

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20020367

1. REQUESTED MOTION:

ACTION REQUESTED: Adopt replacement ordinance for Lee County Blasting Ordinance No. 99-07.

WHY ACTION IS NECESSARY: Two public hearings are required under Florida Law.

WHAT ACTION ACCOMPLISHES: Allows for discussion and public input on proposed amendments.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT # All

5:00 #3

3. MEETING DATE:

08-27-2002

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE No. 99-07
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER _____
- B. DEPARTMENT _____
- C. DIVISION *County Attorney*
- BY: *Joan C. Henry,*
Assistant County Attorney

7. BACKGROUND:

County Staff presented three options of proposed Blasting Ordinances to the Board of County Commissioners at its Management and Planning Meeting on May 6, 2002. The Board directed staff to proceed with Draft I. This Ordinance does not regulate construction materials mining activities which are regulated by the State Fire Marshal's Office. This proposal maintains a peak particle velocity limit of 0.50 inches per second as contained in the current Lee County Ordinance No. 99-07 and adds air pressure limitations previously regulated by Lee County. (See p. 11) This proposed ordinance increases notification areas and requires additional information regarding blasts from the blaster/user when applying for a blasting permit and for the Director to provide a copy of application to the local fire agency. (See p. 6) It requires the Director be notified 24 working hours prior to blasting and allows the county to monitor blasting. (See p. 11) This draft also allows the Director to revoke or suspend a blasting permit for any violations of the ordinance; provides for revocation of a blaster's permit privileges for repeat violations; and it provides for a response time for damage claims (See p. 12).

(Continued on next page)

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>Joan C. Henry</i>	OA	OM	RISK	GC	<i>8-15-02</i>
					<i>8/14/02</i>	<i>8/14/02</i>	<i>8/15/02</i>	<i>8/15/02</i>	

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Admin 8/14/02 2: PM

RECEIVED BY <i>CA</i>	COUNTY ADMIN. <i>8/14/02</i>
FORWARDED TO <i>OS</i>	COUNTY ADMIN. <i>8/15/02</i>

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Page No.: 2

Subject: Blasting Ordinance

Staff recommends the BOCC increase blasting permit fees to cover the cost of regulating this ordinance.

The LPA Committee has reviewed the proposed draft and found it consistent with the Lee Plan.

Attachments:

1. Draft Ordinance

**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

DATE: August 14, 2002

To: DISTRIBUTION BELOW

FROM:


Joan C. Henry
Assistant County Attorney

RE: **AGENDA SHEET PROPOSED ORDINANCE:
BLASTING ORDINANCE**

The attached agenda packet is self-explanatory. The original, with all backup material, has been forwarded to the County Manager for the appropriate signature. The County Manager will then forward the packet to Lee Cares so that the Ordinance may be scheduled for the August 27, 2002 Board meeting, for which it has been advertised.

JCH/bas
Attachment

cc: James G. Yaeger, County Attorney w/memo only
Robert W. Gray, Deputy County Attorney w/memo only
Timothy Jones, Chief Assistant County Attorney
Donna Marie Collins, Assistant County Attorney
Dawn E. Perry-Lehnert, Assistant County Attorney
John J. Fredyma, Assistant County Attorney
Donald D. Stilwell, County Manager w/original memo
William Hammond, Deputy County Manager
Bruce Loucks, Assistant County Manager
James Lavender, Director, Public Works
Mary Gibbs, Director, Department of Community Development
Bob Stewart, Building Official
Diana Parker, Hearing Examiner
Receptionist, County Commissioners
Libby Walker, Division of Public Resources
Kathy Geren, Lee Cares w/o attachment

LEE COUNTY ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REPLACING LEE COUNTY ORDINANCE NO. 99-07, RELATING TO THE POSSESSION AND USE OF EXPLOSIVES; PROVIDING FOR SHORT TITLE, PURPOSE AND TERRITORIAL SCOPE; DEFINITIONS; PERMITS REQUIRED; APPLICATION, INSURANCE, PREREQUISITES TO ISSUANCE, FEES; DIVISION TO ISSUE PERMIT; EXCEPTIONS; PROVIDING FOR PRE-BLAST NOTIFICATION AND INSPECTIONS; RE-NOTIFICATION; SIGNS AND WARNINGS; PROHIBITIONS; MEASUREMENT AND RECORDING; CLAIMS RESPONSE; SUSPENSION AND REVOCATION; APPEALS FROM PERMIT DENIAL, SUSPENSION, OR REVOCATION; REMEDIES AND PENALTIES; PROVIDING FOR CONFLICT; SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida is the governing body in and for Lee County, Florida; and

