapter 30, “Land Development Regulations” 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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Floor area, nonresidential means the sum of the gross floor area for nonresidential structures, and all covered, unenclosed areas used for commercial activities including outdoor seating areas, except for walkways, stairways, entryways, parking and loading areas or drive-through canopies. Outdoor storage and display areas, temporary uses, temporary structures, and space occupied by transient residential and institutional-residential principal uses are not nonresidential floor area. Additionally, boat barns legally existing prior to January 1, 2008, shall be considered nonresidential floor area, while those limited to 14,000 square feet and approved after January 1, 2008, shall not be considered nonresidential floor area. Additionally, package sewage treatment facilities that are legally existing prior to September 1, 2015 shall be considered nonresidential floor area. Package sewage treatment facilities that are permitted after September 1, 2015 shall not be considered nonresidential floor area.

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Package sewage treatment facility means a facility which is subject to regulation by the Florida Department of Environmental Protection or its successor in function (the "Department"). Pursuant to Rule Chapter 62-620 of the Florida Administrative Code (as may be amended from time to time), including those facilities in full compliance with all regulatory requirements and that treat sewage to advanced wastewater treatment standards or utilize effluent reuse as their primary method of effluent disposal or any wastewater treatment facility permitted for operation by the Department.

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Section 3. Building Permit Allocation System. Chapter 30 “Land Development Regulations,” Article IV, “Administrative Procedures”, Division 11, “Building Permit Allocation System” of the Village Code is hereby amended to read as follows:

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Sec. 30-472. Definitions.

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Floor area, nonresidential, means the sum of the gross floor area for nonresidential structures, and all covered, unenclosed areas used for commercial activities including outdoor seating areas, except for walkways, stairways, entryways, parking and loading areas or drive-through canopies. Outdoor storage and display areas, temporary uses, temporary structures, and space occupied by transient residential and institutional-residential principal uses are not nonresidential floor area. Additionally, boat barns legally existing prior to January 1, 2008, shall be considered nonresidential floor area, while those limited to 14,000 square feet and approved after January 1, 2008, shall not be considered nonresidential floor area. Additionally, package sewage treatment facilities that are legally existing prior to September 1, 2015 shall be considered nonresidential floor area. Package sewer treatment facilities permitted after September 1, 2015 shall not be considered nonresidential floor area.

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Section 4. 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 5. 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 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 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 7. **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 8. **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 Councilman Chris Sante, who moved for its adoption on first reading. This motion was seconded by Councilman Jim Mooney, and upon being put to a vote, the vote was as follows:

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

PASSED on the first reading this 1st day of October, 2015.

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

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

PASSED AND ADOPTED on the second reading this 22 day of October, 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