

Lee County Board of County Commissioners  
Agenda Item Summary

Date Critical  
Blue Sheet No. 20040480

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Conduct second public hearing on proposed amendment of Lee County Land Development Code regarding impound yards.

**WHY ACTION IS NECESSARY:** Public Hearings are necessary to adopt amendments to the LDC.

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

**2. DEPARTMENTAL CATEGORY:** 04  
**COMMISSION DISTRICT #CW** 5:05 #2

**3. MEETING DATE:** 04-27-2004

**4. AGENDA:**  
  
 CONSENT  
 ADMINISTRATIVE  
 APPEALS  
 PUBLIC  
 WALK ON  
 TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:**  
(Specify)  
  
 STATUTE  
 ORDINANCE (LDC)  
 ADMIN. CODE  
 OTHER

**6. REQUESTOR OF INFORMATION:**  
  
**A. COMMISSIONER**  
**B. DEPARTMENT** County Attorney  
**C. DIVISION** Land Use  
**BY:** *[Signature]*  
 Joan C. Henry  
 Assistant County Attorney

**7. BACKGROUND:**  
 The Board of County Commissioners, at its January 5, 2004 Management and Planning meeting, directed County staff to propose revisions to the LDC to provide for regulation of impound yards. A proposed amendment to LDC Chapter 34 is attached as well as a justification for the amendment. At the direction of the Board, this amendment is coming forward as a "stand alone" revision, outside of the comprehensive LDC amendments scheduled to occur approximately every 18-24 months.

- Attachments: 1) Draft of LDC Amendment  
 2) FAIS  
 3) Amendment Justification

**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>[Signature]</i>	OA <i>[Signature]</i>	OM 4/14	RISK <i>[Signature]</i>	GC 4/15/04	<i>[Signature]</i> 4-15-04

**10. COMMISSION ACTION:**

- APPROVED  
 DENIED  
 DEFERRED  
 OTHER

CO. ATTY.  
FORWARDED TO:  
Co. Admin.  
4-15-04

RECEIVED BY  
COUNTY ADMIN: *[Signature]*  
4/15/04  
2:00 pm SLZ  
COUNTY ADMIN  
FORWARDED TO:  
4/15/04  
4pm

DS.

**LEE COUNTY ORDINANCE NO. 04-\_\_**

AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE (LDC) TO AMEND CHAPTER 34 (ZONING); AMENDING DEFINITIONS AND PROVIDING FOR THE DEFINITION OF "IMPOUND YARD" (§34-2); AMENDING USE ACTIVITY GROUPS (§34-622); USE REGULATIONS TABLE FOR CONVENTIONAL COMMERCIAL DISTRICTS (§34-843); PURPOSE AND INTENT (§34-901); USE REGULATIONS TABLE FOR INDUSTRIAL DISTRICTS (§34-903); USE REGULATIONS TABLE FOR PLANNED DEVELOPMENT DISTRICTS (§34-934); AMENDING AND RENAMING TITLE OF DIVISION 20 TO PROVIDE FOR INCLUSION OF "IMPOUND YARD"; AMENDING PLANNED DEVELOPMENT APPROVAL REQUIRED; EXCEPTION (§34-1831); FENCING (§34-1835); AMENDING AND RENUMBERING MINIMUM REQUIRED SETBACKS (§34-2443); AMENDING APPLICABILITY OF DIVISION (§34-3001); AND

PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, 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 (LDC), which contains regulations applicable to the development of land in Lee County; 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, Lee Plan Policies 14.5.3, 24.1.9, 52.1.1 and 110.6.2 require county staff and private citizen committees to review existing development regulations to determine whether the regulations can be further fine tuned and streamlined in order meet the goals, objectives and policies of the Lee Plan; and

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

WHEREAS, the Land Development Code Advisory Committee was created by the Board of County Commissioners to explore amendments to the Land Development

