

ORDINANCE 2007- 001

AN ORDINANCE OF INDIAN RIVER COUNTY, FLORIDA CONCERNING AMENDMENTS TO LAND DEVELOPMENT REGULATIONS (LDRs); PROVIDING FINDINGS; PROVIDING FOR AMENDMENTS TO CHAPTER 910, CONCURRENCY MANAGEMENT SYSTEM, BY AMENDING SECTION 910.07(1)(A) THROUGH (F) TO CHANGE INITIAL DEVELOPMENT ORDER CLASSIFICATIONS AND UPDATE TERMINOLOGY FOR CHARGES AND FEES; BY AMENDING SECTION 910.07(2) TO ESTABLISH DE MINIMIS EXEMPTION FOR CERTAIN SINGLE-FAMILY LOTS AND PARCELS LAWFULLY CREATED PRIOR TO JUNE 18, 1991; BY AMENDING SECTION 910.08(2) TO UPDATE TERMINOLOGY AND CHANGE 5 YEAR INITIAL CONCURRENCY TO 7 YEARS FOR PROJECTS WITH SPECIAL DEVELOPER'S AGREEMENTS; BY AMENDING SECTION 910.09(4)(B) TO CHANGE TRIP ASSIGNMENT THRESHOLDS FOR 2-LANE AND MULTI-LANE ROADWAYS, AND ESTABLISH USE OF FRACTIONAL TRIPS TO TRACK SINGLE-FAMILY ROAD IMPACTS; PROVIDING FOR AMENDMENTS TO CHAPTER 1000, TITLE X, IMPACT FEES, TO UPDATE CONCURRENCY REFERENCES; PROVIDING FOR AMENDMENTS TO LDR CHAPTER 912, SINGLE-FAMILY DEVELOPMENT, TO UPDATE CONCURRENCY AND IMPACT FEE REFERENCES; 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) AND TITLE X REGULATIONS BE AMENDED AS FOLLOWS:

**PART I: FINDINGS.**

It is hereby ascertained, determined, and declared that:

- A. Pursuant to Article VIII, Section 1 of the Florida Constitution, and Sections 163.3202, 125.01, and 125.66, Florida Statutes, the Board has all powers of local self-government and such power may be exercised by the enactment of County ordinances.
- B. In December 2004 and January 2005, the Board of County Commissioners (BCC) discussed a variety of growth and development issues pursuant to Florida law.
- C. In 2006, the County contracted with a traffic consultant and received from the consultant a comprehensive review of the county's traffic study and concurrency requirements, and a comparison of those requirements to other local governments.
- D. In May 2006, the County held a public workshop to discuss the consultant's findings and potential changes to county traffic study and concurrency requirements
- E. In September 2006, the BCC held a public discussion to consider the consultant's final report and recommendations from the PZC.
- F. On January 5, 2007, the BCC held a public workshop to discuss the draft ordinance.
- G. On January 23, 2007, the BCC held a final public hearing on a revised draft ordinance.

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H. This final ordinance codifies the concurrency management system changes that came out of public discussions, the consultant’s study, and the public workshop process.

**PART II: AMENDMENTS TO CHAPTER 910, CONCURRENCY MANAGEMENT SYSTEM, OF INDIAN RIVER COUNTY LAND DEVELOPMENT REGULATIONS ORDINANCE.**

1. Changes to Development Review Concurrency Regulations

LDR Section 910.07(1) is hereby amended to read as follows:

**(1) No development order shall be approved unless a corresponding concurrency certificate has been issued or a determination is made that the development proposed is exempt from concurrency review.**

**(a) The various types of development orders and the required corresponding concurrency certificates are listed below.**

