

LEE COUNTY ORDINANCE NO. 22-27

AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE, §34-3048, LDC, CHAPTER 34 (FARMERS' MARKET); PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes Section 125.01(1)(h) authorizes counties to establish, coordinate, and enforce zoning regulations necessary for the protection of the public; and,

WHEREAS, the Board of County Commissioners adopted the Lee County Land Development Code which contains regulations applicable to the development of land in Lee County; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, has adopted a comprehensive Land Development Code (LDC); and,

WHEREAS, Goal 4 of the Lee County Comprehensive Land Use Plan (Lee Plan) states: Pursue or maintain land development regulations which protect the public health, safety and welfare, encourage creative site designs and balance development with service availability and protection of natural resources; and,

WHEREAS, the Land Development Code Advisory Committee (LDCAC) was created by the Board of County Commissioners to explore amendments to the LDC; and,

WHEREAS, the LDCAC has reviewed the proposed amendments to the LDC on September 9, 2022 recommended approval of the proposed amendments as modified; and,

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Code on September 14, 2022 recommended their adoption; and,

WHEREAS, the Local Planning Agency reviewed the proposed amendments on August 29, 2022, and found them consistent with the Lee Plan, as indicated.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

## SECTION ONE: AMENDMENT TO LDC CHAPTER 34

Lee County Land Development Code Chapter 34 is amended as follows with strike through identifying deleted text and underline identifying new text.

### CHAPTER 34 – ZONING

#### ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

##### DIVISION 37. – SUBORDINATE AND TEMPORARY USES

###### Subdivision II. – Temporary Uses

###### Sec. 34-3048. – ~~Seasonal f~~Farmers' markets.

- (a) ~~Farmers' markets~~ are allowed in the parking lot or grassed areas of properties developed with churches, schools, clubs ~~(df)~~, as defined in section 34-2, parks (section 34-622(c)(32)), commercial or industrial uses, or on-site recreational facilities ~~(df)~~, as defined in section 34-2. Farmers' markets are prohibited on vacant lots.
- (b) ~~Farmers' markets are permitted from October through April. A temporary use permit may be issued for no more than four days a week in the same location. A year round farmers' market requires compliance with this Code in accordance with the following requirements:~~
  - (1) A farmers' market must obtain a temporary use permit from the Department of Community Development. The application for the temporary use permit must include the following:
    - a. A site plan indicating the layout and number of vendors, boundaries of the market, and proposed parking areas.
    - b. If parking is not located on the same premises as the market, then the permittee must coordinate with the Lee County Sheriff's Office to provide traffic control, and must submit written approval from the Sheriff's Office indicating that traffic control will be provided.
    - c. An initial list of vendors, with a description of goods sold or services offered as identified in subsection (d). Vendors may be changed and substituted without notification to the county provided that the market remains compliant with subsections (d) and (e).
    - d. The days of the week and hours of operation for the market.

- (2) ~~The market may be located within parking areas with written consent of the property owner. The market is not permitted to operate in drainage infrastructure or preserve areas, as designated on an approved local development order, within a street, access, or drainage easement, or within a County right-of-way. Adequate pedestrian and vehicular access to the site must be demonstrated;~~
- (3) ~~A farmers' market may not operate more than four days per week on the same premises.~~
- (c) ~~The application for the temporary use permit must include the following:~~
- (1) ~~A site plan indicating the layout and boundaries of the market. The market may be located within parking areas with written consent of the property owner. The market is not permitted in open space or preserves areas, as designated on an approved local development order, or within a County right-of-way. Adequate pedestrian and vehicular access to the site must be demonstrated;~~
- (2) ~~The day of the week and hours of operation for the market.~~
- (d)(c) Each vendor within the farmers' market is responsible for securing and displaying all necessary licenses, including but not limited to any license/approval required when offering prepared food for consumption, etc. (i.e., Florida Department of Agriculture, Food Safety, and Department of Business and Professional Regulation, etc.).
- (d) Allowed products and services are limited to:
- (1) Unprocessed agricultural products such as fruits, vegetables, grains, flowers, and plants;
- (2) Processed agricultural products such as milk, cheese, oils, vinegars, meats, poultry, eggs, honey, spices, coffee, jams, nuts, sauces, pasta, soaps, ice cream, herbal preparations, jellies;
- (3) Prepared foods such as ready-to-eat baked goods, breads, meats, cheeses, cakes, and pies;
- (4) ~~Food booths~~Mobile food vendors, with proper licensing, where preparation of food occurs on site;
- (5) Agriculture-related crafts, such as handmade wreaths, swags, dry flower arrangements, pressed flowers, scented sticks and potpourri; ~~scented sticks and raffia~~;

- (6) Non-agriculture-related goods including fine art, arts and crafts, jewelry, and apparel, subject to compliance with subsection (e);
- (7) The advertising, promoting, or offering of non-agriculture-related goods or services by local businesses, subject to subsection (e);
- (8) Community outreach activities by local non-profit organizations, local governments, or other similar organizations;
- ~~(6)~~(9) Items designed to promote water, soil, or energy conservation, such as rain barrels, organic fertilizer, compost boxes, and related educational materials;
- ~~(7)~~(10) Musical entertainment may occur only at one location within the market area and must comply with the County noise ordinance; and
- ~~(8)~~(11) Other goods and services determined by the Zoning Director Manager to be substantially similar to the above vendor types.
- (e) Vendors selling non-agriculture-related goods or advertising, promoting, or offering non-agriculture-related goods or services may constitute a maximum of 20 percent of the total number of vendors within a farmers' market.
- (f) Prohibited items and vendors: Used goods, antiques, collectibles, and all other goods and services not expressly set forth above.
- ~~(f)~~(g) The Department of Community Development has the authority to modify or revoke the farmers' market temporary use permit upon a finding of a violation of any condition of the temporary use permit approval or the provisions of this section. Prior to revoking a permit, the permittee will be given written notice of the violation and the action necessary to correct the same. The notice will be delivered in compliance with F.S. § 162.12. The notice will provide that failure to correct the violation will result in the revocation of the temporary use permit.

## **SECTION TWO: CONFLICTS OF LAW**

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

## **SECTION THREE: SEVERABILITY**

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further

declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

#### **SECTION FOUR: CODIFICATION AND SCRIVENER’S ERRORS**

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code. Sections of this ordinance can be renumbered or relettered and the word “ordinance” can be changed to “section”, “article,” or other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

#### **SECTION FIVE: MODIFICATION**

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

#### **SECTION SIX: EFFECTIVE DATE**

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the development order application for such project is complete or the zoning request is found sufficient before the effective date.

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Commissioner Ruane made a motion to adopt the foregoing ordinance, seconded by Commissioner Greenwell. The vote was as follows:

Kevin Ruane	<u>AYE</u>
Cecil L Pendergrass	<u>AYE</u>
Raymond Sandelli	<u>AYE</u>
Brian Hamman	<u>AYE</u>
Mike Greenwell	<u>AYE</u>

DULY PASSED AND ADOPTED this 1st day of November, 2022.

ATTEST:  
KEVIN C. KARNES, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Cecil L Pendergrass, Chair

APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY

By: \_\_\_\_\_  
Office of the County Attorney