Code (LDC); and

WHEREAS, the Land Development Code Advisory Committee has reviewed the proposed amendments to the Code and recommended modifications as indicated; and

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Code on \_\_\_\_\_, and recommended their adoption; and

WHEREAS, the Local Planning Agency reviewed the proposed amendments on March \_\_\_\_\_, 2004, 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 LAND DEVELOPMENT CODE CHAPTER 34**

Lee County Land Development Code Chapter 34 is amended to read as follows with strike through identifying deleted language and underline identifying additional language:

**ARTICLE I. IN GENERAL**

**Sec. 34-2. Definitions.**

**[The definition "Impound yard" is being added to the Section 34-2, Definitions.]**

*Impound Yard* means a facility used for the temporary storage of vehicles or other personal property legally removed or impounded from public or private property, that is not awaiting immediate repair pursuant to an agreement by the vehicle owner or property owner.

**ARTICLE VI. DISTRICT REGULATIONS**

**DIVISION 1. GENERALLY**

**Sec. 34-622. Use activity groups.**

**Sections 34-622 (a), (b), (c)(1) - (c)(4) remain unchanged.**

- (5) **Business services.** This group includes establishments primarily engaged in providing business services to other businesses or individuals, which are not classified elsewhere in this section.

GROUP I. Business service establishments which customarily occupy standard office space and do not require outdoor storage of supplies or the use of vehicles other than cars or small vans. Establishments of this type include but are not limited to:

- Advertising agencies (excluding sign construction)
- Appraisers
- Attorneys
- Bail bonding
- Blood banks
- Blood donor stations
- Blueprinting and photocopying services
- Business agents and brokers
- Caterers
- Check exchanges
- Clerical services
- Collection agencies
- Commercial photography, art and graphics
- Computer or data processing services
- Consulting services such as architects, attorneys, engineers, planners, etc.
- Credit reporting services
- Detective agencies and protective services, but not including armored car or animal (guard dog) rental
- Drafting services
- Employment agencies
- Film processing or developing, retail
- Insurance agents
- Interior decorators (not painters or paperhangers)
- Management, consulting and public relations services
- Map making
- Medical photography and art
- Message answering services
- Microfilm recording and developing services
- Notary publics
- Oxygen tent services
- Personal investigation services
- Real estate agents and brokers
- Sign painting and lettering (not construction)
- Stenographic services
- Telephone solicitation services
- Travel agencies
- Visiting nurse associations
- Welcome wagon services

GROUP II. Business services which, due to equipment and vehicle storage or to processes used, usually require facilities in addition to standard office space. Included in this group are services similar to:

- Aircraft food services and catering
- Armored car services
- Automobile claims adjusters, excluding impound yards
- Automobile repossessing services, excluding impound yards
- Horticultural services
- Lawn and garden services
- Messenger services
- Packaging services
- Parcel and express services
- Pest control (exterminators)
- Swimming pool cleaning and maintenance services
- Water softening services

**Sections 34-622 (c)(6) - (c)(56) remain unchanged.**

[NOTE: In an effort to conserve paper and reduce the overall length of the draft document, only the changed portion of each Use Regulation Table is shown. All other portions of each Use Regulation Table remains unchanged.]

**DIVISION 6. COMMERCIAL DISTRICTS.**

**Sec. 34-843. Use regulations table.**

Use regulations for conventional commercial districts are as follows:

(Part of) TABLE 34-843. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS

	Special Notes or Regulations	C-1A	C-1	C-2	C-2A	CN-1	CN-2	CN-3 (21, 23)	CC	CG	CS-1	CS-2	CH	CT	CR	CI	CP
Household and office furnishings (34-622(c)(22)):																	
Group I		P	P	P	P	--	--	P	P	P	--	--	--	--	--	--	--
Group II		P	P	P	P	--	--	P	P	P	--	--	--	--	--	--	--
Group III		--	--	--	--	--	--	--	--	P	--	--	--	--	--	--	--
<u>Impound yard</u>	<u>Note (33)</u>	=	<u>EO (33)</u>	<u>EO (33)</u>	=	=	=	=	<u>EO (33)</u>	<u>EO (33)</u>	=	=	=	=	=	=	=
Insurance companies (34-622(c)(23))		P	P	P	P	--	--	--	--	--	P	--	--	--	--	--	--

Notes:

**No change to Notes (1) - (32)**

**(33) The use is subject to the special setback regulations as set forth in section 34-2443, minimum required setbacks.**

No further changes to Table 34-843.