	<u>Development Order</u>	<u>Concurrency Certificate Required</u>	<u>Expiration</u>	<u>Vesting Allowed</u>	<u>Vesting Required</u>
<u>1</u>	<u>Comprehensive plan land use amendments</u>	<u>Conditional Concurrency</u>	<u>Not Applicable</u>	<u>No<sup>1</sup></u>	<u>No</u>
<u>2</u>	<u>Rezoning</u>	<u>Conditional Concurrency</u>	<u>Not Applicable</u>	<u>No<sup>1</sup></u>	<u>No</u>
<u>3</u>	<u>Conceptual plans</u>	<u>Conditional Concurrency</u>	<u>Not Applicable</u>	<u>No<sup>1</sup></u>	<u>No</u>
<u>4</u>	<u>Preliminary plats and preliminary PD plans</u>	<u>Conditional Concurrency</u>	<u>Not Applicable</u>	<u>No<sup>1</sup></u>	<u>No</u>
<u>5</u>	<u>Site plans</u>	<u>Conditional Concurrency</u>	<u>Not Applicable</u>	<u>No<sup>1</sup></u>	<u>No</u>
<u>6</u>	<u>Building permits</u>	<u>Final Concurrency</u>	<u>12 months<sup>2</sup></u>	<u>Yes</u>	<u>Yes</u>

**<sup>1</sup>Vesting is not allowed prior to building permit application, except that projects with either an approved proportionate share agreement, as provided in section 910.12, or projects with an approved guaranteed developer’s agreement for major roadway improvements, as provided in section 910.07(1)(e), may obtain concurrency vesting. Vesting for such projects shall occur concurrent with approval of the applicable proportionate share or developer’s agreement and payment of applicable fees. Said vesting shall be allowed for a period of 7 (seven) years. For projects without such agreements, vesting shall not occur until building permit application, and site plan (land development permit issuance for planned development projects) or final plat approval, if applicable.**

**<sup>2</sup>Upon issuance of a building permit, the final concurrency certificate shall remain valid for as long as the building permit is valid.**

**(b) No concurrency certificate shall be issued unless there is sufficient capacity available to maintain adopted levels of service as provided in section 910.09.**

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(c) Prior to issuance of a development order, the community development director or his designee shall make a determination that concurrency requirements are satisfied for the type of development order under review.

(d) Whenever a proportionate fair share agreement consistent with Section 910.12 is executed and other concurrency requirements specified in the agreement or in Section 910.12 are satisfied, the development project which is the subject of the proportionate fair share agreement shall be vested with a seven (7) year initial concurrency certificate regardless of the development order stage of the project.

(e) Whenever a non-proportionate fair share developer's agreement is executed by an applicant and that developer's agreement commits the applicant to construct major capacity producing transportation improvements, the applicant's project may be vested for concurrency with a seven (7) year initial concurrency certificate if the Board of County Commissioners finds that:

1. the applicant's proposed improvements will provide significant benefits to the transportation system, and
2. all other concurrency requirements, including payment of all applicable impact fees and capacity charges as well as demonstration of available capacity on all impacted links and in all applicable concurrency facilities, are met.

For purposes of this provision, a "major capacity producing transportation improvement" is a project which adds travel lanes to an existing roadway or a corridor and expands the capacity of the roadway or corridor by at least 25% (twenty-five percent).

(f) Determinations of exemption from concurrency review shall be made by the community development director or his designee. Exemptions may be based on vested rights determinations, application of de minimis criteria, or determinations that there will be no increase in density or intensity. Appeals of determinations shall follow the procedures of section 910.05.

(1) A valid concurrency certificate must be obtained prior to the approval of the following:

~~(a) Conceptual development order. These are development orders which change the potential density and intensity of uses of land. Concurrency review at this stage is a general concurrency review which examines the available capacity of each facility with respect to the proposed project. Where the proposed project is a non PD (planned development) rezoning or comprehensive plan amendment, the concurrency impact assessment will be based on the following criteria:~~

<b>For</b>	<b>Project's Intensity Measured By</b>
<del>Residential conceptual projects, or residential rezonings</del>	<del>(Maximum number of SF or MF units allowed per acre based upon the proposed zoning or land use designation) x Total Property Acres</del>

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General commercial or office conceptual projects, comprehensive plan amendments to C/I without rezoning, or rezonings to PRO, OCR, MED, CN, CL, CG	(10,000 sq. ft. of gross floor area per acre of retail commercial) × Total Property Acres
Heavy commercial or industrial conceptual projects, or rezonings to CH, IL, IG	(20,000 sq. ft. of gross floor area per acre of general industrial) × Total Property Acres

For conceptual project approval, the impact assessment will be based upon the development parameters of the proposed project. No conceptual development order will be issued unless the applicant has a valid conditional, or initial concurrency certificate. Conceptual development orders include:

1. Comprehensive plan land use amendments;
2. Rezoning petitions;
3. Conceptual project approvals;
4. Preliminary plats and preliminary PD plans.

