



**VILLAGE OF INDIANTOWN  
AGENDA  
REGULAR VILLAGE COUNCIL MEETING**

August 9, 2018  
6:30 PM  
at the INDIANTOWN CIVIC CENTER  
15675 SW Osceola Street, Indiantown, FL 34956

**VILLAGE COUNCIL**  
SUSAN GIBBS THOMAS, MAYOR  
GUYTON STONE, VICE MAYOR  
JACKIE GARY CLARKE  
ANTHONY D. DOWLING  
JANET HERNANDEZ

**ADMINISTRATION**  
TERESA LAMAR-SARNO, VILLAGE MANAGER  
PAUL J. NICOLETTI, VILLAGE ATTORNEY  
CHERIE WHITE, VILLAGE CLERK

**Civility:** Being "civil" is not a restraint on the First Amendment right to speak out, but it is more than just being polite. Civility is stating your opinions and beliefs, without degrading someone else in the process. Civility requires a person to respect other people's opinions and beliefs even if he or she strongly disagrees. It is finding a common ground for dialogue with others. It is being patient, graceful, and having a strong character. That's why we say "Character Counts" in Indiantown. Civility is practiced at all Village meetings.

**Special Needs:** If anyone attending this meeting requires a special accommodation, please contact Cheryl White, Village Clerk, by telephone at (772) 597-9900 or by email at [cwhite@indiantown.org](mailto:cwhite@indiantown.org). If you are hearing impaired, please contact the Florida Relay Service, Dial 711, or call 800-682-8706 (English); 800-682-8786 (Espanol); 800-855-2886 (TTY).

**Quasi-Judicial Hearings:** Some of the matters on the Agenda may be "quasi-judicial" in nature. Village Council Members are required to disclose all ex-parte communications regarding these items and are subject to voir dire by any affected party regarding those communications. All witnesses testifying will be "sworn" prior to their testimony. However, the public is permitted to comment, without being sworn. Unsworn comment will be given its appropriate weight by the Village Council.

**Appeal of Decision:** If a person decides to appeal any decision made by the Village Council with respect to any matter considered at this meeting, he or she will need a record of the proceeding, and for that purpose, may need to ensure that a verbatim record of the proceeding is made, which record includes any testimony and evidence upon which the appeal will be based.

**Consent Calendar:** Those matters included under the Consent Calendar are typically self-explanatory, non-controversial, and are not expected to require review or discussion. All items will be enacted by a single motion. If discussion on an item is desired, any Village Council Member, without a motion, may "pull" or remove the item to be considered separately. If any item is quasi-judicial, it may be removed from the Consent Calendar to be heard separately, by a Village Council Member, or by any member of the public desiring it to be heard, without a motion.

## **ROLL CALL**

## **INVOCATION**

1. Senior Pastor Wanda Grooms.

## **PLEDGE OF ALLEGIANCE**

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## **COMMENTS BY VILLAGE COUNCIL MEMBERS**

## **COMMENTS BY VILLAGE MANAGER**

## **APPROVAL OF AGENDA**

*-A motion is adopted to approve the Agenda as it appears, or as modified by motion of the village council.*

Motion:	Second:	Discussion by Council:	Public Comment	Vote:
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## **PUBLIC COMMENT**

*-The public is invited to comment for up to 3 minutes **on any item not on the Agenda.** Questions are typically deferred to staff, and if civility is not practiced, the Mayor may rule the person out of order, and may require the person be removed from the meeting.*

## **CONSENT CALENDAR**

2. Minutes of Village Council Budget Workshop and Regular Meeting July 26, 2018.

Motion:	Second:	Discussion by Council:	Public Comment	Vote:
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## **FIRST READING ORDINANCES**

3. ORDINANCE NO. 008 (2018) AN ORDINANCE OF THE VILLAGE OF

INDIANTOWN, FLORIDA, ADOPTING A CODE ENFORCEMENT  
PROCEDURE FOR THE VILLAGE OF INDIANTOWN; PROVIDING  
FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING  
FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Motion:	Second:	Discussion by Council:	Public Comment	Vote:
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4. ORDINANCE NO. 009 (2018) AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, PROHIBITING CERTAIN NUISANCES, INCLUDING OVERGROWTH OF LOTS AND SANITARY CONDITIONS AND PROVIDING ALTERNATIVE NUISANCES, INCLUDING OVERGROWTH OF LOTS, AND UNSANITARY CONDITIONS, AND PROVIDING ALTERNATIVE ENFORCEMENT PROCEDURES FOR THE VILLAGE OF INDIANTOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Motion:	Second:	Discussion by Council:	Public Comment	Vote:
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**SECOND READING ORDINANCES**

5. ORDINANCE No. 005 (2018) AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, ADOPTING A NEW LOCAL COMMUNICATION SERVICES TAX RATE; PROVIDING FOR THE ADOPTION OF A NEW LOCAL COMMUNICATION SERVICES TAX RATE; PROVIDING FOR ADJUSTMENT OF TAX RATE FOR PERMIT FEES; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Motion:	Second:	Discussion by Council:	Public Comment	Vote:
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6. ORDINANCE NO. 006 (2018) AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, ADOPTING A "ZONING IN PROGRESS" PROCEDURE FOR THE VILLAGE OF INDIANTOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Motion:	Second:	Discussion by Council:	Public Comment	Vote:
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7. ORDINANCE NO. 007 (2018) AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, ADOPTING AN ADMINISTRATIVE

VARIANCE PROCEDURE FOR THE GROWTH MANAGEMENT CODE  
OF THE VILLAGE OF INDIANTOWN; PROVIDING FOR  
SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR  
CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Motion:	Second:	Discussion by Council:	Public Comment	Vote:
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**DISCUSSION ITEMS**

**ANNOUNCEMENTS**

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**ADJOURNMENT**

**VILLAGE OF INDIANTOWN, FLORIDA  
AGENDA MEMORANDUM**

MEETINGDATE: August 9, 2018

MEETING TYPE:

AGENDA ITEM TITLE: Senior Pastor Wanda Grooms.

SUMMARY OF ITEM:

RECOMMENDATION:

PREPARED BY: Cherie White DATE: 8/2/2018

REVIEWED BY: DATE:

APPROVED BY: DATE:

**VILLAGE OF INDIANTOWN, FLORIDA  
AGENDA MEMORANDUM**

MEETINGDATE: August 9, 2018

MEETING TYPE: Consent Agenda

AGENDA ITEM TITLE: Minutes of Village Council Budget Workshop and Regular Meeting July 26, 2018.

SUMMARY OF ITEM:

RECOMMENDATION: Approve the Minutes

PREPARED BY: Cherie White DATE: 8/3/2018

REVIEWED BY: DATE:

APPROVED BY: DATE:

ATTACHMENTS:

Description

07/26/2018 Special Village Council Meeting

07/26/2018 Regular Village Council



**VILLAGE OF INDIANTOWN  
SPECIAL VILLAGE COUNCIL MEETING  
July 26, 2018  
MINUTES**

**ROLL CALL**

Cherie White, Village Clerk

**PRESENT**

Council Member Dowling, Council Member Clarke, Council Member Hernandez, Mayor Gibbs Thomas, Vice Mayor Stone, Village Manager Teresa Lamar-Sarno and Village Attorney Paul Nicoletti

**INVOCATION** Reverened Anthony Zwiener

**PLEDGE OF ALLEGIANCE** Mayor Gibbs Thomas led the council in the pledge of allegiance.

Mayor Gibbs Thomas recognized the following dignitaries in the audience; Martin County Commissioner Harold Jenkins, County Administrator Taryn Kryzda,

**PROCLAMATIONS, AWARDS AND SPECIAL PRESENTATIONS**

**1. VILLAGE OF INDIANTOWN DRAFT 2019 BUDGET**

Mayor Gibbs Thomas introduced Mr. T.J. Leahy of CRI who gave a brief visual presentation of the draft 2019 Village of Indiantown budget. He highlighted the proposed millage rate and announced the required September public hearing dates for the adoption of the tentative and final millage rate and budget for the Village. He explained that state numbers were still coming in that could impact the final budget numbers.

Village Manager Teresa Lamar-Sarno thanked T.J. Leahy, Michael Crook, Taryn Kryzda of Martin County who have all been instrumental in helping with putting together the budget numbers. She gave a visual presentation to the council and public explaining the Village timeline, as well as the proposed millage rate, expenditures and revenues. She provided various examples of what the tax increase would be to residents of Indiantown.

## **COMMENTS BY VILLAGE COUNCIL MEMBERS**

## **COMMENTS BY VILLAGE MANAGER**

## **APPROVAL OF AGENDA**

**Motion:** Approve the Agenda

Moved by Council Member Clarke, seconded by Council Member Hernandez.

**Approved 5/0**

## **PUBLIC COMMENT**

Scott Watson came forward and expressed concern over the proposed budget. He explained that when the transition team was in the process of incorporating Indiantown a promise was made not to increase taxes. He did state that moving forward he hopes that we can take over the MSTUs for the roads and water to get this down to a livable level and looks forward thoroughly vetting the process, and wants everyone to know where we are going with this.

Kevin Powers came forward and echoed what Scott Watson said. He asked that the Village look at options to drive the millage down to zero, and asked that they look at every line item on the expense and revenue side and bring it down.

## **CONSENT AGENDA REGULAR AGENDA**

### **2. RESOLUTION NO. 32-2018 ADOPTING A MAXIMUM MILLAGE RATE FOR FISCAL YEAR 2019.**

**Motion:** Approve Resolution 38-2018

Moved by Vice Mayor Stone, seconded by Council Member Hernandez.

**Approved 5/0**

Council Member Dowling thanked staff for their work on the budget and encouraged the public to contact the Council to provide their input on the budget prior to the final budget hearing in September.

Council Member Gary Clarke agreed that the Village needs to keep the millage as low as possible but at the end of the day also needs to do what is in the best interest of the entire Village of Indiantown.



Council Member Hernandez voted to incorporate because she wanted to see better services for her community.

Council Member Dowling wanted to clarify that the Council has not yet adopted the millage rate and would be doing so in September. He encouraged public participation in the coming weeks.

Vice Mayor Stone said he believes that the Village must have something in reserves and thanked staff and those who have been working on the budget.

Mayor Gibbs Thomas echoed everyone else. She too encouraged everyone to speak to the council and stay involved. She also assured the public that the Village Council are all very much involved in the entire budget process.

Anthony Zwiener came forward and encouraged the Council to continue to work toward what is best for Indiantown but reminded them that it was the constituents who got them elected to office. He expressed concern over the promises made by one elected official that there would not be a tax increase prior to the election.

Thelma Water came forward and stated that some people will say anything to get elected but should not reflect what improvements will take place with the proposed tax increase. She said this community needs whatever it can get. She said it especially needs code enforcement and many things need to be done in this part of the County. She thanks everyone for participating in the process and making it happen.

Marjorie Beary came forward and understands what hard decisions the Village council has to make, including raising taxes.

John Anastasio came forward and explained that he understands the Village council and the hard decisions that have to be made based upon guesstimates and revenue numbers that are unknown, and beyond their control.

**DISCUSSION ITEMS  
COMMENTS FROM THE PUBLIC  
ANNOUNCEMENTS  
NEXT REGULAR MEETING**

**ADJOURNMENT 6:45 P.M.  
ATTEST:**

**VILLAGE OF INDIANTOWN, FLORIDA**

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**CHERIE WHITE  
VILLAGE CLERK**

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**SUSAN GIBBS THOMAS  
MAYOR**

**APPROVED ON: August 9<sup>th</sup> 2018**



**VILLAGE OF INDIANTOWN**  
**VILLAGE COUNCIL MEETING**  
**JULY 26, 2018**  
**MINUTES**

**ROLL CALL**

Cherie White, Village Clerk

**PRESENT**

Council Member Dowling, Council Member Clarke, Council Member Hernandez, Mayor Gibbs Thomas, Vice Mayor Stone, Village Manager Teresa Lamar-Sarno and Village Attorney Paul Nicoletti

**INVOCATION:** Reverened Anthony Zwiener delivered the invocation.

**PLEDGE OF ALLEGIANCE:** Mayor Gibbs Thomas led the council in the pledge of allegiance.

Mayor Gibbs Thomas recognized the following dignitaries in the audience; Martin County Commissioner Harold Jenkins, County Administrator Taryn Kryzda, and Tom Campenni.

She also announced that Thelma Waters celebrated her birthday this past Monday, the audience and council sang happy birthday to her.