## DIVISION 8. INDUSTRIAL DISTRICTS

### **Sec. 34-901. Purpose and intent.**

(a) Generally.

(1) The purpose and intent of the industrial districts is to regulate the continuance of certain land uses and structures lawfully existing as of August 1, 1986, which were originally permitted by the county zoning regulations of 1962, as amended, or 1978, as amended.

(2) It is also the purpose and intent of the industrial districts to encourage industrial growth in accordance with the goals, objectives and policies set forth in the Lee Plan, and to guide most industrial growth into the future urban areas where required infrastructure exists or can be feasibly extended. However, some rural-oriented industrial activities will also be permitted in the nonurban areas.

(3) It is the intent of this chapter that any proposed industrial development which requires a rezoning, and which meets or exceeds one or more of the following criteria, must be rezoned only to an IPD industrial planned development:

- a. Any development exceeding the thresholds set out in section 34-203.
- b. Any development involving the manufacturing of the following products, regardless of the land area involved:
  1. Chemicals and allied products groups I and II (excluding cosmetics, perfumes, etc.) (section 34-622(c)(6)).
  2. Fabricated metal products group I (section 34-622(c)(14)).
  3. Lumber and wood products groups V and VI (section 34-622(c)(26)).
  4. Paper and allied products group I (section 34-622(c)(31)).
  5. Petroleum manufacturing (section 34-622(c)(34)).
  6. Primary metal industries (section 34-622(c)(35)).
  7. Research and development laboratories group III (section 34-622(c)(41)).
  8. Rubber and plastic products group I (section 34-622(c)(44)).

- 9. Stone, clay, glass and concrete products group IV (section 34-622(c)(48)).
- 10. Textile mill products group III (section 34-622(c)(50)).
- c. Refuse and trash dumps.
- d. Sanitary landfills.
- e. Salvage yards or junkyards.
- f. Auto wrecking yards.
- g. Resource recovery facilities to produce energy.
- h. Impound yards.

**No further changes to section 34-901.**

**Sec. 34-903. Use regulations table.**

Use regulations for industrial districts are as follows:

**TABLE 34-903. USE REGULATIONS FOR INDUSTRIAL DISTRICTS**

	Special Notes or Regulations	IL Note (14)	IG Note (14)	IR Note (14)
Heliport or helistop	34-1231(b)	See aircraft landing facilities, private		
<u>Impound yard</u>	<u>Note: 9</u>	<u>EO</u>	<u>EO</u>	--
Junkyard or salvage yard	IPD only, 34-1831 et seq., Note (9)	--	--	--

Notes:

**No further changes to Table 34-903.**



## DIVISION 9. PLANNED DEVELOPMENTS

### Sec. 34-934. Use regulations table.

The Use Regulations for Planned Development Districts are amended by adding "Impound yard" in Table 34-934.

Use regulations for planned development districts are as follows:

TABLE 34-934. USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS

	Special Notes or Regulations	RPD	MHPD	RVPD	CFPD	CPD	IPD Note (37)	AOPD	MPD
Housing units for employees only	Note (33)	--	--	--	P	--	--	--	P
<u>Impound yard</u>	34-1831 et seq., 34-2443	=	=	=	=	=	<u>P</u>	=	=
Insurance companies (34-622(c)(23))		--	--	--	--	P	--	--	P

No further changes to Table 34-934.

## ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS

### DIVISION 20. JUNK, SCRAP OR SALVAGE YARDS; IMPOUND YARDS; DUMPS AND SANITARY LANDFILLS

#### Sec. 34-1831. Planned development approval required; exception.

- (a) Except as provided in subsection (b) of this section, it shall be unlawful for any person to develop a new junk, scrap or salvage yard, auto wrecking or wrecking yard, refuse or trash dump, impound yard, or any landfill operation, or to expand in land area any lawfully existing operation, within the unincorporated area of the county, without first having obtained a planned development approval from the Board of County Commissioners.
- (b) Shredding and composting of vegetative matter, such as grass clippings, shrubs and brush, generated from a location other than the same premises may be permitted by special exception in the AG-1 district only.

#### Sec. 34-1835. Fencing.

Unless specifically waived by the Board of County Commissioners, all outdoor storage areas used in connection with operations subject to this division shall be completely enclosed with a fence eight feet in height so constructed as to provide a 100 percent visual barrier. No junk, impounded vehicles, scrap or salvage materials shall be stored so as to be visible above the fence when viewed from ground level.

## DIVISION 34. SPECIAL SETBACK REGULATIONS FOR SPECIFIC USES

### Sec. 34-2443. Minimum required setbacks.

#### Sections 34-2443(a), (b), and (c) remain unchanged.

- (d) The following uses must be set back a minimum of 100 feet from any residentially zoned property under separate ownership. The setback applies to all buildings and structures, and all areas used for parking of trucks or equipment, shipping, receiving, or storage.
- (1) Blacksmith shop.
  - (2) Freight and cargo handling establishments (section 34-622(c)(17)).
  - (3) Impound yard.
  - (~~3~~ 4) Manufacturing of:
    - a. Boats.
    - b. Chemicals and allied products, group II (section 34-622(c)(6))--Limited to cosmetics, perfumes, etc.
    - c. Fabricated metal products, group II (section 34-622(c)(14)).
    - d. Food and kindred products, group II (section 34-622(c)(15)).
    - e. Furniture and fixtures (section 34-622(c)(18)).
    - f. Leather products, group II (section 34-622(c)(25)).
    - g. Lumber and wood products, group IV (section 34-622(c)(26)).
    - h. Machinery, groups I and II (section 34-622(c)(27)).
    - i. Paper and allied products, groups II and III (section 34-622(c)(31)).
    - j. Stone, clay, glass and concrete products, groups I and III (section 34-622(c)(48)).
    - k. Textile mill products, groups I and II (section 34-622(c)(50)).
    - l. Transportation equipment, group II (section 34-622(c)(52)).

- (4 5) Motion picture studio.
- (5 6) Photofinishing laboratory (df).
- (6 7) Rental or leasing establishment, group IV (section 34-622(c)(39)).
- (7 8) Repair shops, group V (section 34-622(c)(40)).
- (8 9) Social services, group II (section 34-622(c)(46)).

**Sections 34-2443(e) and (f) remain unchanged.**

## **DIVISION 36. STORAGE FACILITIES AND OUTDOOR DISPLAY OF MERCHANDISE**

### **Sec. 34-3001. Applicability of division.**

- (a) Except as provided in this section, the regulations set forth in this division shall apply to all outdoor display of merchandise which is offered for sale or rent, and to all storage facilities as defined in this division.
- (b) The provisions of the division do not apply to the display, sale or rental of motor vehicles, boats, recreational vehicles, trailers, mobile homes, construction or farm equipment (see section 34-1352); or to junk, impound yards, scrap or salvage yards (see division 20 of this article); or to refuse, trash dumps and sanitary landfills (see division 20 of this article); or to garage or yard sales by residents of dwelling units on their own property (see section 34-622(c)(42)); or to the mooring or docking of aircraft or watercraft.

