

ORDINANCE NO. 12-07

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 "LAND DEVELOPMENT REGULATIONS," ARTICLE II "RULES OF CONSTRUCTION AND DEFINITIONS," SECTION 30-32 "SPECIFIC DEFINITIONS" AND "ARTICLE V "SCHEDULE OF DISTRICT USE AND DEVELOPMENT STANDARDS," DIVISION 4 "ACCESSORY USES AND STRUCTURES," BY MODIFYING THE PERMITTED LOCATION OF ACCESSORY USES AND STRUCTURES ON SEPARATE PARCELS OF LAND; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THE PROVISIONS OF 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 THE APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY

WHEREAS, Islamorada, Village of Islands, Florida (the "Village") has adopted Land Development Regulations ("LDRs") to implement the Village's Comprehensive Plan (the "Comprehensive Plan"); and

WHEREAS, the Village Council desires to amend certain provisions of the LDRs of the Village Code of Ordinances (the "Code") to provide more flexibility for the location of accessory uses and structures on separate parcels of land (the "Proposed Amendment"); and

WHEREAS, the Proposed Amendment shall maintain the Village's ability to protect its upland, shoreline and marine resources, its near shore waters, and the maximum well being of its residents through sound development while continuing established stormwater management practices; and

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

WHEREAS, the Village Local Planning Agency reviewed this Ordinance on June 11, 2012, in accordance with the requirements of Chapter 163, *Florida Statutes*; 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; and

WHEREAS, 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,” Section 30-32 “Specific 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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Accessory use and *accessory structure* mean a use or structure that:

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(4) Is located on the same lot or on contiguous lots under the same ownership as the principal use or structure, except as otherwise provided for in section 30-766 (c) and (d). Accessory uses include the utilization of yards for home gardens, provided that the produce of the garden is for noncommercial purpose; however, in no event shall an accessory use or structure be construed to authorize a use or structure not otherwise permitted in the district in which it is located, and in no event shall an

accessory use or structure be established prior to the principal use to which it is accessory. Home occupations are separately regulated in article VI, division 3 of this chapter, and shall not be considered accessory uses or structures. Accessory uses and structures may not, in the aggregate, exceed 99 percent of the square footage of the combined principal uses and structures to which they relate.

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Adjacent land means a parcel of land sharing a boundary with another parcel of land. For purposes of the plan, an intervening road, right-of-way, easement or canal shall not destroy the adjacency of the two parcels. For the purposes of article V, division 4 of this chapter, intervening canals and U.S. 1 shall destroy the adjacency of the two parcels.

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Section 3. Accessory Uses and Structures. Chapter 30 “Land Development Regulations,” Article V “Schedule of District Use and Development Standards,” Division 4 “Accessory Uses and Structures,” of the Village Code is hereby amended to read as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as striketrough
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Section 30-762 “Definitions”

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The following definitions shall apply to this division:

Accessory use or accessory structure means a use or structure that:

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(4) Is located on the same lot or on contiguous lots under the same ownership as the principal use or structure, except as otherwise provided for in section 30-766 (c) and (d). Accessory uses include the utilization of yards for home gardens, provided that the produce of the garden is for noncommercial purpose; however, in no event shall an accessory use or structure be construed to authorize a use or structure not otherwise permitted in the district in which it is located, and in no event shall an accessory use or structure be established prior to the principal use to which it is accessory. Home occupations are separately regulated in article VI, division 3 of this chapter, and shall not be considered accessory uses or structures. Accessory uses and structures may not, in the aggregate, exceed 99 percent of the square footage of the combined principal uses and structures to which they relate.

Adjacent land means a parcel of land sharing a boundary with another parcel of land. For purposes of article V, division 4 of this chapter an intervening road, right-of-way, or easement shall not destroy the adjacency of the two parcels. Notwithstanding the foregoing, U.S. 1 and intervening canals shall destroy the adjacency of the two parcels.

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Sec. 30-766. Permit for Accessory Use or Structure.

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(c) *Accessory use or structure on separate parcel of land.* If the application is for an accessory use or structure to be located on a parcel of ~~land contiguous~~ adjacent land to the parcel containing the existing use or structure, the applicant shall offer either:

(1) A unity of title, in a form acceptable to the village attorney, unifying the two parcels;

or

(2) A restrictive covenant eliminating any principal use of the contiguous parcel, running in favor of the village and in a form acceptable to the village attorney.

(d) Docks. Docks may be permitted as an accessory structure located on a vacant lot that was either platted or divided in such a manner as to be unsuitable for single-family development, provided the following conditions are met:

- (1) The dock lot shall be used only by the owners of a single-family residence located on property no further than 100 feet from the dock lot.
- (2) The dock lot shall not be made available for rental to any person.
- (3) A restrictive covenant must be placed on the parcel for accessory uses and structures only.
- (4) The canal adjacent to the dock lot shall have a minimum width of 40 feet.
- (5) The dock lot shall contain at least a Class A bufferyard along all street frontages and side yards.
- (6) No boat ramps, dry dock facilities, gasoline or fuel pumps or parking facilities are permitted accessory uses to the lot.

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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 Village Code, 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. **Transmittal to 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 Village Code; and following the thirty (30) days, this Ordinance shall not be effective until either sixty (60) days after it 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 Achenberg, who moved its adoption on first reading. This motion was seconded by Vice Mayor Philipson, and upon being put to a vote, the vote was as follows:

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

PASSED on first reading this 28 day of June, 2012.

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

Mayor Michael Reckwerdt	Yes
Vice Mayor Ken Philipson	Yes
Councilman Don Achenberg	Yes
Councilman Ted Blackburn	Yes
Councilman Dave Purdo	No

PASSED AND ADOPTED on second reading this 12th day of July, 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

*Filed in office of Village Clerk.
 7/13/12*