**PROCLAMATIONS, AWARDS AND SPECIAL PRESENTATIONS**

2. Introduction to the Council on Aging of Martin County at the Kane Center

Karen Ripper, President and CEO of the Kane Center introduced the services that are provided by the Kane Center and encouraged residents of Indiantown to use the many resources they offer to seniors. The mission of the Kane Center is to allow seniors to stay in their homes, eat well and participate in activities among many other services. She thanked Milton Williams from Indiantown who runs the meals program. She thanked Taryn Kryzda and Commissioner Jenkins for Martin County's financial support to the center.

### 3. VILLAGE ATTORNEY SEARCH REPORT

Village Attorney Paul Nicoletti introduced the item and advised the council that the solicitation netted 8 applicants by the deadline, and 1 after the deadline. The committee of myself, County Commissioner Harold Jenkins and Stuart City Attorney Mike Mortell have recommended 3 of the 8 applicants to you for consideration.

The Vose Law Firm, LLP. Winter Park, FL.

Torcivia, Donlon, Goddeau, & Ansay, P.A., West Palm Beach, FL.

Gary Brandenburg & Associates, PA, North Palm Beach, FL.

It is recommended that the Village Council conduct interviews and then hold a Special Village Council Meeting to make a conditional offer to one of the applicants, then direct the Village Attorney to negotiate a contract and bring back an agenda item for consideration at the August 23, 2018 meeting.

**Motion:** Accept the recommendation by the Village Attorney for the selection process of the new Village Attorney.

**Moved by Council Member Hernandez, seconded by Vice Mayor Stone.**

Council Member Dowling asked the Village Attorney, for the record, to clarify if any sunshine violations occurred during this process.

Village Attorney Nicoletti stated for the record, "no sunshine violations occurred". He added that this type of application process is normal, and that the village council has the opportunity to choose any one of the 9 applicants to interview, if they so choose to do so.

John Anastasio came forward and encouraged the council to review the materials from all of the applicants before they make a decision. He felt that at least in his application it included information on how the village should be laid out.

**Approved 5/0**

#### **COMMENTS BY VILLAGE COUNCIL MEMBERS**

#### **COMMENTS BY VILLAGE MANAGER**

#### **APPROVAL OF AGENDA**

**Motion: Approve the Agenda as amended**

**Moved by Vice Mayor Stone, seconded by Council Member Clarke.**

**Approved 5/0**

#### **PUBLIC COMMENT**

## **CONSENT CALENDAR**

4. Village Council Minutes of Budget Workshop and Regular Council Meeting of July 12, 2018 for approval.

5. RECEIVE AND FILE INDIANTOWN COMMUNITY DEVELOPMENT DISTRICT FY 2019 BUDGET

6. (CONTINUE TO AUGUST 9, 2018) Ordinance No. 004-2018; AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, REQUESTING AND CONSENTING TO THE INCLUSION OF ALL OF

July 26, 2018 Page 2 THE VILLAGE OF INDIANTOWN WITHIN A MUNICIPAL SERVICE

TAXING UNIT OR OTHER SPECIFIC GEOGRAPHIC AREA DESIGNATED BY MARTIN COUNTY TO PROVIDE PARKS AND RECREATION SERVICES; PROVIDING FOR ANNUAL RENEWAL OF SUCH REQUEST AND CONSENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

7. RESOLUTION No. 030-2018A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF INDIANTOWN, FLORIDA APPROVING AN EXTENSION OF CONTRACT WITH THE INTERIM VILLAGE MANAGER; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

### **Item 8 was moved and heard as item 8b**

8. RESOLUTION No. 031-2018: A RESOLUTION OF THE VILLAGE OF INDIANTOWN HONORING FIFTY YEARS OF MUNICIPAL HOME RULE IN THE FLORIDA CONSTITUTION AND COMMITTING TO AN EDUCATIONAL INITIATIVE TO HELP FLORIDIANS UNDERSTAND THIS BENEFICIAL RIGHT; AND PROVIDING FOR AN EFFECTIVE DATE.

**Motion: Approve the Consent Calendar excluding 8 and moving it to be heard as item 8b**

**Moved by Council Member Clarke, seconded by Council Member Hernandez.**

**Approved 5/0**

**SECOND READING ORDINANCE of Item 13 was moved here and is now known as 8a.**

**8a.** ORDINANCE No. 002 (2018) AN ORDINANCE GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY PAYMENTS TO THE VILLAGE OF INDIANTOWN, AND PROVIDING FOR AN EFFECTIVE DATE.

**Motion: Approve Ordinance 002-2018 on Second Reading**

**Moved by Vice Mayor Stone, seconded by Council Member Clarke.**

**Approved 5/0**

### **Item 8 was moved here and was heard as item 8b.**

**8b.** RESOLUTION No. 031-2018: A RESOLUTION OF THE VILLAGE OF INDIANTOWN HONORING FIFTY YEARS OF MUNICIPAL HOME RULE IN THE FLORIDA CONSTITUTION AND COMMITTING TO AN EDUCATIONAL INITIATIVE TO HELP FLORIDIANS UNDERSTAND THIS BENEFICIAL RIGHT; AND PROVIDING FOR AN EFFECTIVE DATE.

**Motion: Approve Resolution 031-2018**

**Moved by Council Member Dowling, seconded by Council Member Clarke.**

**Approved 5/0**

**FIRST READING ORDINANCES**

9. ORDINANCE No. 005 (2018) AN ORDINANCE OF THE VILLAGE OF INDIANTOWN , FLORIDA, ADOPTING A NEW LOCALCOMMUNICATION SERVICES TAX RATE; PROVIDING FOR THE ADOPTION OF A NEW LOCALCOMMUNICATION SERVICES TAX RATE; PROVIDINGFOR ADJUSTMENT OF TAX RATE FOR PERMIT FEES;PROVIDING FOR NOTICE TO THE DEPARTMENT OFREVENUE; PROVIDING FOR EVERABILITY;PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

**Motion: Approve Ordinance 005-2018 on First Reading**

**Moved by Council Member Dowling, seconded by Council Member Hernandez.**

**Approved 5/0**

10. ORDINANCE NO. 006 (2018) AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, ADOPTING A "ZONING IN PROGRESS" PROCEDURE FOR THE VILLAGE OF INDIANTOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

**Motion: Approve Ordinance 006-2018 on First Reading**

**Moved by Council Member Dowling, seconded by Council Member Clarke**

Scott Watson came forward and expressed concern over the proposed Ordinance.

Attorney Nicoletti explained that he would be happy to answer any questions between first and second reading.

**Approved 5/0**

11. ORDINANCE NO. 007 (2018) AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, ADOPTING AN ADMINISTRATIVE VARIANCE PROCEDURE FOR THE GROWTH MANAGEMENT CODE OF THE VILLAGE OF INDIANTOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

**Motion: Approve Ordinance 007-2018 on First Reading**

**Moved by Council Member Hernandez, seconded by Council Member Dowling.**

**Approved 5/0**

**SECOND READING ORDINANCES**

12. ORDINANCE NO. 001-2018 AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, REQUESTING AND CONSENTING TO THE INCLUSION OF ALL OF THE VILLAGE OF INDIANTOWN WITHIN A MUNICIPAL SERVICE BENEFIT UNIT OR OTHER SPECIFIC GEOGRAPHIC AREA DESIGNATED BY MARTIN COUNTY TO PROVIDE FIRE RESCUE SERVICES; PROVIDING FOR ANNUAL RENEWAL OF SUCH REQUEST AND CONSENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

**Motion: Approve Ordinance 001-2018 on Second Reading, striking the words “taxing unit” on page 2 of the Ordinance.**

**Moved by Council Member Hernandez, seconded by Council Member Dowling.**

**Approved 5/0**

**Item 13 was heard earlier as item 8a.**

13. ORDINANCE No. 002 (2018) AN ORDINANCE GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY PAYMENTS TO THE VILLAGE OF INDIANTOWN, AND PROVIDING FOR AN EFFECTIVE DATE.

#### **DISCUSSION ITEMS**

**ANNOUNCEMENTS:** The next Regular Village Council Meeting will be held on August 9<sup>th</sup> at 6:30 p.m. and a Special Village Council Meeting will be held on August 14, 2018.

**NEXT REGULAR MEETING**

**ADJOURNMENT 9:05 p.m.**

**ATTEST:**

**VILLAGE OF INDIANTOWN, FLORIDA**

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**CHERIE WHITE  
VILLAGE CLERK**

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**SUSAN GIBBS THOMAS  
MAYOR**

**APPROVED ON: August 9<sup>th</sup> 2018**

**VILLAGE OF INDIANTOWN, FLORIDA  
AGENDA MEMORANDUM**

MEETINGDATE: August 9, 2018

MEETING TYPE: Regular Village Council Meeting

AGENDA ITEM TITLE: ORDINANCE NO. 008 (2018) AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, ADOPTING A CODE ENFORCEMENT PROCEDURE FOR THE VILLAGE OF INDIANTOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

SUMMARY OF ITEM: This ordinance sets up a format for the Village to follow as it looks forward to providing its own code enforcement program in the new fiscal year. This format has been used in Stuart and other municipalities for over 10 years, and it "tried and true." Please take the time to read through the ordinance and let me have any questions before the meeting of the 9th.

RECOMMENDATION: Approve Ordinance 008 (2018) on First Reading

PREPARED BY: P. Nicoletti DATE: 8/2/2018

REVIEWED BY: P. Nicoletti DATE: 8/2/2018

APPROVED BY: Teresa Lamar-Sarno DATE: 8/3/2018

**ATTACHMENTS:**

**Description**

Ord. 008 (2018) Code Enforcement Ordinance

Code Enforcement Presentation



**VILLAGE OF INDIANTOWN, FLORIDA**

**ORDINANCE NO. 008 (2018)**

**AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, ADOPTING A CODE ENFORCEMENT PROCEDURE FOR THE VILLAGE OF INDIANTOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

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**WHEREAS**, the Village Council of the Village of Indiantown has determined that as it establishes a village code of ordinances, it is prudent and appropriate to provide an administrative procedure for the enforcement of those codes.

**BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF INDIANTOWN, FLORIDA:**

**SECTION 1. CODE ENFORCEMENT.** The following provisions are hereby adopted as part of the Village Code of Ordinances.

**ARTICLE II. - CODE COMPLIANCE**

**Sec. 26-19. - State law adopted; limitations.**

The terms, provisions and procedures of F.S. ch. 162 and F.S. § 166.0415, as amended from time to time, regarding the compliance or enforcement of the village codes and ordinances are adopted, and shall be effective within the village, except as further amended by this article, it being the intent of the village council that the provisions contained in this article shall be the code enforcement laws of the village, and the provisions of Chap. 162, Florida Statutes, and F.S.



VILLAGE OF INDIANTOWN, FLORIDA  
ORDINANCE NO. 007 (2018)  
ADMINISTRATIVE ZONING VARIANCES

§ 166.0415 shall be supplemental thereto.

**Sec. 26-20. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Appeal* (from a village administrative decision) means any appeal permitted or allowed in this Code, the land development code or the comprehensive plan of the village, except for those matters reserved to the board of adjustment, or exclusively to a court of competent jurisdiction.

*Village attorney* means any duly licensed state attorney employed or authorized by the village to act as village attorney or assistant village attorney.

*Code enforcement* is the term used by the village to describe the village's code compliance program. The terms "code enforcement" and "code compliance" may be used interchangeably.

*Code violation* means any infraction of this Code, the village's land development code, the village's comprehensive plan, or any other duly adopted ordinance of the village, including any site plan or design specification approved under the village's land development code. Unless otherwise provided by ordinance, each and every day of infraction shall constitute a separate violation for which a respondent may be fined.

*Enforcement officer* means any duly authorized agent or employee of the village whose duty it is to ensure code or ordinance compliance; and includes but is not limited to all sworn village police officers, the building official, building inspectors, fire inspectors, fire officers, CRA coordinator, village development director, assistant village development director, public works inspectors, and code compliance or code enforcement officers; and may be cited as "officer" in this article or elsewhere. See also "code enforcement."

*Magistrate* or *village magistrate* means any hearing officer duly appointed by the village council to hear and determine cases presented by the village for adjudication, or brought by a respondent, as provided by law or ordinance.

*Repeat violation* means a violation of a provision of a code or ordinance by a person who has been previously found, by a magistrate, or formerly a code enforcement board or other quasi-judicial or judicial process, to have violated or who has admitted violating, the same provision within five years prior to the violation, notwithstanding that the violations occurred at different locations.

*Respondent* means any natural person, business entity, firm, organization or agency, alleged to have violated any code or ordinance of the village, or of the Florida Building Code, or of a county ordinance that has been adopted by the village or that has countywide applicability, all as the same may be amended from time to time.

*Sitting magistrate* means that certain village magistrate before whom a case is presented and heard.

*Uniform code citation* means variously a code citation, notice of violation, notice to appear, summons, uniform code and parking citation notice or other notice issued by the village that requires compliance with a code section and the payment of a fine and costs, or an appearance before a magistrate, or both code compliance and an appearance.

