

ORDINANCE 2018-____

AN ORDINANCE OF INDIAN RIVER COUNTY, FLORIDA, CONCERNING AMENDMENTS TO ITS LAND DEVELOPMENT REGULATIONS (LDRs); PROVIDING FOR AMENDMENTS TO CHAPTER 912 SINGLE-FAMILY DEVELOPMENT, AND CHAPTER 913, SUBDIVISIONS AND PLATS; BY AMENDING SECTIONS 912.06(1), PROPERTY "BUILDABILITY"; DETERMINING IF A PARCEL CAN BE BUILT UPON; 913.06(4), COMPLIANCE REQUIRED; 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 912, SINGLE-FAMILY DEVELOPMENT AND CHAPTER 913, SUBDIVISIONS AND PLATS, BE AMENDED AS FOLLOWS:

SECTION #1:

Section 912.06. Property "buildability"; determining if a parcel can be built upon.

No property may be built upon unless it was legally created, in conformance with the subdivision ordinance (Chapter 913) and the applicable zoning district lot dimensional standards found in Chapter 911, Zoning.

- (1) *Determination of legal parcel creation.* A parcel shall be determined to be legally created in compliance with the regulations of this chapter if the parcel meets one or more of the following:
 - (A) The parcel was created under an applicable exemption set forth in section 912.06(2) below; or
 - (B) The parcel is part of an approved subdivision plat recorded in the official plat book sections of the public records; or
 - (C) The parcel was created as part of an approved affidavit of exemption as provided for in the affidavit of exemption section **913.06(5)** of this chapter; or
 - (D) The parcel was created in such a manner that does not constitute an unlawful activity as specified in section 912.06(3) below;

No building permit shall be issued for construction of any improvements on a parcel that was not legally created in compliance with these regulations.

SECTION #2:

Amend LDR Section 913.06(5), Affidavit of exemption; as follows:

- (5) *Affidavit of exemption.* An affidavit of exemption from certain requirements of section 913.08 may be applied for in conjunction with proposals to create parcels containing more than two hundred thousand (200,000) square feet.

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- (A) All affidavit of exemption application/requests shall be exempt from the following portions of section 913.08 (Required Improvements):
- 913.08(1)(A)—Streets
 - 913.08(1)(C)—Utilities systems
 - 913.08(1)(D)—Erosion control provisions
 - 913.08(1)(E)—Stormwater and floodwater management system according to Chapter 930
 - 913.08(1)(F)—Street signs and traffic control markings and signs
 - 913.08(1)(G)—Permanent control points
 - 913.08(2)(A)—Bikeways
 - 913.08(2)(B)—Sidewalks
 - 913.08(2)(C)—Alleys
 - 913.08(2)(D)—Buffering facilities and areas
 - 913.08(2)(E)—Fire hydrants
 - 913.08(2)(F)—Parks and recreational areas and facilities (see section 913.09(20))
 - 913.08(2)(H)—Curbing
 - 913.08(2)(I)—Street lights
 - 913.08(2)(K)—Bridges and culverts when necessary
 - 913.08(2)(L)—Filling and drainage as necessary
 - 913.08(2)(M)—Traffic control devices as necessary
 - 913.08(2)(N)—Header curbs
 - 913.08(2)(R)—Transportation system improvements (off-site and on-site)
- (B) The following required improvements/design standards shall apply to all affidavit of exemption application/requests:
- 913.08(1)(B)—Easements
 - 913.08(1)(H)—Rights-of-way
 - 913.08(1)(I)—Trees and vegetation protection
 - 913.08(2)(G)—Beach access structures and areas
 - 913.08(2)(O)—Native vegetation preserve areas
 - 913.08(2)(P)—Environmentally sensitive land preserve areas
 - 913.08(2)(Q)—Emergency access
 - 913.08(2)(S)—Marginal and limited access easements
 - 913.08(2)(T)—Other provisions as may be required by land development regulations.
1. Right-of-way width and dedication standards and requirements shall apply to affidavit of exemption application/requests.
 2. No platting is required unless it is necessary to provide road right-of-way frontage for the proposed parcel(s).
- (C) 1. No affidavit of exemption development or aggregation of proposed affidavits of exemption shall be approved as an affidavit(s) of exemption if such development proposes the creation of twenty (20) or more parcels. Any proposal to create twenty (20) or more building sites via proposed development or aggregation of developments shall constitute a subdivision and shall require approval as a

