

ORDINANCE 2017-____

AN ORDINANCE OF INDIAN RIVER COUNTY, FLORIDA, CONCERNING AMENDMENTS TO ITS LAND DEVELOPMENT REGULATIONS (LDRs); PROVIDING FOR AMENDMENTS TO CHAPTER 902, ADMINISTRATIVE MECHANISMS; BY AMENDING SECTION 902.04 ROLE OF BOARD OF COUNTY COMMISSIONERS AND SPECIFICALLY REGULATIONS FOR TEMPORARY SUSPENSION OF COMPLIANCE; 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 902, ADMINISTRATIVE MECHANISMS, BE AMENDED AS FOLLOWS:

SECTION #1:

Land development regulation (LDR) Section 902.04(14), regulations for temporary suspensions of compliance, shall be amended to read as follows:

(14) The board of county commissioners may hear requests for temporary suspensions of compliance, as provided below.

(A) *Purpose and intent.* This section is established to provide procedures for reviewing temporary suspensions of compliance (including appeals and referrals) by the board of county commissioners and staff. A temporary suspension of compliance is of limited duration, pertains to regulations not directly related to public safety, and is intended to provide site plan, planned development, and subdivision project applicants an opportunity to obtain a certificate of occupancy or certificate of completion with a condition that minor deficiencies are corrected within a specified and limited timeframe. **A list of minor deficiencies that can be temporarily suspended and a list of non-minor deficiencies that cannot be temporarily suspended are provided below in sub-section H. The list is not inclusive of all project items and conditions which may be used to determine whether a deficiency can or cannot be temporarily suspended.**

(B) *Approving authority.* The board of county commissioners is hereby authorized to grant temporary suspensions of compliance in accordance with the provisions of this section and may attach conditions to temporary suspensions of compliance granted. In addition, the county administrator or his designee is authorized to grant temporary suspensions of compliance, in accordance with the provisions of this section.

1. Temporary suspension of compliance by the county administrator or his designee. A temporary suspension of compliance with land development regulations not directly related to public safety may be granted by the county administrator or his designee, without board of county commissioners approval, under the following circumstances.
 - a. The development project is certified by the project design professional or owner/designer to be complete and in substantial conformance with the approved development plan in accordance with site plan ordinance sections 914.12(3)(a) and (b) or subdivision ordinance section 913.07(5)(I), whichever is

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applicable, and required landscaping is certified by a landscape architect or landscape contractor as Florida No. one (1) or better in accordance with landscape ordinance section 926.12(1)(a).

- b. The development project has been inspected by county staff, a "punchlist" of discrepancies has been issued, and the project developer has provided staff a written request specifying the discrepancies he or she wishes to be temporarily suspended.
- c. The project deficiencies that are the subject of the suspension request are found to be minor in nature and extent, and are found to be correctable within a timeframe not to exceed ninety (90) days.
- d. The suspension timeframe is specified in writing and does not exceed ninety (90) days from the date of the suspension.
- e. The corrective action(s) is specified in writing and found to be sufficient to bring the development project into compliance upon completion.
- f. The project engineer, developer, or and owner agree to the specified suspension timeframe and the obligation to complete the specified corrective action(s) within the specified timeframe.

(C) *Procedures for approval by the county administrator or his designee.* The applicant may apply to the planning division for a temporary suspension by filing a temporary suspension application form provided by the planning division. The county administrator or his designee shall act on any temporary suspension request within two (2) business days of receiving the request. For each temporary suspension of compliance determination, staff shall provide notice of the determination decision in writing to the project owner, project developer, and board of county commissioners. Each suspension determination granting approval shall specify the maximum duration of the suspension, required mitigation and/or corrective action(s), and any condition(s) attached to the suspension.

(D) *Procedure for referral or appeal to the board of county commissioners.* The project owner, or project developer, may appeal a decision of the county administrator or his designee to the board of county commissioners within ten (10) days of the mailing of the written determination referenced in subsection (C) above. Each appeal shall be accompanied by a fee established by resolution of the board of county commissioners. The county administrator or his designee may refer a request to the board of county commissioners. Any referral or appeal shall be:

- 1. Made in writing to the chairman of the board of county commissioners with a copy provided to the project developer, project owner, county administrator (if an appeal), and board of county commissioners. Upon receipt of a referral or appeal, the chairman shall call a meeting of the board of county commissioners as soon as practicable to conduct a hearing on the suspension request, subject to the requirements of subsections (D)2. and 3. below.