### **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 be considered 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 invalid or 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; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some 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 Manager, or his designee, without the need for a public hearing.

**SECTION FIVE: 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 application for such project is complete and found sufficient before the effective date hereof.

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 W. Coy	_____
John E. Albion	_____

DULY PASSED AND ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2004.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM:

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

**LEE COUNTY, FLORIDA  
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT  
PROPOSED COUNTY ORDINANCE**

**NAME OF ORDINANCE: LDC AMENDMENT TO CHAPTER 34  
REGARDING IMPOUND YARDS**

**I. DESCRIPTION OF ORDINANCE**

**A. Statement of Purpose**

**Revise Chapter 34 the Lee County Land Development Code (LDC) in response to suggestions by the Board of County Commissioners to regulate impound yards in unincorporated Lee County.**

**B. Narrative Summary of Ordinance (Several Sentence Summary)**

**Amendment to LDC Chapter 34 to define and regulate impound yards in unincorporated Lee County**

**C. Principal Division(s) or Department(s) Affected (List)**

**Department of Community Development**

**LEE COUNTY, FLORIDA  
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT  
PROPOSED COUNTY ORDINANCE**

**LDC AMENDMENT – ADDRESSING IMPOUND YARDS**

**II. Fiscal Impact on County Agencies/County Funds  
(This section to be completed by Division of Budget Services)**

A. What is estimated Demand? (Develop Indicators) N/A

B. What is estimated Workload? (Develop Indicators) N/A

C. What are estimated costs:

	1st Year \$'s		2nd Year \$'s	
	<u>Existing</u>	<u>New</u>	<u>Existing</u>	<u>New</u>
PERSONNEL	N/A		N/A	
FRINGE	N/A		N/A	
OPERATING	N/A		N/A	
CAPITAL OUTLAY	N/A		N/A	
 TOTAL	 N/A		 N/A	

D. List the anticipated revenues to cover costs identified in II.C. above. If a fee is to be charged, answer the following:

1. What is the basis (rationale) for the fee? N/A
2. Do the anticipated fees cover the full cost of operation? If not, what percentage of the costs are covered? N/A

E. Give a brief narrative analysis of the information contained in II.A. through D. above.

The purpose of this amendment is to define impound yards and to establish a zoning category for them. There is no financial impact.

## **AMENDMENT JUSTIFICATION:**

The Lee County Land Development Code does not specifically address impound yards. Therefore, staff have viewed the use as being similar to Business Services Group II. Business Services Group II are businesses which due to equipment and vehicle storage or to processes used, usually require facilities in addition to standard office space. Such uses would include: Automobile claims adjusters and automobile repossessing services. Also, the use is similar to Automotive Repair and Service, Group II, which includes automotive body shops, which have storage yards for vehicles waiting to be repaired. Business Services Group II and Automotive Repair and Service, Group II are permitted in similar zoning districts (CPD, IPD, MPD, IL, IG, C-2, C-2A, CG, and CI) except that Business Services Group II uses are also permitted in the C-1 and CN-3 zoning districts by Special Exception.

Impound yards are intended to provide a secure storage area for vehicles that have been removed from rights-of-way at the request of law enforcement officers, private property, or roadways due to traffic accidents. Impound yards are not intended to provided long term storage of vehicles for indefinite periods of time. Impounded vehicles are to be processed, within a short period of time, and removed from the impound yard to an appropriate entity: automotive body shop for repairs, owner of the vehicle, or junkyard if the vehicle is beyond repair.

Impound yards, if not properly maintained, operated, and monitored, tend to take on the characteristics of a junkyard. This results from the owner or operated of the impound yard failing to maintain the impound yard, failing to actively pursue title to impounded vehicles, that are not sent out for repairs or reclaimed by their owners, and failing to remove the vehicle from the premises once title has been obtained. Therefore, to address concerns relating to impound yards, they should be defined and listed only as a permissible use in the Industrial Planned Development (IPD) zoning district.