**Sec. 26-21. - Magistrate; appointment and powers.**

(a) The village council may appoint one or more magistrates, who shall be the hearing officers for the village. A magistrate shall have the jurisdiction and authority to hear and to decide alleged violations of all the codes and ordinances of the village, to hear appeals from administrative officers, and to issue, suspend or withhold, or vacate fines, costs, and orders, all as provided herein, unless otherwise prohibited herein.

(b) Magistrates shall be members in good standing of The Florida Bar, and shall remain in good standing during their entire tenure as a magistrate. In the event that a magistrate is reprimanded, suspended or disbarred by The Florida Bar, such magistrate shall immediately forfeit their appointment as magistrate, without any further action required by the village council. Any magistrate so affected, shall have an affirmative duty to notify the village council in writing immediately upon such action becoming final.

(c) A magistrate shall be appointed and serve at the will of the village council, but shall be initially appointed for a term of not less than two years, and shall serve thereafter at the will of the council, and shall continue to serve until a successor is appointed, or until said magistrate may earlier resign, or forfeit the appointment, as provided above. A magistrate may be removed from office upon an affirmative vote of a majority of the village council members for any reason, except to seek to influence the outcome of any matter which shall come before the magistrate.

(d) Magistrates shall be compensated as provided by annual appropriation of the village council.

(e) Once a magistrate is appointed and accepts appointment, no member of the village council, no village employee, no village consultant, or no other person, including a respondent or respondent's representative, shall have any ex parte communication with a magistrate concerning any item before the magistrate, or seek to influence, by any means, the outcome of any matter which shall come before a magistrate, except at a proper hearing to which all parties have been given proper notice, or have waived such notice. This provision shall not apply to any village employee assigned to assist a magistrate in the performance of strictly administrative or ministerial duties. Any attempt to influence a magistrate outside of a hearing shall be deemed a violation of this article, punishable in county court as a misdemeanor of the second degree, as provided in F.S. § 775.083.

(f) If there is more than one magistrate appointed, the longest tenured magistrate shall be the chief magistrate, unless otherwise directed by the village council. The chief magistrate shall have the additional duty and authority to make administrative rules and establish uniform procedures concerning the conduct of hearings, the form and filing of motions, pleadings, citations, notices, and generally may act in furtherance of his or her jurisdiction, as well as for the other village magistrates. A chief magistrate, appointed by the village council, shall be a duly licensed attorney in good standing, and a member of The Florida Bar for at least the five consecutive years prior to appointment.

(g) Magistrates, using sound discretion, may determine violations of ordinances, levy fines, levy administrative costs, grant, deny or modify extensions of time for compliance, may suspend, reduce, waive or abate fines and costs, in whole or in part, and may fashion other reasonable orders not in conflict with any applicable law or ordinance, including but not limited to the rehearing of matters, and the modification and vacation of interlocutory and final magistrate

VILLAGE OF INDIANTOWN, FLORIDA  
ORDINANCE NO. 007 (2018)  
ADMINISTRATIVE ZONING VARIANCES

orders.

(h) Except as otherwise provided in this article, or determined by uniform rule of the chief magistrate, all magistrates, and all those appearing before a magistrate, shall refer to and use the definitions, forms, times, scope, procedures, and methods used in F.S. ch. 162, and the Florida Evidence Code, the Florida Rules of Civil Procedure, the Florida Rules of Judicial Administration, the Florida Rules of Traffic Court, and the Florida Small Claims Rules (collectively the "Rules") to the extent that the same would be applicable in a Florida county court proceeding, and to the extent that they are applicable to village magistrate proceedings. In the event of a conflict within or between this article, F.S. ch. 162, or F.S. § 166.0415, and the Rules, the sitting magistrate may issue further orders clarifying the matter, without there being a presumption as to the resolution of the conflict. However, it is the intent of this article that such a decision shall be supplemental to the provisions of F.S. ch. 162, as provided in F.S. § 162.13, or supplemental to F.S. § 166.0415, as provided in F.S. § 166.0415(7).

(i) The jurisdiction of a magistrate regarding adjudication of the village codes shall not be exclusive, but all code compliance matters shall normally be heard by a magistrate, unless specifically filed by the village attorney in a court of competent jurisdiction, or other appropriate legal venue, such as arbitration, or mediation. Notwithstanding the above, a violation of any of the codes and ordinances of the village may be prosecuted by using any other appropriate enforcement method or remedy permitted by law.

(j) In addition to the broad jurisdiction granted in this section, the village council hereby specifically designates magistrates to decide:

(1) Petitions for abatement, reduction or satisfaction of fines and all liens recorded in the public record, it being the intent of the village council to delegate the authority provided in F.S. § 162.09(2)(d)(3), concerning the satisfaction and release of liens, to the sitting magistrate;

(2) Hearings and orders regarding contempt proceedings and rules to show cause, provided by this article; and

(3) Hearings and orders regarding relief sought under F.S. § 162.08 regarding the issuance of orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

**Sec. 26-22. - Appeals to and from a magistrate.**

(a) As an alternative procedure to any other appellate process, an administrative decision made by a village official that is provided for in the village code of ordinances, or in the land development code or the village's comprehensive plan, may be appealed to a magistrate, except as otherwise prohibited by law. However, the final decisions of the village manager or the village council shall not be appealed to the magistrate, unless specifically provided by ordinance.

(b) An appeal from a final decision of a magistrate shall be to the circuit court in and for the Nineteenth Judicial Circuit of Florida. All appeals shall be by petition for writ of certiorari, as provided by state law and the Florida Rules of Appellate Procedure. To be effective, a petition for writ of certiorari, along with a copy of any appendix, must be filed with the clerk of the circuit court on or before 30 days following the written rendition of an order by a magistrate, as provided in Fla. R. App. P. 9.100, with a copy of the same provided to the village clerk.

**Sec. 26-23. - Duties of village attorney.**

The village attorney shall represent the village, and may present testimony and evidence through any competent witness, including but not limited to police officers, civilian parking enforcement officers, enforcement officers, and other village employees, or persons. The village attorney may attend all code compliance hearings, and may present and prosecute any or all cases to come before a magistrate. The village attorney shall also be responsible to see to the foreclosure of all code compliance liens, and compliance with all magistrate orders.

**Sec. 26-24. - Administrative costs and fines; failure to pay.**

(a) It is the intent of the village council that all reasonable administrative costs of any action or hearing required before a magistrate as a result of a violation, or contempt proceeding, or at a hearing later sought by a respondent, be paid by the respondent. An administrative cost schedule may be established from time to time by ordinance of the village council. In the alternative, such reasonable costs as are actually expended by the village may be compiled administratively. Such costs may be levied and added to any order issued by a magistrate, but the costs may also be suspended or waived in the sound discretion of the sitting magistrate.

(b) If any fines or administrative costs levied are not paid timely, compliance with the underlying order requiring payment shall not be deemed to have been achieved, and any affirmative waiver or abatement given by the magistrate shall be deemed suspended, until all fines and costs are paid, or the same may be subject to further order by the magistrate, which may include vacation of relief sought by a respondent.

(c) In the event a respondent complies with the code requirements found in a violation order, including a consent order, but fails to timely pay any fines or administrative costs associated with a such violation order, the village shall nonetheless have a lien for the amount of the fines and costs, and no village regulatory license, no local business tax receipt, or development permit shall be issued to the respondent, unless and until they shall pay all outstanding fines and costs, together with interest at the rate applied by the courts to money judgments.

**Sec. 26-25. - Summary procedures; uniform code and parking citation notice; notice to appear.**

(a) Uniform code and parking citation notice ("citation"). If a violation of a code or ordinance for which the village council has set specific fines and costs is believed to have occurred or to exist by an enforcement officer, the officer may issue a citation to the respondent, on a form approved by the village attorney, designating, at a minimum, the violation location, the violation date, and the code section alleged to have been violated, and a short factual statement that forms the basis for the belief that a violation exists, and the amount of the fine and costs, as adopted by the village council for the offense, along with the action required to comply with the code section cited, if any. The citation may also establish a time for compliance.

(b) Notice to appear (summons). Also, using the citation form, an enforcement officer may issue a notice to appear, summoning a respondent to a mandatory or non-mandatory appearance before a magistrate to answer the charges alleged in the notice. For this purpose, the citation shall

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include the hearing date, time and location, and any procedures required to avoid a hearing, if applicable. This procedure may be used regardless of whether the village council has established a fine for a code violation. Failure to appear when properly summoned to a magistrate hearing may subject a respondent to any or all additional costs, or an order to show cause why such person should not be held in contempt, or a contempt order with or without fine.

(c) Respondent's rights and obligations. The respondent may avoid a non-mandatory appearance before the magistrate by complying with the code section cited, passing an inspection, if required, and electing to pay a fine and costs as provided on the uniform citation. However, the respondent may otherwise elect to appear before the magistrate to contest the alleged violation cited, and at that time must bring any witnesses or evidence to be presented at the magistrate hearing. Once a citation has been issued, the respondent shall have ten days within which to file a written request for hearing with the code clerk's office, failing which a magistrate may enter an order finding the respondent guilty of the alleged violation, and assessing a fine and reasonable costs.

(1) Any individual respondent may be represented by legal counsel, or by another competent adult. Corporations, limited liability companies, partnerships or other business entities may only be represented by legal counsel or officers, members, partners or those employees duly authorized by officers, members or partners with authority to obligate the business entity.

(2) If a fine or costs, or both, are not paid within ten days of the issuance of a citation, or as otherwise provided on the face of the citation, or if the respondent or a designated representative fails to appear at the magistrate hearing upon being summoned to do so, the respondent shall have waived all rights to a hearing. Thereafter, an order may be entered against the respondent in an amount up to the maximum permitted by law. Once a fine is paid, or if unpaid, ten days after the issuance of a citation, it is deemed to be conclusive proof of the violation, for the purposes of establishing a later repeat violation.

**Sec. 26-26. - Formal procedures.**

(a) **Code violations.** If a violation of a code or ordinance is believed to have occurred or to exist, by an enforcement officer, the officer or his or her designee, may issue a separate or a combined notice of violation and notice to appear to the respondent and give the respondent a reasonable time within which to correct the violation and have an inspection conducted, failing which a hearing shall occur on a date specified. In providing notices to the respondent, one or more courtesy notices or the notices required herein shall be issued by hand delivery, or by certified mail, or in the failure of hand delivery or certified mail, by posting as provided in F.S. ch. 162.

(b) **Stipulation and consent order.** The enforcement officer may enter into a stipulation with the respondent for compliance by a certain date. The stipulation shall admit the violation, the amount and payment date for the costs of the action, and the amount of the fine, if the matter is not brought into compliance. Once a stipulation is entered into by the parties, the respondent is not required to appear at a magistrate hearing. However, the enforcement officer shall bring the stipulation to the hearing for magistrate approval and issuance of a consent order. If the



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stipulation or the consent order is not approved by the magistrate, the respondent shall not be prejudiced for failing to appear, and shall be given an additional reasonable amount of time for compliance, and shall be issued a notice to appear at the next available hearing.

(c) **Violation not timely corrected**, or corrected but recurs. If a violation is not corrected by the time agreed in the stipulation, or specified for correction by the enforcement officer in a notice of violation, or if the violation is corrected and then reoccurs prior to the hearing date, the case may be presented to the magistrate at a hearing for which the respondent has been given notice, even if the violation has been corrected prior to the hearing, and the notice or stipulation shall so state. Under the circumstances described in this subsection, the magistrate may nonetheless issue an order requiring the payment of reasonable administrative costs, and if the violation has not been corrected, may set a date for compliance and establish a reasonable administrative fine for failure each day that the matter remains out of compliance.

(d) **Life safety matters**. If the enforcement officer has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety and welfare, the officer shall make a reasonable effort to immediately notify the respondent and in addition to any other notices, such as a stop work order or unsafe building notice, an enforcement officer may issue a uniform code citation, with or without a mandatory notice to appear, or may issue a notice of violation and notice to appear, with compliance being immediately required, or as otherwise set by the officer. If found to be in violation, a magistrate may order that the fine for the violation may commence upon the date of the violation, notwithstanding that it is adjudicated at a later time.

(e) **Violation order; recordation; lien**. Following the entry of a violation order by a magistrate, the village may record a certified copy of the same in the official records of the county. Thereafter, and upon the recording of an affidavit by the village indicating that a respondent has failed to comply with a magistrate's violation order, and notwithstanding the methodology expressed in F.S. § 162.09 to the contrary which requires two separate hearings, the recordation of a violation or consent order, which contains provisions for a fine and/or the payment of costs, that is recorded in the official records of the county shall constitute a lien by the village for any fine or cost amounts then due until paid from the date the order was entered by the magistrate. Said lien shall also gather interest as set from time to time by the state to be applied to judgments. It is the specific intent of the village council that a separate hearing for the certification of a fine shall not be required to constitute or perfect the lien rights of the village.