(b) *Initial development order.* These are development orders which constitute project approval and allow for submission of building permit applications or commencement of development in relation to land development permits. No initial development order will be issued unless one of the following three (3) items is satisfied:

1. The applicant has obtained an initial concurrency certificate for a project or the portion of a project for which initial development order approval is sought.
2. The applicant has applied for an initial concurrency certificate, and concurrency reviews indicate that there is sufficient capacity to accommodate the project, and the only pending requirement for issuance of an initial concurrency certificate is the payment of applicable traffic impact fees and utility impact fees. Approval shall be subject to a condition that all applicable traffic impact fees and utility capacity charges associated with the project approval shall be paid within ninety (90) days of site plan approval or prior to site plan release, whichever occurs first. Failure to pay the applicable traffic and utility fees by the deadline shall automatically terminate site plan approval and shall release traffic and utilities capacity reserved for the project or the portion of a project for which initial development order approval is sought.
3. The applicant signs a form, provided by the county, in which the applicant acknowledges that:

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~~•For subdivisions and plats as well as multi-phase site plans and planned developments, no building permit will be issued for all or any portion of the project unless and until the applicant or the applicant's successor obtains an initial and final concurrency certificate for the project or portion of the project for which a building permit is sought.~~

~~•For single phase site plans and commercial or multi-family Planned Developments (PDs), the site plan will not be released for all or any portion of the project unless and until an initial/final concurrency certificate is obtained for the project or portion of the project for which a site plan release is sought.~~

~~Furthermore, the applicant, in executing the form referenced above, shall acknowledge that the county does not guarantee that adequate capacity will exist at the time when the applicant or the applicant's successor chooses to apply for and obtain a concurrency certificate. The above referenced acknowledgement form shall be properly executed and recorded in the Indian River County public records by the owner/applicant prior to site plan approval.~~

~~For subdivision projects, the above referenced acknowledgement shall be signed before a land development permit or land development permit waiver is issued, and further incorporated as a general note on the face of the final plat.~~

~~Initial development orders include:~~

- ~~a. Site plans (including site plans for developments of regional impact);~~
- ~~b. Land development permits or land development permit waivers (subdivisions and planned developments); and~~
- ~~c. Changes in use that increase density or intensity of development.~~

~~(c) *Final development order.* These are development orders which authorize construction of a new building, expansion of an existing building, increase in intensity of use, or change of use which requires a new CO (certificate of occupancy). The final development order will be issued as a building permit. Concurrency determination is automatic at this stage for a development having an initial development order if the application meets the requirements of section 910.08(1) and if the applicant has a valid initial concurrency certificate. Any development order such as single family building permit which does not require an initial development order will not be issued until the applicant acquires a final concurrency certificate.~~

~~(2) The following are exempted from concurrency review:~~

- ~~(a) Projects which have a vested rights determination pursuant to section 910.03;~~

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- ~~(b) Existing nonresidential buildings to be modified, altered, or repaired unless the modification will increase square footage and increase the intensity of use. Where existing projects (residential or nonresidential) seek expansion which will increase the number of dwelling units or square footage for nonresidential projects, only the net increase or expansion shall be subject to concurrency review;~~
- ~~(c) Vested final subdivision plats to be modified unless modification creates additional lots;~~
- ~~(d) Developments with a final development order proceeding to completion;~~
- ~~(e) Replacement of existing residential units unless there is an increase in number of units; and~~
- ~~(f) Any development orders, including land use amendments and rezoning applications, which do not increase density or intensity of use.~~

2. **De minimis Exemption for Certain Single-Family Lots and Parcels Lawfully Created Prior to June 18, 1991.**

LDR Section 910.07(2) is hereby amended, to read as follows:

- (2) The following are exempted from concurrency review:
  - (a) Projects which have a vested rights determination pursuant to section 910.03;
  - (b) Existing nonresidential buildings to be modified, altered, or repaired unless the modification will increase square footage and or increase the intensity of use. Where existing projects (residential or nonresidential) seek expansion which will increase the number of dwelling units or square footage for nonresidential projects, only the net increase or expansion shall be subject to concurrency review;
  - (c) Vested final subdivision plats to be modified unless modification creates additional lots;
  - ~~(d) Developments with a final development order proceeding to completion;~~
  - ~~(e)~~ (d) Replacement of existing residential units unless there is an increase in number of units; and
  - ~~(f)~~ (e) Any development orders, including land use amendments and rezoning applications, which do not increase density or intensity of use; and
  - (f) Permits for single-family homes deemed as "de minimis" under Florida Statutes 163.3180(6). This exemption shall apply to the permitting of a single-family home on a lawfully created lot or parcel of record that is not subject to a plat notice which states that there is no guarantee of

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concurrency for development of the lot. This de minimis exemption will not apply where the impacts of the proposed home will exceed the adopted level-of-service standard for any affected designated hurricane evacuation route. Designated hurricane evacuation routes are:

1. 17<sup>th</sup> Street from SR A-1-A to US Highway 1
2. SR60
3. Indian River Blvd from the Merrill Barber Bridge to SR60
4. CR510
5. CR512
6. US Highway 1
7. Interstate 95

Applications for exempted single-family homes will be processed through the county's concurrency management system (CMS), and a concurrency certificate shall be issued for exempted homes.

Exemption from concurrency review shall not affect any obligation to pay applicable impact fees and utility capacity charges.

3. Update of Terminology, Change of 5 Year Initial Concurrency to 7 years for projects with Special Developer's Agreements, and Modifications to Submittal and Issuance Procedures.

LDR Section 910.08(2) is hereby amended, to read as follows:

- (2) In order to ensure that the capacity of various public facilities is available concurrent with the impact of the proposed development, the review of all concurrency applications shall be based upon the following criteria:
  - (a) *Conditional concurrency determination.* A conditional concurrency certificate is a determination that sufficient capacity to accommodate a given development proposal is available at the time of the determination. A conditional concurrency certificate ~~may~~ shall be issued prior to approval of ~~used to satisfy the concurrency requirement for~~ the following types of development orders:
    - Comprehensive plan land use amendments
    - Rezoning
    - Conceptual plans
    - Preliminary plats and preliminary PD plans
    - Site plans

~~issuance of conceptual development orders and conceptual approval of initial development orders. A conditional concurrency certificate may be issued for all or any portion of a project being reviewed for conceptual approval; this may include subsequent phases of a multi-phase project.~~

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A conditional concurrency certificate will indicate that the facilities and services are available at the time of issuance of the conditional concurrency certificate but may not be available at the time of any subsequent concurrency review. ~~A finding of~~ concurrency resulting from the review at this stage **Issuance of a conditional concurrency certificate** shall not be construed to guarantee the availability of adequate facilities at the time of **building permit applications or land development permit applications** ~~the initial or final development order.~~

1. **A conditional concurrency certificate issued in conjunction with the review of a proposed development order type specified above shall be considered valid for purposes of approving the associated development order.** ~~Notice is given to the applicant in the conceptual development order to indicate that the conditional concurrency certificate does not constitute a final concurrency certificate and that one (1) or more concurrency certificates will subsequently be required.~~
2. **A conditional concurrency certificate may be issued with a condition identifying off-site improvements necessary to meet an adopted level of service and the cost-feasible mechanism for implementing the necessary improvements.**

~~The applicant shall apply for a conditional concurrency certificate only in conjunction with a development order application. At any time, the applicant has the option to apply for an initial concurrency certificate and pay the applicable impact fees in order to reserve capacity. Approval of an initial concurrency certificate for property which does not have appropriate comprehensive plan land use designation and zoning designation does not constitute a vesting of rights. Having reserved capacity and an approved concurrency certificate shall not constitute grounds for approval of a rezoning petition or comprehensive plan land use amendment.~~

3. Prior to issuance of a conditional concurrency certificate, the applicant shall sign an agreement with the county indicating that the applicant understands that the conditional concurrency certificate does not guarantee the availability of facilities at the time of the final concurrency review. The county will not reserve capacity and will not be liable if capacity is not available in the later stages of the review process.
4. **Where the proposed project is a non-PD (planned development) rezoning or comprehensive plan amendment, the concurrency impact assessment will be based on the following criteria:**

