

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

**Blue Sheet No.
20051016**

1. ACTION REQUESTED/PURPOSE: Adopt resolution amending and deleting the Lee County Administrative Codes per Exhibit "A".

2. WHAT ACTION ACCOMPLISHES: Bring Lee County Administrative Codes Current

3. MANAGEMENT RECOMMENDATION: Approve

4. Departmental Category: 06

C6C

5. Meeting Date: *08-09-2005*

6. Agenda:

- Consent
- Administrative Appeals
- Public 5:00 p.m. Walk-On

7. Requirement/Purpose: (specify)

- Statute
- Ordinance
- Admin. Code
- Other

8. Request Initiated:

Commissioner _____
Department _____
Division Public Resources

By: Walker

Background: Lee County Ordinance No. 97-23 allows and provides for amendments to the Lee County Administrative Code to be made by Resolution of the BOCC at a regularly scheduled BOCC meeting. The changes to attached Administrative Codes (Exhibit A) include modifications in originating departments and staff titles, as well as substantial enhancements and changes to Policy and Procedures.

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/ P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>[Signature]</i>	N/A	N/A	N/A	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY
COUNTY ADMIN. *[Signature]*
7-15-05
3:45
COUNTY ADMIN.
FORWARDED TO:
Pub Res.
7/13/05

REC'D. *[Signature]*
by CO. ATTY.
[Signature]
CO. ATTY. *[Signature]*
FORWARDED TO:
[Signature]
2:00 PM

4:45 PM

LEE COUNTY RESOLUTION NO. _____

A RESOLUTION OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS RELATING TO AMENDMENTS TO THE LEE COUNTY ADMINISTRATIVE CODE AS ADOPTED BY LEE COUNTY ORDINANCE NO. 97-23; PROVIDING FOR APPROVAL OF CERTAIN AMENDMENTS TO THE LEE COUNTY ADMINISTRATIVE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, the Board of County Commissioners has previously enacted Lee County Ordinance No. 96-01, creating a charter form of government for Lee County pursuant to Section 125.80 and ff., Florida Statutes, and which was approved and ratified by the Electorate of Lee County on November 5, 1996; and,

WHEREAS, the Board of County Commissioners has previously enacted Lee County Ordinance No. 97-23, which adopted the Lee County Administrative Code pursuant to Section 2.2.E. of Ordinance No. 96-01, the Lee County Charter; and,

WHEREAS, Lee County Ordinance No. 97-23 at Section III allows and provides for amendments to the Lee County Administrative Code to be made by Resolution of the Board of County Commissioners at a regularly scheduled Board of County Commissioners' meeting; and,

WHEREAS, certain amendments to the Lee County Administrative Code are now being proposed, and the Board of County Commissioners finds that such proposed amendments are acceptable, serve a public purpose and are consistent with the terms

and conditions of Lee County Ordinance No. 96-01, the Lee County Charter.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

1. The above preamble is hereby accepted and approved as being true and accurate, and is adopted and incorporated herein as if set out further at length.
2. The proposed amendment(s) and deletion(s) to the Lee County Administrative Code(s)
AC 1-1, AC 1-9, AC 1-10, AC 1-13, AC 1-18, AC 2-1, AC 2-3, AC 2-4, AC 2-9, AC 2-13, AC 2-16, AC 2-18, AC 3-2, AC 3-3, AC 3-4, AC 3-5, AC 3-6, AC 3-9, AC 3-12, AC 3-13, AC 3-14, AC 3-15, AC 3-16, AC 3-18, AC 3-23, AC 3-25, AC 7-1, AC 7-2, AC 8-1, AC 10-4, AC 11-6, AC, AC 12-4, 12-5, AC 13-14, AC 13-18 AND AC 14-10, (attached hereto as Exhibit A), are approved, and are hereby directed to be incorporated into the Lee County Administrative Code as indicated in the amendments.
3. The provisions of this Resolution are severable, and it is the intention to confer to the whole or any part of this Resolution, the powers herein provided for. If any of the provisions of this Resolution shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other remaining provisions of this Resolution. It is hereby declared to be the Board's legislative intent that this Resolution would have been adopted had such an unconstitutional provision not been included herein.

4. This Resolution shall become effective immediately upon its adoption by the Board of County Commissioners. The foregoing Resolution 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	_____
TAMMY HALL	_____
JOHN E. ALBION	_____

DULY PASSED AND ADOPTED this _____ day of _____, 20__.

ATTEST:
CHARLIE GREEN, CLERK

**BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA**

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of the County Attorney

SUMMARY OF CHANGES

<u>Administrative Code</u>	<u>Originating Department</u>	<u>Brief Description of Changes</u>
AC 1-1	Animal Services	Significant Policy / Procedure Changes
AC 1-9	County Administration	Minor Policy & Title Corrections
AC 1-10	County Administration	Minor Policy & Title Corrections
AC 1-13	Public Resources	Minor grammatical in policy, and minor procedure corrections
AC 1-18	Public Resources	Significant Policy / Procedure Changes to Lee TV
AC 2-1	Public Resources	Minor Terminology Corrections for MSTBU Advisory Committee
AC 2-3	Public Resources	Minor terminology/minor procedural changes for Board App't Advisory Groups
AC 2-4	County Attorney	Minor Technical Change to Policy
AC 2-9	County Attorney	Minor Technical Change to Policy
AC 2-13	County Attorney	Minor Department Title Change
AC 2-16	County Attorney	Minor Authority Tette Correction
AC 2-18	County Attorney	Terminology Correction
AC 3-2	Budget Services	Rewrite to clarify policy
AC 3-3	Finance Department	Minor grammatical revisions relating to Unclaimed/Uncashed Warrants
AC 3-4	Finance Department	Minor clarifications to policy governing interfund loans

AC 3-5	Budget Services	Delete Policy - obsolete processing of inmate medical bills
AC 3-6	Budget Services	Minor clarifications of policy relating to Budget Authority
AC 3-9	Budget Services	Minor revisions to CIP Policy
AC 3-12	Budget Services	Minor revisions to update cash/asset donations
AC 3-13	Finance Department	Very minor revisions to Investment Policy
AC 3-14	County Administration/Finance Department	Minor update to recording/disposal of county tangible personal property
AC 3-15	Public Resources	Minor clarification of policy for MSTBU creation
AC 3-16	Finance Department	Very minor corrections to policy relating to replacement of bonds/coupons
AC 3-18	Budget Services	Total Rewrite/Update of Debt Issuance/Administration Policy
AC 3-23	Public Resources	Originating Department Change for MSTBU program
AC 3-25	Public Resources	Change in Policy & Procedures for application and Administration of MSBU Financial Support
AC 7-1	Budget Services/Risk Management	Revised to include all contracts whereby the contract or agreement transfers or assumes liability of another party
AC 7-2	Budget Services/Risk Management	Complete Rewrite. Existing AC written in 1976
AC 8-1	Public Resources	Minor changes in policy and procedure for permit to use County Property
AC 10-4	Solid Waste	Delete

AC 11-6	Department of Transportation	Minor changes in policy and procedure
AC 12-4	Community Development	Single Family and Duplex Permitting Procedures
AC 12-5	Community Development	Correction of originating Department County Manager Title
AC 13-14	Public Works	Correction of originating Department County Manager Title
AC 13-18	County Attorney	Correction of originating Department County Manager Title

AC 14-10 Library Administration **Significant additions to Policy/Procedure**

EXHIBIT "A"

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Administrative	CODE NUMBER: AC-1-1
TITLE: Animal Control Dangerous Dog Procedure	ADOPTED: 11/29/95
	AMENDED:
	ORIGINATING DEPARTMENT: Animal Services/County Attorney

PURPOSE/SCOPE:

Pursuant to chapter 767.12 Florida statutes (1994) local animal control authorities shall develop procedures for hearing to be conducted regarding the classification of dogs as dangerous pursuant to statute.

The Legislature has determined that dangerous dogs are an increasingly serious and widespread threat to the safety and welfare of the people of this state because of unprovoked attacks which cause injury to persons and domestic animals; that such attacks are in part attributable to the failure of owners to control, properly train and confine their dogs. As such, the Legislature granted local governments the authority to establish hearing procedures to classify dogs as dangerous, in conformity with Fla. Stat. § 767.12 which shall serve as the authority for this administrative code.

I. POLICY/PROCEDURE:

As used in this Code, "dangerous dog" mean any dog that, according to the records of Lee County Animal Services:

- (1) has aggressively bitten, attacked, or endangered or has inflicted severe injury [multiple bite wounds or injury needing stitches] on a human being on public or private property; or
- (2) has more than once severely injured or once killed a domestic animal while off the owner's property or while on the owner's property in any area of legal easement; or
- (3) has been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting; or
- (4) has, when unprovoked, chased or approached persons upon the streets, sidewalks, any public grounds, or legal easement in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by Lee County Animal Services.

A. II. NOTIFICATION OF HEARINGS:

- 1.) Lee County Animal Services ("Animal Services") shall investigate reported incidents involving any dog that may be dangerous. After conducting the investigation required pursuant to Chapter 767.12(1)(a) F.S. (1994), the Director of Animal Control Animal Services shall make an initial determination as to whether there is sufficient cause to classify the dog as dangerous and shall afford the owner an opportunity for a hearing prior to making a final determination.
- 2.) Upon an initial determination finding a dog dangerous, the Director of Animal Control or designee shall prepare a written notification to the dog owner. The notification shall be sent to the dog owner by either:
 - (a) certified mail; or
 - (b) hand delivery; or
 - (c) personal service by the County Sheriff or other designated special process server;
- 3.) The notice shall:
 - (a) inform the dog owner of the initial sufficient cause finding;
 - (b) inform the dog owner that at the owner's request a hearing on the matter will be set no later than 21 days from receipt of the notice.
 - (c) inform the owner, if the dog is in his/her custody, that it shall not be destroyed prior to any hearing except by Lee County Animal Services upon the written request of the owner of record of the subject animal.

