

ORDINANCE 2017-\_\_\_\_

AN ORDINANCE OF INDIAN RIVER COUNTY, FLORIDA, CONCERNING AMENDMENTS TO ITS LAND DEVELOPMENT REGULATIONS (LDRS); PROVIDING FOR AMENDMENTS TO CHAPTER 926, LANDSCAPE AND BUFFER REGULATIONS, PROVIDING FOR AMENDMENTS TO CHAPTER 934, EXCAVATION AND MINING; BY AMENDING SECTION 926.06, LANDSCAPE MATERIALS STANDARD, BY AMENDING SECTION 926.08 PERIMETER BUFFER STANDARDS, BY AMENDING SECTION 926.10 NONVEHICULAR AREA LANDSCAPING STANDARDS, BY AMENDING SECTION 934.06(2) MINING STANDARDS; 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 926, LANDSCAPE AND BUFFER REGULATIONS, AND CHAPTER 934, EXCAVATION AND MINING BE AMENDED AS FOLLOWS:

**SECTION #1:**

**Amend LDR Section 926.06(3)(d) Tree sizes; as follows:**

(d) Tree sizes:

1. Required canopy trees shall be a minimum of twelve (12) feet overall in height and two (2) inch diameter at one-half (0.5) feet above grade with a minimum crown spread of four and one-half (4.5) feet, at the time of planting, except as follows:
  - a. Unless otherwise specified in [subsection] (3)(a) above, palms used toward canopy tree credit shall have a minimum clear trunk (ground to lowest frond, measured along the trunk) of ten (10) feet. Where an arrangement of such palms with varying heights between six (6) feet clear trunk and eighteen (18) feet clear trunk is proposed and the average clear trunk of the arrangement is ten (10) feet, each palm in the arrangement shall count as one (1) ten-foot clear trunk palm for tree canopy requirement purposes.
  - b. Narrow, upright canopy tree species, such as varieties of cypress, holly, and magnolia, shall have a minimum spread of three and one-half (3.5) feet at three (3) feet above ground level.
  - c. Where a building between twelve (12) feet and twenty-five (25) feet in height is proposed to be located within fifty (50) feet of a perimeter property line that separates the development project from an abutting residential use located outside the project, canopy trees within required buffers (Types A-C) located between the building and a site perimeter shall be a minimum of fifteen (15) feet in height with a three-inch diameter at 0.5 feet above grade at planting and a minimum six-foot spread. Where a building between twelve (12) feet and twenty-five (25) feet in height is proposed more than fifty (50) feet from a perimeter, the canopy tree height requirements of [subsection] (d)1. above, shall apply to canopy trees within the buffer.

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- d. Where a building over twenty-five (25) feet in height is proposed to be located within seventy (70) feet of a perimeter property line that separates the development from an abutting residential use located outside the project, all canopy trees within required buffers (Types A-C) located between the building and a site perimeter shall be a minimum of sixteen (16) feet in height with a three-inch diameter at one-half (0.5) feet above grade and a minimum eight-foot spread at planting. Where a building over twenty-five (25) feet in height is proposed more than seventy (70) feet from a perimeter, the canopy tree height requirements of [subsection] (d)1. above, shall apply to canopy trees within the buffer.
2. Required understory trees shall be a minimum of six (6) feet overall in height and one- and one-half (1.5) inches diameter at one-half (0.5) feet above grade at the time of planting; **except as provided in section 926.08(4)(e) for understory trees used as in-fill material within areas of existing vegetation.** Multi-trunk trees shall have a combined one- and one-half-inch caliper for all trunks at six (6) inches above grade. Palm trees used as understory trees shall have a minimum overall height of six (6) feet and shall not comprise more than one-third ( 1/3 ) of the total understory tree requirement.

**SECTION #2:**

**Amend LDR Section 926.08(4) Perimeter buffer standards opaque features; as follows:**

- (4) *Opaque features.* Three-foot and six-foot opaque features may be required within buffers, where specified in the land development regulations.
  - (a) A required six-foot opaque feature shall consist of a solid native plant buffer, a masonry wall, an earthen berm, or a combination berm/vegetation (berm must comprise at least three (3) feet of required opaque feature; vegetation shall consist of shrubs planted in an off-set double row) unless the planning and zoning commission approves a substitute material (such as a completely opaque living landscape barrier) based upon the use and conditions of the project site and adjacent site. Landscaping is required along both sides of a wall unless otherwise approved by the planning and zoning commission. To minimize the impact upon existing tree roots in cases where a wall is to be located among existing trees, such wall shall should be a pre-cast concrete panel wall or other similar system that minimizes footer impacts to root systems. Wherever a wall is used as the opaque feature, required understory trees and shrubs shall be planted on the side of the wall facing a public street or adjacent property, whichever is applicable.
  - (b) A required three-foot opaque feature may consist of a wall, berm, or a continuous screen of shrubs. Shrubs planted to form this opaque feature shall be arranged in an off-set double row.