WHEREAS, the Board of County Commissioners of Lee County, Florida is authorized pursuant to Chapter 125, Florida Statutes, to enact ordinances necessary in the exercise of its powers; and

WHEREAS, Goal 24 of the Lee County Comprehensive Land Use 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, the Board of County Commissioners of Lee County, Florida does find and determine that it is in the public interest for the County to amend its current blasting provisions and regulations; and

WHEREAS, it is declared that the provisions and regulations hereinafter contained and enacted are for the purpose of securing and promoting the public health, safety and welfare of the inhabitants and property of Lee County.

WHEREAS, it is expected that additional costs will be incurred to support and enforce this ordinance and the Director will need to hire employees and increase fees to support this ordinance.

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

SECTION ONE: SHORT TITLE, PURPOSE AND TERRITORIAL SCOPE

Lee County Ordinance No. 99-07 is hereby repealed and replaced.

- A. This ordinance will be known and cited as the Lee County Blasting Ordinance.
- B. This ordinance is intended to supplement Chapter 552, Florida Statutes, regarding blasting not to include those regulated under Florida Statutes, §552.30 which regulate construction materials mining activities and not to supersede or conflict with provisions thereof. The intent and purpose of this ordinance is to provide more stringent regulations and control of explosives in the County, for the public health, safety and welfare and to prohibit the use of explosives by unauthorized persons.
- C. The provisions of this ordinance will apply to all the unincorporated areas of Lee County.
- D. The Director is authorized to determine and make appropriate recommendations to the Board of County Commissioners for fees to support this ordinance.

SECTION TWO: DEFINITIONS

- A. *Blast Site* is a location within a construction or development area at which explosive charges are set.
- B. *Blaster* means a State licensed individual employed by a user who detonates or otherwise effects the explosion of an explosive or who is in immediate personal charge and supervision of one or more other persons engaged in such activity.
- C. *Director* means the Director of Lee County Development Services Division, Department of Community Development.
- D. *Division* means Lee County Code Enforcement, a section of the Development Services Division, Department of Community Development.
- E. *Explosive* means any mixture, compound or material capable of producing an explosion, including but not limited to dynamite, nitroglycerin, trinitrotoluene, blasting caps and detonators; but not including cartridges for firearms or fireworks.

- F. *Fire District* means the local fire agency having jurisdiction in the area where the blasting is to take place.
- G. *Person* means any natural person, partnership, association or corporation.
- H. *Revocation* means the permanent invalidation of a permit.
- I. *Scaled Distance Formula* means the formula used to establish radii for the purposes of pre-blast notification and pre-blast inspections, where the radius in feet away from the blast site(s) equals a distance of 200 feet times the square root of a charge, computed using the following formula:

$$D = 200 \times W^{1/2}$$
 (Where "D" equals the distance in feet and "W" equals the weight of the charge in pounds of explosives per delay.)
- J. *Structure* means an edifice or building of any kind, or any piece of work artificially built up, constructed or composed of parts joined together in some definite manner, other than a piece of work consisting solely of a concrete slab. The term "structure" is construed to include the words "or part thereof."
- K. *User* means the person who purchases an explosive from a dealer or manufacturer/distributor, or acquires the possession of any explosive by any means. User also means the developer, contractor or other person who has employed the services of a blaster for the purpose of blasting, firing or detonating explosives.

SECTION THREE: PERMITS REQUIRED

- A. It is unlawful for any person to acquire, possess, purchase, handle, dispose of, store or use an explosive on any site without first obtaining a permit issued under and pursuant to the provisions of this ordinance. The requirements of this ordinance do not relieve any person from compliance with the provisions of Chapter 552, Florida Statutes, and all rules and regulations promulgated by the State Fire Marshal or other Administrative Rules adopted by the State of Florida.
- B. No person may blast, fire, detonate or use explosives within the territorial limits of the county without first obtaining a blasting permit in accordance with this ordinance.