<b><u>For</u></b>	<b><u>Project's Intensity Measured By</u></b>
<b><u>Residential conceptual projects, residential rezonings, or residential land use amendments</u></b>	<b><u>(Maximum number of SF or MF units allowed per acre based upon the proposed zoning or land use designation) × Total Property Acres</u></b>

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<u>General commercial or office conceptual projects, comprehensive plan amendments to C/I without rezoning, or rezonings to PRO, OCR, MED, CN, CL, CG</u>	<u>(10,000 sq. ft. of gross floor acre per acre of retail commercial) × Total Property Acres</u>
<u>Heavy commercial or industrial conceptual projects, or rezonings to CH, IL, IG</u>	<u>(20,000 sq. ft. of gross floor area per acre of general industrial) × Total Property Acres</u>

For conceptual plans, the conditional concurrency determination will be based upon the development parameters of the conceptual plan (includes PD rezonings).

(b) *Initial Concurrency Determination.* An initial (or an initial/final) concurrency certificate is a determination and guarantee of availability of adequate capacity determination is a specific concurrency determination for an given proposal and/or approved development project with an approved proportionate share agreement as provided in section 910.12 or an approved guaranteed developer's agreement for major roadway improvements as provided in section 910.07(1)(e). Initial concurrency certificates vest capacity for the duration of the certificate. All applications for an initial concurrency certificates shall expire if applicable impact fees and capacity charges are not paid and department approvals are not obtained within twelve (12) months from the date a complete application is received by the planning division. All applications will be subject to review according to the provisions of sections 910.08, 910.09 and 910.11 of these regulations, absent a previous finding of concurrency consistent with the provisions of section 910.08(1). Prior to approval and issuance approval of a certificate of initial concurrency, the applicant must satisfy reviewing departments' requirements and pay all impact fees and utility capacity charges associated with the improvements allowed by the certificate of concurrency.

1. Initial concurrency certificates associated with approved proportionate share agreements or guaranteed developer's agreements as referenced in section (b), above, are ~~Concurrency determination at this stage is valid for one (1) seven 7 years after approval. This concurrency determination may be extended to five (5) years~~ At the time of initial concurrency application submittal, the applicant shall signs a waiver of rights for the refund of traffic impact fees and utility capacity charges in exchange for extension of the initial-7 concurrency certificate.

~~Applications for initial concurrency certificate can be made at any time; they do not have to be connected to any specific project or project application.~~

2. Prior to expiration of an initial concurrency certificate, the developer may apply for a new initial concurrency certificate subject to the application process provided herein. In such circumstances, the county shall not accept the new application more than 30 (thirty) days in advance of the original certificate expiration.

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~~Conditions pertaining to the phasing and timing of a proposed development may be included in a finding of concurrency for the development. Concurrency determination for all phases of a development must meet all the requirements of this chapter including time frames for validity of concurrency certificate.~~

~~Any initial development order, including a phased project approved before the effective date of this chapter, is considered to have a concurrency determination for one (1) year after approval of this chapter. Subsequent phases of the project are subject to concurrency determination review after September 1, 1991.~~

(c) *Final Concurrency Determination.* A final concurrency certificate must be obtained prior to approval issuance of a final development order building permit for:

- a new building or residential unit
- expansion of a use
- increase in the intensity of use.

~~No final concurrency certificate application will be accepted for a project requiring a traffic impact analysis or traffic impact statement unless an initial concurrency certificate has been obtained.~~

No final concurrency application will be accepted unless and until the associated building permit application is filed.