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- (c) Required three-foot and six-foot opaque features shall be measured from the finished floor elevation of the proposed structure(s). This requirement may be modified by the planning and zoning commission based upon grade differences and the relationship between the height and mass of the proposed building and its setback from the property line. The maximum required height of an opaque feature shall be eight (8) feet above the finished site grade where the feature is located.
- (d) In cases where an abutting use/district is separated from the project site by a thoroughfare plan road, the height of a six-foot opaque feature shall be reduced to three-feet, except in cases where the buffer is to be provided around the perimeter of a single-family or multi-family residential development as required by subsection 911.07(8) or 911.08(8).
- (e) Where understory trees are used as infill material within an area of existing vegetation to create a 6' opaque feature, the understory trees may be planted at an overall height of 5' or greater.**

**SECTION #3:**

**Amend LDR Section 926.10(3) Nonvehicular area landscaping standards canopy trees required around lakes/ponds including stormwater retention/detention area; as follows:**

- (3) *Canopy trees required around lakes/ponds including stormwater retention/detention areas.* For proposed lakes/ponds or lake/pond systems that are one (1) acre in area or larger, the lake/pond bank must be designed in a non-rectangular, irregular shape to provide an aesthetic amenity. **Providing an irregular pond shape may include use of littoral plantings that provide irregular pond bank contours.** Regardless of size, all lakes/pond shall have at least three native, water tolerant trees planted per one hundred (100) feet of shoreline. The trees may be clustered along the upland shoreline in a manner that facilitates access for lake maintenance. Littoral zones shall be provided as required in Section 934.05. The common areas contiguous with and above the littoral zones are subject to the non-vehicular landscaping requirements set forth in 926.10, and the landward edges of the littoral zone shall be clearly delineated by a raised lip.

**SECTION #4:**

**Amend LDR Section 934.06(2)(c) Mining standards littoral zone design requirements; as follows:**

- (c) Littoral zone design requirements:
  - 1. The slope for the planted littoral zone shall be no steeper than one (1) foot vertical to ten (10) feet horizontal to a distance of five (5) feet waterward of the designated planted littoral zone area. Excluding the planted littoral zones, slopes shall not exceed one (1) foot vertical to four (4) feet horizontal. Certified drawings of the littoral zone slopes must be sent to the planning division within thirty (30) days of slope construction.

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2. Littoral zones shall comprise at least thirty (30) percent of the waterbody surface area, or twenty-one (21) square feet per lineal foot of shoreline, whichever is less. Littoral zones must be located between one (1) foot above ordinary water level (OWL) and two (2) feet below OWL, as determined by the applicant's engineer or designee unless otherwise approved by the community development director or his designee.
  
3. The littoral zone shall be provided with a minimum of six (6) inches of sand topsoil mix, unless otherwise approved, and planted with at least five (5) species at an average spacing of two (2) feet on center. Inter-plant spacing will vary with species, and must be depicted on the littoral zone vegetation plan.
  
4. A minimum of one (1) tree shall be provided for every five hundred (500) square feet of littoral zone coverage. The proposed trees must be a minimum of five (5) feet in height at time of planting (measured at planting depth) and consist of native, freshwater wetland varieties (e.g. red bay, red maple, bald cypress, loblolly bay). **Credit for planting larger (up-sized) littoral zone trees shall be given as indicated in the following table:**

<b><u>Littoral Zone Tree Up-Sizing Credits</u></b>			
<b><u>Min. Caliper</u></b>	<b><u>and</u></b>	<b><u>Min. Height</u></b>	<b><u>Tree Credits</u></b>
<b><u>0.5</u></b>	<b><u>and</u></b>	<b><u>5'</u></b>	<b><u>1</u></b>
<b><u>1</u></b>	<b><u>and</u></b>	<b><u>6'</u></b>	<b><u>2</u></b>
<b><u>1.25</u></b>	<b><u>and</u></b>	<b><u>7'</u></b>	<b><u>4</u></b>
<b><u>2</u></b>	<b><u>and</u></b>	<b><u>8' or above</u></b>	<b><u>6</u></b>

5. Appropriate species for littoral zone plantings, including trees, are listed in Chapter 926, Appendix E.

#### **SECTION #5: 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 #6: 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 #7: 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

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or relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any other appropriate word.

**SECTION #8: 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 \_\_\_\_\_, 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

**Bold Underline:** Additions to Ordinance

~~Strike through:~~ Deleted Text from Existing Ordinance

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APPROVED AS TO PLANNING MATTERS

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Stan Boling, AICP; Community Development Director

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