

ORDINANCE 2017-____

AN ORDINANCE OF INDIAN RIVER COUNTY, FLORIDA, CONCERNING AMENDMENTS TO ITS LAND DEVELOPMENT REGULATIONS (LDRs); PROVIDING FOR AMENDMENT TO CHAPTER 913, SUBDIVISIONS AND PLATS; BY AMENDING SECTION 913.06(1) UNLAWFUL ACTIVITY AND 913.06(2) EXEMPTIONS; AND BY PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; CODIFICATION; SEVERABILITY; AND EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA THAT THE INDIAN RIVER COUNTY LAND DEVELOPMENT REGULATIONS (LDRS) CHAPTER 913, SUBDIVISIONS AND PLATS, BE AMENDED AS FOLLOWS:

SECTION #1:

Amend LDR Section 913.06(1) Unlawful activity; as follows:

- (1) *Unlawful activity.* It shall be unlawful and subject to the penalties provided herein for any person to:
 - (A) Create a subdivision without first complying with the provisions of this chapter and filing a plat approved by the board of county commissioners unless exempt under section 913.06(2). The dividing of land into two (2) or more parcels without filing a plat under the provisions of this chapter, where the land divided was the result of a previous division of land into two (2) or more parcels which occurred after July 23, 1983, is prohibited.
 - (B) Divide property by any means for the purpose of sale or transfer of title unless each of the resulting parcels has at least the minimum area and width requirements prescribed by the zoning regulations and land use plan of Indian River County as applied to the lots created, unless exempt under sections 913.06(2) or 913.09(6).
 - (C) Divide property after December 8, 1973 by any means where a resulting lot does not have frontage on: a dedicated public right-of-way, private platted right-of-way (street), or a roadway historically and currently maintained by the county, as referenced on the county road grading map, of at least:
 1. Sixty (60) continuous feet, unless exempted under section 913.06(2), or unless the lot fronts upon a cul-de-sac or curve and meets the requirements of section 913.09(6)(C), for properties located within the A-1, A-2, A-3, Con-2, Con-3, RFD and RS-1 zoning districts;
 2. The minimum lot width of the zoning district applicable to the lot(s) created for properties located within zoning districts other than those referenced in the above paragraph 1., unless exempted under section 913.06(2), or unless the lot fronts upon a cul-de-sac or curve and meets the requirements of section 913.09(6)(c).
Access, ingress/egress, or other easements shall not be deemed to constitute a publicly dedicated road right-of-way unless previously dedicated to and accepted by

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the county. Private access easements shall be considered "private platted rights-of-way (street)" for purposes of this section, if:

- a. The physical roadway located within the easements(s) existed prior to the county's road frontage requirement (December 8, 1973). The alignment of the physical roadway may be shifted from its 1973 location if the roadway remains in the same general location and retains its 1973 beginning and ending points; and
- b. The physical roadway has a passable width for two-way traffic meeting county local road standards (twenty (20) feet for single-family development); and
- c. A notarized letter, acceptable to the county attorney's office in regard to form and legal sufficiency, from the person or entity responsible for road maintenance is filed with the county and recorded in the public records, indicating the person or entity responsible for maintenance and the method of maintenance performed; and
- d. The person(s) proposing the lot split files for and obtains administrative approval from staff, verifying that requirements are satisfied regarding private road right-of-way frontage.

Note: Parcels created between September 21, 1990 and December 4, 1991 are subject to the sixty (60) contiguous feet (rather than a minimum lot width) frontage requirement, regardless of the zoning district in which the property is located.

- (D) Commence the construction of any improvements required under this chapter without first having obtained a land development permit from Indian River County or fail to construct or maintain improvements in accordance with an approved land development permit, plat approval or requirements of this chapter.
- (E) Create a public or private right-of-way (street) without platting in accordance with the applicable provisions of this chapter.
- (F) Divide any lot or tract in a platted **residential** subdivision that was approved by the board of county commissioners of Indian River County in a manner which results in a construction-site smaller than or inconsistent with the surrounding lots in the subdivision unless approved by the board of county commissioners.
 1. Any request to divide a lot or tract in such a manner shall be reviewed and considered as follows:
 - a. The technical review committee (TRC) shall review the request and make a recommendation to the planning and zoning commission;
 - b. The planning and zoning commission at a public hearing shall review the request and make a recommendation to the board of county commissioners;

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- c. The board of county commissioners at a public hearing shall review the request and approve, approve with conditions, or deny the request.
2. Written notice of the public hearings shall be mailed certified to each owner of property in the subdivision at least fifteen (15) days in advance of the hearing.
3. Prior to approval of a lot split, the board of county commissioners shall determine that:
 - a. No substantial negative neighborhood impacts are anticipated as a result of the split or subsequent similar neighborhood lot splits;
 - b. The resulting lots conform to the applicable county zoning requirements and state regulations;
 - c. The resulting lots are buildable under current regulations;
 - d. No substantial adverse impacts on existing infrastructure are anticipated, as the result of the split or subsequent similar neighborhood lot splits, via the resulting increase in density or intensity of use;
 - e. The impacts of the split or potential splits will not degrade adopted levels of service to unacceptable levels, pursuant to the provisions of Chapter 910, Concurrency Management;
 - f. The applicant certifies that he knows of no recorded deed restrictions or covenants which would prohibit the division or splitting of the lots.

