

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA AMENDING SECTION 904.05 (EXPANSION, INCREASE, OR CHANGE OF NONCONFORMITY) OF CHAPTER 904 (NONCONFORMITIES) OF THE CODE OF INDIAN RIVER COUNTY, TO ALLOW FOR SINGLE FAMILY HOMES ON CERTAIN NONCONFORMING PROPERTIES; AND PROVIDING FOR CODIFICATION; SEVERABILITY; CONFLICT OF ORDINANCES; AND EFFECTIVE DATE OF THE ORDINANCE.**

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA THAT:**

**Section 1. Enactment Authority.**

Article VIII, section 1 of the Florida Constitution and chapter 125, Florida Statutes vest broad home rule powers in counties to enact ordinances, not inconsistent with general or special law, for the purpose of protecting the public health, safety and welfare of the residents of the county. The Indian River County Board of County Commissioners specifically determines that the enactment of this ordinance is necessary to protect the health, safety and welfare of the residents of Indian River County.

**Section 2. Amendment of Section 904.05 (Expansion, increase, or change of nonconformities) of Chapter 904 (Nonconformities) of the Code of Indian River County, Florida.**

New language indicated by underline, and deleted language indicated by strikethrough.

Section 904.05 (Expansion, increase, or change of nonconformities) of Chapter 904 (Nonconformities) of the Code of Indian River County, Florida is hereby amended to read as follows:

**CHAPTER 904. – NONCONFORMITIES**

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**Section. 904.05. –Expansion, increase, or change of nonconformities.**

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- (7) Single-family homes on properties with existing nonconforming communications towers. No more than two single family homes, if otherwise permitted in the applicable zoning district, can be allowed to be built, subject to all other zoning requirements, on property with a nonconforming communications tower, so long as the homes are set back at least 250 feet from the communications tower and the property owner, and the property owners' successors and assigns hold the county, and its commissioners, officers, employees and agents, harmless from any claims or damages relating to the granting of such authority.

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**Section 3. Codification.** It is the intention of the Board of County Commissioners that the provision of this ordinance shall become and be made part of the Indian River County Code, and that the sections of this ordinance may be renumbered or re-lettered and the word ordinance may be changed to section, article or such other appropriate word or phrase in order to accomplish such intention.

**Section 4. Severability.** If any part of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected by such holding and shall remain in full force and effect.

**Section 5. Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 6. Effective Date.** This ordinance shall become effective upon adoption by the Board of County Commissioners and filing with the Department of State.

This ordinance was advertised in the Indian River Press Journal on the 3<sup>rd</sup> day of January, 2021, for a public hearing to be held on the 19<sup>th</sup> day of January, 2021, at which time it was moved for adoption by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and adopted by the following vote:

Chairman Joseph E. Flescher	_____
Vice-Chairman Peter D. O'Bryan	_____
Commissioner Susan Adams	_____
Commissioner Joe Earman	_____
Commissioner Laura Moss	_____

The Chairman thereupon declared the ordinance duly passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 202\_.

**BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA**

By: \_\_\_\_\_  
Joseph E. Flescher, Chairman

**ATTEST: Jeffrey R. Smith, Clerk and Comptroller**

By: \_\_\_\_\_  
Deputy Clerk

EFFECTIVE DATE: This Ordinance was filed with the Department of State on the \_\_\_\_ day of \_\_\_\_\_, 202\_.

ORDINANCE NO. 2021-\_\_\_\_\_

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

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Dylan Reingold, County Attorney

APPROVED AS TO PLANNING MATTERS

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Phillip J. Matson, AICP; Community Development Director