5. 4.) ~~The owner owners request for a hearing may:~~

~~(a) must be in writing file a written request for a hearing and~~

~~(b) the request must be received by postmarked or delivered to Animal Services, within 7 calendar days of the owner's receipt of notice.~~

6. 5.) The subject dog, if in the custody of:

~~(a) Animal Services, shall not be released to the owner until the process has been completed and shall not be destroyed prior to any hearing without the written request of the owner of record of the subject animal. The owner or agent of the owner shall be responsible for all boarding costs throughout the holding period at the rate established by Administrative Code regardless of the final determination of the hearing examiner.; or~~

~~(b) The owner, shall not be destroyed by the owner prior to any hearing except by Lee County Animal Services upon the written request of the owner of record of the subject animal and the notice shall so inform the owner.~~

B. Conduct of the Hearing

III. HEARING PROCEDURES:

~~1. There is hereby authorized for the purposes of this code, the use of a hearing officer for the hearings. The hearing shall be conducted before a hearing officer designated by the County Attorney's Office. The hearing officer shall be an attorney-at-law, in good standing and admitted to the practice in the State of Florida and having been in practice for at least five years. The hearing officer shall receive no compensation for the hearing.~~

~~1. 2. The hearing shall be conducted in Lee County facilities. The County Attorney shall provide for a meeting room therein.~~

~~3. Upon receipt of a timely, written request for hearing, the Director or designee shall schedule a hearing to be held as soon as reasonably practicable for the parties and shall provide the owner of the dog initially classified as dangerous with no less than five (5) calendar days written notice of the time, date and place of the hearing, which shall be held not more than twenty-one (21) calendar days from the date the department receives the owner's request, notwithstanding special circumstances. The notice of the hearing shall be sent to the owner by certified mail return receipt requested or to his/her attorney.~~

~~3. The hearing shall be informal, but the principles of due process shall be observed.~~

~~4. Hearing Procedures - each party shall have the following rights:~~

~~a) to participate in discovery upon filing a written request for discovery with the other party;~~

~~b) to be represented by counsel;~~

~~c) to call and examine witnesses;~~

~~d) to introduce evidence and exhibits;~~

~~e) to cross-examine opposing witnesses on any relevant matter;~~

~~f) to impeach any witness;~~

~~g) to issue subpoenas~~

~~h) to file motions~~

~~4. The Director of Animal Control, or designee shall present Animal Control's evidence purported to classify the subject dog as dangerous. The owner, or his attorney, shall be allowed to cross-examine any witness. The owner may then present evidence to the contrary. Animal Control may then cross-examine any witness so-called. Each party may present rebuttal. Each party shall be entitled to a closing argument.~~

~~5. All hearings shall be conducted insofar as is practicable, in accordance with the Florida Rules of Civil Procedure and the Florida Evidence Code. However, the general nature of the hearing shall be conducted in an informal manner but with due process observed. The burden of proof shall be a simple preponderance of evidence.~~

~~5. The hearing officer shall make all evidentiary rulings observing fairness to all parties. Hearsay evidence may be admissible if supported by competent evidence.~~

6. The hearing officer is granted the authority to issue subpoenas to compel the attendance of witnesses at a hearing upon the written request of any party or upon the officer's own motion.

a) A subpoena may be served by any person authorized by law to serve process. Service shall be made as provided by law.

b) Any person subject to a subpoena may, before compliance and on timely petition, request the hearing officer having jurisdiction of the dispute to set aside the subpoena.

c) A party may seek enforcement of a subpoena issued under the authority of this section by filing a petition for enforcement in the county court. Failure to comply with an order of the court shall result in a finding of contempt of court. However, no person shall be in contempt while a subpoena is being challenged.

d) If a party willfully fails to testify when duly subpoenaed, the hearing officer may order that the matters regarding which the questions were asked or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order; or render a judgment by default against the disobedient party.

6. At the close of all evidence, testimony and argument, the hearing officer shall issue a ruling as to a final determination of the subject dog as dangerous. The hearing officer may take the matter under advisement, but shall notify Animal Control and the owner of the ruling within 5 calendar days.

7. Witness fees may be paid as provided by law.

8. The hearing officer may receive compensation for such services at an hourly rate to be established by the County Attorney's Office, but not to exceed \$100.00 per hour. The County Attorney's Office shall solicit letters of interest from qualified individuals in the legal community who are willing to serve in such capacity.

IV. EVIDENCE:

1.) In any hearing before the hearing officer, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form, and all testimony of parties and witnesses shall be made under oath. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

2.) Parties may agree to witnesses testifying by telephone where the attendance of witnesses at the hearing would cause substantial hardship on the witness due to physical disability or where the witness is located out of state. Where parties are unable to stipulate or agree to the taking of telephonic testimony, the hearing officer may, in his/her discretion, grant such a motion by the party seeking same.

3.) Documentary evidence may be received in the form of a copy if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

4.) A party shall be permitted to conduct cross-examination when testimony is taken or documents are made a part of the record.

5.) The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.

6.) The hearing officer shall ensure that a full record of the hearing is preserved, which record shall be public and open to inspection and transcription by any person.

7.) The hearing officer shall make all evidentiary rulings.

V. WRITTEN DETERMINATIONS OF THE HEARING OFFICER:

After due hearing, the hearing officer shall issue a determination based upon a preponderance of the evidence. Animal Services or the County Attorney's Office shall bear the burden of establishing the dangerousness of the dog; and the owner shall bear the burden of establishing any legal defenses to the classification of dangerousness.

All determinations of the hearing officer shall be in writing, signed and dated by the hearing officer, shall contain findings of fact and conclusions of law, and shall be served upon the owner by registered mail, certified hand delivery, or service in conformance with Chapter 48, Florida Statutes.

The hearing officer may take the matter under advisement, but shall notify Animal Control and the owner of such ruling within three (3) calendar days.

C. VI. NOTICE OF APPEAL:

1. Upon notice to Animal Control by the hearing officer that a dog has been classified as dangerous, Animal Control shall provide written notification to the owner by registered mail, certified hand delivery or service as provided hereinbefore.
2. The notice shall inform the owner that a written appeal of the hearing officer's determination:
 - a. May be filed in County Court within 10 business days of the owner's receipt of the notice of classification.
 - b. The notice of classification shall also inform the owner that the subject dog must follow all rules established for a declared dangerous dog be in a securely fenced or enclosed area pending a resolution of any appeal filed by the owner.
3. Upon notice to Animal Control by the hearing officer that a dog has not been classified as dangerous, Animal Control may file a written appeal of the hearing officer's determination in County Court within ten business days of the receipt of the notice of determination from the hearing officer.

D. VII. POST-APPEAL PROCEDURES:

1. Within 14 days after a subject dog has been classified as dangerous by Animal Control and upheld on appeal, the dog owner shall obtain a certificate of registration for the dog from Animal Control upon the receipt of all fees and costs owed to Animal Control and the payment of an annual dangerous dog registration fee. Animal Services shall establish rules for ownership, containment, and movement of dangerous dogs, and provide those rules in writing, as they may be amended from time to time.
2. Certificates of Registration shall be issued only to persons who are at least 18 years of age and who present documentation attesting to:
 - (a) a current certificate of rabies vaccination for the subject dog.
 - (b) a proper enclosure sufficient to confine a dangerous dog, that shall include concrete base with a minimum of eight inches of block above concrete base with secure fencing material that is tied into the base and secured behind the block and the enclosure shall further include a full, secure top and locking access door that must remain locked at all time the dog is inside.
 - (c) warning signs stating "Dangerous Dog" on the property at all entry points to the property.
 - (d) permanent identification of the subject dog by either:
 - (1) tattoo on an inside thigh; or
 - (2) (1) electronic implantation; or
 - (3) (2) other permanent means acceptable to Animal Control.
 - (e) proof of sterilization or appointment for sterilization for the animal.
 - (f) payment of a one time \$1500 dangerous dog initial registration fee, with the acknowledgement of additional annual registration fees of \$500 per year.

E. VIII. OWNERSHIP REQUIREMENTS:

1. The owner of a dangerous dog, shall immediately notify the proper animal control authority when such dog:
 - a. Is loose or unconfined.
 - b. Has bitten a human being or attacked another animal.
 - c. Is sold, given away, or dies.
 - e. Is moved to another address.
2. The owner or keeper of a dangerous animal shall report in writing the name and address of the new owner or keeper to the Director of Animal Control prior to transfer of ownership or custody of such animal, and it shall be

violation of this ordinance not to report the name and address of the new owner.

3. The owner or keeper of a dangerous animal shall report in writing or by telephone the death of such animal to the Director of Animal Control immediately, and it is a violation of this ordinance not to do so. The death of such animal shall be verified by a licensed veterinarian or an Animal Control Officer.

2. The owner shall notify Animal Control of the name, address and telephone number of any new owner if the dog is sold or given away.

3. Criminal penalties pursuant to section Fla. Stat. § 767.12(7) shall apply to all violations of this Administrative Code.

4. Any violation of the requirements of a dog that has been declared dangerous, or any other violation of the animal control ordinance related to a declared dangerous dog, shall result in the confiscation of the dog for euthanasia in accordance with Florida Statutes (§767.13). The owner of the dangerous dog must surrender the animal, but may request a hearing within 10 days.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Administrative	CODE NUMBER: AC-1-1
TITLE: Animal Control Dangerous Dog Procedure	ADOPTED: 11/29/95
	AMENDED:
	ORIGINATING DEPARTMENT: Animal Services/County Attorney

PURPOSE/SCOPE:

The Legislature has determined that dangerous dogs are an increasingly serious and widespread threat to the safety and welfare of the people of this state because of unprovoked attacks which cause injury to persons and domestic animals; that such attacks are in part attributable to the failure of owners to control, properly train and confine their dogs. As such, the Legislature granted local governments the authority to establish hearing procedures to classify dogs as dangerous, in conformity with Fla. Stat. § 767.12 which shall serve as the authority for this administrative code.

I. POLICY/PROCEDURE:

As used in this Code, "dangerous dog" mean any dog that, according to the records of Lee County Animal Services:

- (1) has aggressively bitten, attacked, or endangered or has inflicted severe injury [multiple bite wounds or injury needing stitches] on a human being on public or private property; or
- (2) has more than once severely injured or once killed a domestic animal while off the owner's property or while on the owner's property in any area of legal easement; or
- (3) has been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting; or
- (4) has, when unprovoked, chased or approached persons upon the streets, sidewalks, any public grounds, or legal easement in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by Lee County Animal Services.