1. In order to obtain a final development order, building permit for a new building, expansion of a use, or increase in the intensity of use, the applicant must have a valid final concurrency certificate. ~~When~~ If an application for a final concurrency determination is submitted while the initial concurrency certificate is valid, then the capacity will have been reserved and the issuance of the final concurrency certificate is automatic. ~~After expiration of the initial concurrency certificate, the applicant must reapply for an initial concurrency certificate or for a final concurrency certificate.~~ If the amount of the traffic impact fees liability associated with the improvements represented by the initial concurrency certificate increases before the final concurrency certificate is issued, the applicant must pay the additional increment. A final concurrency determination certificate is valid for ~~six (6)~~ twelve (12) months from approval. ~~While the final concurrency certificate is valid, the applicant must obtain a building permit. The final concurrency certificate then will be valid.~~ Upon issuance of the building permit, the final concurrency certificate shall be valid as long as the building permit is active.
2. Building permit applications for single-family residences shall be evaluated to determine if adequate capacity is available to meet adopted levels of service for the concurrency components specified in 910.09. No building permit shall be issued for a single-family residence not vested for

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~~concurrency or exempt from concurrency as provided in section 910.07(2) unless adequate capacity is available to meet adopted levels of service for the concurrency components specified in 910.09, shall be reviewed based on the requirement that fully adequate facilities must be available consistent with the adopted level of service standards and requirements established in the comprehensive plan. For concurrency review for single family residential permits and minor site plan approvals, some geographical areas of the county may be pre-approved for a specific time frame for specific facilities or services. The concurrency certificate for a single family residence will be issued in ten (10) working days.~~

5. Update of Traffic Impact Information Requirements and Use of Fractional Trips to Track Single-Family Road Impacts.

LDR Section 910.09(4)(b) is hereby amended, to read as follows:

(b) *Transportation demand.* The demand for on each roadway segment shall be determined by adding together:

1. The existing peak season, peak hour, peak direction volume for the segment;
2. The projected peak season, peak hour, peak direction volume for the segment created by the anticipated completion of other approved developments for which initial or final concurrency determination certificates have been approved and the projected demand anticipated by completion of other vested development projects; and
3. a) The projected peak season, peak hour, peak direction volume that for the segment is expected to receive upon completion of the development project under consideration for concurrency approval. (if the segment is expected to receive

a) For development projects such as subdivisions, planned developments, and site plan developments, the project's volume for the segment shall be based on an approved traffic study. That study shall assign trips on the county's thoroughfare roadway network within the project's area of influence. That area of influence shall consist of roadway segments that receive from the project eight (8) or more peak season/peak hour/peak direction trips for a two-lane roadway or fifteen (15) or more peak season/peak hour/peak direction trips for a four-lane (or wider) roadway. five (5) percent or more of project trips) created by the anticipated completion of the proposed development under consideration for initial or final concurrency determination. For final concurrency determinations

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b) ~~For~~ individual single-family dwelling unit concurrency determinations, the projected volume for the segment shall be the fractional trip affected assigned to the segments based on the appropriate approved traffic study for the overall parent development project (subdivision, planned development, site plan development) or determination of the Traffic Engineer for single-family homes proposed in projects for which no traffic study was required. will be limited to the most directly accessed segment

6. **Update of Traffic Impact Information Requirements and Clarification of Applicant's Option to Decrease Intensity (Amount) of Concurrency Request**

LDR Section 910.11(1) is hereby amended to read as follows:

(1) *Transportation.*

(a) [Generally.] Proposed developments seeking the issuance of a concurrency determination certificate shall be evaluated by the public works department and community development department in terms of potential development generated traffic impacts on those segments serving said development. A determination shall be made as to whether or not sufficient service volume is available to support said development at or above the adopted level of service for the impacted segments. Such a determination shall be made through the utilization of the following information produced by the Indian River County Public Works Department and Community Development Department:

1. An inventory of all arterial and collector roads, including, at a minimum, the following data for each segment on each road:
  - a. Existing peak hour, peak season, peak direction (design hour) volume based upon traffic counts or assumed volumes, the existing level of service designation, ~~existing service volume reserve,~~ and available capacity based upon the segment's adopted level of service;
  - b. Additional capacity to be added through the construction/implementation of roadway improvements for which a funding commitment has been included in the county capital budget, or which are guaranteed in an enforceable development agreement which satisfies the requirements of section 910.09(4)(a) 1 and 2;
  - c. Traffic volume projected to be added by approved development having an initial or final concurrency determination certificate or vested pursuant to the terms of this chapter.
2. A trip distribution/assignment table for the entire development project (all phases) which will be used to identify those segments which can be expected to receive at least eight (8) or more peak season/peak hour/peak direction project trips for a two-lane roadway or fifteen (15) or more peak

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season/peak hour/peak direction project trips for a four-lane (or wider) roadway. five (5) percent of the average daily traffic generated by development under consideration. For phased projects, individual project phases shall be evaluated as set forth in 910.11(1)(b) below.