SECTION FOUR: APPLICATION; INSURANCE; PREREQUISITES TO ISSUANCE; FEES

A. Application:

All applications for permits required under this ordinance must be filed with the Division and set forth in detail the purpose for obtaining the blasting permit. The application must state the full name and address of the applicant; include a physical description of the person holding the blasting license, and a copy of the blasting license issued by the Office of the State Fire Marshal. The application must be signed and sworn to by the applicant. The Division will prescribe the form of applications and furnish application forms to applicants upon request. A permit will not be issued to any person who is under twenty-one (21) years of age; mentally incompetent and has not had their civil rights restored; or a convicted felon that has not been pardoned or had their civil rights restored. Permits may be issued only to persons of good moral character. The burden rests upon the applicant to establish his qualifications for a permit. The applicant will be deemed competent and familiar with explosives if he holds a user's permit and blaster's permit from the State of Florida.

B. Insurance:

1. As part of the application submittal, the applicant must provide proof of insurance coverage as follows:
 - a. Workers' compensation as required by Florida law.
 - b. Comprehensive general liability (including, but not limited to products/completed operations coverage, explosive hazard, collapse hazard, underground property damage, contractual liability) bodily injury, personal injury in the amount of \$1,000,000.00 for each occurrence and aggregate; property damage in the amount of \$1,000,000.00 for each occurrence and aggregate.
 - c. Additional coverage as may be required by the Director, depending on special circumstances.
2. A certificate of insurance naming Lee County as a certificate holder must be provided to the County to confirm that the above insurance coverage will be in effect during the entire period of blasting. The insurance coverage cannot be canceled or changed without a minimum of thirty (30) days prior written notice to the Director.

C. Permit Issued:

1. All permits issued under this ordinance must identify on the face of the permit the purpose of the permit, the location of the intended blasting and the specific time frame during which blasting may occur.
2. Permits will be issued only after:
 - a. Payment of the required fees listed in the Lee County Permit fee schedule.
 - b. The filing of an application signed and sworn to by the applicant showing:
 - i. The applicant's name.
 - ii. A site plan indicating the location(s) of the blasting area(s), and
 - iii. The distance of the blasting area(s) from the nearest structure(s) not owned or controlled by the blaster/user.
 - iv. Depth and number of holes.
 - v. Size of the holes.
 - vi. Size of the explosive charges.
 - vii. Maximum number of pounds of explosives per hole; maximum pounds per delay.
 - viii. Number of holes planned to be shot each day.
 - ix. Type of initiation device to be utilized, i.e., blasting caps, detonating cord, etc.
 - x. The hour of the day when blasting will occur.
 - xi. The pounds per shot when underwater "doby" detonation is performed (if applicable to the blasting activity).
 - c. The Division will provide a copy of the application to the local fire agency.

- d. Permits must be renewed annually. Renewal permits may be issued by the Division upon payment of the required fee and submission of any information different from that provided in the original application.

SECTION FIVE: DIVISION TO ISSUE PERMIT

The Division is hereby authorized to issue user blasting permits only to persons who meet the requirements of this ordinance and hold the appropriate state licenses required by Florida law.

SECTION SIX: EXCEPTIONS

The provisions of this ordinance do not apply to:

- A. The Armed Forces of the United States or the State Militia.
- B. Explosives in forms prescribed by the official United States Pharmacopeia.
- C. The possession, transportation and use of small arms, ammunition or special industrial explosive devices.
- D. The sale or use of fireworks.
- E. The use of explosives or blasting agents by the Federal Bureau of Investigation, the United States Secret Service, or police and fire departments acting in their official capacity.

SECTION SEVEN: PRE-BLAST NOTIFICATION AND INSPECTIONS

- A. Written notification must be provided at least twenty (20) days prior to the commencement of the initial blast to all the owners of properties containing structures located within a radius calculated using the Scaled Distance Formula in the following manner:
 - 1. Notification must be provided by regular mail, postage prepaid to the property owner at the most recent address listed in the records maintained by the Lee County Property Appraiser; or
 - 2. Alternatively, if the notice is hand delivered to a structure's occupant, proof of delivery of the required notice must be obtained as evidenced by the signature of an occupant of the structure who is not a minor.

