

AN ORDINANCE OF INDIAN RIVER COUNTY, FLORIDA, CONCERNING AN AMENDMENT TO ITS LAND DEVELOPMENT REGULATIONS (LDR); PROVIDING FOR AN AMENDMENT TO CHAPTER 930, STORMWATER MANAGEMENT AND FLOOD PROTECTION; BY AMENDING SECTION 930.07(2)(i), FLOOD PROTECTION REQUIREMENTS, ADDITIONAL REQUIREMENTS; 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 (LDR) CHAPTER 930, STORMWATER MANAGEMENT AND FLOOD PROTECTION, BE AMENDED AS FOLLOWS:

SECTION #1:

Amend LDR Section 930.07(2)(i), Additional requirements; as follows:

- (i) Additional requirements.
 - 1. Cut and fill. An equal volume of storage capacity must be created for any volume of the base flood that would be displaced by fill or structures except for the following instances:
 - a. Those development projects within the special flood hazard area along the Indian River Lagoon when granted a waiver from the cut and fill balance requirements by the board of county commissioners. In the special flood hazard area of the Indian River Lagoon, an equal volume of storage capacity must be created for any volume of the base flood that would be displaced by fill or structures below elevation two and one-half (2.5) feet NAVD88, or the ten-year flood elevation which has been determined in the flood insurance study, whichever is greater. The board of county commissioners may, in its discretion, grant a waiver from the provisions of this subsection upon the affirmative showing of the applicant, by means of a competent engineering study, that the development project is situated in an estuarine environment and that the development project, as designed, will meet all other requirements of the stormwater management and flood protection chapter and will not create a material adverse impact on flood protection on other lands in the estuarine environment.
 - b. Subdivided lots of less than one (1) acre in area that existed prior to July 1, 1990. At such time as the county may create or cause to be brought into existence a stormwater utility or other entity charged with managing drainage concerns, the requirements of this section will apply for lots less than one (1) acre in area existing prior to July 1, 1990, if the utility or entity has the authority to compensate for fill added in special flood hazard areas by administering a program that causes compensation for fill added on individual lots to be mitigated by contribution to an off-site mitigation fund for a central facility or facilities, owned by the county, the stormwater utility, or other entity.

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- c. Those development projects, located in the St. John's Marsh and within either the Terra Ceia, Holopaw, Delray, Canova, Gator, or Floridian soil types (as described in the United States Department of Agriculture Soil Conservation Service Soil Survey of Indian River County, latest edition) for which a cut and fill waiver has been granted by the board of county commissioners. The board of county commissioners may, in its discretion, grant a waiver from the provisions of this subsection upon the affirmative showing of the applicant, by means of a competent engineering study, that the development project, as designed, will meet all other requirements of the stormwater management and flood protection chapter and will not create a material adverse impact on flood protection.
- d. Development located within the Vero Lake Estates Municipal Services Taxing Unit as referenced in Ordinance No. 84-81, for which a cut and fill waiver has been granted by the board of county commissioners. The board of county commissioners may, in its discretion, grant a waiver from the provisions of this subsection upon the affirmative showing of the applicant, by means of a competent engineering study, that the development project, as designed, will meet all other requirements of the stormwater management and flood protection chapter and will not create a material adverse impact on flood protection.
- e. Commercial or industrial development located within a commercial/industrial (C/I) area. In the public interest of promoting economic development in targeted industries, and in recognition of the limited impacts of commercial/industrial development to base flood elevations within and adjacent to commercial/industrial areas, such development is waived from the cut and fill requirements of this subsection. To qualify for this waiver, all of the following requirements must be met:
 - i. The base flood volume may not be displaced by more than 500 cubic yards per acre, and the development site must be under five (5) acres in size.
 - ii. A formal site plan application through the Community Development Department must be submitted for the respective development.
 - iii. A formal engineering analysis, provided by a licensed professional engineer, is required to demonstrate that no onsite or offsite drainage impacts will result. The analysis must be recorded into public record as part of the property's formal record.
 - iv. The site is located in a Commercial/Industrial Zoning District at the time of the waiver adoption.

Notwithstanding this cut and fill waiver, such commercial or industrial development shall be subject to all other applicable stormwater management and flood protection regulations in this chapter.

No structure or fill shall be permitted within the limits of the floodway of the St. Sebastian River, South Prong except as provided by [section] 930.07(2)(a)3.a.

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 1st day of January, 2023, for a public hearing to be held on the 17th day of January, 2023, at which time it was moved for adoption by Commissioner _____, seconded by Commissioner _____, and adopted by the following vote:

Chairman Joseph H. Earman	_____
Vice Chairman Susan Adams	_____
Commissioner Deryl Loar	_____
Commissioner Joseph E. Flescher	_____
Commissioner Laura Moss	_____

The Chairman there upon declared the ordinance duly passed and adopted this _____ day of _____, 2023.

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BY: _____
Joseph H. Earman, 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

Phil Matson, AICP; Community Development Director