

ORDINANCE NO. 18-03

AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE, CHAPTERS 30, 33 AND 34, TO PROVIDE CONSISTENCY WITH FLORIDA STATUTES SECTION 553.79; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS, AND 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 24 of the Lee County Comprehensive Land Use Plan (Lee Plan) mandates that the County maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and

WHEREAS, Florida Statutes Section 553.79, as amended by House Bill 1021 (2017), preempts local regulation of specified development, construction or improvements on property associated with a franchise or the sale of liquid fuel, and preempts local regulation of signage relating to the retail price of gasoline; 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 November 3, 2017, and recommended approval of the proposed amendments as modified; and

WHEREAS, the Executive Regulatory Oversight Committee (EROC) reviewed the proposed amendments to the LDC on November 8, 2017, and recommended their adoption; and

WHEREAS, the Local Planning Agency reviewed the proposed amendments on November 27, 2017, 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 30

Lee County Land Development Code Chapter 30 is amended as follows with strike through identifying deleted text and underline identifying new text.

CHAPTER 30
ARTICLE I. - IN GENERAL

Sec. 30-4. - Applicability of chapter.

(a) *Generally.* Except as otherwise provided in this chapter, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign in the county, or cause such work to be done, without first obtaining a sign permit for each such sign from the building official as required by this chapter. In the event of conflict between the provisions of this Chapter and the requirements of F.S. § 553.79, the requirements of F.S. § 553.79 shall prevail.

Remainder of section is unchanged.

SECTION THREE: AMENDMENT TO LDC CHAPTER 33

Lee County Land Development Code Chapter 33 is amended as follows with strike through identifying deleted text and underline identifying new text.

CHAPTER 33
ARTICLE I. - IN GENERAL

Sec. 33-2. - Applicability.

The following articles apply to the planning communities in unincorporated Lee County that are specifically identified in the Lee Plan. Each article covers an individual planning community, or specifically identified portion of a planning community, that has chosen to pursue adoption of standards for the particular community. In the event of conflict between the provisions of this Chapter and the requirements of F.S. § 553.79, the requirements of F.S. § 553.79 shall prevail.

Remainder of section is unchanged.

SECTION FOUR: 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
ARTICLE VII. – SUPPLIMENTARY DISTRICT REGULATIONS

Subdivision II. - Convenience Food and Beverage Stores, Automotive Service Stations, Fast Food Restaurants, and Car Washes

Sec. 34-1353. - Convenience food and beverage stores, automobile service stations, fast food restaurants, and car washes.

(a) *Purpose and intent.* The purpose and intent of this section is to ensure that establishments such as convenience food and beverage stores with or without gas pumps, automobile service stations with or without gas pumps, fast food restaurants, and car washes, accessory or stand alone, do not adversely impact adjacent land uses. The hours of operation, high levels of traffic, noise, glare and intensity associated with these uses may be incompatible

with surrounding uses, specifically residential uses. In the interest of protecting the health, safety and welfare of the public, the following regulations apply to the location, design, operation, landscaping and related activities.

- (b) *Applicability.* This section applies to all stand alone or accessory convenience food and beverage stores, automobile service stations, fast food restaurants and car washes. In the event of conflict between the provisions of this Section and the requirements of F.S. § 553.79, the requirements of F.S. § 553.79 shall prevail.

Remainder of section is unchanged.

SECTION FIVE: 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 SIX: 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 SEVEN: 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 EIGHT: 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 NINE: 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.

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

John Manning	Aye
Cecil Pendergrass	Aye
Larry Kiker	Aye
Brian Hamman	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 6th day of February, 2018.

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Cecil Pendergrass, Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

By: _____
Office of the County Attorney