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subdivision or agricultural planned development (P.D.). All provisions of this chapter shall apply.

2. Each parcel resulting from the proposed division of land shall contain five (5) or more acres, except as allowed below. When the tract prior to dividing is a size which is not an even multiple of five (5) acres and does not lend itself to division into lots each containing more than five (5) acres, a fractional breakdown resulting in lots of equal size not less than two hundred thousand (200,000) square feet in size qualifies for this exemption provision.
3. ~~If the developer elects to divide the land by filing a plat, or i~~**If** road right-of-way is to be created, all requirements of this chapter 913 shall be complied with except for those requirements or provisions specifically exempted in section 913.06(5)(A).
4. The applicant shall deed by donation to the county all rights-of-way necessary to comply with the minimum local road right-of-way standards and all streets created are at least the minimum street width required by section 913.09(3)(B).
5. Where a common area or private road right-of-way is created, the owner shall establish a landowner's association and simultaneously file a declaration of covenants and restrictions, acceptable in form to the county attorney, in the public records providing for all common areas and rights-of-way to be dedicated to the landowner's association and provisions made for their perpetual maintenance. The plat **or recordable map** ~~(if applicable)~~ and declaration of restrictions shall contain the following language in bold type:

"The common areas and rights-of-way are not dedicated to the public and will not be maintained, repaired or improved by the county."
6. The owner shall file a declaration of restrictions prohibiting the voluntary division of land encompassed within the project into lots that are less than two hundred thousand (200,000) square feet in size unless such division is accomplished by filing a plat approved by the county and meeting all standards required of subdivisions under this chapter.
7. The owner shall file an "affidavit of exemption" **plat or recordable map and any associated recordable documents** in the public records prior to dividing the land which shall contain:
 - a. A legal description of the land encompassed within the project and a certified survey depicting all parcels created by the division, all private and public streets and easements;
 - b. The official book, or plat book, and page number of official records of Indian River County where the items required in paragraphs 3, 4, 5, and 6 may be found; and

- c. The approval of the public works and community development directors and the county attorney's office.
 - d. **When the developer is not required to plat, as allowed by section 913.06(5)(B)2, the "Affidavit of Exemption" layout shall be prepared by a registered surveyor on a 24" by 36" recordable map in a form acceptable to the County Surveyor and County Attorney's Office.**
 - e. **The review timeframes and process for an affidavit of exemption application shall follow the same timeframes provided for a preliminary plat application [reference section 913.07(4)(f)].**
 - f. **It shall be the obligation of the applicant to have the appropriate approved affidavit of exemption documents, including a plat or recordable map, recorded in the public records.**
- (D) Application process for affidavit **of exemption**. All applications for affidavits of exemption shall comply with the applicable procedural and informational requirements of section 913.07(3), "formal pre-application conference" and shall be reviewed and approved by the technical review committee (TRC).

SECTION #3: 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 #4: 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 #5: 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 #6: 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 _____, 2018, for a public hearing to be held on the ____ day of _____, 2018, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

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Chairman Peter D. O’Bryan _____

Vice Chairman Bob Solari _____

Commissioner Susan Adams _____

Commissioner Joseph E. Flescher _____

Commissioner Tim Zorc _____

BOARD OF COUNTY COMMISSIONERS
OF INDIAN RIVER COUNTY

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

BY: _____
Peter D. O’Bryan, 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