3. Information regarding the proposed application for which issuance of a concurrency determination certificate has been requested shall be provided by the applicant, subject to verification by the public works department and community development department, and shall contain at a minimum:
  - a. Project location;
  - b. Type and quantity of proposed land use(s), including but not limited to number of dwelling units, and square footage for nonresidential uses;
  - c. Project phasing; and
  - d. Traffic impact analysis (TIA) or traffic impact statement (TIS), as required by Chapter 952, Traffic.

(b) *Concurrency analysis.* The public works department and community development department shall be the agencies responsible for determining whether adequate service volume capacity is available to support ~~expected development generated traffic~~ expected from a given proposed development such that a finding of concurrency may be rendered. Using the information inventoried pursuant to section 910.11(1)(a) above, expected development generated traffic shall be assigned to those two-lane roadway segments identified as receiving at least eight (8) or more peak season/peak hour/ peak direction trips and those four-lane (or wider) roadway segments identified as receiving fifteen (15) or more peak season/peak hour/ peak direction trips ~~five (5) percent of the average daily traffic generated by the development under consideration pursuant to section 910.11(1)(a)2 above.~~ The community development department will review ~~all~~ and assign trips to segments ~~traffic concurrency determination applications for all individual single family residences~~ residential traffic concurrency determination applications. Trips for individual single-family concurrency determinations shall be assigned as provided in 910.09(4)(b)3. ~~and minor site plans. Single family unit applications will be evaluated only for the most directly accessed segment. The cumulative effect of all trips generated by single family permits will be assigned to roadway links on a quarterly basis. Community development~~ Traffic Engineering Division department staff will review and assign trips to segments for all projects generating less than one hundred (100) average trips ~~ends~~ per day as a concurrency determination certificate is issued.

For larger projects generating one hundred (100) or more average trip ends per day, the applicant shall submit a traffic impact analysis (TIA) or traffic impact statement (TIS). Based on this TIA or TIS, the public works department will assign trips to roadway segments. The community development staff will update the database as a concurrency determination certificates are is issued.

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Trip generation, trip assignment, area of influence, and level of significance for each individual phase of a multi-phase project shall be based on the traffic study of the entire multi-phase (all phases) project. Accordingly, the traffic study for an individual phase of a multi-phase project shall reflect the individual phase's proportioned share of total (all phases) project traffic.

~~If the data requirements described in section 910.11(1)(a)1. through 910.11(1)(a)3. are not available in their entirety at the time the concurrency determination application is being considered, the required data may be provided by the applicant subject to verification by the county public works department and community development department.~~

In the event that development generated traffic assigned to one (1) or more of the roadway segments exceeds the available service volume reserve **capacity**, the report issued by the county public works department and community development department to the coordinating agency shall identify the specific circumstances surrounding each occurrence **notify the applicant that a concurrency certificate may not be issued.** In such a case, the applicant may choose to decrease the intensity of **his** development **to reduce** and associated demand to or below the level of available capacity, or initiate an agreement to expand capacity as provided in Chapter 910.12. If the applicant chooses not to amend his or her request ~~or~~ **and chooses not to** initiate an agreement, then the concurrency application shall be held until it expires. ~~denied the concurrency determination certificate shall be denied.~~

**PART III: AMENDMENTS TO CHAPTER 1000, IMPACT FEES**

**1. Title X Concurrency Reference Update**

Title X Section 1000.15(1) is hereby amended, to read as follows:

- (1) If a building permit or an initial one-year concurrency certificate is revoked, expired, or is withdrawn, then the fee payer, successors or assigns, shall be entitled to a refund of the impact fees paid with interest as a result of its revocation, expiration or withdrawal, except that the county shall retain a fee established by resolution to offset the costs of refunding. Impact fees paid in conjunction with an initial five seven-year concurrency certificate cannot be refunded, however, any such impact fees paid will run as a credit with the land.