(f) **Repeat violations**. If a repeat violation is found to occur, the officer shall notify the respondent of the violation, as provided in F.S. ch. 162, but the officer shall not be required to give the respondent a reasonable time to correct the violation. The officer may also issue a uniform citation, or mandatory summons or notice to appear before the magistrate. The case may be presented to the magistrate even if the repeat violation has been corrected prior to the hearing.

**Sec. 26-27. - Repairs by village; compliance of lot maintenance program; and liens.**

(a) In addition to any code enforcement action taken, a code enforcement officer may report code violations to the village manager, and the village may make all reasonable repairs which are required to bring the property into compliance, and charge a respondent, or the property owner,

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or both, with the reasonable cost of the repairs, along with a fine imposed pursuant to this section. All actual costs of repair and administrative costs, if not paid by the respondent or property owner within 30 days of a written statement sent to the respondent shall be a lien against the real property of the respondent, and if given proper notice, the owner of the subject real property.

(b) In addition to the provisions in this article, and as provided in [chapter 20](#), article II, pertaining to lot cleaning, the village manager may approve the cleaning, mowing, removal and disposal from private real property, of any or all of the following: overgrown grass, weeds, trees and other vegetation, construction or demolition debris and rubble, residential and commercial garbage and yard trash, junk vehicles and parts, junk equipment, junk tires, junk household goods or appliances, and any other junk or waste materials; any or all of which shall be found to constitute a nuisance under the village code. Making such repairs does not create a continuing obligation on the part of the village to make further repairs, or to maintain the property, and does not create any liability against the village for any damages to the property.

(c) Once notified of the entry of an order that upon recording will constitute a lien on an owner's property, the owner of the real property shall not sell, transfer, or attempt to sell or transfer the property, without first paying all outstanding fines and costs, plus interest, or providing for the payment of the fines, and costs, plus interest, at closing, whether a lien is recorded or not recorded.

**Sec. 26-28. - Hearing procedures; rights and obligations.**

(a) **Respondent's rights and obligations.** The respondent may avoid an appearance before the magistrate by complying with the code section cited, and passing an inspection, if required, as required on the citation or notice of violation. However, the respondent may otherwise elect to appear before the magistrate to contest the alleged violation cited, and at that time must bring any witnesses or evidence to be presented at the magistrate hearing.

(b) **Representation.** Any individual respondent may be represented by legal counsel, or by another competent adult. Corporations, limited liability companies, partnerships or other business entities may only be represented by legal counsel or officers, members, partners or those employees duly authorized by officers, members or partners with authority to obligate the business entity.

(c) **Waiver of rights.** If a fine and costs, if any, are not completely paid within ten days of the issuance of a citation, or as otherwise provided on the face of a citation, or if the respondent or a designated representative fails to appear at the magistrate hearing upon being summoned to do so, the respondent shall have waived all rights to a hearing. Thereafter, an order may be entered against the respondent in an amount up to the maximum permitted by law. Once a fine is paid, it is deemed to be conclusive proof of the violation, for the purposes of establishing a later repeat violation.

(d) **Burden of proof.** At any violation hearing, the burden of proof shall be upon the village to show by a preponderance of the evidence, that a violation did occur or does exist, or has been repeated. If proper notice of the hearing has been given to the respondent, either as actual notice, or as provided in this article, or in accordance with F.S. ch. 162, or as otherwise provided by law,

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a hearing may proceed in the absence of the respondent.

(e) **Motion practice and issuance of subpoenas.** Respondents or their attorneys may file motions to enlarge the time for a response; for extensions for the date for compliance; for continuance of any proceedings; for reduction or abatement of fines; and for other applicable matters as provided in the Florida Rules for Civil Procedure, except that a respondent shall not file a motion to dismiss, or to quash service of process, except upon five days' written notice to the village, which notice may be waived by the village attorney. Motions contesting subject matter jurisdiction and for recusal of a magistrate shall be brought as provided in the Florida Rules of Civil Procedure. In the sound discretion of the magistrate, motion hearings may be conducted at regularly scheduled hearings; or at specially set hearings, in person or telephonically. With the agreement of the parties, a magistrate may act upon motions, pleadings or stipulations without an oral hearing of the parties. A respondent may compel the attendance of necessary and relevant witnesses to a hearing by a subpoena issued by the respondent's legal counsel pursuant to Rule 1.410 of the Florida Rules of Civil Procedure. In the event a respondent is not represented by counsel, a witness subpoena for the hearing may be issued for persons within the village by applying for the issuance of a witness subpoena through the code clerk at village hall. Subpoenas are not permitted for any other purpose, unless ordered by a magistrate.

(f) **Hearing procedures.** All testimony at evidentiary hearings shall be under oath, and shall be recorded by the village by electronic means, but shall not be transcribed. Any party wishing to obtain a certified verbatim transcript, must bear the expense for the same.

(1) The docket for each hearing shall bear legends substantially the same as those below:

If a person decides to appeal any decision made by a magistrate with respect to any matter considered, such person will need a record of the proceeding, and that for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The village does not provide such a record, and a respondent may need to provide its own court reporter.

In compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for a magistrate hearing should contact the village's ADA coordinator at (772) 597-8281 at least 48 hours in advance of the hearing, excluding Saturday, Sunday and village holidays.

(2) The Florida Rules of Civil Procedure and Rules of Evidence may be relaxed by the magistrate, but fundamental due process shall be observed and shall govern the proceedings. All relevant evidence, including hearsay, shall be admitted, if it is the type of evidence upon which reasonable persons would normally rely. No violation case shall be decided solely upon hearsay evidence. Irrelevant, immaterial, and unduly repetitious evidence may be excluded.

Nonrepetitive documentary and other physical evidence shall be admitted, if in the sole discretion of the magistrate, it is reasonably reliable, or is either self-authenticating or otherwise able to be authenticated.

(3) Witness testimony; subpoena power. The magistrate may inquire of and cross-examine any witness who gives testimony. The respondent, or his attorney, and the village attorney or his designee shall be permitted to inquire of any witness. The magistrate may call or subpoena any witness or evidence deemed necessary to provide a full and fair hearing of the case. Witness



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subpoenas may also be issued for all natural persons or other persons within the village by a respondent or respondent's representative applying for the same through the code clerk at village hall. The failure of any person to obey a properly issued and served subpoena may render that person in contempt of the magistrate.

(4) Findings and violation orders. At the conclusion of each violation hearing, the magistrate shall issue findings of fact, based on evidence in the record, and conclusions of law, and shall issue an order affording proper relief consistent with the powers granted in this article or by general law. The order may be stated orally at the hearing, and shall thereafter be reduced to writing and mailed or hand delivered to the respondent within ten working days after the hearing. The order shall include, but shall not be limited to any of the following:

- a. A notice that the order must be complied with by a specified date and that a fine, may be imposed if the order is not complied with by such date.
- b. Upon a finding of violation, any development order or development permit, as defined in F.S. ch. 163, any application for local business tax payment, any regulatory license granted by the village, and any annexation application entered into by the village council may be revoked, suspended or withheld by the magistrate until compliance is achieved.
- c. A certified copy of such order may be recorded in the official records of the county, and shall thereafter constitute notice to the respondent and any subsequent purchasers, successors in interest, or assigns (if the underlying violation concerns real property), that the findings therein shall be binding upon the respondent and any subsequent purchasers or successors in interest or assigns.
- d. The order may contain a provision for the payment of all costs of the action, including any repairs made by the village, regardless of any fine imposed, suspended or withheld.
- e. If following the date set for compliance by violation order of a magistrate, a code enforcement officer executes and records in the official records of the county, an affidavit indicating noncompliance by the respondent with the violation order, the violation order shall be self-executing, and shall take effect *nunc pro tunc* on the date following the date set for compliance in the violation order. No further action or hearing shall be required to establish the fine and costs contained in the violation order, or to establish a lien on the real or personal property of the respondent.

**Sec. 26-29. - Transfer of real property ownership following citation, notice of violation or violation order.**

If the owner of real property, that is subject to a compliance proceeding before the magistrate, transfers ownership of such property following receipt of a notice of violation, notice to appear, code citation or other pleading, the owner shall:

- (1) Disclose in writing the existence and the nature of the proceeding to every prospective buyer or transferee.
- (2) Deliver to the prospective buyer or transferee a copy of the pleadings, notices, and other materials relating to the code compliance proceeding received by the owner or transferor.
- (3) Disclose, in writing, to the prospective transferee that the transferee or new owner will be responsible for compliance with all applicable codes and with orders issued in the code

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compliance proceeding.

(4) File a notice with the village and the magistrate of the intended transfer of the property, with the identity and address of the contract owner and copies of the disclosures made to the contract owner, within five days from the date of notice to the contract purchaser.

(5) A failure to make the disclosures described in subsection (4) of this section or to provide for the payment of all fines, costs and interest, before the transfer of the real property shall create a rebuttable presumption of fraud by any person who fails to disclose or to provide for the payment of the fines, costs and interest, as provided herein, and the same may be prosecuted under the civil and criminal statutes of the state.

(6) If the property is transferred or conveyed prior to being heard by a magistrate, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to come into compliance before a fine is levied.

**Sec. 26-30. - Schedule of fines and costs.**

The village council hereby establishes the following schedule of fines and costs for various violations of the village codes and ordinances. **[See Inset Table "A".]** In lieu of using the schedule of costs contained in the Appendix to this code, the village may present reasonable actual costs to the magistrate for approval. In such instance, the respondent may *voir dire* the village regarding the costs, and present argument regarding the same.

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**TABLE "A"**

<a href="#">8-27</a>	Hunting or killing animals	Mandatory
<a href="#">10-1</a>	105.1.1 FBC—Building permit required	II
<a href="#">10-83</a>	Unsafe building	II
<a href="#">10-84</a>	Unsafe building—Occupancy	III
<a href="#">10-60</a>	Unmaintained building—Occupancy	II
<a href="#">10-63</a>	Minimum living standards	Mandatory
<a href="#">10-200</a>	Contractor license required	III
<a href="#">20-20</a>	General sanitation of property; and nuisances	II
<a href="#">20-21</a>	Tall grass, weeds and underbrush (8 inches or more)	I
<a href="#">20-22</a>	Trash and solid waste; mosquito breeding; nuisance	II
<a href="#">20-50</a>	Abandoned, junked, inoperable vehicle and watercraft	II
<a href="#">26-28</a>	Costs of Magistrate action (minimum)—Notice of Violation	\$300.00
<a href="#">26-28</a>	Costs of Magistrate action (minimum)—Citation	\$100.00
<a href="#">34-9</a>	Burial of debris	Mandatory
<a href="#">36-31</a>	Site address numbers; required	I
<a href="#">40-37</a>	Prohibited parking/standing/stopping	\$25.00
<a href="#">40-37</a>	Blocking a driveway	\$25.00
<a href="#">40-37</a>	Parking on a sidewalk	\$25.00
<a href="#">40-37</a>	Parking in a loading zone	\$25.00
<a href="#">40-37</a>	Parking left side to curb	\$25.00
<a href="#">40-37</a>	Parking in a fire lane	\$25.00
<a href="#">40-37</a>	Parking in "Emergency vehicle only" space	\$25.00
<a href="#">40-37</a>	Failure to display disabled (handicapped) parking permit	\$25.00
<a href="#">40-37</a>	Truck (one-ton or more) parking in a residential zone	\$25.00
<a href="#">40-37</a>	Failure to park in a designated parking space	\$25.00
<a href="#">40-37</a>	Parking in a "tow-away zone"	\$100.00
<a href="#">40-45</a>	Illegal parking in handicapped space or access aisle	\$250.00
<a href="#">40-48</a>	Truck parking in residential area	\$25.00
	<b>Penalties for Certain Violations:</b>	
<b>Class I</b>	1st violation (\$50.00); 2nd violation (\$100.00); 3rd or more violations (\$200.00); plus costs	
<b>Class II</b>	1st violation (\$100.00); 2nd violation (\$200.00); 3rd or more violation (\$400.00); plus costs	
<b>Class III</b>	1st violation (\$150.00); 2nd violation (\$300.00); 3rd violation (\$500.00); plus costs	
<b>Mandatory</b>	A mandatory appearance is required by the Respondent and subjects the violator to a fine of up to \$250.00 for a 1st violation, and a fine of up to \$500.00 for a repeat violation, as provided in this code; plus administrative costs	

**Sec. 26-31. - Contempt proceedings.**

In the event that any person shall fail to observe reasonably civil standards of conduct at a hearing before a magistrate, as the same may be required in a court of law, or in the event that any person shall fail, without reasonable excuse, to obey the appearance requirements in a uniform citation, a notice to appear, a summons or a subpoena properly served upon such person, then that person may be held in contempt of a magistrate proceeding, and upon a proper finding of contempt by a magistrate, such person shall be subject to a fine of up to \$1,000.00 which may be in addition to any other fines or costs levied by a magistrate for violations of the village codes.