II. NOTIFICATION OF HEARINGS:

- 1.) Lee County Animal Services ("Animal Services") shall investigate reported incidents involving any dog that may be dangerous. After conducting the investigation Animal Services shall make an initial determination as to whether there is sufficient cause to classify the dog as dangerous and shall afford the owner an opportunity for a hearing prior to making a final determination.
- 2.) Upon an initial determination finding a dog dangerous, the Director of Animal Control or designee shall prepare a written notification to the dog owner. The notification shall be sent to the dog owner by either:
 - (a) certified mail; or
 - (b) hand delivery; or
 - (c) personal service by the County Sheriff or other designated special process server;
- 3.) The notice shall:
 - (a) inform the dog owner of the initial sufficient cause finding;
 - (b) inform the dog owner that at the owner's request a hearing on the matter will be set no later than 21 days from receipt of the notice.
 - (c) inform the owner, if the dog is in his/her custody, that it shall not be destroyed prior to any hearing except by Lee County Animal Services upon the written request of the owner of record of the subject animal.

AC-1-1 (Continued)

- 4.) The owner may:
- (a) file a written request for a hearing and
 - (b) the request must be received by Animal Services, within 7 calendar days of the owner's receipt of notice.

- 5.) The subject dog, if in the custody of:
- (a) Animal Services, shall not be released to the owner until the process has been completed and shall not be destroyed prior to any hearing without the written request of the owner of record of the subject animal. The owner or agent of the owner shall be responsible for all boarding costs throughout the holding period at the rate established by Administrative Code regardless of the final determination of the hearing examiner.; or
 - (b) The owner, shall not be destroyed by the owner prior to any hearing except by Lee County Animal Services upon the written request of the owner of record of the subject animal and the notice shall so inform the owner.

III. HEARING PROCEDURES:

1. There is hereby authorized for the purposes of this code, the use of a hearing officer for the hearings. The hearing shall be conducted before a hearing officer designated by the County Attorney's Office. The hearing officer shall be an attorney-at-law, in good standing and admitted to the practice in the State of Florida and having been in practice for at least five years.
2. The hearing shall be conducted in Lee County facilities.
3. Upon receipt of a timely, written request for hearing, the Director or designee shall schedule a hearing to be held as soon as reasonably practicable for the parties and shall provide the owner of the dog initially classified as dangerous with no less than five (5) calendar days written notice of the time, date and place of the hearing, which shall be held not more than twenty-one (21) calendar days from the date the department receives the owner's request, notwithstanding special circumstances. The notice of the hearing shall be sent to the owner by certified mail return receipt requested or to his/her attorney.
4. Hearing Procedures - each party shall have the following rights:
 - a) to participate in discovery upon filing a written request for discovery with the other party;
 - b) to be represented by counsel;
 - c) to call and examine witnesses;
 - d) to introduce evidence and exhibits;
 - e) to cross-examine opposing witnesses on any relevant matter;
 - f) to impeach any witness;
 - g) to issue subpoenas
 - h) to file motions
5. All hearings shall be conducted insofar as is practicable, in accordance with the Florida Rules of Civil Procedure and the Florida Evidence Code. However, the general nature of the hearing shall be conducted in an informal manner but with due process observed. The burden of proof shall be a simple preponderance of evidence.
6. The hearing officer is granted the authority to issue subpoenas to compel the attendance of witnesses at a hearing upon the written request of any party or upon the officer's own motion.
 - a) A subpoena may be served by any person authorized by law to serve process. Service shall be made as provided by law.
 - b) Any person subject to a subpoena may, before compliance and on timely petition, request the hearing officer having jurisdiction of the dispute to set aside the subpoena.
 - c) A party may seek enforcement of a subpoena issued under the authority of this section by filing a petition for enforcement in the county court. Failure to comply with an order of the court shall result in a finding of contempt of court. However, no person shall be in contempt while a subpoena is being challenged.
 - d) If a party willfully fails to testify when duly subpoenaed, the hearing officer may order that the matters regarding which the questions were asked or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order; or render a judgment by default against the disobedient party.

AC-1-1 (Continued)

7. Witness fees may be paid as provided by law.
8. The hearing officer may receive compensation for such services at an hourly rate to be established by the County Attorney's Office, but not to exceed \$100.00 per hour. The County Attorney's Office shall solicit letters of interest from qualified individuals in the legal community who are willing to serve in such capacity.

IV. EVIDENCE:

- 1.) In any hearing before the hearing officer, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form, and all testimony of parties and witnesses shall be made under oath. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.
- 2.) Parties may agree to witnesses testifying by telephone where the attendance of witnesses at the hearing would cause substantial hardship on the witness due to physical disability or where the witness is located out of state. Where parties are unable to stipulate or agree to the taking of telephonic testimony, the hearing officer may, in his/her discretion, grant such a motion by the party seeking same.
- 3.) Documentary evidence may be received in the form of a copy if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.
- 4.) A party shall be permitted to conduct cross-examination when testimony is taken or documents are made a part of the record.
- 5.) The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.
- 6.) The hearing officer shall ensure that a full record of the hearing is preserved, which record shall be public and open to inspection and transcription by any person.
- 7.) The hearing officer shall make all evidentiary rulings.

V. WRITTEN DETERMINATIONS OF THE HEARING OFFICER:

After due hearing, the hearing officer shall issue a determination based upon a preponderance of the evidence. Animal Services or the County Attorney's Office shall bear the burden of establishing the dangerousness of the dog; and the owner shall bear the burden of establishing any legal defenses to the classification of dangerousness.

All determinations of the hearing officer shall be in writing, signed and dated by the hearing officer, shall contain findings of fact and conclusions of law, and shall be served upon the owner by registered mail, certified hand delivery, or service in conformance with Chapter 48, Florida Statutes.

The hearing officer may take the matter under advisement, but shall notify Animal Control and the owner of such ruling within three (3) calendar days.

VI. NOTICE OF APPEAL:

1. Upon notice to Animal Control by the hearing officer that a dog has been classified as dangerous, Animal Control shall provide written notification to the owner by registered mail, certified hand delivery or service as provided hereinbefore.

AC-1-1 (Continued)

2. The notice shall inform the owner that a written appeal of the hearing officer's determination:
 - a. May be filed in County Court within 10 business days of the owner's receipt of the notice of classification.
 - b. The notice of classification shall also inform the owner that the subject dog must follow all rules established for a declared dangerous dog pending a resolution of any appeal filed by the owner.
3. Upon notice to Animal Control by the hearing officer that a dog has not been classified as dangerous, Animal Control may file a written appeal of the hearing officer's determination in County Court within ten business days of the receipt of the notice of determination from the hearing officer.

VII. POST-APPEAL PROCEDURES:

1. Within 14 days after a subject dog has been classified as dangerous by Animal Control and upheld on appeal, the dog owner shall obtain a certificate of registration for the dog from Animal Control upon the receipt of all fees and costs owed to Animal Control and the payment of an annual dangerous dog registration fee. Animal Services shall establish rules for ownership, containment, and movement of dangerous dogs, and provide those rules in writing, as they may be amended from time to time.
2. Certificates of Registration shall be issued only to persons who are at least 18 years of age and who present documentation attesting to:
 - (a) a current certificate of rabies vaccination for the subject dog.
 - (b) a proper enclosure sufficient to confine a dangerous dog, that shall include concrete base with a minimum of eight inches of block above concrete base with secure fencing material that is tied into the base and secured behind the block and the enclosure shall further include a full, secure top and locking access door that must remain locked at all time the dog is inside.
 - (c) warning signs stating "Dangerous Dog" on the property at all entry points to the property.
 - (d) permanent identification of the subject dog by either:
 - (1) electronic implantation; or
 - (2) other permanent means acceptable to Animal Control.
 - (e) proof of sterilization or appointment for sterilization for the animal.
 - (f) payment of a one time \$1500 dangerous dog initial registration fee, with the acknowledgement of additional annual registration fees of \$500 per year.

VIII. OWNERSHIP REQUIREMENTS:

1. The owner of a dangerous dog, shall immediately notify the proper animal control authority when such dog:
 - a. Is loose or unconfined.
 - b. Has bitten a human being or attacked another animal.
 - c. Is sold, given away, or dies.
 - e. Is moved to another address.
2. The owner or keeper of a dangerous animal shall report in writing the name and address of the new owner or keeper to the Director of Animal Control prior to transfer of ownership or custody of such animal, and it shall be violation of this ordinance not to report the name and address of the new owner.
3. The owner or keeper of a dangerous animal shall report in writing or by telephone the death of such animal to the Director of Animal Control immediately, and it is a violation of this ordinance not to do so. The death of such animal shall be verified by a licensed veterinarian or an Animal Control Officer.
2. The owner shall notify Animal Control of the name, address and telephone number of any new owner if the dog is sold or given away.
3. Criminal penalties pursuant to section Fla. Stat. § 767.12(7) shall apply to all violations of this Administrative Code.

AC-1-1 (Continued)

4. Any violation of the requirements of a dog that has been declared dangerous, or any other violation of the animal control ordinance related to a declared dangerous dog, shall result in the confiscation of the dog for euthanasia in accordance with Florida Statutes (§767.13). The owner of the dangerous dog must surrender the animal, but may request a hearing within 10 days.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:
Administration

CODE NUMBER:
AC-1-9

TITLE:
Board of County Commissioners/
County Administrator Manager
Relationship

ADOPTED:

4/26/89

AMENDED:
2/28/96

ORIGINATING DEPARTMENT:
County Administration

PURPOSE/SCOPE:

Definition of the working relationship between the Board of County Commissioners and the County Administrator Manager.

POLICY/PROCEDURE:

GOALS AND OBJECTIVES:

To set forth the roles of the Board of County Commissioners and the County Administrator Manager in order to assure the orderly administration of County government.