**PART IV: AMENDMENTS TO CHAPTER 912 SINGLE-FAMILY DEVELOPMENT**

**1. Concurrency Reference Update**

LDR Section 912.11(2) is hereby amended, to read as follows:

- (2) *Applicability.* Concurrency approval, granted upon issuance of a concurrency certificate, is required when a new single-family home is constructed.

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- (a) A "final concurrency certificate" shall be obtained prior to issuance of a building permit.
- (b) A separate application and review/approval process is established for concurrency certificates.
- (c) Due to the length of concurrency review, applicants for single-family home construction are urged to apply for a concurrency certificate prior to applying for a single-family building permit.
- (d) Impact fees and applicable utility capacity charges shall be paid prior to the issuance of a concurrency certificate.
- (e) No single-family building permit application will be accepted for review unless either a concurrency certificate has been obtained or applied for.

Specific regulations and procedures regarding concurrency requirements are contained in Chapter 910, Concurrency Management System.

## 2. Impact Fees

LDR Section 912.12 is hereby amended, to read as follows:

County impact fees and applicable utility capacity charges are required at the time of building permit issuance, unless such fees have been previously paid. If impact fees have increased between the time of previous payment and the time of building permit application, the applicant must pay the increment prior to building permit issuance.

When impact fees are required, no building permit shall be issued until the fees are paid.

- (1) ~~Traffic impact fees (T.I.F.'s) are required only when a new home is constructed.~~ Impact fees are also required for expansions to existing homes when such expansions cross either of the following size thresholds:

- from less than 1,500 sq. ft. under air to 1,500 sq. ft. or greater, or
- from 1,500 - 2,499 sq. ft. under air to 2,500 sq. ft. or greater.

~~Credit can be given if the new home is replacing an old home that is located on the same parcel. The fees is are based upon a fee schedules adopted by the board of county commissioners, which takes into account where the home is located. The county is divided into nine (9) traffic impact fee districts. The T.I.F. varies from district to district. Specific regulations for impact fees are contained in Chapter 1000, Title X, Impact Fees. Chapter 953, Fairshare Roadway Improvements.~~

- (2) Utilities ~~impact fees~~ capacity charges for water and sewer service hook-up can apply to new home construction or instances where an existing home is being hooked into water and/or sewer services (voluntarily or involuntarily).

**PART V: GENERAL PROVISIONS.**

**SECTION ONE: 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 TWO: 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.

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**SECTION THREE: 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 FOUR: EFFECTIVE DATE.**

This Ordinance shall take effect on March 1, 2007.

Approved and adopted by the Board of County Commissioners of Indian River County, Florida, on this 23rd day of January, 2007.

This ordinance was advertised in the Press-Journal on the 21st day of November 2006, for a public hearing to be held on the 23rd day of January, 2007, at which time it was moved for adoption by Commissioner Davis, seconded by Commissioner Bowden, and adopted by the following vote:

Chairman Gary C. Wheeler	<u>Aye</u>
Vice Chairman Sandra L. Bowden	<u>Aye</u>
Commissioner Joseph E. Flescher	<u>Aye</u>
Commissioner Wesley S. Davis	<u>Aye</u>
Commissioner Peter D. O'Bryan	<u>Nay</u>

BOARD OF COUNTY COMMISSIONERS  
OF INDIAN RIVER COUNTY

BY: Gary C. Wheeler  
Gary C. Wheeler, Chairman

ATTEST BY: Atthena Adams, Deputy Clerk  
Jeffrey K. Barton, Clerk

This ordinance was filed with the Department of State on the following date: FEB - 7 2007, and is to take effect on March 1, 2007.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

William G. Collins II  
William G. Collins II, County Attorney

APPROVED AS TO PLANNING MATTERS

Robert M. Keating  
Robert M. Keating, AICP; Community Development Director

STATE OF FLORIDA INDIAN RIVER COUNTY THIS IS TO CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE JEFFREY K. BARTON, CLERK BY <u>Atthena Adams D.C.</u> DATE <u>2-21-07</u>
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**Bold Italic Underline:** Additions to Ordinance after Workshop  
**Bold Underline:** Additions to Ordinance  
~~Strike-through:~~ Deleted Text from Existing Ordinance  
F:\Community Development\Users\CurDev\ORDINANCE\2007\2007-\_\_\_\_ 910, 912, Title X.RTF