**Secs. 26-32—26-59. - Reserved.**

**SECTION 2. SEVERABILITY.** The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

**SECTION 3. CONFLICTS.** All ordinances and parts of ordinances and all resolutions and parts of resolutions in conflict herewith, are hereby repealed.

**SECTION 4. CODIFICATION.** The provisions of Section 1 of this ordinance shall be codified at such time as the village council adopts a village code.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon adoption.

**PASSED** on First Reading on the \_\_\_\_ day of \_\_\_\_\_, 2018.

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Council Member \_\_\_\_\_ offered the foregoing ordinance on second reading, and moved its adoption. The motion was seconded by Council Member \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

VILLAGE COUNCIL	YES	NO	ABSENT	ABSTAIN
SUSAN GIBBS THOMAS, MAYOR				
GUYTON STONE, VICE MAYOR				
JACKIE GARY CLARKE, COUNCIL MEMBER				
ANTHONY J. DOWLING, COUNCIL MEMBER				
JANET HERNANDEZ, COUNCIL MEMBER				

**ADOPTED** on Second Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

ATTEST:

VILLAGE OF INDIANTOWN, FLORIDA

\_\_\_\_\_  
CHERIE WHITE  
VILLAGE CLERK

\_\_\_\_\_  
SUSAN GIBBS THOMAS  
MAYOR

REVIEWED FOR FORM  
AND CORRECTNESS:

\_\_\_\_\_  
PAUL J. NICOLETTI  
VILLAGE ATTORNEY

# Village of Indiantown Code Enforcement

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# Why a Code Enforcement Program?

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To help create and maintain a safe and healthy environment

To prevent physical and aesthetic deterioration of the community

To protect property values of residents and businesses

To reduce vandalism and deter crime

To publish standards for compliance that are based on reasonable and consistent enforcement of state and local laws and ordinances

To establish a framework for community involvement to resolve public nuisances

# What is Code Enforcement?

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The process of preventing, inspecting and mitigating nuisances on public and private premises relating to health, safety and general welfare.

- Defined by federal/state law and local ordinances

Code enforcement does not regulate aesthetics, taste, civil disputes, HOA violations, or noise.



# Code Enforcement Program Goal

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To encourage both residential and commercial property owners to voluntarily resolve code violations on their property in order to ensure that Indiantown remains a community that is a clean and safe place to live, work, and play.

# Program Overview

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Three pronged comprehensive program:

1. Education and Communication
2. Organization-wide and Community-wide Support
3. Traditional Code Enforcement Program Enhancements



# COMMON CODE VIOLATIONS

## 1. YARD MAINTENANCE STANDARDS

Maintenance of yards and swales/rights-of-way abutting property are the responsibility of the property owner. The right-of-way must be free of obstructions caused by trees, vegetation, or other objects.

## 2. INOPERATIVE MOTOR VEHICLES

Inoperative and/or derelict vehicles are not permitted. A vehicle is considered inoperative if a current tag isn't displayed and/or it is not fully equipped to legally and safely operate on public streets.

## 3. JUNK, TRASH AND DEBRIS

Junk, auto parts, furniture, trash, tires, building materials, tree trimmings, and any other debris cannot be left in the yard and must be properly disposed of.

## 4. PARKING

Parking is permitted for passenger cars and motorcycles in residential properties only on a legal driveway or in a garage.

## 5. COMMERCIAL EQUIPMENT

Commercial equipment and vehicles cannot be parked or stored in a residential area unless they are fully enclosed structure.

## 6. MAINTENANCE OF STRUCTURES

Exterior building structures and walls shall be maintained in a secure and attractive manner.

## 7. CONDITION OF STRUCTURES

Any wood, siding, shingles, roof covering, railings, fences, walls, ceilings, porches, doors, windows, screens, and other exterior parts of a structure must be maintained in weather tight, rodent proof, sound condition and in good repair. An owner may need to board up a vacant structure.

## 8. OUTDOOR STORAGE

Outdoor storage is prohibited. You may not keep indoor furniture, household appliances, auto parts, building materials, or any other similar items outside.

## 9. ILLEGAL DWELLING UNITS

Dwelling units added to interior/exterior of a structure without proper permits are illegal regardless of how long they have existed.

## 10. PROHIBITED BUSINESSES

Most businesses are not allowed to operate in residential areas. Engaging in a business requires a Business Tax Receipt and zoning approval.

# Typical Enforcement Process

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1. Verbal/education warning
2. Door tags/written warning
3. City Ordinance Citation – Instant penalty
4. Notice of Violation
5. Code Enforcement Board Hearing/Magistrates Hearing
6. Daily Fines – Penalties accumulate

# Public Education

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Website

Brochures

Town Hall Meetings

Neighborhood Meetings

Media Releases

# Operations

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Software for tracking the violations

Part-time code enforcement officer

Magistrate costs

Equipment

Door hangers and other print materials

# Questions/Discussion

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**VILLAGE OF INDIANTOWN, FLORIDA  
AGENDA MEMORANDUM**

MEETINGDATE: August 9, 2018

MEETING TYPE: Regular Village Council Meeting

AGENDA ITEM TITLE: ORDINANCE NO. 009 (2018)AN ORDINANCE OF THE VILLAGE OF INDIANTOWN,FLORIDA,PROHIBITING CERTAIN NUISANCES, INCLUDING OVERGROWTH OF LOTS AND SANITARY CONDITIONS AND PROVIDING ALTERNATIVE NUISANCES,INCLUDING OVERGROWTH OF LOTS, AND UNSANITARY CONDITIONS, AND PROVIDING ALTERNATIVE ENFORCEMENT PROCEDURES FOR THE VILLAGE OF INDIANTOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

SUMMARY OF ITEM: This item starts to give the code enforcement officer(s) the ordinances they need to charge violations of common problem issues in any municipality. It provides for nuisances to become violations of the village code. As you read through this ordinance you will see the most common types of violations in the community.

RECOMMENDATION: Approve Ordinance No 009 (2018) on First Reading.

PREPARED BY: P. Nicoletti DATE: 8/2/2018

REVIEWED BY: P. Nicoletti DATE: 8/2/2018

APPROVED BY: DATE:

**ATTACHMENTS:**

**Description**

Ord. 009 (2018) Lot Clean & Nuisances





**VILLAGE OF INDIANTOWN, FLORIDA**

**ORDINANCE NO. 009 (2018)**

**AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, PROHIBITING CERTAIN NUISANCES, INCLUDING OVERGROWTH OF LOTS, AND UNSANITARY CONDITIONS, AND PROVIDING ALTERNATIVE ENFORCEMENT PROCEDURES FOR THE VILLAGE OF INDIANTOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

\* \* \* \* \*

**WHEREAS**, the Village Council of the Village of Indiantown has determined that as it establishes a village code of ordinances, it is prudent and appropriate to provide an for the prohibition of certain nuisances and to provide for a means of enforcement of those codes.

**BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF INDIANTOWN, FLORIDA:**

**SECTION 1. LOT CLEANING AND NUISANCES.** The following provisions are hereby adopted as part of the Village Code of Ordinances.

## **Chapter 20. ENVIRONMENT**

### **ARTICLE I. - IN GENERAL**

**Secs. 20-1—20-18. - Reserved.**

### **ARTICLE II. - LOT CLEANING AND NUISANCES**

#### **Sec. 20-19. - Responsibility of village manager.**

The village manager shall cause all real property in the village to be inspected to determine the condition thereof and whether the same is clean, sanitary and free from nuisances, overgrowth, trash, and solid waste.

#### **Sec. 20-20. - General sanitation of property; nuisances.**

(a) This article shall be applicable to all persons having a legal or beneficial ownership of, or having possession, or overseeing, or occupying, any real property located in the village, as an owner, mortgagee, tenant, occupant or otherwise, whether vacant or occupied, improved or unimproved.

(b) No owner or lessee of any real property within the village shall allow it to become unclean, unsanitary, or overgrown with grass and weeds, or allow rubbish or other noxious or unhealthy material to accumulate thereon.

(c) Nuisances as described in this article are prohibited.

*Nuisance* means any of the following conditions:

(1) Any "public nuisance" or "attractive nuisance" known at common law or in equity jurisprudence.

(2) An "attractive nuisance" is one which may prove detrimental to children or others, whether in a building, on the premises of a building, or upon an unoccupied lot including but not limited to an abandoned well shaft, swimming pools, dismantled or wrecked vehicles or parts thereof, basements, excavations, abandoned refrigerators, a structurally unsound fence or other structure, and lumber, trash, debris or vegetation.

(3) Whatever is dangerous to human life or is detrimental to health as determined by the proper environmental authority.

(4) The overcrowding of a room or building with occupants.

(5) Insufficient ventilation or illumination in a room or building.

(6) Inadequate or unsanitary sewage or plumbing facilities.

(7) Inadequate or unsafe electrical wires, appliances, or fixtures.

(7) An unclean premise, which has excessive dirt, standing water, grease, soil, accumulation of paper, cardboard, building materials, which is unsafe or unsanitary as determined by the proper code authority.

(8) Any substance that renders air, food, or drink unwholesome or detrimental to the health of

human beings or animals as determined by the proper code authority.

(9) Any place or premises used on more than two occasions within the past 12 months as the site of the unlawful sale or delivery of controlled substances.

(10) Any condition that causes appreciable harm or material detriment to the property values of surrounding properties.

(11) Any condition likely to harbor rats, snakes, vermin, or other animals or insects, the existence of which may cause a hazard to human health.

(12) Unsecured openings including but not limited to broken windows and doors in a structure which invites entry by unauthorized persons.

**Sec. 20-21. - Duty to keep property mowed.**

The owners, custodians, agents, lessees or occupants of real property within the village shall not permit the grass, weeds, flora or underbrush thereon to exceed a height of eight (8") inches above the grade of the land, including any elevated and depressed areas. All such materials shall be cut and maintained to a height of eight inches or less and cuttings shall be either removed from the property or mulched. All such materials shall be cut and removed or mulched within ten calendar days of notice to do so issued by the village as provided in this article.

**Sec. 20-22. - Duty to keep land free from trash and other solid waste.**

(a) All lands in the village shall be kept free from any kind of trash and other solid waste, including specifically, but without limitation, any broken tree limbs, leaves or branches, and uncontained garbage or refuse or any other type of material which might conceal pools of water, create breeding grounds for mosquitoes, or which might be otherwise detrimental to the health or safety of the inhabitants of the village. The existence of any such trash or filth is declared to be a public nuisance.

(b) The owners, custodians, agents, lessees or occupants of real property within the village shall not permit the accumulation thereon of dead and dying trees and limbs; overgrown grass and other flora; rubbish, trash and other refuse, including discarded appliances, furniture, tools, machinery, equipment, metal goods or other solid waste.

**Sec. 20-23. - Nuisance abatement; notice.**

If any property is kept or maintained in a condition in violation of this article, the village manager shall cause a notice to be hand delivered or sent by certified mail to the record owner as shown by the latest tax roll promulgated by the county property appraiser, notifying such owner and any occupants of the necessity of abating a nuisance, and the nature and extent of the work to be done. Such notice shall be in substantially the following form:

VILLAGE OF INDIANTOWN, FLORIDA  
ORDINANCE NO. 009 (2018)  
LOT CLEANING AND NUISANCES; JUNKED, WRECKED AND ABANDONED VEHICLES

**NOTICE TO ABATE NUISANCE**

DATE:	
ADDRESSEE:	
STREET ADDRESS:	
PROPERTY DESCRIPTION:	
As the owner of record of the above described property, you are hereby notified that the village manager of Indiantown, Florida, by or through an affidavit of an enforcement officer filed on the _____ day of _____, 20 _____, has determined that a nuisance exists upon such property, caused by:	
_____ Weeds, grass or underbrush over 8 inches in height.	
_____ Accumulation of trash, yard waste, or outdoor storage (except on construction sites).	
_____ Inoperable or abandoned property, including motor vehicles.	
_____ Standing water with no treatment.	
_____ Rats or other vermin observed, to wit: _____	
_____ Other Nuisance: _____	
You are hereby notified that you must abate this nuisance within ten days of receipt of this notice. If you fail to do so, the village manager will have it done, and all costs thereof will be levied as an assessment against your property.	
You may appeal the decision of the village manager that the property constitutes a nuisance to the village magistrate within ten days of receipt of this notice. To appeal, you must notify the village clerk of your appeal in writing. The appeal will be scheduled before the village magistrate as soon thereafter as practicable.	
	Village Manager, Village of Indiantown, Florida

**Sec. 20-24. - Village to abate if owner fails.**

If the property owner has not caused the nuisance as described in the notice issued under section 20-23 to be abated within ten (10) days from the date of the giving of notice as aforesaid, the village shall forthwith abate the same and may, through its employees, agents or contractors, enter upon the property and take such steps as are reasonably required to effect abatement.