The signed receipt must indicate whether or not the signing occupant is the owner of the property. If the signing occupant is not the owner of the property, then written notification to the property owner is not excused and must be provided as set forth in the above paragraph.

3. The Director may, at his discretion, waive the twenty (20) day period required under this section, if all owners of property within the required notification area who requested a pre-blast survey have received the survey results.
- B. The written notification must describe the blasting that will take place, including dates and times or a range of dates and times when blasting may occur; its possible effect on the owners or residents; the ability to obtain, at no cost, a pre-blast inspection; and how to contact the user or his or her representative concerning blast related complaints or claims. The written notification must include a mailing address and a telephone number that property owners or occupants can use to obtain information or request a no cost, pre-blast inspection. Property owners and occupants must be given a ten (10) day window to respond to the availability and their desire to obtain a no cost, pre-blast inspection.
 - C. The local fire agency having jurisdiction will be notified each day blasting is to occur.
 - D. Prior to detonation of explosives, a list of all pre-blast inspections performed must be provided to the Division. Pre-blast inspections must be offered at no cost to a property owner or occupant when the following condition exists:

The structure is at or within the distance from the blast site(s) computed using the Scaled Distance Formula.
 - E. Pre-blast inspections must be conducted by a qualified Florida registered civil engineer, structural engineer, vibration engineer, geologist, geophysicist, independent seismologist, or their representative, having a minimum of five (5) years of related experience. The pre-blast inspection must consist of complete documentation of all visible interior and exterior defects observed at the structure:
 1. The inspection documentation must be prepared on sheets of paper measuring 8½ inches by 11 inches, or 8½ inches by 14 inches in size.
 2. The date and location of the inspection, and the name of the person personally performing the inspection must be indicated on the

documentation.

3. Interior and exterior 35mm photographs, or equivalent photographic (or video) documentation of the principal structure and any accessory structures containing observed defects must be identifiable as to the location and date taken.
 4. A copy of the pre-blast inspection must be provided, without charge, to each property owner or occupant within twenty (20) days of completing the inspection. Additionally, when requested, a copy must be provided, without charge, to the Director.
- F. Certification by the Applicant that all requested pre-blast notification and pre-blast inspections have been completed, including all names and corresponding addresses, must be provided to the Division prior to the planned commencement of blasting. A location map indicating the streets and structures involved must also be submitted together with this certification and list.
- G. The Director may approve an exception to requirements of this section for pre-blast notification and pre-blast inspections upon written request by an applicant and upon a demonstration that successive annual pre-blast notification and pre-blast inspections are unnecessary for protection of the general public and surrounding property owners. The Director may also approve such exceptions for construction of public infrastructure upon a finding that pre-blast notification and pre-blast inspections would be unnecessarily detrimental to the public health, safety and welfare, and would unnecessarily delay the completion of such infrastructure.
- H. The local fire agency having jurisdiction may inspect all explosive storage facilities on each blasting site or explosive magazine within their jurisdiction.

SECTION EIGHT: RE-NOTIFICATION

If blasting pursuant to an issued permit, is suspended in an area for a period of ninety (90) days or longer, re-notification of all residents within the radius calculated using the Scaled Distance Formula must be accomplished at least seven (7) days prior to the recommencement of blasting. Re-notification must be performed using a method of notice required for an initial pre-blast notification. Pre-blast inspections are not required with the re-notification.

