

VILLAGE OF INDIANTOWN - Land Development Regulations

Chapter X

ARTICLE 1 – GENERAL PROVISIONS

Sec. 1-1. - Title.

This Chapter shall be entitled "Land Development Regulations."

Sec. 1-2. - Authority

These land development regulations are enacted pursuant to the requirements and authority of F.S. § 163.3202, Land Development Regulations and the Indiantown Village Charter.

Sec. 1-3. - Purpose.

The regulations set forth herein shall apply to all land, water improvements, structures and uses located or conducted within the municipal boundaries of the Village. The purpose of these regulations is not merely to provide the minimum regulations necessary to facilitate safe and orderly growth, but to also ensure that growth forms an integral part of a community of functional neighborhoods, retail and commercial centers; increases collective security and community identity; and enhances the quality of life for the entire Village to ensure the greatest possible economic and social benefits for all residents.

Sec. 1-4. - Intent of Land Development Regulations.

The provisions of this chapter are intended to:

- (1) Establish comprehensive, consistent, effective, efficient and equitable standards and procedures for the review and approval of development that implement the Village's Comprehensive Plan goals, objectives and policies and other adopted plans, respect the rights of landowners and consider the interests of the Village's citizens.
- (2) Foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly and progressive development of the Village in accordance with the growth management plan.
- (3) Specify the duties and responsibilities of the Village in the administration of this chapter.
- (4) Establish clear, consistent, and certain regulations, procedures and development standards for obtaining development order and permitting approvals for all proposed development in the Village.
- (5) Adopt a development review process that is efficient, effective and equitable.
- (6) Provide specific procedures to ensure that development orders and permits are conditioned on the availability of public facilities and services that meet level of service requirements (concurrency).

Sec. 1-5. - Applicability to Development.

The provisions of this Chapter shall apply to all development in the Village. The provisions of this Chapter are not applicable to land development projects undertaken by the Village. No development, except as specifically provided in this Chapter, shall be undertaken without prior authorization pursuant to this Chapter.

Sec. 1-6. - Rules of Interpretation - Generally.

- (a) All provisions shall be considered as minimum requirements; liberally construed in favor of the objectives and purposes of the Village; and deemed neither to limit nor repeal any other powers granted under state statutes or Village Charter. If any question arises concerning the application of regulations, performance standards, definitions, development criteria or any other provision of this Chapter, the Director of the Department of Community and Economic Development, shall be responsible for interpretation and shall look to the Comprehensive Plan for guidance.
- (b) The interpretation and application of the regulations and provisions within this Chapter shall be responsibly and uniformly applied to all property within the jurisdiction of the Village.
- (c) Whenever the regulations within this Chapter vary from the regulations of any other lawfully enacted and adopted rules, regulations, ordinances or laws, the most restrictive shall apply, except if noted herein.
- (d) If, because of error or omission on the zoning map, property within the Village is not shown as being in a zoning district, the classification shall be the least intensive zoning district consistent with its underlying future land use designation until changed by rezoning.
- (e) The language used in this Chapter shall be interpreted according to the following rules.

Boundaries. Interpretations regarding boundaries of zoning districts shall be made in accordance with the following:

- (1) Boundaries shown following or approximately following any street shall be construed as following the centerline of the street.
- (2) Boundaries shown following or approximately following any platted lot line or other property line shall be construed as following such line.
- (3) Boundaries shown following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
- (4) Boundaries shown following or approximately following any waterways shall be construed as following the centerline of the waterway.
- (5) Boundaries shown following or approximately following any railroad lines shall be construed as following the centerline of the railroad right-of-way.

Computation of time. The time within which an act is to be done shall be computed by consecutive calendar days, unless stated otherwise.

Day means a calendar day, unless a business day is indicated.

Delegation of authority. The Village manager has the authority to delegate to professional level subordinates to perform the required acts or duties unless the terms of the provision or section specify otherwise.

Department means the Department of Community and Economic Development.

District or zoning map means the "Official Zoning District Map."

Lot includes the term "plot" or "parcel" or "tract."

May. The term "may" is permissive.

Number. Words in the singular shall include the plural and words in the plural shall include the singular.

Ordinance/code/land development code. The terms "ordinance," "code," and "land development code" are synonymous and refer to the "Village of Indiantown Land Development Regulations", unless the context clearly indicates otherwise.