GENERAL POLICIES:

1. The Board of County Commissioners recognizes and affirms its role as the policy making and legislative body of Lee County Government.

The Board shall establish its annual policy direction for the Administrator Manager and staff during the an annual budgetary goals setting process.

This direction and policy shall be clearly stated ~~in the annual budget document~~ and adopted through the annual goals.

During the course of the fiscal year the Board may refine the policies set forth in the ~~budget adopted document~~ goals and/or institute new policy and direction to staff as it may deem necessary.

2. The Board of County Commissioner recognizes and affirms the role of the County Administrator Manager as the executive employed by the Board to carry out the policy set for the by the Board.

AC-1-9 (Continued)

Furthermore, it directs to the County Administrator **Manager** responsibility for the orderly implementation of all Board approved programs, **projects**, ordinances, policies, and procedures, except those that may fall under the auspices of County constitutional officers.

As the County Administrator **Manager** implements the policies and budgeted programs and projects of the Board, he or she shall only return before the Board as required for bid awards, the ranking of consultants through the competitive negotiations process and approval/execution of contracts.

The Board shall be kept informed on a timely basis of the progress of these projects and programs.

The County Administrator **Manager** and staff shall be held accountable for the timely execution and implementation of the Board's stated policies, programs and direction.

3. The County Administrator **Manager** recognizes and affirms the County Commissioners' right to make routine inquiries and requests for information or action of staff.

The County Administrator **Manager** will devise the Board of County Commissioners approved procedures, which will ensure the timely flow of information to the Board in response to such inquiries.

4. Except for purpose of inquiry or information and as provided below regarding Executive Assistants to members of the County Commission, no member of the County Commission shall give orders, publicly or privately or otherwise interfere with the performance of the duties of any employee or official of the County subject to the direction and supervision of the County Administrator **Manager**.
5. Each member of the County Commission may utilize an Executive Assistant. Each County employee assigned as an Executive Assistant to a Commission Member serves in that position at the pleasure of the Commission Member. The Commission Member shall serve as supervisor of the Executive Assistant. Acting as supervisor, the Commission Member is solely responsible for all supervisory functions including, but not limited to, disciplinary procedures and salary administration pursuant to the current Personnel Policies and Procedures Manual, as it may be amended from time to time.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:
Administration

CODE NUMBER:
AC-1-9

TITLE:
Board of County Commissioners/
County Manager Relationship

ADOPTED:
4/26/89

AMENDED:
2/28/96

ORIGINATING DEPARTMENT:
County Administration

PURPOSE/SCOPE:

Definition of the working relationship between the Board of County Commissioners and the County Manager.

POLICY/PROCEDURE:

GOALS AND OBJECTIVES:

To set forth the roles of the Board of County Commissioners and the County Manager in order to assure the orderly administration of County government.

GENERAL POLICIES:

1. The Board of County Commissioners recognizes and affirms its role as the policy making and legislative body of Lee County Government.

The Board shall establish its annual policy direction for the Manager and staff during an annual goals setting process.

This direction and policy shall be clearly stated and adopted through the annual goals.

During the course of the fiscal year the Board may refine the policies set forth in the adopted goals and/or institute new policy and direction to staff as it may deem necessary.

2. The Board of County Commissioner recognizes and affirms the role of the County Manager as the executive employed by the Board to carry out the policy set for the by the Board.

Furthermore, it directs to the County Manager responsibility for the orderly implementation of all Board approved programs, projects, ordinances, policies, and procedures, except those that may fall under the auspices of County constitutional officers.

AC-1-9 (Continued)

As the County Manager implements the policies and budgeted programs and projects of the Board, he or she shall only return before the Board as required for bid awards, the ranking of consultants through the competitive negotiations process and approval/execution of contracts.

The Board shall be kept informed on a timely basis of the progress of these projects and programs.

The County Manager and staff shall be held accountable for the timely execution and implementation of the Board's stated policies, programs and direction.

3. The County Manager recognizes and affirms the County Commissioners' right to make routine inquiries and requests for information or action of staff.

The County Manager will devise the Board of County Commissioners approved procedures, which will ensure the timely flow of information to the Board in response to such inquiries.

4. Except for purpose of inquiry or information and as provided below regarding Executive Assistants to members of the County Commission, no member of the County Commission shall give orders, publicly or privately or otherwise interfere with the performance of the duties of any employee or official of the County subject to the direction and supervision of the County Manager.
5. Each member of the County Commission may utilize an Executive Assistant. Each County employee assigned as an Executive Assistant to a Commission Member serves in that position at the pleasure of the Commission Member. The Commission Member shall serve as supervisor of the Executive Assistant. Acting as supervisor, the Commission Member is solely responsible for all supervisory functions including, but not limited to, disciplinary procedures and salary administration pursuant to the current Personnel Policies and Procedures Manual, as it may be amended from time to time.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Administration	CODE NUMBER: AC-1-10
TITLE: Organization of County Departments and Agencies	ADOPTED: 8/29/90
	AMENDED:
	ORIGINATING DEPARTMENT: County Administration

PURPOSE/SCOPE:

Under FS 125.74, the County Administrator **Manager** is responsible for organizing the work of County departments, subject to an administrative code developed by the Administrator and adopted by the Board. This section of the Code specifies the requirements for review, approval, and implementation of changes in the organization structure of County departments and agencies under the authority of the County Administrator **Manager**.

The purposes of this section are (1) to provide for maximum discretion to Department/**Division** Directors for organizing their programs; (2) to provide for maintenance of the accuracy and integrity of the budget and account structures reflected in the approved budget; (3) to provide for the maintenance of accurate personnel records; and (4) to provide for a definitive method for accurately reflecting the current organization of all County departments and programs under the authority of the County Administrator **Manager**.

POLICY/PROCEDURE:

I. Policy

- A. Department/**Division** Directors are charged with organizing their operations to ensure (1) proper responsiveness to public needs and (2) appropriate levels of efficiency and effectiveness in the management and implementation of programs and services.
- B. Formal changes in the organizational structure of departments, offices or agencies which involve the creation of divisions or programs, or the elimination or major modification of divisions or programs as reflected in a currently approved budget and chart of accounts, shall require prior review by the Human Resources ~~Division~~ **Department**, the Division of Budget Services, and approval by the County Administrator **Manager**. Any additional positions(s) must be approved by the Board of County Commissioners.

AC-1-10 (Continued)

- C. Informal or operational changes in the organizational structure of departments, offices or agencies which involve the creation of divisions or programs, or the elimination or major modification of divisions or programs as reflected in a currently approved budget and chart of accounts, may be authorized by the Department/Division Director for a temporary period of not more than ninety (90) days. Changes of a permanent nature at this level shall require approval pursuant to item I-B above and shall not be continued in force without such approval.
 - D. Department/Division Directors shall notify the ~~Division~~ Department of Human Resources and the Division of Budget Services prior to making organizational changes, which affect the permanent reallocation of staff or resources between divisions or programs. The ~~Division~~ Department of Human Resources shall also be notified, and will in turn notify the Office of Equal Opportunity, of any permanent organizational change, which affects the levels of responsibility or reporting relationships of positions.
- II. Procedure
- A. Each Department/Division Director shall review during the annual budget process and on an on-going basis, the organization and operation of functions under their control to ensure the most effective and efficient allocation and utilization of staff and resources. When preparing budgets, any proposed change to the previously approved departmental organization shall require approval by the County Administrator Manager. Budgets as prepared and submitted shall be consistent with the approved departmental organization.
 - B. For organization changes that involve the creation, abolition, or major modification of a division or program, the department, in consultation with the ~~Division~~ Department of Human Resources, will develop a structure that best represents the needs/strengths of their organization and will prepare related organization charts, descriptive narratives, and budget adjustments. If a request for additional staffing is made, the department analyst assigned by the Division of Budget Services, will review to evaluate and verify the need. The Division of Budget Services will review the proposed reorganization for financial and budgetary implications and ensure that the revised organization is properly reflected in financial and budgetary accounts.
 - C. Organizational changes other than those specified in the preceding paragraph may be made at the discretion of the Department/Division Director. Prior to implementing changes that affect the reallocation of resources between divisions or programs, the Department/Division Director shall submit required implementing budget transfers to the Division of Budget Services.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:
Administration

CODE NUMBER:
AC-1-10

TITLE:
Organization of County Departments and Agencies

ADOPTED:
8/29/90

AMENDED:

ORIGINATING DEPARTMENT:
County Administration

PURPOSE/SCOPE:

Under FS 125.74, the County Manager is responsible for organizing the work of County departments, subject to an administrative code developed by the Administrator and adopted by the Board. This section of the Code specifies the requirements for review, approval, and implementation of changes in the organization structure of County departments and agencies under the authority of the County Manager .

The purposes of this section are (1) to provide for maximum discretion to Department/Division Directors for organizing their programs; (2) to provide for maintenance of the accuracy and integrity of the budget and account structures reflected in the approved budget; (3) to provide for the maintenance of accurate personnel records; and (4) to provide for a definitive method for accurately reflecting the current organization of all County departments and programs under the authority of the County Manager .

POLICY/PROCEDURE:

I. Policy

- A. Department/Division Directors are charged with organizing their operations to ensure (1) proper responsiveness to public needs and (2) appropriate levels of efficiency and effectiveness in the management and implementation of programs and services.
- B. Formal changes in the organizational structure of departments, offices or agencies which involve the creation of divisions or programs, or the elimination or major modification of divisions or programs as reflected in a currently approved budget and chart of accounts, shall require prior review by the Human Resources Department, the Division of Budget Services, and approval by the County Manager. Any additional positions(s) must be approved by the Board of County Commissioners.