SECTION NINE: SIGNS AND WARNINGS

- A. Warning signs must be erected and maintained as follows:
 - 1. Warning signs must be erected at least five (5) days, but not greater than ten (10) days, prior to the commencement of blasting and must be removed not later than ten (10) days after the last blast has been detonated, or upon the expiration of the issued permit, whichever occurs first.
 - 2. Warning signs are permitted in all zoning districts. Warning signs are not required to obtain sign location permits from Lee County.
 - 3. Non-illuminated warning signs must be a minimum of 30 inches by 30 inches, and may not exceed 48 inches by 48 inches in size. No warning sign, or portion thereof, may exceed a height of eight (8) feet.
 - 4. The warning sign must indicate "Warning - Blasting" in block letters that measure at least five (5) inches in height. The warning sign must also contain the following information:
 - a. The dates and times when blasting may occur.
 - b. The project name, if applicable, and the street address of the property on which the blasting is to occur, including STRAP number(s) referenced to the most current records of the Lee County Property Appraiser.
 - c. The name and address of the property owner; the project construction contractor or project manager; and the blaster.
 - d. Who to contact in the event of an emergency or for questions relating to the blasting activity, including a name, address and a telephone number that will be answered 24 hours a day.
 - 5. All of the required warning sign information must remain legible during the time that the warning sign remains erected. Warning signs must be replaced if they are damaged or stolen.
 - 6. Warning signs may not contain any commercial advertising message.
 - 7. Warnings signs must be located immediately adjacent to the road right-of-way line or property line of the blast site and angled to provide

the best view to the traveling public and neighborhood residents. Warning signs along road rights-of-way may be placed within one-quarter (1/4) mile of the actual blast site, and must not be placed within 100 feet of an intersection. The Director may require additional warning signs to be placed so as to warn adjacent or neighboring residential areas not separated from the blast site by a public road right-of-way.

- B. Prior to the detonation of explosives during the course of the day's blasting activities, a warning signal such as a horn or siren, audible at adjacent properties, must be sounded a minimum of one (1) minute prior to detonation. An all-clear signal must also be sounded upon completion of each blast. This warning signal must be of sufficient duration (a minimum of 30 seconds) to allow complete alert to all individuals adjacent to the blast area.

SECTION TEN: PROHIBITIONS

- A. Restrictions for the use and handling of explosives:
 - 1. Detonation of explosives is permitted only between the hours of 8:00 a.m. and 6:00 p.m. This time frame may be shortened or lengthened at the discretion of the Director to accommodate existing site conditions and surrounding uses or the available daylight hours during the duration of the blasting activity.
 - 2. Detonation of explosives is prohibited on Sundays and federally observed legal holidays. The Director has the discretion to approve an exception to this requirement for geophysical seismic operations upon appropriate written request by the applicant submitted prior to the blasting activity.
- B. Blasting limits.
 - 1. The blasting, firing or detonation or use of explosives that would create a resultant peak particle velocity (RPPV) in excess of 0.50 inches per second when measured on the ground at the nearest building or structure not owned by the blaster/user up to a maximum of one (1) mile. If there are no such buildings or structures within one (1) mile, measurement will be made at one (1) mile in the direction of the nearest such building or structure not owned or controlled by the blaster/user.

2. Upon written request, the Director may authorize an exception to this requirement if the applicant can establish, to the Director's satisfaction, that the vibration levels specified in the Alternative Blasting Criteria of the United States Bureau of Mines Report and Investigations No. 8507, Structure Response and Damage Produced by Ground Vibration from Surface Mine Blasting will not be exceeded.

C. Overspray from detonations must be contained on the blast site.

D. Air Overpressure (Airblast) Limitations

It will be unlawful for any blasting operation to generated air overpressure (airblast) at the closest residential or commercial structure in excess of the limits specified in Table 1.

Table 1
Air Overpressure Limitations

Lower Frequency of Measuring System [Hz (±3 dBL)]	Measurement Level (dBL)
0.1 Hz or lower - flat response	134 peak
2 Hz or lower - flat response	133 peak
6 Hz or lower - flat response	129 peak
C-Weighted - slow response	105 peak

Measurements will be made in terms of air overpressure by calibrated instrumentation specifically designed for measurement of air overpressure produced by explosive detonations. Measurement will be made in quantities of pounds per square inch and converted to decibels. Measurements will be made as linear response.

SECTION ELEVEN: MEASUREMENT AND RECORDING

A. A continuous monitoring seismic instrument must be provided and maintained by the blaster/user. The instrument must be placed so as to record vibration amplitudes relative to the nearest structure not owned or controlled by the blaster/user up to a maximum of one (1) mile from the blast. If there are no such buildings or structures within one (1) mile, measurement will be made at one (1) mile in the direction of the nearest building or

structure not owned or controlled by the blaster/user. The Director must be notified within twenty-four (24) working hours as to dates and times blasting will occur. An employee of the County may monitor the blasting on site and each blaster/user must monitor and record the resultant peak particle velocity (RPPV) and vibration amplitudes resulting from each blasting operation. The Director may waive the requirement for a continuous monitoring seismic instrument, if he determines that the instrument is unnecessary as a result of existing monitoring data or there are no probable adverse impacts due to the remote and isolated location of the blasting.

