

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, AMENDING INDIAN RIVER COUNTY CODE CHAPTER 913.07 (6)(F)3c. DELETING THE PROVISION FOR TITLE INSURANCE COMPANIES FROM CERTIFYING TITLE ON A SUBDIVISION PLAT, PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Indian River County Code §913.07(6)(F)3c. currently permits attorneys licensed in Florida and title insurance companies to certify title to a parcel of property to be platted; and

WHEREAS, until recently, state statutes contained a similar provision that permitted both Florida licensed attorneys and title insurance companies to certify title on a plat to be recorded; and

WHEREAS, certification of title on a plat assures future property owners that there are no liens or other encumbrances on the property that could affect the title to their property. Title certification is important as a mistake in title work on a plat could affect dozens of lots in the subdivision; and

WHEREAS, in 2017, the Florida Legislature enacted House Bill 359 which amended the state's statute concerning whether a title insurance company could certify title on a plat to be recorded; and

WHEREAS, pursuant to §177.097 Fla. Stat. (2017) title insurance companies can no longer certify title to property on a plat, rather, title companies can only issue a "Property Information Report" concerning ownership and encumbrances on a parcel of property to be platted; and

WHEREAS, the statutory amendment goes further to limit the liability of the title insurance company. If a title insurance company makes a mistake on the Property Information Report, its liability is limited to the fee paid for the Property Information Report. Thus, a mistake made in a Property Information Report that could cause several law suits would provide little remedy for innocent homeowners; and

WHEREAS, it is the stated intent of Chapter 177 FS "to establish consistent minimum requirements, and to create such additional powers in local governing bodies, as herein provided to regulate and control the platting of lands. This part establishes minimum requirements and does not exclude additional provisions or regulations by local ordinance, laws, or regulations." (emphasis added) Thus, the Board of County Commissioners (Board) is free to have the county platting requirements differ from the minimum State platting requirements; and

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WHEREAS, the Board desires to provide future home buyers with the additional protection offered by a title certification by a Florida licensed attorney rather than a Property information Report from a title insurance company with limited liability,

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

SECTION 1. AMENDMENT.

Section 913.07. Procedure and requirements for submitting and processing subdivision applications.

(6) *Final plat.* The approved final plat is the official record of the subdivision to be filed with the county clerk. It is verification that the subdivided land has been developed substantially in accordance with the approved preliminary plat or that a bond has been posted which will secure the development as specified in the final plat. The final plat must be approved by the board of county commissioners and recorded by the clerk of the circuit court before the developer may sell any lot or parcel.

(F) *Certifications.* The final plat shall contain on the face or first page the following certifications, dedications, and approvals, all executed and acknowledged as required by law, in the forms set forth below:

3. *Certificate of title.* A title certification shall appear on the face or first page of each plat and shall state:
 - a. The lands as described and shown on the plat are in the name of, and apparent record title is held by, the person, persons, or organizations executing the dedication;
 - b. That all taxes have been paid on said property as required by Section 197.192, Florida Statutes, as amended; and
 - c. The official record book and page number of all mortgages, liens, or other encumbrances against the land, and the names of all persons holding an interest in such mortgage, lien or encumbrance.
- The title certification shall be an opinion of a Florida attorney-at-law of ~~the certification of an abstract of title insurance company licensed to do business in Florida.~~ The county reserves the right to require that the title certification be brought current at the time of final plat approval.

SECTION 2. CODIFICATION.

It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Indian River County

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and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase and the sections of this ordinance may be renumbered or relettered to accomplish such intention; providing, however, that Sections 2, 3 and 4 shall not be codified.

SECTION 3. SEVERABILITY.

If any section, or any sentence, paragraph, phrase, or word of this ordinance is for any reason held to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this ordinance, and it shall be construed to have been the legislative intent to pass the ordinance without such unconstitutional, invalid or inoperative part.

SECTION 4. EFFECTIVE DATE.

This ordinance shall take effect on _____ or upon filing with the Florida Secretary of State, whichever occurs later. This ordinance was advertised in the Indian River Press Journal on the ____ day of _____, 2018, for a public hearing on ____ and ____ day of _____, 2018, at which time it was moved for adoption by Commissioner _____, and seconded by Commissioner _____ and adopted by the following vote:

Chairman Peter D. O'Bryan	_____
Vice Chairman Bob Solari	_____
Commissioner Susan Adams	_____
Commissioner Joseph E. Flescher	_____
Commissioner Tim Zorc	_____

The Chairman thereupon declared the ordinance duly passed and adopted this ____ day of _____, 2018.

Attest: Jeffrey R. Smith, Clerk of Court and Comptroller

INDIAN RIVER COUNTY, FLORIDA,
by its Board of County Commissioners

By _____
Deputy Clerk

By _____
Peter D. O'Bryan, Chairman

Approved as to form and legal sufficiency

William K. DeBaal, Deputy County Attorney

ACKNOWLEDGMENT by the Department of State of the State of Florida, this ____ day of _____, 2018.

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