

Changes to the Phuket land use zoning regulations

On 6 July 2011 the Ministerial Regulation Regarding City Planning of Phuket Province (2011) (the “**MR**”) was issued and went into effect pursuant to the Town and City Planning Act (1975) (the “**Act**”). The MR divides the land in Phuket Province into sixteen different land use zones. Each such zone has a designated principal purpose for which the land is to be used and then further regulates such intended use with regard to, for example, the percentage of each plot of land in that zone that may be used for that purpose versus how much of that plot must be left as “open space.” It should also be noted that when a zone is cut off or separated from another part of that same zone by another different zone type divided parts of the principal zone are designated as sub-zones.

The MR replaced the Ministerial Regulation Regarding City Planning of Phuket Province (2005) (the “**Previous MR**”). The most significant changes to the Previous MR effected by the MR we summarize here as follows:

- 1) For the first time *all* of Phuket Province is now under the Act and therefore the use of Phuket’s coastal waters and off-shore islands is now regulated by the MR, the Previous MR did not do this. Phuket Province extends to just few meters off-shore to the north of the island, approximately ten kilometers off-shore to the east, approximately twenty kilometers off-shore to the west, and to as far away as approximately fifty-five kilometers to the south.
- 2) The amount of land zoned principally for “residential” purposes has increased slightly, as has land for “rural and agricultural” and “forestry reservation” and environmental preservation purposes.
- 3) The MR includes three new additional zones that were not among the Previous MR’s thirteen zones. The principal intend purposes of these three new zones are as

follows:

- a) “open spaces for environment protection, tourism and fisheries”;
- b) “open spaces for recreation and coastline environment protection”; and
- c) “natural resources and coastline environment conservation”

4) And finally, in the Previous MR the use of land for any other permitted purpose *other than* the principal intended purpose was limited to a percentage of each plot of land within that zone. However, under the MR this limitation is now a percentage of the total amount of land within each sub-zone within each zone and there is no longer any limitation of such use on any given plot of land. Please note that in the three newly added zones mentioned in (3) above, there is no allowance at all for any other use other than the primary uses for which those areas are zoned.

Thus, for example, under the Previous MR land in the “Forestry Reservation” zone (a zone which covers a very significant percentage of Phuket) was to be used primarily for the purposes of the purpose of agriculture or agriculture related activities, residence, tourism, government offices and public utilities. But, with some qualification, up to 50% of each land plot in that zone could be used for “other permissible purposes.”

Under the MR land in the “Forestry Reservation” zone is still to be used primarily for the purposes of the purpose of agriculture or agriculture related activities, residence, tourism, government offices and public utilities. However, it is now that case that only up to 5% of all the land in any sub-zone of this zone may be used for any other lawful purpose.

Thus, under the MR a land owner or lessee could potentially use up to 100% of their land plot(s) located in the “Forestry Preservation” zone. However, this also means that once 5% of the land in any “Forestry Reservation” sub-zone has been used for all “other permissible purposes”, no land owner or lessee will be allowed to use *any* of their land located within the “Forestry Reservation” zone for any purpose other than for the purpose of agriculture or agriculture related activities, residence, tourism, government offices and public utilities.

Obviously this new way of limiting the use of land for other than what it is primarily zoned means that such other use in each sub-zone will be on “first come first served” basis and as it opens the possibility to use most if not all of one’s land for said other

purpose this may create a rush to obtain building permission for such other use in some areas.

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