

**ORDINANCE NO. XXXX-XXX**

**AN ORDINANCE OF INDIAN RIVER COUNTY, FLORIDA CONCERNING AMENDMENTS TO THE LAND DEVELOPMENT REGULATIONS (LDRs) AND CODE OF LAWS AND ORDINANCES; PROVIDING FOR AMENDMENTS TO CHAPTER 901, DEFINITIONS, CHAPTER 910, CONCURRENCY MANAGEMENT SYSTEM, CHAPTER 912, SINGLE-FAMILY DEVELOPMENT AND CHAPTER 930 STORMWATER MANAGEMENT AND FLOOD PROTECTION; AND TO AMEND CODE OF ORDINANCES, TITLE IV CHAPTER 401, BUILDINGS CODES, TO AMEND THE FLORIDA BUILDING CODE, AND TO REPEAL AND RESERVE CHAPTER 402, COASTAL CONSTRUCTION CODE, TO REMOVE REDUNDANT PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, the Legislature of the State of Florida has, in Chapter 125—County Government, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, Indian River County was accepted for participation in the National Flood Insurance Program on July 3, 1978 and the Board of County Commissioners desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

**WHEREAS**, the Board of County Commissioners adopted Ordinance No. 2012-036 on November 6, 2012 to revise the floodplain management regulations to coordinate with the Florida Building Code; and

**WHEREAS**, the Florida Division of Emergency Management identified corrections required by the Federal Emergency Management Agency to bring the Indian River County's floodplain management regulations into conformance with the Model Floodplain Management ordinance approved by FEMA in January 2013; and

**WHEREAS**, Indian River County participates in the NFIP's Community Rating System, a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements, achieving a CRS rating of Class 6, making residents and property owners who purchase NFIP flood insurance policies ; and

**WHEREAS**, in 2020 the NFIP Community Rating System established certain minimum prerequisites for communities to qualify for or maintain class ratings of Class 8 or better; and

**WHEREAS**, to satisfy the prerequisite and for Indian River County to maintain the current CRS rating, all manufactured homes installed or replaced in special flood hazard areas must be elevated such that the lowest floors are at or above at least the base flood elevation plus 1 foot, which necessitates modification of the existing requirements; and

**WHEREAS**, the Board of County Commissioners determined that it is in the public interest to amend the floodplain management regulations to better protect owners and occupants of manufactured homes and to continue participating in the Community Rating System at the current class rating; and

**WHEREAS**, the Federal Emergency Management Agency released FEMA Policy #104-008-03 Floodplain Management Requirements for Agricultural Structures and Accessory Structures; and

**WHEREAS**, the Board of County Commissioners has determined it appropriate to adopt regulations that are consistent with the FEMA Policy to allow issuance of permits for wet floodproofed accessory structures that are not larger than the sizes specified in the FEMA Policy and granting of variances for certain wet floodproofed agricultural structures; and

**WHEREAS**, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*; and

**WHEREAS**, Chapter 553, Florida Statutes, allows for local technical amendments to the *Florida Building Code* that provide for more stringent requirements than those specified in the Code and allows adoption of local administrative and local technical amendments to the Florida Building Code to implement the National Flood Insurance Program and incentives; and

**WHEREAS**, the Board of County Commissioners previously adopted requirements to (1) require accumulation of costs of improvements and repairs of buildings, based on issued building permits, over a ten-year period; and (2) increase the minimum building elevations; and for the purposes of the National Flood Insurance Program Community Rating System and, pursuant to section 553.73(5), F.S., is readopting those amendments using the current language in the *Florida Building Code*; and

**WHEREAS**, the Board of County Commissioners is adopting new requirements to (1) further increase the minimum building elevation; (2) require declarations of land restriction (nonconversion agreements) for enclosed below elevated buildings; (3) require applicants for dry floodproofed buildings to submit operations and maintenance plans; (4) to require use of FEMA Elevation Certificates and FEMA Floodproofing Certificates; (5) require a higher level of protection for critical facilities; and (6) to apply coastal high hazard area requirements in Coastal A Zones, for the purpose of participating in the National Flood Insurance Program Community Rating System; and, pursuant to section 553.73(5), F.S., is formatting those requirement to coordinate with the *Florida Building Code*; and

**WHEREAS**, the Board of County Commissioners has determined that it is in the public interest to adopt the proposed local technical amendments to the *Florida Building Code* and the proposed amendments are not more stringent than necessary to address the need identified, do not discriminate against materials, products or construction techniques of demonstrated capabilities, are in compliance with section 553.73(4), Florida Statutes; and

**WHEREAS**, as technical stormwater design engineering standards have evolved and certain types of water quality treatment and storage methods are more readily utilized, the Board of County Commissioners has determined that revision of the stormwater management codes is appropriate for consistency with state agency criteria and clarification of common code interpretations; and

**WHEREAS**, Code of Ordinances Chapter 402, Coastal Construction Code, adopted in 1991, is superseded by the coastal construction control line requirements of the Florida Building Code.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Indian River County that the Indian River County Land Development Regulations are amended as set forth in Section 1, and the Indian River County Code of Ordinances is amended as set forth in Section 2, as shown in strikethrough and underline format.

**SECTION 1.** Indian River County Land Development Regulations Chapter 901, Definitions, and Chapter 930, Stormwater Management and Flood Protection, Chapter 910, Level of Service Standards Established in the Comprehensive Plan, Chapter 912, Drainage; Stormwater Management and Flood Protection as set forth in Attachment B, Attachment C, Attachment D and Attachment E, respectively, shall be adopted.

**SECTION 2.** Indian River County Code of Ordinances Chapter 401, Building Codes, and Chapter 402, Coastal Construction Code, as set forth in Attachment A, shall be adopted.

**SECTION 3. FISCAL IMPACT STATEMENT.**

In terms of design, plan application review, construction and inspection of buildings and structures, the cost impact as an overall average is negligible in regard to the local technical amendments because all development has been subject to the requirements of the local floodplain management ordinance adopted for participation in the National Flood Insurance Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

**SECTION 4. APPLICABILITY.**

For the purposes of jurisdictional applicability, this ordinance shall apply in the unincorporated areas of Indian River County. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

**SECTION 5. REPEAL OF CONFLICTING ORDINANCES.**

Any and all ordinances and regulations in conflict herewith are hereby repealed to the extent of any conflict.

**SECTION 6. INCLUSION INTO THE CODE OF ORDINANCES.**

It is the intent of the Board of County Commissioners of Indian River County that the provisions of this ordinance shall become and be made a part of Indian River County's Code of Laws and Ordinances, and that the sections of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 7. SEVERABILITY.**

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

**SECTION 8. EFFECTIVE DATE.**

This ordinance shall take effect upon filing with the Department of State.