Person includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.

Shall. The term "shall" is mandatory.

Structure includes the term "building."

Tense. Words used in the past or present tense include the future as well as the past or present.

Transitional Land Development Regulations (LDR): The LDR in place prior to the adoption of this LDR. These were the Martin County LDR as of December 31, 2017.

Village Council means the Village Council of the Village of Indiantown, Florida.

Written, in writing shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year means a calendar year, unless otherwise indicated.

Sec. 1.7 - Official Zoning District Map

(a) Establishment and Maintenance.

The Official Zoning District Map is established by this LDR. It designates the location and boundaries of the various base zoning districts, special purpose zoning districts, overlay zoning districts and planned development districts under the LDR.

(b) Incorporated by Reference

The Official Zoning District Map, including its entire notation, is incorporated into this LDR by reference and is on file in the office of the Director of Community and Economic Development for public inspection during normal business hours. The Village may maintain the Official Zoning District Map as an electronic map layer in the Village's Geographic Information System (GIS) database. The official copy of the electronic version of an Official Zoning District Map shall be recorded onto permanent media to ensure all the electronic information is protected.

Sec. 1-8. - Existing Vested Rights.

Nothing in this LDR is intended to repeal, supersede, annul, impair or interfere with any vested rights under applicable law, provided such rights are lawfully established and remain in effect.

Sec. 1-9. - Deed restrictions.

No public agency shall be responsible for enforcing any private deed restriction or restrictive covenants. This does not impact public deed restrictions or covenants.

Sec. 1-10. - Form of ownership.

These regulations shall be construed and applied with reference to the nature of the use of such property and without regard to the form of ownership.

Sec. 1-11. - Changes, amendments, or supplements.

All changes, amendments or supplements to this chapter and to the official zoning district map shall be adopted in accordance with the provisions of this chapter, the comprehensive plan and applicable state law.

Sec. 1-12. – Nonconformities.

It is the purpose and intent of this section to provide procedures whereby lawful nonconforming structures and uses may be maintained where such maintenance will not have a detrimental effect upon other persons or property within the vicinity, and in so doing to bring such uses and structures up to present standards to the maximum possible extent.

If a use, structure, sign or site was nonconforming under the Transitional LDR but becomes conforming pursuant to the adoption of this LDR, it shall no longer be subject to any nonconforming regulations.

If any use, structure, lot of record, sign or site feature was legally established on the date of its development, but does not fully comply with the standards of this LDR, that use, structure, lot of record, site feature or sign shall be considered nonconforming and subject to the following provisions.

(1) *Abandonment/discontinuation.* For purposes of this section, a nonconforming use shall be considered abandoned or having ceased when discontinued for a period of 180 calendar days or more as indicated by any of the following:

- a. Allowing business tax receipt or certificate of use to lapse.
- b. Removing a utility meter.
- c. Not maintaining structure in a compliant condition.
- d. Not making unit available for occupation (i.e., advertising or marketing through a realtor or other agent).
- e. Failure to perform actions pursuant to the terms of an active building permit; or
- f. Failure to occupy the site.

(2) *Nonconforming use of a conforming building.* The lawful nonconforming use of a building may be continued, although such use does not conform to the regulations of an applicable zoning district within which the building is located. Any such use shall only be changed to a permitted use. A nonconforming use shall not be expanded. If the nonconforming use is abandoned any further use of said building shall conform to the regulations of the applicable zoning district.

(3) *Conforming use of a nonconforming building.* A lawful nonconforming building may be utilized for any use that conforms to the regulations of the applicable zoning district within which the building is located. Structural alterations may only be made when they do not increase the degree of nonconformity of the building but are discouraged.

(4) *Nonconforming use of a nonconforming building.* The lawful nonconforming use of a lawful nonconforming building may be continued although such use and building do not conform to the regulations of the applicable zoning district within which the building is located. However, neither the use nor the building shall be expanded. If the nonconforming use is abandoned, any further use of said building shall conform to the regulations of the applicable zoning district.

(5) *Nonconforming use of land.* The lawful nonconforming use of land may be continued, although such use does not conform to the regulations of the applicable zoning district within which the land is located. However, no such use shall be enlarged, intensified or extended to occupy a greater area of land, nor shall the use be reinstated following abandonment.