- B. Written records of instrument readings and corresponding records of the type and amount of explosives must be retained by the user for a period of at least five (5) years.
- C. Written records must be made accessible and subject to examination upon demand by the Division and any other authority having jurisdiction.
- D. The storage of ammunition, blasting agents and explosives must comply with Chapter 16 of the Standard Fire Code published by the Southern Building Code Congress International, Inc. and adopted by the County as part of the Uniform Fire Code (Lee County Land Development Code, Chapter 6).
- E. Each instrument must be calibrated annually by the instrument manufacturer or representative in the manner specified by that manufacturer, preferably on a shake table designed for each calibration. If requested, notification of the calibration date must be provided to the Division.

SECTION TWELVE: CLAIM RESPONSE

- A. The County must be notified by the blaster/user of all claims of damage alleged to have arisen from blasting within seven (7) days of having received notification of the claim.
- B. Within thirty (30) days following the receipt of a damage claim, the blaster/user will make a site inspection and prepare an evaluation of the claim. Within ninety (90) days of completion of the evaluation, the blaster/user will provide the County with a written statement regarding the status of the claim. The blaster/user, or designated representative must notify the Division and the claimant concerning final disposition of the claim.

SECTION THIRTEEN: SUSPENSION AND REVOCATION

- A. The Director may suspend or revoke a blasting permit where a determination has been made by the Director that there is a violation of the terms and

conditions of this ordinance, State law or the State Fire Marshal regulations, zoning resolution regarding blasting condition, or the terms or conditions of the blasting permit.

- B. If a blaster/user violates this ordinance three (3) times or greater within a consecutive thirty-six (36) month period, the Director may refuse to issue any further permits to that blaster/user for any blasting project in unincorporated Lee County for a period of twenty-four (24) months. Additionally, any other blasting permits held by the blaster/user will be suspended or revoked until such time another blaster/user assumes responsibility for the blasting project(s).

SECTION FOURTEEN: APPEALS FROM PERMIT DENIAL, SUSPENSION OR REVOCATION

Appeals under the terms of this ordinance will be heard and decided by the Lee County Hearing Examiner in accordance with Lee County Land Development Code Section 34-145(a). An appeal must be filed in writing by an applicant within thirty (30) days after the date that a permit is denied, refused suspended or revoked.

SECTION FIFTEEN: REMEDIES AND PENALTIES

Each violation of the provisions of this ordinance constitute a separate offense punishable as provided by law. In addition, the Board of County Commissioners may institute in any court of competent jurisdiction an action to prevent, restrain, correct or abate any violation of this ordinance through injunction, including a mandatory injunction or may utilize any other manner of effecting abatement as provided by law. Such suit or action may be instituted and maintained by the Board of County Commissioners of Lee County or by any other person directly affected by a violation of any of the provisions of this ordinance.

SECTION SIXTEEN: CONFLICT

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

SECTION SEVENTEEN: SEVERABILITY

The provisions of this ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any provision of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, that portion will be deemed a separate provision and will not affect any remaining provisions of the ordinance. It is hereby declared to be the legislative intent that this ordinance would have been

adopted if such unconstitutional provision was not included.

SECTION EIGHTEEN: CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code; and that sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or re-lettered and typographical errors which do not affect the intent may be authorized by the County Manager, or the County Manager's designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Clerk of Circuit Court.

SECTION NINETEEN: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

The foregoing ordinance was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and, being put to a vote, the vote was as follows:

ROBERT P. JANES _____
DOUGLAS ST. CERNY _____
RAY JUDAH _____
ANDREW COY _____
JOHN E. ALBION _____

DULY PASSED AND ADOPTED this _____ day of _____, 2002.

ATTEST: CHARLIE GREEN
CLERK OF THE COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:
LEE COUNTY ATTORNEY'S OFFICE

By: _____
Assistant County Attorney