AC-1-10 (Continued)

- C. Informal or operational changes in the organizational structure of departments, offices or agencies which involve the creation of divisions or programs, or the elimination or major modification of divisions or programs as reflected in a currently approved budget and chart of accounts, may be authorized by the Department/Division Director for a temporary period of not more than ninety (90) days. Changes of a permanent nature at this level shall require approval pursuant to item I-B above and shall not be continued in force without such approval.
 - D. Department/Division Directors shall notify the Department of Human Resources and the Division of Budget Services prior to making organizational changes, which affect the permanent reallocation of staff or resources between divisions or programs. The Department of Human Resources shall also be notified, and will in turn notify the Office of Equal Opportunity, of any permanent organizational change, which affects the levels of responsibility or reporting relationships of positions.
- II. Procedure
- A. Each Department/Division Director shall review during the annual budget process and on an on-going basis, the organization and operation of functions under their control to ensure the most effective and efficient allocation and utilization of staff and resources. When preparing budgets, any proposed change to the previously approved departmental organization shall require approval by the County Manager. Budgets as prepared and submitted shall be consistent with the approved departmental organization.
 - B. For organization changes that involve the creation, abolition, or major modification of a division or program, the department, in consultation with the Department of Human Resources, will develop a structure that best represents the needs/strengths of their organization and will prepare related organization charts, descriptive narratives, and budget adjustments. If a request for additional staffing is made, the department analyst assigned by the Division of Budget Services, will review to evaluate and verify the need. The Division of Budget Services will review the proposed reorganization for financial and budgetary implications and ensure that the revised organization is properly reflected in financial and budgetary accounts.
 - C. Organizational changes other than those specified in the preceding paragraph may be made at the discretion of the Department/Division Director. Prior to implementing changes that affect the reallocation of resources between divisions or programs, the Department/Division Director shall submit required implementing budget transfers to the Division of Budget Services.

ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS

CATEGORY: Administration	CODE NUMBER: AC-1-13
TITLE: Management & Planning Committee Meetings: Purpose, Procedures and Guidelines	ADOPTED: 4/8/92
	AMENDED: 8/25/93; 1/4/95
	ORIGINATING DEPARTMENT: Public Resources

PURPOSE/SCOPE:

The purpose of this administrative code is to provide a standard form, format, guidelines and procedures for the Board of County Commissioners Management and Planning Committee Meetings, for requesting items to appear on the agenda, and to provide the Board with appropriate information for each agenda item.

POLICY/PROCEDURE:

I. POLICY

- A. The Management & Planning Committee Meetings shall be a forum for the Board of County Commissioners to interact and discuss issues and policies.
- B. The Management and Planning Committee Meetings shall NOT be a forum to receive public input. No citizen shall be permitted to address the Management & Planning Committee unless permission is first granted by a ~~majority~~ majority vote of the committee members present at the meeting.
- C. The Management & Planning Committee Meetings will be conducted as a workshop and no formal action will be taken by the Board of County Commissioners.
- D. Management & Planning Committee Meetings will be held the first Monday of each month ~~and at other such times~~ or rescheduled as necessary per Board approval. The meetings will begin at 1:30 pm.
- E. The Clerk of ~~the Commission~~ Courts (Minutes) Minutes Office shall attend each Management & Planning Committee Meeting and keep appropriate records of same.
- F. The County Manager (or his/her designee) and the County Attorney (or his/her designee) shall attend each Management and Planning Committee Meeting.
- G. Management & Planning Committee Meetings are open for the public to attend.

II. PROCEDURES/GUIDELINES

- A. There shall be an agenda for every meeting of the Management & Planning Committee listing the item to be considered. Under the agenda section "Board Comments/Discussion", each County Commissioner may present any matter or subject for consideration.

- B. All requests for items to appear on the Management & Planning Committee Meeting agenda shall be submitted on the AManagement & Planning Committee Agenda Request Form@ included as Attachment A to this Code and shall be prepared on yellow paper. Each section of the agenda request form shall be completed and pertinent backup information shall be attached. The agenda request form must be signed by the requesting Department Director and forwarded to the County Manager for signature. Agenda requests that do not comply with these procedures will be returned to the requesting department without action. The Board of County Commissioners may initiate items to be placed on the Management & Planning Committee Meeting agenda.
- C. All Management & Planning Committee agenda requests shall be submitted to the ~~County Manager~~s **Public Resources Office** no later than ~~5:00 PM~~ **3:00 PM** on Friday (one week ~~and three days~~ prior to the scheduled meeting date), **with exceptions due to holidays or cancellations.** ~~The Division of Public Resources will distribute the agenda packets the following Tuesday.~~
- D. Management & Planning Committee agenda items shall consist of matters requiring detailed, technical presentations and subsequent discussion by the Board. Presentations shall include pertinent and necessary information to adequately inform the Board of the issue. To the extent possible, presentations shall not exceed ~~five minutes~~ **10 minutes**. Staff should then be prepared to respond to questions.
- E. ~~Items requiring only brief presentations and Board action should be placed on the Administrative Agenda of the regular Wednesday Board meetings. (Delete this)~~

Attachment A: Agenda Request Form

ATTACHMENT A

**MANAGEMENT & PLANNING COMMITTEE
AGENDA REQUEST FORM
COMMISSION DISTRICT #**

PRESENTED BY:

REQUESTED BY:

TITLE OF ITEM FOR THE AGENDA:

1. DESCRIPTION AND OBJECTIVE OF THE ISSUE

2. PROPOSE POLICY, PROCEDURE OR PLAN OF ACTION

3. OPTIONS (List advantages/Disadvantages of Each Option Listed)

4. FINANCIAL IMPACTS/FUNDING SOURCE

5. STAFF RECOMMENDATIONS, AND JUSTIFICATION FOR RECOMMENDATIONS

6. Mandated: Y N BY WHAT AUTHORITY?

DEPARTMENT DIRECTOR SIGNATURE

COUNTY MANAGER SIGNATURE

MEETING DATE

TIME REQUIRED

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Administration

CODE NUMBER: AC-1-13

**TITLE:
Management & Planning Committee Meetings:
Purpose, Procedures and Guidelines**

ADOPTED: 4/8/92

AMENDED: 8/25/93; 1/4/95

**ORIGINATING DEPARTMENT:
Public Resources**

PURPOSE/SCOPE:

The purpose of this administrative code is to provide a standard form, format, guidelines and procedures for the Board of County Commissioners Management and Planning Committee Meetings, for requesting items to appear on the agenda, and to provide the Board with appropriate information for each agenda item.

POLICY/PROCEDURE:

I. POLICY

- A. The Management & Planning Committee Meetings shall be a forum for the Board of County Commissioners to interact and discuss issues and policies.
- B. The Management and Planning Committee Meetings shall NOT be a forum to receive public input. No citizen shall be permitted to address the Management & Planning Committee unless permission is first granted by a majority vote of the committee members present at the meeting.
- C. The Management & Planning Committee Meetings will be conducted as a workshop and no formal action will be taken by the Board of County Commissioners.
- D. Management & Planning Committee Meetings will be held the first Monday of each month or rescheduled as necessary per Board approval. The meetings will begin at 1:30 pm.
- E. The Clerk of Courts Minutes Office shall attend each Management & Planning Committee Meeting and keep appropriate records of same.
- F. The County Manager (or his/her designee) and the County Attorney (or his/her designee) shall attend each Management and Planning Committee Meeting.
- G. Management & Planning Committee Meetings are open for the public to attend.

II. PROCEDURES/GUIDELINES

- A. There shall be an agenda for every meeting of the Management & Planning Committee listing the item to be considered. Under the agenda section "Board Comments/Discussion", each County Commissioner may present any matter or subject for consideration.

AC-1-13 (Continued)

- B. All requests for items to appear on the Management & Planning Committee Meeting agenda shall be submitted on the Management & Planning Committee Agenda Request Form included as Attachment A to this Code and shall be prepared on yellow paper. Each section of the agenda request form shall be completed and pertinent backup information shall be attached. The agenda request form must be signed by the requesting Department Director and forwarded to the County Manager for signature. Agenda requests that do not comply with these procedures will be returned to the requesting department without action. The Board of County Commissioners may initiate items to be placed on the Management & Planning Committee Meeting agenda.
- C. All Management & Planning Committee agenda requests shall be submitted to the Public Resources Office no later than 3:00 PM on Friday (one week prior to the scheduled meeting date), with exceptions due to holidays or cancellations.
- D. Management & Planning Committee agenda items shall consist of matters requiring detailed, technical presentations and subsequent discussion by the Board. Presentations shall include pertinent and necessary information to adequately inform the Board of the issue. To the extent possible, presentations shall not exceed 10 minutes. Staff should then be prepared to respond to questions.

**ATTACHMENT A
 MANAGEMENT & PLANNING COMMITTEE
 AGENDA REQUEST FORM
 COMMISSION DISTRICT #**

PRESENTED BY:

REQUESTED BY:

TITLE OF ITEM FOR THE AGENDA:

1. DESCRIPTION AND OBJECTIVE OF THE ISSUE

2. PROPOSE POLICY, PROCEDURE OR PLAN OF ACTION

3. OPTIONS (List advantages/Disadvantages of Each Option Listed)

4. FINANCIAL IMPACTS/FUNDING SOURCE

5. STAFF RECOMMENDATIONS, AND JUSTIFICATION FOR RECOMMENDATIONS

6. Mandated: Y N

BY WHAT AUTHORITY?

DEPARTMENT DIRECTOR SIGNATURE

COUNTY MANAGER SIGNATURE

MEETING DATE

TIME REQUIRED

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY Administration	CODE NUMBER AC-1-18
TITLE Policy Establishing Procedures and Regulations for the Lee County Broadcast Facilities: <ul style="list-style-type: none"> • Televised Board Meetings • <u>County Television Programming Policies</u> • Televised Political Debates 	ADOPTED 8/25/93
	AMENDED 11/6/96
	ORIGINATING DEPARTMENT Public Resources

PURPOSE/SCOPE:

To establish procedures and regulations for use of the Lee County Broadcast Facilities, which shall be limited to local government purposes only. It shall be further limited to the availability of the meeting rooms and county staff, and air time.

Policy And Procedures:

A. TELEVISED MEETINGS HELD BY THE BOARD OF LEE COUNTY COMMISSIONERS

1. ~~All County Commission regular meetings,~~ All meetings consisting of a quorum of County Commissioners including: regular meetings and, Management and Planning meetings, public hearings, special meetings and workshops held in the Commission Chambers ~~or the East Room~~ will be videotaped and televised ~~internally on the County's closed circuit television.~~ video achieved and televised externally on the County's government access channels.
2. ~~All of the board meetings will be televised externally when the meetings occur during available air time.~~
- 3-2. Exceptions to this policy require a majority vote of the Board of County Commissioners.