(6) *Nonconforming accessory use or accessory building.* A nonconforming accessory use or accessory building may be expanded only if the nonconforming features of that use or

structure are not expanded in such a way that would increase the degree of nonconformity. No nonconforming accessory use or accessory building shall continue after the principal use or building is terminated by abandonment, damage or destruction, unless such accessory use or accessory building thereafter is made to conform to the standards for the zoning district in which it is located. No nonconforming accessory use or building shall become or replace any terminated principal nonconforming use or building.

(7) *Maintenance, repairs and renovations.* Any maintenance, repairs, alterations or improvements that do not increase the square footage of a nonconforming building shall be permitted. However, expansion of any square footage or complete demolition of a building shall comply with the provisions of the code.

(8) *Compliance with regulations.* Nothing in this section shall diminish the responsibility of an owner to maintain his use or structure in full compliance with all other Village, county, state or federal regulations or licensing procedures.

(9) *Establishment of nonconformity.* For the purpose of this section, the mere possession of a valid approval to use land or buildings or valid license to do so without actual demonstrable use of such land or structure is an insufficient basis to establish lawful nonconformity.

(10) *Special provisions for specific nonconformities.*

- a. *Nonconformity with stormwater management requirements.* An existing development that does not currently comply must be brought into full compliance with the stormwater management requirements of the village when the use is changed, intensified or the density or intensity of the development is increased, resulting in a potential increase in stormwater runoff or potential added concentration of pollutants in the runoff.
- b. *Nonconforming Landscaping.* Landscaping which is nonconforming shall be governed under Article 4 of this chapter.
- c. *Nonconformity with parking and loading requirements.* Full compliance with this chapter shall be required where the seating capacity or other factors controlling the number of parking or loading spaces required is increased by ten percent or more.
- d. *Nonconforming signs.* Signs or sign structures made legally nonconforming under this chapter shall be governed by Article 3 of this chapter.

Sec. 1-13. – New zoning districts transition provisions.

When this LDR is enacted, land zoned with a zoning district classification from Transitional LDR shall be translated to one of the new zoning district classifications in this LDR, as set forth in Article 3: Zoning Districts.

Sec. 1-14. - Substandard single-family lots.

Any lot in a single-family residential district platted prior to the initial adoption of this LDR [insert date] shall not be deemed a nonconforming lot for purposes of minimum lot size. Said lot shall be permitted to be developed if all other applicable zoning district regulations in which the lot is located are met.

Sec. 1-15. - Commercial principal use.

Only one (1) principal use and up to one (1) additional use shall be permitted per establishment.

Sec. 1-16. - Violation of condition or time limitation.

- (a) A violation of any condition or time limitation of any resolution, development permit or approval shall be considered a violation of this chapter. The violation shall be corrected prior to any public hearing or meeting on the issuance of any subsequent development permit or approval for that project unless a subsequent application seeks to amend the condition or time limitation that has been violated. Unless otherwise specified in the resolution, development permit or approval, an approved use must comply with conditions and time limitations before implementation of the approval, or before receipt of a certificate of occupancy or certificate of completion.
- (b) Any condition imposed through a resolution or ordinance may be rescinded or amended by the Village Council at a duly noticed public hearing.

Sec. 1-17. - Vested rights.

Unless otherwise permitted as an exception under subsection (1) of this section or allowed to continue as a nonconforming use under section 1-12, all existing, proposed and new development or redevelopment and uses of land in the village shall conform strictly to the provisions of these land development regulations. Except as expressly provided in these land development regulations, no development and use of land shall be undertaken without prior approval and issuance of a development order pursuant to these land development regulations.

The provisions of these land development regulations and any amendments hereto shall not affect development that has a valid county, Village Council or director's approval before adoption of these regulations or is otherwise exempted in accordance with this section or nonconforming development, section 1-12. Pursuant to Sec. 163.3167(3), Fla. Stat., each development order existing before the initial effective date of the Village of Indiantown Comprehensive Plan is hereby incorporated herein, and the density and intensity approved by each such development order existing on the initial effective date of the Village of Indiantown Comprehensive Plan is hereby vested without limitation or modification. These LDRs shall not impair the completion of a development in accordance with each such respective existing development order.