SECTION #2:

Amend LDR Section 913.06(2) Exemptions; as follows:

(2) *Exemptions.* The following activities shall be exempt from the provisions of this chapter:

(A) *Creation of equal or larger building sites from lots of record.*

1. The combination or recombination of all or a portion of previously created parcels of record where the newly created or residual parcels comply with all applicable zoning district dimensional criteria or, where applicable, the regulations governing nonconformities.
2. The combination or recombination of all or a portion of previously platted parcels of record are exempt where none of the newly created or residual parcels contain less area, width or depth than the smallest of the original parcels of record being combined and no streets of any kind or public easements are created, changed or extinguished.

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- (B) *Boundary settlements.* Any conveyance between adjoining landowners if:
1. The purpose of the conveyance is to adjust or settle the common boundary line between adjoining landowners;
 2. The deed of conveyance or other legal instrument states such purpose and is recorded in the official records of Indian River County; and
 3. The resulting parcel(s) conform to the applicable zoning district dimensional criteria.
- (C) *Conveyance to government.* Any division of land for the purpose of conveying land to any federal, state or local government entity or agency or public utility, provided such conveyance is accepted by the grantee by an instrument recorded in the public records of Indian River County.
- (D) *Division by order of court.* Any division of land by order of a court of competent jurisdiction.
- (E) *Corrective instrument.* Any conveyance for the purpose of correcting an error made in the language used in an original conveyance.
- (F) *Forty-acre tracts.* Any division of land where all parcels resulting from the division contain forty (40) acres of land or more and no public easements or streets are created. When the tract prior to dividing is a size which is not an even multiple of forty (40) acres, a fractional breakdown resulting in lots of equal size which are larger than thirty-eight (38) acres also qualifies for the exemption. Notwithstanding this exemption for the creation of parcels forty (40) acres or greater in size, any proposal or aggregate proposals to create fifty (50) or more parcels forty (40) acres or greater in size shall be deemed to constitute a subdivision and shall require approval as a subdivision. All provisions of this chapter shall apply.
- (G) *Platting of a portion of a tract.* Platting of a portion of a parcel or tract under the terms and procedures of this chapter, shall not constitute a splitting of that parcel or tract.

(H) Lot split for commercial property.

1. **Any division of a previously platted commercially zoned lot or tract where each resulting parcel meets applicable land development regulation requirements for lot size, lot dimensions, and paved road frontage, and is served by adequate infrastructure, as demonstrated through an administrative approval site plan filed in accordance with site plan ordinance section 914.06(1)(c) and approved by the Community Development Director or his designee. Prior to receiving administrative approval, the applicant shall demonstrate that each resulting parcel meets subdivision covenants and restrictions, as applicable.**

- 2. **Any division of an unplatted commercially zoned property where each resulting parcel exceeds one acre in size, meets applicable land development regulation requirements for lot size, lot dimensions, and paved road frontage, and is either served by existing adequate infrastructure (including shared access with adjacent properties) or is subject to a recorded covenant adequately providing for shared infrastructure and shared access at the time of development, as demonstrated through an administrative approval site plan filed in accordance with site plan ordinance section 914.06(1)(c) and approved by the Community Development Director or his designee. The County shall review and be made a party to any covenant used to meet this regulation to ensure that the covenant is not terminated or modified without County consent. Such covenant shall include as an exhibit a legal description and survey sketch provided by the applicant.**

SECTION #4: SEVERABILITY

If any clause, section or provision of this Ordinance shall be declared by a court of competent jurisdiction to be unconstitutional or invalid for any cause or reason, the same shall be eliminated from this Ordinance and the remaining portion of this Ordinance shall be in full force and effect and be as valid as if such invalid portion thereof had not been incorporated therein.

SECTION #5: REPEAL OF CONFLICTING ORDINANCES

The provisions of any other Indian River County ordinance that are inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

SECTION #6: INCLUSION IN THE CODE OF LAWS AND ORDINANCES

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Indian River County, Florida. The sections of the Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any other appropriate word.

SECTION #7: EFFECTIVE DATE

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

This ordinance was advertised in the Press-Journal on the ____ day of _____, 2017, for a public hearing to be held on the ____ day of _____, 2017, 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 Bob Solari _____

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Commissioner Tim Zorc _____

Commissioner Susan Adams _____

BOARD OF COUNTY COMMISSIONERS
OF INDIAN RIVER COUNTY

The Chairman there upon declared the ordinance duly passed and adopted this _____ day of _____, 2016.

BY: _____
Joseph E. Flescher, Chairman

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

BY: _____
Deputy Clerk

This ordinance was filed with the Department of State on the following date: _____

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Dylan Reingold, County Attorney

APPROVED AS TO PLANNING MATTERS

Stan Boling, AICP; Community Development Director