B. COUNTY TELEVISION PROGRAMMING POLICIES

1. Lee County Government access channel "LeeTV" provides a wide range of quality civic programming including live government meetings, information on governmental services, events, County and public safety issues; and may include cultural programs such as documentaries and performing arts. The majority of programming will serve to identify, explain, and encourage the use of government services.
2. Military, State and federal government bodies and agencies for use in connection with their official government activities that are of interest of the citizens of Lee County will be considered for broadcast.
3. Programming Priorities
 - A. Emergency broadcasting and public safety announcements
 - B. Live County Commission meetings
 - C. Live, tape delayed, or other video programs produced for or by Lee County Government
 - D. Approved programs as set forth in Public Resource's broadcasting guidelines submitted by other local government agencies or departments

- E. Approved civic and cultural programs including state or federal government agency programming providing information related to Lee County or of interest to residents.

4. Programming restrictions

- A. Any advertising of a commercial product or of a service nature
- B. Any information concerning any lottery, gift enterprise, or similar promotion offering prizes based in whole or in part upon lot or chance
- C. Any direct solicitation of funds
- D. Any material that would violate any federal, state, county, or city statute or law
- E. Any material that promotes religious beliefs or religious philosophies
- F. Any obscene, indecent, or defamatory material
- G. Appearances by or on behalf of any candidate who has made known their intent to seek public office, either by filing for said office or via a public announcement of same. (Excluding any current members of the Board of County Commissioners)

5. Use of government cable channel equipment

The use of video production equipment shall be restricted to county departments and related agencies under the supervision and/or approval of the Lee County Public Resources staff. Lending of equipment for personal use is not authorized.

6. Lee County is solely responsible for programming the government access channel and reserves the right to accept or deny any requests for broadcasts that are determined to be, or not to be in the best interests of the majority of the citizens of Lee County. Public Resources will be responsible for keeping current, programming guidelines and broadcasting quality assurances.

C. TELEVISED POLITICAL DEBATES

1. Lee County as an entity, including the County Commissioners and County staff, shall not be construed as a sponsor of any political debate emanating from the Lee County government broadcasting facilities. In addition, they will not be held responsible for any inequities, perceived or real, regarding candidates' presentations.
2. ~~Room reservation can be arranged through the Lee Cares office.~~ Debate sponsor(s) shall agree to County broadcasting guidelines and send written requests to the Division of Public Resources for consideration.
3. The sponsor(s) of any political debate shall comply with federal law affording **equal opportunities** to all candidates or a specific political office.
4. ~~The Division of Public Resources will seek permission from the local franchise to broadcast the debate. The County will not be responsible for coercing the franchises air to debate if the decided to do so.~~ Programming will be restricted to one debate per seat "sponsor". Candidates running only for offices on county, regional, state or national levels will be considered for live or delayed broadcasting.
Pending approval, the Division of Public Resources will reserve the room and provide the technical expertise required to broadcast the debate and will work in the planning stages with the sponsor(s) and the candidates.
5. The County will not be held responsible for airing live broadcasting of inappropriate behavior or language. All participants are expected to conduct themselves appropriately at all times. No signs, banners, food or drink shall may be permitted in the Commission Chambers or the East room. The Sponsor(s) or candidates may wish to hire a deputy sheriff to provide security for the debate.
6. Prior to the date of the debate, the sponsor(s) shall pay to the County a fee of \$75.00 for a maximum of a 90 minute debate, shall be paid by the applicant prior to the date of the debate to for equipment set-up staff assistance and broadcasting equipment set-up. In the event the debate exceeds allotted time additional charges will be assessed \$25.00 for each half hour. If the event is

cancelled at least 10 days prior to the scheduled date, the \$75.00 will be refunded.

7. Only sponsor(s) recognized as impartial by the County will be considered for sponsorship. Any organization representing political views, opinions, positions or candidates will not be permitted.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Administration	CODE NUMBER: AC-1-18
TITLE: Policy Establishing Procedures and Regulations for the Lee County Broadcast Facilities: <ul style="list-style-type: none"> • Televised Board Meetings • County Television Programming Policies • Televised Political Debates 	ADOPTED: 8/25/93
	AMENDED: 11/6/96
	ORIGINATING DEPARTMENT: Public Resources

PURPOSE/SCOPE:
To establish procedures and regulations for use of the Lee County Broadcast Facilities, which shall be limited to government purposes only. It shall be further limited to the availability of the meeting rooms and county staff.

POLICY AND PROCEDURES:

- A. Televised Meetings Held By The Board Of Lee County Commissioners**
1. All meetings consisting of a quorum of County Commissioners including: regular meetings, Management and Planning meetings, public hearings, special meetings and workshops held in the Commission Chambers will be video achieved and televised externally on the County's government access channels.
 2. Exceptions to this policy require a majority vote of the Board of County Commissioners.
- B. County Television Programming Policies**
1. Lee County Government access channel "LeeTV" provides a wide range of quality civic programming including live government meetings, information on governmental services, events, County and public safety issues; and may include cultural programs such as documentaries and performing arts. The majority of programming will serve to identify, explain, and encourage the use of government services.
 2. Military, State and federal government bodies and agencies for use in connection with their official government activities that are of interest of the citizens of Lee County will be considered for broadcast.
 3. Programming Priorities
 - A. Emergency broadcasting and public safety announcements
 - B. Live County Commission meetings
 - C. Live, tape delayed, or other video programs produced for or by Lee County Government
 - D. Approved programs as set forth in Public Resource's broadcasting guidelines submitted by other local government agencies or departments
 - E. Approved civic and cultural programs including state or federal government agency programming providing information related to Lee County or of interest to residents.

AC-1-18 (Continued)

4. Programming restrictions
 - A. Any advertising of a commercial product or of a service nature
 - B. Any information concerning any lottery, gift enterprise, or similar promotion offering prizes based in whole or in part upon lot or chance
 - C. Any direct solicitation of funds
 - D. Any material that would violate any federal, state, county, or city statute or law
 - E. Any material that promotes religious beliefs or religious philosophies
 - F. Any obscene, indecent, or defamatory material
 - G. Appearances by or on behalf of any candidate who has made known their intent to seek public office, either by filing for said office or via a public announcement of same.
(Excluding any current members of the Board of County Commissioners)
5. Use of government cable channel equipment
The use of video production equipment shall be restricted to county departments and related agencies under the supervision and/or approval of the Lee County Public Resources staff. Lending of equipment for personal use is not authorized.
6. Lee County is solely responsible for programming the government access channel and reserves the right to accept or deny any requests for broadcasts that are determined to be, or not to be in the best interests of the majority of the citizens of Lee County. Public Resources will be responsible for keeping current, programming guidelines and broadcasting quality assurances.

C. Televised Political Debates

1. Lee County as an entity, including the County Commissioners and County staff, shall not be construed as a sponsor of any political debate emanating from the Lee County government broadcasting facilities. In addition, they will not be held responsible for any inequities, perceived or real, regarding candidates' presentations.
2. Debate sponsor(s) shall agree to County broadcasting guidelines and send written requests to the Division of Public Resources for consideration.
3. The sponsor(s) of any political debate shall comply with federal law affording equal opportunities to all candidates or a specific political office.
4. Programming will be restricted to one debate per seat "sponsor". Candidates running only for offices on county, regional, state or national levels will be considered for live or delayed broadcasting.
Pending approval, the Division of Public Resources will reserve the room and provide the technical expertise required to broadcast the debate and will work in the planning stages with the sponsor(s)
5. The County will not be held responsible for live broadcasting of inappropriate behavior or language. All participants are expected to conduct themselves appropriately at all times. No signs, banners, food or drink shall be permitted in the Commission Chambers. Sponsor(s) may wish to hire a deputy sheriff to provide security for the debate.
6. Prior to the date of the debate, the sponsor(s) shall pay to the County a fee of \$75.00 for a maximum of a 90-minute debate, for staff assistance and broadcasting equipment set-up. In the event the debate exceeds allotted time additional charges will be assessed \$25.00 for each half hour. If the event is cancelled at least 10 days prior to the scheduled date, the \$75.00 will be refunded.
7. Only sponsor(s) recognized as impartial by the County will be considered for sponsorship. Any organization representing political views, opinions, positions or candidates will not be permitted.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Committees/Boards/Commissions/Examiners	CODE NUMBER: AC-2-1
TITLE: Guidelines Regarding Responsibilities of the Municipal Services Taxing and Benefit Unit Advisory Committees	ADOPTED: 9/28/83
	AMENDED: 8/31/94
	ORIGINATING DEPARTMENT: MSTBU SERVICES PUBLIC RESOURCES

PURPOSE/SCOPE:

To set forth the responsibilities of the Municipal Services Taxing and Benefit Unit Advisory Committees.

POLICY/PROCEDURE:

- I. RESPONSIBILITIES OF THE LEE COUNTY ~~CORR~~MISSION:
 - A. To appoint five members to the Advisory Committee selected from property owners residing in the Unit.
 - B. To provide staff to assist the Committee in carrying out its responsibilities.
 - C. To receive and consider recommendations from the Committee. For example, any proposed budgeted expenditures.
 - D. To adopt a budget for the Unit Fund.
 - E. To collect sufficient funds via property taxes or special assessments to fund the budget.

- II. RESPONSIBILITIES OF THE ADVISORY COMMITTEE:
 - A. To elect a ~~Chairman~~ **Chair** and Vice ~~Chairman~~ **Chair** from the members of the Committee. The ~~Chairman~~ **Chair** shall appoint from the membership one person to act as Secretary. The Secretary shall sign all minutes along with the ~~Chairman~~ **Chair** and submit to the County within ten working days after each meeting.
 - B. To establish rules and conduct orderly meetings.
 - C. To review and monitor the annual budget and related expenditures.
 - D. To make recommendations to the County for expenditure of the funds within their budget in accordance with the Board of County Commissioners proved purchasing guidelines.
 - E. To make recommendations to the Lee County Commission regarding the annual proposed budgets.