(1) Nothing in these zoning regulations shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner demonstrates each of the following:

- a. A governmental act of development approval was obtained prior to the effective date of these land development regulations or prior to the effective date of an amendment to these land development regulations; and,
- b. The property owner has detrimentally relied, in good faith, by making substantial expenditures following, and based upon, the governmental act of development approval; and,
- c. It would be highly inequitable to deny the property owner the right to complete the development.

(2) Except as provided in subsection (3) of this section, any property owner claiming to have vested rights under this section must file an application with the village manager or his designee for a vested rights determination within 120 calendar days after the initial effective date of this section (as to any claim of vested rights prior to initial adoption) or within 120 calendar days after an amendment of this LDR (as to any claim of vested rights arising after the initial adoption of this LDR and prior to the amendment). The application shall contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentation required by the village and other documentary evidence supporting the claim. The Planning Zoning Appeals Board (PZAB) shall review the application and, based upon the evidence submitted, shall make a written determination as to whether the property owner has established vested rights.

(3) Any property owner claiming to have vested rights under this section, by virtue of:

- a. A court judgment rendered by a court of competent jurisdiction,
- b. Vested rights determination by the county, or
- c. State department of economic opportunity, division of community development vested rights determination,

may follow a simplified procedure authorized by this subsection in lieu of the procedure provided above. The simplified procedure under this subsection shall be as follows:

1. The property owner claiming vested rights shall file an application with the village manager or designee for a vested rights determination within 120 calendar days after the effective date of this section. The application shall contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentation of the applicable qualifying items above. The village manager shall review the application; and, based upon the evidence submitted, shall make a written determination as to whether the property owner has established vested rights. Vested rights pursuant to the criteria of this section shall be presumed to exist, upon submittal of the qualifying items, unless clear and convincing evidence shows that vested rights have been waived, have expired or are not applicable, in whole or in part.

2. The provisions of this LDR shall not affect development for which a building permit has been issued on or before the effective date of the initial adoption of this section, provided that such building permit was lawfully issued and remains in full force and effect and the approval has not expired. Upon completion of such development, the development thenceforth will be subject to the provisions of this LDR.

Sec. 1-18. - Permits and licenses.

- (a) A building permit is authorized and may only be issued for a building or structure to be erected, constructed, altered, moved, converted, extended, enlarged or used, or any land or water to be used, in conformity with the provisions of this chapter.
- (b) A license or permit shall not be issued by any department, agency or official of the village for the use of any premises or the operation of any business, enterprise, occupation, trade, profession or activity which would be in violation of any of the provisions of this chapter.

Sec. 1-19. – Enforcement.

- (a) It shall be the duty of the village manager, or manager's designee, to enforce the provisions of this chapter. The building official shall not approve any permit for any building or use which would violate any of the provisions of this chapter. It shall also be the duty of all employees of the village to report any seeming violations.
- (b) Authorized representatives of the village shall have access to materials and work sites and shall have the power to stop work pending investigation as to materials, work, trades and use under these regulations.
- (c) When a building is erected, constructed, or reconstructed, altered, repaired, or converted, or any building or land is used in violation of this chapter, the village may take any appropriate action to end the violation.
- (d) When deemed necessary by an authorized representative of the village, a recorded agreement may be required in order to enforce this chapter.
- (e) No zoning district boundary or regulation change, modification of requirements, special exception, variance, building permit, certificates of occupancy and use, or other permit shall be granted by the village council, village departments or planning, zoning and appeals board except in compliance with the provisions of this chapter, or an appeal or any court decision.

Sec.1-20. - Severability.

It is the legislative intent of the village council in adopting this LDR that all provisions shall be construed to implement the comprehensive plan and other adopted village plans, and

guide development in accordance with the existing and future needs of the village as established in this LDR, and promote the public health, safety and welfare of landowners and residents of the village. It is also the legislative intent of the village council that if any section, subsection, sentence, clause or phrase of this LDR is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity and continued enforcement of any other provision of this LDR. The village council hereby declares that it would have adopted this LDR and any section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases of the LDR is declared invalid by a court of competent jurisdiction.

Sec. 1-21. - Effective date.

This LDR shall become effective on (insert date), and repeals and replaces in its entirety the Martin County Land Development Regulations as applicable within the Village of Indiantown.