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2. Noticed at least seven (7) days prior to the hearing via written notice of the hearing mailed to each owner of property adjacent to the development project site. The notice shall contain the name of the applicant, a description of the appeal/temporary suspension request and the development project location, as well as the date, time, and place of the hearing.
 3. Considered at a hearing held no more than twelve (12) business days after receipt of the appeal or referral. At the hearing, the board of county commissioners may approve a temporary suspension request if it finds that all temporary suspension criteria of subsection (B)1.a.—f. above are satisfied.
- (E) *Conditions authorized.* The county administrator or his designee, or, upon referral or appeal, the board of county commissioners, may impose conditions including, but not limited to, a cash deposit which will be forfeited for non-compliance within a time specified.
- (F) *Consequences of non-compliance.* In the event that the specified corrective action(s) is not completed prior to the end of the specified suspension timeframe, the project owner shall be deemed in violation of the land development regulations, shall forfeit any required cash deposit for compliance, and shall be subject to code enforcement action. In addition, the county shall withhold issuance of any future development order, building permit, certificate of completion, or certificate of occupancy associated with the project site unless and until the violation is corrected. Notwithstanding the above, a certificate of occupancy may be issued for a residential unit within a subdivision project site deemed to be in violation if security is posted with the county that guarantees correction of the violation. For purposes of these regulations, the subdivision project site shall mean the development area that is the subject of the certificate of completion.
- (G) *Limitation.* No temporary suspension of compliance shall be granted for building code or fire code items, or other items directly related to public safety.

(H) Items that can and that cannot be temporarily suspended.

The following list is not all inclusive but does provide specific items that can and that cannot be temporarily suspended under the provision of this section.

1. Minor deficiencies that can be temporarily suspended:

- **Utility Services**
 - a. **Engineer of Record's project certification letter**
 - b. **Field Inspector's sign-off**
 - c. **24/7 private lift station maintenance agreement**
 - d. **Private lift station acknowledgement letter from engineer.**
 - e. **If public lift station: set of O & M (Operations and Maintenance) manuals**
 - f. **If public lift station: transfer of lift station electric account to the County**
 - g. **Certified Cost Estimate (OPC; Opinion of Probable Cost)**

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h. Easement & Bill of Sale and 1-year Warranty Security (must be submitted once items a-g above and items m-v listed below are completed)

- Public Works

i. Complete stabilization of lot pads for subdivisions and planned developments; complete stabilization of open areas if level graded for site plan projects

j. Minor clean up

k. Repairs to any sidewalk or curb

l. Minor erosion repairs

2. Non-minor deficiencies that cannot be temporarily suspended:

- Utility Services

m. FDEP (Florida Department of Environmental Protection) Water & Wastewater Clearance

n. Backflow prevention device certification

o. Water and sewer hydrostatic pressure tests

p. Lift station start-up report

q. Density testing reports

r. Gravity sewer infiltration/exfiltration test report

s. Gravity sewer television inspection (video & hard copies of reports)

t. Final Record Drawings/As-builts – 1 signed/sealed Mylar, 1 cad disc, 2 signed/sealed 24 x 36 hard copies

u. Release of liens for project for any IRC access/easement on private property

v. Project-related water or sewer account not in good standing

- Public Works

w. Required bonding/posted security

x. Offsite improvements, including roadway, utility, drainage, and sidewalks

y. As-built surveys

z. Jurisdictional permit certifications (e.g. SJRWMD, ACOE, DEP, FDOT)

aa. Roadway or parking lot work

bb. Drainage, including sodding/complete stabilization of all swale slopes and stormwater tracts

cc. Perimeter grading

dd. Rough grading of lots

ee. Utilities not deemed fully accepted that could lead to open cutting of roadways and parking lots

ff. Required sidewalks (required by code or approval condition)

gg. Required improvements necessary for traffic operations

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SECTION #2: 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 #3: 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 #4: 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 #5: 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	_____
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 _____, 2017.

BY: _____
Joseph E. Flescher, Chairman

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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