**Sec. 20-25. - Lien resolution.**

Unless within the ten-day-notice period the owner causes the nuisance to be abated or files an appeal to the village magistrate in the manner provided in this article, the village manager shall cause the nuisance to be abated by the village. The employees, agents, or contractors of the village shall enter upon the property and take such steps as are reasonably required to effect abatement. Thereafter, the village manager shall report the cost of abatement to the village council and the village council shall, by resolution, provide that the cost to the village of

abatement, including an administrative charge as currently established or as hereafter adopted by resolution of the village council from time to time in **appendix A** to this Code shall constitute a lien against the property on which the nuisance was abated of equal dignity with taxes for the year in which such expenditure was incurred. Notice of the amount of the assessment to be levied shall be given to the property owner by mail not less than ten days prior to the date of adoption of the resolution. The owner shall be advised of the date, time and place at which the resolution will be considered by the village council and of the opportunity to be heard by the village council regarding the amount to be assessed. The resolution shall describe the land on which the nuisance was abated, show the cost of abatement, and specify the administrative fee. The date of adoption of the resolution shall be the date of the levy of the assessment. Assessments shall be due on the date of levy and shall become delinquent 30 days thereafter.

**Sec. 20-26. - Appeal to village magistrate.**

- (a) Within ten days from the notice provided in section 20-23, the owner of the property described in such notice may appeal the decision of the village manager by filing in the office of the village clerk a notice of appeal.
- (b) The village manager shall place the appeal on the next magistrate docket for hearing, and notify the owner by mail of the date, time, and place of such hearing.
- (c) At such hearing, the owner may introduce any relevant evidence to show why the determination that a nuisance exists should be reversed or modified. The village manager may introduce any relevant evidence in support of a finding of nuisance.
- (d) At the conclusion of the hearing, the village magistrate shall render a decision to reverse, or modify the findings of the village manager, or affirming such findings and directing that the nuisance be abated within a specific time, and providing the cost of such abatement, including any applicable administrative fees, which may be assessed as a lien against the property in the manner provided in section 20-25.
- (e) Should the property owner fail to do so, the village manager shall cause the nuisance to be abated and shall present the costs of doing so to the village council, as provided in section 20-25. The costs of abatement incurred by the village shall thereafter be assessed as a lien against the property as provided in such section.

**Sec. 20-27. - When liens effective; priority.**

A lien imposed pursuant to this article shall be effective against the real property upon which it has been levied at the time of adoption of the resolution. Such liens may be recorded in the public records of the county, and shall be superior to all other liens imposed, except liens for taxes, paving, and other special assessment liens imposed by the village.

**Sec. 20-28. - Enforcement of assessments.**

Assessments resulting from the procedure set forth in this article, together with interests, costs, and a reasonable attorney's fee, may be enforced by the village as in the manner provided in Chap. 173, Florida Statutes, for the foreclosure of municipal tax and special assessment liens or foreclosed in the same manner in which mortgage liens are foreclosed. Proceedings to foreclose

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these liens may be initiated at any time within 20 years of levy.

**Sec. 20-29. - Recording of resolution assessing liens; notice to owner.**

A resolution assessing a lien under section 20-25 shall be filed in the office of the village clerk. The village clerk shall mail a copy of such resolution to the owner for each of the parcels of land described in the resolution at the last available address for such owner. As soon as possible after an assessment has become delinquent, the village clerk shall record a certified copy of the resolution assessing a lien in the public records of the county.

**Sec. 20-30. - Payment of assessments; accumulation of interest.**

Upon passage of the resolution provided for in section 20-25, the assessment of costs under such resolution shall become effective as a lien against the property described in such resolution and shall remain a legal, valid, and binding lien against such property until paid. Such assessment shall be payable at once upon adoption of the resolution and shall draw interest from that date at the rate of 12 percent per annum until fully paid.

**Secs. 20-31—20-48. - Reserved.**

**ARTICLE III. - JUNKED, WRECKED, ABANDONED PROPERTY**

**Sec. 20-49. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned property* means any tangible personal property, including a motor vehicle, watercraft, or equipment, located on public or private property either in a wrecked, inoperative, or partially dismantled condition and which has no apparent value to its owner or which is found under such circumstances as warrant a reasonable inference that its owner has disposed of same. Vessels determined to be derelict by the Florida Fish and Wildlife Conservation Council in accordance with the provisions of F.S. § 823.11 shall not be included in this definition.

*Antique motor vehicle* means any motor vehicle of 30 years or more which is registered with the state pursuant to F.S. § 320.086.

*Inoperable and/or abandoned watercraft* means any boat, vessel or other watercraft designed for use as a conveyance on water, regardless of location outdoors:

(a) If a valid and current registration or license decal, required by federal or state law, is not affixed thereto more than 30 days after expiration; or

(b) When any watercraft is wrecked, sunk, dismantled, or incapable of operation on water.

(c) This definition shall not include any watercraft that is fully enclosed in a structure, or under active repair or restoration.

*Inoperable motor vehicle* means a motor vehicle upon which a valid and current motor vehicle

license tag is not affixed. This definition shall not include any motor vehicle located on private property which is owned or leased by an active automobile dealer, new or used, or any ancient or antique vehicle which is registered with the state pursuant to F.S. § 320.086.

*Motor vehicle* means a vehicle or conveyance which is self-propelled or designed to be pulled or towed by a self-propelled vehicle and designed to travel along the ground, and includes, but is not limited to, automobiles, buses, mopeds, motorcycles, trucks, tractors, go-carts, golf carts, campers, motor homes and trailers; and any conveyance included in the statutory definition of motor vehicle.

*Outdoor storage* means an area not within an enclosed building which is used for the outdoor storage of any materials (loose or packaged), goods, merchandise or equipment that are not actively being used.

*Wrecked motor vehicle* means a motor vehicle the condition of which is dismantled or otherwise incapable of operation for any reason on a public street, or from which the wheels, engine, transmission or any substantial part thereof has been removed.

**Sec. 20-50. - Prohibited acts; violation a public nuisance; jurisdiction of code enforcement board.**

(a) It shall be unlawful for any person to park, store, or leave, or to permit the parking, storing or leaving of, upon any public or private property within the village, any of the following:

- (1) Abandoned property;
- (2) A wrecked motor vehicle; or
- (3) An inoperable watercraft of any kind, whether attended or not.

(b) It shall be unlawful for any person to park, store, or leave, or to permit the parking, storing or leaving of, an inoperable motor vehicle on public property for a continuous period of more than 72 hours.

(c) A violation of this section shall constitute a public nuisance, which may be abated as provided in this article. A violation of this section shall also be deemed a violation of this Code within the jurisdiction of the village magistrate. Nothing in this article shall be deemed to preclude the simultaneous commencement by the village of both nuisance abatement proceedings in accordance herewith and proceedings before the village magistrate.

**Sec. 20-51. - Exceptions to article provisions.**

The provisions of this article shall not apply to:

- (1) Any property, motor vehicle or watercraft located on private property which is completely enclosed within a building or which is completely covered with a properly secured opaque covering, or which is held in connection with a business enterprise lawfully licensed by the village for the servicing and repair of motor vehicles and properly operated in an appropriate business zone pursuant to the zoning ordinances of the village. A properly secured covering is one that is properly sized for the vehicle and made of a tear-resistant material that is at least a three-layer poly-cotton or a polypropylene fabric with double stitched seams and grommets along the edges. The cover shall be secured with a rope, strap or cable and with an appropriate buckle, clasp or other locking device.



(2) Any ancient or antique vehicle which is registered with the state pursuant to F.S. § 320.086. However, no more than two antique motor vehicles may be retained by the same owner for collection purposes unless they are appropriately stored.

**Sec. 20-52. - Procedures and remedies in addition to those set forth in state law.**

In addition to the procedures and remedies set forth in F.S. ch. 705, relating to lost or abandoned property, the public nuisance of abandoned property and of wrecked or inoperable motor vehicles may be abated as provided in this article.

**Sec. 20-53. - Notice of violation.**

(a) When a code enforcement officer finds abandoned property or a wrecked motor vehicle or inoperable watercraft on public or private property or finds an inoperable motor vehicle on public property in violation of the provisions of this article, the code enforcement officer may cause a notice to be placed upon such article in substantially the following form:

**NOTICE TO THE OWNER AND ALL PERSONS  
INTERESTED IN THE DESCRIBED PROPERTY**

**This property, to wit: (setting forth brief description) located at (setting forth brief description of location) is improperly stored and is in violation of (setting forth ordinance or regulation violated) and must be removed within ten days from the date of this notice unless a hearing has been demanded in accordance with the terms of this article, within seven days of the date of this notice; otherwise, it shall be presumed to be abandoned property and will be removed and destroyed by order of the Village of Indiantown, and the owner will be liable for the costs of removal and destruction. Dated this: (setting forth date of posting of notice). Signed: (setting forth name, title, address, telephone number of enforcement officer).**

Such notice shall be not less than eight inches by ten inches and shall be sufficiently weatherproof to withstand normal exposure to the elements for a period of ten days.

(b) If the abandoned property or the wrecked or inoperable motor vehicle or watercraft is located on private property, the code enforcement officer shall mail a copy of the notice to the owner of the private property upon which the abandoned articles are located as shown by the ad valorem tax records of the county, and, if the abandoned property is a motor vehicle or boat, shall make a reasonable effort to ascertain the name and address of the owner and shall mail a copy of the notice to such owner. The notice shall also advise the person to whom the notice is applicable that he has seven days from the date of mailing of the notice to file a written petition to the village manager or his designee for a hearing before the code enforcement board which shall be held within 15 days of the date the petition is received by the village manager.

**Sec. 20-54. - Removal.**

The owner of abandoned property or of a wrecked or inoperable motor vehicle or watercraft, and the owner of the private property on which such property is located, if applicable, are



individually responsible to abate the nuisance caused by such property in accordance with the requirements of the notice. If the nuisance is not so abated, such owners shall be jointly and severally liable to the village for all costs incurred by the village in abating the nuisance including the costs of removal and destruction of such property, less any salvage value received by the village. The village shall notify such owners of the amount owed and of the penalty. If an owner or other interested person has not requested a hearing within seven days, the village shall have the right to abate the nuisance at the expense of the owner.

**Sec. 20-55. - Hearing.**

The issues to be determined at the hearing are whether the conditions creating a nuisance exist, whether the conditions should be abated by the village at the expense of the owner, and the time limits for such abatement by the owner. The cause or origin of the condition shall not be a defense against the requirement that the condition shall be abated by the owner. If after a hearing the magistrate determines that the conditions which exist on the property constitute a public nuisance, the owner of the property shall have an additional seven days to correct or remove the conditions after which the village shall have the right to have the conditions abated at the expense of the property owner.

**Sec. 20-56. - Lien.**

If, at the end of ten days after posting the notice of violation, the owner or any person interested in the property described in such notice has not removed the property and otherwise complied with the notice, the code enforcement officer may cause the property to be removed or destroyed. The salvage value, if any, of such property shall be retained by the village to be applied against the cost of removal and destruction thereof, unless the cost of removal and destruction are paid by the owner as provided in section 20-59. If the village has abated the nuisance and payment is not received within 30 days thereafter, the village may place a lien against the property on which the nuisance was located, if applicable, for the cost of the work, including inspection and administration costs, plus interest at the rate of 12 percent per annum, plus reasonable attorneys' fees and other costs of collecting such sums, without further hearing.

**Sec. 20-57. - Notification of removal.**

(a) The code enforcement officer, after taking possession of any motor vehicle pursuant to this article, shall furnish notice in accordance with this section by certified mail return receipt requested to the last known registered owner of the motor vehicle at his last known address within 15 days of the date of which possession of the motor vehicle is taken, with a copy of the notice to the owner or occupant of the real property from which the vehicle is taken. The code enforcement officer shall also contact the state department of motor vehicles, and such other agencies and departments of government in this and other states as are reasonably necessary to ascertain the names and addresses of other persons with record interests in the motor vehicle, including lienholders. Such other persons shall be given notice in the same manner as stated in the previous section.