- III. GENERAL INFORMATION:
 - A. Meetings will be called by the ~~Chairman~~ **Chair** of the Committee, or by the Board of County Commissioners or Staff Designee. All meetings will be open to the public. Notice of meetings must be made seven days prior to the meeting through a notice in a newspaper of general circulation.
 - B. All meetings will be conducted in a professional manner.

- C. The Secretary will record the proceedings of each meeting. These records will become the Official Records of the Committee. The original will be retained by the Secretary and one copy will be submitted to the office designated by the County to administer the Unit.
- D. A member of any Board, Committee or Commission may not participate in the consideration of any matter in which the member has a private, financial or personal interest, if that interest would conflict with the member's impartial performance of public duties.
- E. On each Committee, one-half of the Committee will be appointed for a term of one year and the remainder of the Committee for two years. All subsequent appointments after the Committee has been functioning for one full year will be for a two-year term.
- F. The County Manager, or designee, will be responsible for maintaining an accurate and up-to-date roster of all Committees and their respective members and will advise the Board of County Commissioners of the expiration of the term of a Committee member prior to such expiration.
- G. The County Commission will fill any vacancies by appointment.
- H. The Board of County Commissioners is authorized to dissolve Committees; or rescind an appointment to a Committee by a vote of the majority of the Board of County Commission members.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:
Committees/Boards/Commissions/Examiners

CODE NUMBER:
AC-2-1

TITLE:
Guidelines Regarding Responsibilities of the
Municipal Services Taxing and Benefit Unit
Advisory Committees

ADOPTED:
9/28/83

AMENDED:
8/31/94

ORIGINATING DEPARTMENT:
PUBLIC RESOURCES

PURPOSE/SCOPE:

To set forth the responsibilities of the Municipal Services Taxing and Benefit Unit Advisory Committees.

POLICY/PROCEDURE:

I. RESPONSIBILITIES OF THE LEE COUNTY COMMISSION:

- A. To appoint five members to the Advisory Committee selected from property owners residing in the Unit.
- B. To provide staff to assist the Committee in carrying out its responsibilities.
- C. To receive and consider recommendations from the Committee. For example, any proposed budgeted expenditures.
- D. To adopt a budget for the Unit Fund.
- E. To collect sufficient funds via property taxes or special assessments to fund the budget.

II. RESPONSIBILITIES OF THE ADVISORY COMMITTEE:

- A. To elect a Chair and Vice Chair from the members of the Committee. The Chair shall appoint from the membership one person to act as Secretary. The Secretary shall sign all minutes along with the Chair and submit to the County within ten working days after each meeting.
- B. To establish rules and conduct orderly meetings.
- C. To review and monitor the annual budget and related expenditures.
- D. To make recommendations to the County for expenditure of the funds within their budget in accordance with the Board of County Commissioners proved purchasing guidelines.
- E. To make recommendations to the Lee County Commission regarding the annual proposed budgets.

III. GENERAL INFORMATION:

Meetings will be called by the Chair of the Committee, or by the Board of County Commissioners or Staff Designee.

All meetings will be open to the public. Notice of meetings must be made seven days prior to the meeting through a notice in a newspaper of general circulation.

- B. All meetings will be conducted in a professional manner.

- C. The Secretary will record the proceedings of each meeting. These records will become the Official Records of the Committee. The original will be retained by the Secretary and one copy will be submitted to the office designated by the County administrator the Unit.
- D. A member of any Board, Committee or Commission may not participate in the consideration of any matter in which the member has a private, financial or personal interest, if that interest would conflict with the member's impartial performance of public duties.
- E. On each Committee, one-half of the Committee will be appointed for a term of one year and the remainder of the Committee for two years. All subsequent appointments after the Committee has been functioning for one full year will be for a two-year term.
- F. The County Manager, or designee, will be responsible for maintaining an accurate and up-to-date roster of all Committees and their respective members and will advise the Board of County Commissioners of the expiration of the term of a Committee member prior to such expiration.
- G. The County Commission will fill any vacancies by appointment.
- H. The Board of County Commissioners is authorized to dissolve Committees; or rescind an appointment to a Committee by a vote of the majority of the Board of County Commission members.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Committees/Boards/ <u>Councils</u> /Commissions/ Examiners	CODE NUMBER: AC-2-3
TITLE: Advisory Committees, Boards or <u>and</u> Commissions	ADOPTED: 07-30-86
	AMENDED: 12-09-92; 08-31-94
	ORIGINATING DEPARTMENT: Public Resources

PURPOSE/SCOPE:

To establish procedures for creation and function of Advisory Committees, Boards, Councils, Examiners and or Commissions.

POLICY/PROCEDURE:

The Board of County Commissioners shall have the power to designate and create Advisory Committees, Boards, Councils, Examiners or Commissions (jointly referred to in this code as Advisory Groups) by Ordinance, Resolution, Board Action, Administrative Code, Interlocal Agreement, or Florida Statute, as may be necessary for the administration of the affairs of the County and shall provide for their duties and powers in said Ordinance, Resolution, Board Action, Administrative Code, Interlocal Agreement, or Florida Statute. Lee County, an equal opportunity/affirmative action employer, considers the selection and appointment of persons to advisory committees in a non-discriminatory manner consistent with the requirements of Federal, State and Local non-discrimination laws.

The Board of County Commissioners is authorized to dissolve Standing ~~Committees, Boards, Councils or Commissions~~ Advisory Groups or rescind an appointment to a an ~~Advisory Committee, Board, Councils or Commission~~ Advisory Group by a vote of the majority of the Board of County Commission members.

Each ~~Advisory Committee, Board, Council or Commission~~ Advisory Group shall have an anniversary month that shall be the month in which the Board of County Commissioners created the ~~Advisory Committee, Board, Council or Commission~~ Advisory Groups unless specified otherwise.

Members of the ~~Advisory Committees, Boards or Commissions~~ Advisory Groups shall serve without compensation unless otherwise specified. A County staff member, designated by the commissioner, will be appointed as County Liaison to the ~~Advisory Committee, Board or Commission~~ Advisory Groups and will assist the ~~Advisory Committee, Board or Commission~~ as appropriate. Applications to serve on a Lee County ~~Advisory Committee, Board or Commission~~ Advisory Group can be obtained from the Public Resources Division, First Floor, 2115 Second Street, Fort Myers, by mail from the Public Resources Division, P. O. Box 398, Fort Myers or by calling 239-335-2269. Applications are also available on our website at www.lee-county.com

The Public Resources Division shall be responsible for maintaining an accurate and up-to-date roster of all ~~Advisory Committees, Boards and Commissions~~ Advisory Groups, their respective members and shall advise the Board of County Commissioners prior to the expiration of any term of appointment.

No member of any ~~Advisory Committee, Board or Commission~~ Advisory Group, whether paid or unpaid, shall have any financial or personal interest in the outcome of any matter coming before such member in their official capacity. Such member shall disclose in the records of the ~~Advisory Committee, Board or Commission~~ Advisory Group or to the County Manager, the existence of an interest therein and shall disqualify themselves from voting or action on such matters.

All ~~Advisory Committees, Boards and Commissions~~ Advisory Groups shall fall into the following categories:

~~STANDING ADVISORY COMMITTEES, BOARDS OR COMMISSIONS~~ ADVISORY GROUP

The ~~Standing Advisory Committees, Boards or Commissions~~ Advisory Group shall function in an advisory capacity that serves on a continual basis for on-going projects and programs.

~~SPECIAL ADVISORY COMMITTEES, BOARDS OR COMMISSIONS~~ ADVISORY GROUP

From time to time, the Board of County Commissioners may desire to have a special project or program studied. ~~Special Advisory Committees, Boards or Commissions~~ Advisory Groups serve until the assignment is completed. The Board of County Commissioners, at their discretion, may request the ~~Special Advisory Committee, Board or Commission~~ Advisory Group to continue after a report is filed for additional study or collection of additional data. However, if it appears that this ~~Special Advisory Committee, Board or Commission~~ Advisory Group will function for a period of over one year, the ~~Special Advisory Committee, Board or Commission~~ Advisory Group would be made a Standing Committee.

~~ESTABLISHING AN ADVISORY COMMITTEE, BOARD OR COMMISSION~~ ADVISORY GROUP:

When establishing a new ~~Advisory Committee, Board or Commission~~ Advisory Group, the originating document shall specify the following: (See Checklist-Attachment 1)

- Category
- Committee Name
- Number of Members
- How Appointed
- Length of Term
- Form 1 Financial Disclosure Requirement
- Anniversary Month (if different from the month established)
- County Liaison Name
- County Liaison Department/Division
- County Liaison Phone Number
- Sunset Date (if applicable)

Purpose

Upon the establishment of an ~~Standing Advisory Committee, Board or Commission~~ **Advisory Group**, one-half of the ~~Advisory Committee, Board or Commission~~ **Advisory Group** will be appointed for one year and one half of the ~~Advisory Committee, Board or Commission~~ will be appointed for two years commencing with the anniversary month of the ~~Advisory Committee, Board or Commission~~. Odd numbered members, such as an ~~Advisory Committee, Board or Commission~~ **Advisory Group** with nine members, shall be appointed for the term that will allow the expiration in an odd year. Even numbered members, **such as** with ten members, shall be appointed for the term that will allow the expiration in an even year. All appointments after the ~~Advisory Committee, Board or Commission~~ **Advisory Group** has functioned for one year shall be for the length of term specified in the establishing document.

The Board of County Commissioners will periodically review the purpose, function, membership and continued need for the ~~Advisory Committees, Boards or Commissions~~ **Advisory Group** at regular intervals. The date for this "sunset" review will be established by the Board of County Commissioners.