(b) Notice under this section shall contain the following information:

- (1) Year, make, model, color, and serial number of the motor vehicle.
- (2) The name and address of the last known registered owner of the motor vehicle, if available.
- (3) The vehicle registration number and the title registration number of the motor vehicle, if available.
- (4) The date on which the motor vehicle was removed.
- (5) The location from which the motor vehicle was removed.
- (6) The location in which the motor vehicle is being stored or in the alternative a number to contact.

The notice shall also advise the persons to whom it is given that the person who is entitled to possession of the motor vehicle may reclaim it upon payment to the village of all charges incurred by the village and the removal and storage of the motor vehicle except that if such reclamation is not made within 20 days after date of the notice, the right to reclaim the motor vehicle as well as all right, title and interest of such person in the vehicle shall be deemed to be waived and that such person shall be deemed to have consented to the disposition of the motor vehicle by the village.

(c) If the village is unable to identify properly the last registered owner of any motor vehicle or if unable to obtain with reasonable certainty the names and addresses of the owner or other interested parties, including lienholders, it shall be sufficient notice under this section to publish the notice once in one newspaper of general circulation in the village. Such notice by publication may contain multiple listings of motor vehicles.

(d) A copy of any notice required in this section, as well as a copy of any certificate of sale issued hereunder by the village or its designee, shall be forwarded to the state division of motor vehicles.

**Sec. 20-58. - Nuisance abatement bid procedure.**

The services entailed in carrying out the abatement of nuisances under this article may be performed by the village or be performed by an independent contractor obtained pursuant to the village's normal acquisition practices.

**Sec. 20-59. - Assessment of costs, interest and attorney's fee; lien.**

(a) Assessment. As soon after the abatement as feasible, the village manager shall report to the village council the cost of such abatement, including the costs of inspection and administration. Thereafter, the village council shall by resolution assess the cost against any or all of the assets of the owner of the property or against the property from which the vehicle was removed. Such resolution shall describe the property assessed, including costs of inspection and administration, and indicate that the assessment shall bear interest at the rate of eight percent per annum plus, if collection proceedings are necessary, that the property owner would be required to pay the cost of such proceedings including a reasonable attorney's fee. Such resolution shall become effective immediately upon adoption, and the assessment contained therein shall become due and payable after the mailing date of the notice of such assessment. If payment has not been received within the 30 days after the mailing date of the notice of assessment, the village clerk shall record a certified copy of the resolution in the public records of the county, and upon the date

VILLAGE OF INDIANTOWN, FLORIDA

ORDINANCE NO. 009 (2018)

LOT CLEANING AND NUISANCES; JUNKED, WRECKED AND ABANDONED VEHICLES

and time of recording the certified copy of the resolution a lien shall become effective on the subject property which shall secure the cost of abatement, including costs of inspection and administration, and collection costs including a reasonable attorney's fee. At the time the village clerk sends the certified copy of the resolution for recording a notice shall also be mailed to the property owner in substantially the following form:

**NOTICE OF LIEN**

TO:	
ADDRESS:	
You are hereby advised that the Village of Indiantown did on or about the ____ day of _____, 20____, abate the nuisance which was found to exist on your property. The nuisance was abated at a cost, including costs of inspection and administration, of \$ _____. In accordance with village ordinances my office has previously mailed to you a notice of assessment requesting payment. The required payment has not been received; therefore, pursuant to village ordinance requirements a lien has been recorded against your property in the form of the attached resolution. Please take notice that the resolution, in addition to the original cost of the abatement, requires payment of eight percent interest per annum and the cost of collection including a reasonable attorney's fee. At such time as the Village of Indiantown has received payment for such lien, the village manager or designated representative will execute a release thereof to remove the lien from your property, the recording cost of which shall be borne by you.	
DATE:	VILLAGE OF INDIANTOWN, FLORIDA
SIGNED:	
	VILLAGE MANAGER

(b) Enforcement of assessment. The village may enforce the assessment by either an action at law or foreclosure of the lien, which shall be foreclosed in the same manner as mortgages are foreclosed under state law. In either type of action, the village shall be entitled to interest at the rate of eight percent from the date of assessment, collection costs, and a reasonable attorney's fee.

**SECTION 2. SEVERABILITY.** The provisions of this Ordinance are severable;

and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

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ORDINANCE NO. 009 (2018)  
LOT CLEANING AND NUISANCES; JUNKED, WRECKED AND ABANDONED VEHICLES

**SECTION 3. CONFLICTS.** All ordinances and parts of ordinances and all resolutions and parts of resolutions in conflict herewith, are hereby repealed.

**SECTION 4. CODIFICATION.** The provisions of Section 1 of this ordinance shall be codified at such time as the village council adopts a village code.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon adoption.

**PASSED** on First Reading on the \_\_\_\_ day of \_\_\_\_\_, 2018.

Council Member \_\_\_\_\_ offered the foregoing ordinance on second reading, and moved its adoption. The motion was seconded by Council Member \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

VILLAGE COUNCIL	YES	NO	ABSENT	ABSTAIN
SUSAN GIBBS THOMAS, MAYOR				
GUYTON STONE, VICE MAYOR				
JACKIE GARY CLARKE, COUNCIL MEMBER				
ANTHONY J. DOWLING, COUNCIL MEMBER				
JANET HERNANDEZ, COUNCIL MEMBER				

**ADOPTED** on Second Reading this \_\_\_\_ day of \_\_\_\_\_, 2018.

ATTEST:

VILLAGE OF INDIANTOWN, FLORIDA

\_\_\_\_\_  
CHERIE WHITE  
VILLAGE CLERK

\_\_\_\_\_  
SUSAN GIBBS THOMAS  
MAYOR

VILLAGE OF INDIANTOWN, FLORIDA

ORDINANCE NO. 009 (2018)

LOT CLEANING AND NUISANCES; JUNKED, WRECKED AND ABANDONED VEHICLES

REVIEWED FOR FORM  
AND CORRECTNESS:

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PAUL J. NICOLETTI  
VILLAGE ATTORNEY

**VILLAGE OF INDIANTOWN, FLORIDA  
AGENDA MEMORANDUM**

MEETINGDATE: August 9, 2018

MEETING TYPE: Regular Village Council Agenda

AGENDA ITEM TITLE: ORDINANCE No. 005 (2018) AN ORDINANCE OF THE VILLAGE OF INDIANTOWN,FLORIDA, ADOPTING A NEW LOCALCOMMUNICATION SERVICES TAX RATE; PROVIDINGFOR THE ADOPTION OF A NEW LOCALCOMMUNICATION SERVICES TAX RATE; PROVIDINGFOR ADJUSTMENT OF TAX RATE FOR PERMIT FEES;PROVIDING FOR NOTICE TO THE DEPARTMENT OFREVENUE; PROVIDING FOR SEVERABILITY;PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

SUMMARY OF ITEM: This ordinance adopts a 5.22% Communications Services Tax on phone service in the Village. While this type of telecommunication is dwindling, in favor of cellular and internet based systems, it nonetheless is a traditional source of revenue for municipalities. The Florida Department of Revenue indicates that this must be adopted, **and they must be notified**, no later that September 1, 2018, to be effective on January 1, 2019.

RECOMMENDATION: Adopt Ordinance No. 005 on 2nd Reading.

PREPARED BY: P. Nicoletti DATE: 7/19/2018

REVIEWED BY: P. Nicoletti DATE: 7/19/2018

APPROVED BY: DATE:

**ATTACHMENTS:**

**Description**

Ord. 005-2018 Communications Services Tax



**ORDINANCE No. 0005 (2018)**

**AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, ADOPTING A NEW LOCAL COMMUNICATION SERVICES TAX RATE; PROVIDING FOR THE ADOPTION OF A NEW LOCAL COMMUNICATION SERVICES TAX RATE; PROVIDING FOR ADJUSTMENT OF TAX RATE FOR PERMIT FEES; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

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WHEREAS, during the 2000 Regular Session, the Florida Legislature passed the “Communication Services Tax Simplification Law”, creating Chapter 202, Florida Statutes; and

WHEREAS, Section 202.19, Florida Statutes, authorizes the Village of Indiantown to adopt a local communication services tax at a rate of up to 5.10%. This maximum rate does not include the add-on of up to .12% for municipalities which choose not to levy permit fees; and

WHEREAS, The Village of Indiantown is a newly incorporated municipality and has not adopted a conversion rate in accordance with 202.20(1)(b), Florida Statutes; and

WHEREAS, The Village of Indiantown desires to adopt a local communication services tax rate of 5.22% pursuant to Section 202.19, Florida Statutes;

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF INDIANTOWN, FLORIDA, that:

SECTION 1. ADOPTION OF LOCAL COMMUNICATIONS SERVICES TAX RATE.  
There is no local communications services tax conversion rate established under Section

ORDINANCE No. 0005 (2018)  
VILLAGE OF INDIANTOWN, FLORIDA  
ADOPTING A NEW LOCAL COMMUNICATIONS SERVICES TAX RATE

202.20(1)(b), Florida Statutes for the Village of Indiantown. Therefore, the Village seeks to adopt the local communications services tax rate pursuant to Section 202.19(2)(a), Florida Statutes. The Village of Indiantown hereby adopts a local communications services tax rate of 5.10%. This rate is to be effective, January 1, 2019.

SECTION 2. ADJUSTMENT OF TAX RATE FOR PERMIT FEES. It is the intent of the Village of Indiantown to increase its local communications services tax rate as provided in Section 202.19, Florida Statutes, by an amount equal to .12% effective January 1, 2019 to replace revenue the Village of Indiantown would otherwise receive from permit fees as authorized by Section 337.401(3)(c) and (j), Florida Statutes. In the aggregate, the new combined Local Communication Services Tax Rate for the Village of Indiantown will be 5.22%, effective January 1, 2019.

SECTION 3. NOTICE TO THE FLORIDA DEPARTMENT OF REVENUE. The Village of Indiantown directs that notice of the new Local Communication Services Tax Rate be provided to the Florida Department of Revenue by September 1, 2018. Form DR-700021, and a copy of this ordinance must be submitted with the notification.

SECTION 4. SEVERABILITY. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5. CODIFICATION. The provisions of Sections 1 and 2 of this ordinance shall be codified, at such time as the Village of Indiantown adopts a codification ordinance.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage by the Village Council. The imposition and collection of the new combined Local Communications Services Tax Rate shall commence effective January 1, 2019.

PASSED ON FIRST READING ON JULY 26, 2018.

Council Member \_\_\_\_\_ offered the foregoing Ordinance and moved its adoption. The motion was seconded by Council Member \_\_\_\_\_, and upon being put to a vote, the vote was as follows:



ORDINANCE No. 0005 (2018)  
VILLAGE OF INDIANTOWN, FLORIDA  
ADOPTING A NEW LOCAL COMMUNICATIONS SERVICES TAX RATE

VILLAGE COUNCIL	YES	NO	ABSENT	ABSTAIN
SUSAN GIBBS THOMAS, MAYOR				
GUYTON STONE, VICE MAYOR				
JACKIE GARY CLARKE, COUNCIL MEMBER				
ANTHONY J. DOWLING, COUNCIL MEMBER				
JANET HERNANDEZ, COUNCIL MEMBER				

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2018.

ATTEST:

VILLAGE OF INDIANTOWN, FLORIDA

\_\_\_\_\_  
CHERIE WHITE  
VILLAGE CLERK

\_\_\_\_\_  
SUSAN GIBBS THOMAS  
MAYOR

REVIEWED FOR FORM  
AND CORRECTNESS:

\_\_\_\_\_  
PAUL J. NICOLETTI  
VILLAGE ATTORNEY

**VILLAGE OF INDIANTOWN, FLORIDA  
AGENDA MEMORANDUM**

MEETINGDATE: August 9, 2018

MEETING TYPE: Regular Village Council Meeting

AGENDA ITEM TITLE: ORDINANCE NO. 006 (2018) AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, ADOPTING A “ZONING IN PROGRESS” PROCEDURE FOR THE VILLAGE OF INDIANTOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

SUMMARY OF ITEM: This ordinance is not contained in the Martin County Growth Management Code in a form that is similar. The County Commission has on occasion issued a zoning "moratorium." However, the procedure being recommended provides some certainty to the process, and allows both the development community and the Village an opportunity to know what limited development is being stopped, for how long, and why. All-in-all, it is a very useful ordinance and procedure.

RECOMMENDATION: Adopt Ordinance No. 006 (2018) on 2nd Reading.

PREPARED BY: P. Nicoletti DATE: 7/19/2018

REVIEWED BY: P. Nicoletti DATE: 7/19/2018

APPROVED BY: Teresa Lamar-Sarno DATE: 7/20/2018

ATTACHMENTS:

Description

Ord. 006-2018 Zoning in Progress



**VILLAGE OF INDIANTOWN, FLORIDA**

**ORDINANCE NO. 006 (2018)**

**AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, ADOPTING A "ZONING IN PROGRESS" PROCEDURE FOR THE VILLAGE OF INDIANTOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

\* \* \* \* \*

**WHEREAS**, the Village Council of the Village of Indiantown has determined that the it is prudent and appropriate to provide a procedure of limited and lawful development moratoria during the period that the Village is considering certain changes to its land use and zoning codes.

**BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF INDIANTOWN, FLORIDA:**

**SECTION 1. ZONING IN PROGRESS.**

- (1) *Purpose.* The purpose of zoning in progress is to allow the village to make a text amendment or district map change to the Martin County growth management code, as it applies to the Village of Indiantown, and apply that change to development applications submitted following the declaration of zoning in progress. Additionally, zoning in progress allows a temporary hold on permits, licenses and other development orders already in progress, if there is a pending change in the growth management code that would affect the permit, license or other development order.
- (2) *No permits issued; and period of time.* During the period of time that the land planning agency or the village council is considering either a text amendment or a change of zoning district to the growth management code, no plans, permit(s), license(s), or other development order(s) of any kind shall be

VILLAGE OF INDIANTOWN, FLORIDA  
ORDINANCE NO. 006 (2018)  
ZONING IN PROGRESS PROCEDURES

issued if issuance would result in the nonconforming or unlawful use of the subject property in the event that the text amendment or zoning district change be enacted by the village council (freeze period). The maximum freeze period allowed for zoning in progress shall be three months, except that the village council may extend the period for up to an additional three months for good cause, and upon making a finding that it is in the public interest to do so.

- (3) *Notice of declaration.* The declaration of zoning in progress, and the freeze period on development orders, permits and licenses shall begin on the earlier of:
  - (a) Publication of a notice of a public hearing before the village council to consider a resolution declaring zoning in progress; or
  - (b) Publication of a notice of a public hearing before the local planning agency on a text amendment or zoning district change, which notice also includes a notice of zoning in progress.
- (4) *Applicability.*
  - (a) Upon adoption of a text amendment or district map change, all pending applications, permits, licenses, and other development orders shall conform to the new provisions.
  - (b) Notwithstanding anything contained in this section to the contrary, no application for a text amendment to the growth management code, or map rezoning, plan approval, permit, or other development order shall be held up by this procedure for more than a total of six months, including all time periods described herein. Any such approval shall be deemed granted, if so affected, except as provided in subsection (c) below.
  - (c) Where an affected property owner requests a postponement, extension, or other delay of an application, such period of delay shall toll the running of the freeze period.
  - (d) If it is determined by the village manager that an application for a text amendment or map rezoning, plan, permit, license, or other development order would not violate the provisions of a pending zoning measure, such application, shall be exempt from this section.

**SECTION 2. SEVERABILITY.** The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

**SECTION 3. CONFLICTS.** All ordinances and parts of ordinances and all resolutions and parts of resolutions in conflict herewith, are hereby repealed.

VILLAGE OF INDIANTOWN, FLORIDA  
ORDINANCE NO. 006 (2018)  
ZONING IN PROGRESS PROCEDURES

**SECTION 4. CODIFICATION.** The provisions of Section 1 of this ordinance shall be codified at such time as the village council adopts a village code.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon adoption.

**PASSED** on First Reading on the \_\_\_\_ day of \_\_\_\_\_, 2018.

Council Member \_\_\_\_\_ offered the foregoing ordinance on second reading, and moved its adoption. The motion was seconded by Council Member \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

VILLAGE COUNCIL	YES	NO	ABSENT	ABSTAIN
SUSAN GIBBS THOMAS, MAYOR				
GUYTON STONE, VICE MAYOR				
JACKIE GARY CLARKE, COUNCIL MEMBER				
ANTHONY J. DOWLING, COUNCIL MEMBER				
JANET HERNANDEZ, COUNCIL MEMBER				

**PASSED AND ADOPTED** on Second and Final Reading on the \_\_\_\_ day of \_\_\_\_\_, 2018.

(SEAL)

VILLAGE OF INDIANTOWN, FLORIDA

\_\_\_\_\_  
Susan Gibbs Thomas, Mayor

ATTEST:

VILLAGE OF INDIANTOWN, FLORIDA  
ORDINANCE NO. 006 (2018)  
ZONING IN PROGRESS PROCEDURES

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Cheryl White, Village Clerk

APPROVED AS TO FORM AND CORRECTNESS:

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Paul J. Nicoletti, Village Attorney

**VILLAGE OF INDIANTOWN, FLORIDA  
AGENDA MEMORANDUM**

MEETINGDATE: August 9, 2018

MEETING TYPE: Regular Village Council Meeting

AGENDA ITEM TITLE: ORDINANCE NO. 007 (2018) AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, ADOPTING AN ADMINISTRATIVE VARIANCE PROCEDURE FOR THE GROWTH MANAGEMENT CODE OF THE VILLAGE OF INDIANTOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

SUMMARY OF ITEM: The village has had inquiries regarding the need to make minor adjustments for developments within the village. Things like fence placement, fence height, location of gates, and siting of buildings on lots. There are many conditions which are minor in nature that should not require the time and expense of a Board of Adjustment or Village Council quasi-judicial hearing. This recommended process is to provide for an administrative variance for minor issues.

RECOMMENDATION: Adopt Ordinance No. 007 (2018) on 2nd Reading.

PREPARED BY: P. Nicoletti DATE: 7/19/2018

REVIEWED BY: P. Nicoletti DATE: 7/19/2018

APPROVED BY: Teresa Lamar-Sarno DATE: 7/20/2018

**ATTACHMENTS:**

Description

Ordinance No. 007 (2018) Administrative Variance Ordinance



## VILLAGE OF INDIANTOWN, FLORIDA

### ORDINANCE NO. 007 (2018)

**AN ORDINANCE OF THE VILLAGE OF INDIANTOWN, FLORIDA, ADOPTING AN ADMINISTRATIVE VARIANCE PROCEDURE FOR THE GROWTH MANAGEMENT CODE OF THE VILLAGE OF INDIANTOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

\* \* \* \* \*

**WHEREAS**, the Village Council of the Village of Indiantown has determined that the it is prudent and appropriate to provide an administrative procedure for varying the growth management code under certain circumstances.

**BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF INDIANTOWN, FLORIDA:**

#### **SECTION 1. ADMINISTRATIVE ZONING VARIANCE.**

- A. *Authority conferred.* The village manager is hereby granted the power and authority to vary the village's growth management code, only as provided herein. Generally, this procedure is to provide for an efficient and effective review and approval process for certain minor aspects of development in the village. Pursuant to the following, the village manager may review and approve, approve with conditions, or deny any of the following:
1. *Yard setbacks.* Any yard setback variance request which does not exceed fifteen (15%) percent of the code requirement. (For example: where a side yard setback is 10 feet, and the variance request doesn't exceed 1.5 feet of relief, or conversely stated, a reduction to an 8.5-foot setback), and a variance request to position the principal building within a yard setback area to an extent



VILLAGE OF INDIANTOWN, FLORIDA  
ORDINANCE NO. 007 (2018)  
ADMINISTRATIVE ZONING VARIANCES

no greater than ten (10%) percent of the square footage of the principal building footprint to a maximum of 500 square feet.

2. *Fences, walls and hedges.* Any variance request for a fence, wall, or hedge height or location, or other buffer screening matter.
  3. *Stormwater.* Subject to the design approval of the village consulting engineer, up to 100 percent of stormwater runoff may be stored in underground storage structures for irrigation, cooling, or other appropriate reuse.
  4. *Driveway width.* Subject to the design approval of the village fire inspector, the minimum width for a two-way residential driveway may be reduced to 18 feet provided any parking is restricted to one side of the driveway only.
  5. *Architectural design.* Subject to the design approval of the village consulting planner, a variance may be granted to depart from the strict architectural and building materials, design and location standards contained in the growth management code in order to utilize architectural and design features that are consistent with recognized green building principles.
  6. *Other minor growth management code variances.*
    - a. Any other minor growth management code variance which is minor in nature, affecting the type, location, size, or area, including, but not limited to, drainage structures, easements, slab or foundation footers, marine construction, flood elevation, curbing and curb-cuts, road medians, solid waste or recycle containers, principal or accessory structures or lots, signage, landscape, lighting, parking, driveways, or utilities.
    - b. A minor land development code variance is one in which the requested change:
      - (1) Does not increase or enlarge the density, or intensity of use; or
      - (2) Does not increase or enlarge the building footprint by more than five percent; or
      - (3) Does not violate the scope and intent of a previous approval for the property by the village council.
  7. *Time extensions.* A one-time extension of 180 days or less to an originally approved timetable of development may be granted upon good cause shown.
- B. *Further approval authority.* When authority to do so is conferred by the village council as a condition of zoning approval, plat approval, or development plan approval, the village manager may approve, approve with conditions or deny any plan document modification.
- C. *Village council intent.* By adopting this section, the village council intends that the village manager shall use the provisions of growth management code related to criteria for a zoning variance as a guide. Because the nature of the variances permitted herein is minor, strict adherence to the hardship requirements for a zoning variance shall not pertain, and the village manager shall be free to use reasonableness, as well as an awareness of community needs and aesthetics, in addition to the criteria expressed in the growth management code, as a basis for all decisions. Appropriate justifications for approving administrative variances and alternative plans include, but are not limited to:
1. Resolution of site constraints associated with incorporating new buildings and structures into existing development.
  2. Utilization of existing site characteristics, such as cultural, historical or archaeological features, topography, scenic views, or native vegetation.
  3. Improvement or integration of proposed development with surrounding off-site

VILLAGE OF INDIANTOWN, FLORIDA  
ORDINANCE NO. 007 (2018)  
ADMINISTRATIVE ZONING VARIANCES

development.

4. Preservation of the cultural, historical, or archaeological features of the area.

- D. *Application; fee; and written order.* Any real property owner, or person in control of any real property with the written consent of the real property owner may apply for an administrative variance, on a form provided by the village manager. The village council shall provide for an administrative fee by resolution from time to time; however, the initial fee set for an administrative variance is \$100.00 per variance requested. Upon the filing of a complete administrative variance form, and payment of the proper fee, the village manager shall consider and decide the issue(s) presented and shall render a written order on the matter and shall approve, approve with conditions, or deny such request. A certified copy of the Order shall be recorded in the public records of Martin County, Florida upon the lapse of the appeal period, or if appealed, at the conclusion of the matter, if upheld.
- D. *Nonexclusivity.* It is intended that this section shall be non-exclusive in nature.
1. The village manager may defer any application for administrative variance which would otherwise qualify for consideration by the board of adjustment, or village council, as applicable, if such deferral is based upon a reasonable determination that the variance sought does not meet the criteria for an administrative variance. Any application so deferred shall be processed as a new zoning variance application, and shall meet all growth management code requirements for such application, including applicable fees, public notice, and all other submittal requirements.
- E. *Appeal of an administrative variance.* An applicant may appeal a denial of an administrative variance to the village council, by filing a written request with the village clerk, within thirty (30) days of the rendering of such denial, stating the legal or other basis for the appeal.

**SECTION 2. SEVERABILITY.** The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

**SECTION 3. CONFLICTS.** All ordinances and parts of ordinances and all resolutions and parts of resolutions in conflict herewith, are hereby repealed.

**SECTION 4. CODIFICATION.** The provisions of Section 1 of this ordinance shall be codified at such time as the village council adopts a village code.

VILLAGE OF INDIANTOWN, FLORIDA  
ORDINANCE NO. 007 (2018)  
ADMINISTRATIVE ZONING VARIANCES

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon adoption.

**PASSED** on First Reading on the \_\_\_\_ day of \_\_\_\_, 2018.

Council Member \_\_\_\_\_ offered the foregoing ordinance on second reading, and moved its adoption. The motion was seconded by Council Member \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

VILLAGE COUNCIL	YES	NO	ABSENT	ABSTAIN
SUSAN GIBBS THOMAS, MAYOR				
GUYTON STONE, VICE MAYOR				
JACKIE GARY CLARKE, COUNCIL MEMBER				
ANTHONY J. DOWLING, COUNCIL MEMBER				
JANET HERNANDEZ, COUNCIL MEMBER				

**ADOPTED** on Second Reading this \_\_\_\_ day of \_\_\_\_, 2018.

ATTEST:

VILLAGE OF INDIANTOWN, FLORIDA

\_\_\_\_\_  
CHERIE WHITE  
VILLAGE CLERK

\_\_\_\_\_  
SUSAN GIBBS THOMAS  
MAYOR

REVIEWED FOR FORM  
AND CORRECTNESS:

\_\_\_\_\_  
PAUL J. NICOLETTI  
VILLAGE ATTORNEY