ORGANIZATION OF ADVISORY COMMITTEES, BOARDS OR COMMISSIONS

All ~~Advisory Committees, Boards or Commissions~~ **Advisory Groups** supporting departmental functions shall be organized as follows:

- (A) Roberts Rules of Order shall govern the proceedings of all meetings.
- (B) The Board of County Commissioners will fill any vacancies.
- (C) A Chair and Vice Chair shall be elected by the other members of the Advisory Committee, Board or Commission.
- (D) The Chair shall appoint, from the **committee** membership, one member to act as Secretary, who shall, with the Chair, sign all minutes.
- (E) Meetings shall be called by the Chair, by the Board of County Commissioners, and/or the County Staff Liaison.
- (F) The Secretary shall record the proceedings of each meeting. ~~These records shall be typed in the supporting department/division.~~ **Draft Minutes should be marked "draft", signed by the Secretary and Chair and forwarded to the County Staff Liaison and Public Resources Division within two (2) weeks of the meeting. Approved Minutes should be marked "Approved", signed by the Secretary and Chairman and forwarded to the County liaison and the Public Resources Division ten (1) days following approval.** These records shall become Official Records of the ~~Advisory Committee, Board or Commission~~ **Advisory Groups** and a copy shall be distributed to the following:

Committee Chairperson
County Staff Liaison
Public Resources Division

- (G) All meetings of the committee are open to the public, must be held where there is reasonable public access and sufficient notice of each meeting must be provided by:

AC-2-3 (Continued)

- 1) Advertisement in a paper of general circulation, **or**
- 2) Posting notice in the County Administration Building Lobby, 2115 Second Street, Fort Myers, Florida or **by sending** a notice to the Public Resources Division, PO Box 398, Fort Myers, Florida 33902 for posting.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:
Committees/Boards/Councils/Commissions/
Examiners

CODE NUMBER:
AC-2-3

TITLE:
Advisory Committees, Boards and
Commissions

ADOPTED:
07-30-86

AMENDED:
12-09-92; 08-31-94

ORIGINATING DEPARTMENT:
Public Resources

PURPOSE/SCOPE:

To establish procedures for creation and function of Advisory Committees, Boards, Councils, Examiners or Commissions.

POLICY/PROCEDURE:

The Board of County Commissioners shall have the power to designate and create Advisory Committees, Boards, Councils, Examiners or Commissions (jointly referred to in this code as Advisory Groups) by Ordinance, Resolution, Board Action, Administrative Code, Interlocal Agreement, or Florida Statute, as may be necessary for the administration of the affairs of the County and shall provide for their duties and powers in said Ordinance, Resolution, Board Action, Administrative Code, Interlocal Agreement, or Florida Statute. Lee County, an equal opportunity/affirmative action employer, considers the selection and appointment of persons to advisory committees in a non-discriminatory manner consistent with the requirements of Federal, State and Local non-discrimination laws.

The Board of County Commissioners is authorized to dissolve Standing Advisory Groups or rescind an appointment to an Advisory Group by a vote of the majority of the Board of County Commission members.

Each Advisory Group shall have an anniversary month that shall be the month in which the Board of County Commissioners created the Advisory Groups unless specified otherwise.

Members of the Advisory Groups shall serve without compensation unless otherwise specified. A County staff member, designated by the commissioner, will be appointed as County Liaison to the Advisory Groups and will assist as appropriate. Applications to serve on a Lee County Advisory Group can be obtained from the Public Resources Division, First Floor, 2115 Second Street, Fort Myers, by mail from the Public Resources Division, P. O. Box 398, Fort Myers or by calling 239-335-2269. Applications are also available on our website at www.lee-county.com

AC-2-3 (Continued)

The Public Resources Division shall be responsible for maintaining an accurate and up-to-date roster of all Advisory Groups, their respective members and shall advise the Board of County Commissioners prior to the expiration of any term of appointment.

No member of any Advisory Group, whether paid or unpaid, shall have any financial or personal interest in the outcome of any matter coming before such member in their official capacity. Such member shall disclose in the records of the Advisory Group, the existence of an interest therein and shall disqualify themselves from voting or action on such matters.

All Advisory Groups shall fall into the following categories:

STANDING ADVISORY GROUP

The Standing Advisory Group shall function in an advisory capacity that serves on a continual basis for on-going projects and programs.

SPECIAL ADVISORY GROUP

From time to time, the Board of County Commissioners may desire to have a special project or program studied. Special Advisory Groups serve until the assignment is completed. The Board of County Commissioners, at their discretion, may request the Special Advisory Group to continue after a report is filed for additional study or collection of additional data. However, if it appears that this Special Advisory Group will function for a period of over one year, the Special Advisory Group would be made a Standing Committee.

ESTABLISHING AN ADVISORY GROUP:

When establishing a new Advisory Group, the originating document shall specify the following:
(See Checklist-Attachment 1)

- Category
- Committee Name
- Number of Members
- How Appointed
- Length of Term
- Form 1 Financial Disclosure Requirement
- Anniversary Month (if different from the month established)
- County Liaison Name
- County Liaison Department/Division
- County Liaison Phone Number
- Sunset Date (if applicable)
- Purpose

Upon the establishment of an Advisory Group, one-half of the Advisory Group will be appointed for one year and one half will be appointed for two years commencing with the anniversary month. Odd numbered members, such as an Advisory Group with nine members, shall be appointed for the term that will allow the expiration in an odd year. Even numbered members, such as ten members, shall be appointed for the term that will allow the expiration in an even year. All appointments after the Advisory Group has functioned for one year shall be for the length of term specified in the establishing document.

AC-2-3 (Continued)

The Board of County Commissioners will periodically review the purpose, function, membership and continued need for the Advisory Group at regular intervals. The date for this "sunset" review will be established by the Board of County Commissioners.

ORGANIZATION OF ADVISORY COMMITTEES, BOARDS OR COMMISSIONS

All Advisory Groups shall be organized as follows:

- (A) Roberts Rules of Order shall govern the proceedings of all meetings.
- (B) The Board of County Commissioners will fill any vacancies.
- (C) A Chair and Vice Chair shall be elected by the other members of the Advisory Committee, Board or Commission.
- (D) The Chair shall appoint, from the committee membership, one member to act as Secretary, who shall, with the Chair, sign all minutes.
- (E) Meetings shall be called by the Chair, by the Board of County Commissioners, and/or the County Staff Liaison.
- (F) The Secretary shall record the proceedings of each meeting. Draft Minutes should be marked "draft", signed by the Secretary and Chair and forwarded to the County Staff Liaison and Public Resources Division within two (2) weeks of the meeting. Approved Minutes should be marked "Approved", signed by the Secretary and Chairman and forwarded to the County liaison and the Public Resources Division ten (1) days following approval. These records shall become Official Records of the Advisory Groups and a copy shall be distributed to the following:

Committee Chairperson
County Staff Liaison
Public Resources Division

- (G) All meetings of the committee are open to the public, must be held where there is reasonable public access and sufficient notice of each meeting must be provided by:
 - 1) Advertisement in a paper of general circulation, or
 - 2) Posting notice in the County Administration Building Lobby, 2115 Second Street, Fort Myers, Florida or by sending a notice to the Public Resources Division, PO Box 398, Fort Myers, Florida 33902 for posting.

ATTACHMENT 1

NEW COMMITTEE CHECKLIST:

ESTABLISHED BY: (CHECK ONE AND ATTACH ESTABLISHING DOCUMENT (SEE BELOW))

- ORDINANCE
- RESOLUTION
- BOARD ACTION
- ADMINISTRATIVE CODE
- INTERLOCAL AGREEMENT
- FLORIDA STATUTE
- OTHER

ESTABLISHING DOCUMENT SHALL CONTAIN THE FOLLOWING:

CATEGORY: (CHECK ONE)

- STANDING
- SPECIAL
- (WITH ESTABLISHED SUNSET DATE)

COMMITTEE NAME

NUMBER OF MEMBERS

HOW APPOINTED:

- AT LARGE
(CAN BE APPOINTED BY ANY COMMISSIONER)
- AT LARGE/AT LARGE BY CATEGORY
(CAN BE APPOINTED BY ANY COMMISSIONER
CAN BE APPOINTED BY ANY COMMISSIONER AND
MUST QUALIFY FOR THE LISTED CATEGORY*)
- CATEGORY
(MUST QUALIFY FOR THE LISTED CATEGORY*)
- DISTRICT SENSITIVE
(CAN ONLY BE APPOINTED BY SPECIFIED
DISTRICT COMMISSIONER)
- DISTRICT SENSITIVE/AT LARGE BY CATEGORY/
AT LARGE
(CAN ONLY BE APPOINTED BY SPECIFIED
DISTRICT COMMISSIONER*
CAN BE APPOINTED BY ANY COMMISSIONER AND
MUST QUALIFY FOR THE LISTED CATEGORY*
CAN BE APPOINTED BY ANY COMMISSIONER)

DISTRICT SENSITIVE/BY CATEGORY
(CAN ONLY BE APPOINTED BY SPECIFIED
DISTRICT COMMISSIONER AND MUST QUALIFY
FOR THE LISTED CATEGORY*)

DISTRICT SENSITIVE/DISTRICT ROTATING
(CAN ONLY BE APPOINTED BY SPECIFIED
DISTRICT COMMISSIONER*
ROTATES BETWEEN COMMISSION DISTRICTS
LIST SCHEDULE OF APPOINTMENTS)

AT LARGE/CITY ROTATING
(CAN BY APPOINTED BY ANY COMMISSIONER BUT
MUST FOLLOW ROTATING CITY APPOINTMENT
SCHEDULE
LIST SCHEDULE OF APPOINTMENTS)

NOT BOARD APPOINTED

OTHER

***LIST CATEGORIES AND DISTRICT SPECIFIC APPOINTMENTS**

LENGTH OF TERM _____ YEARS

FORM 1 FINANCIAL DISCLOSURE REQUIRED:

YES
NO

ANNIVERSARY MONTH _____
(IF DIFFERENT FROM THE MONTH ESTABLISHED)

COUNTY LIAISON NAME _____

LIAISON DEPARTMENT/DIVISION _____

LIAISON PHONE NUMBER _____

SUNSET DATE (IF APPLICABLE) _____

PURPOSE:

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Committees/Boards/Commissions/Examiners	CODE NUMBER: AC-2-4
TITLE: Preparation of the Record Pursuant to Appeal of a Code Enforcement Hearing Examiner Decision	ADOPTED: 3/8/95
	AMENDED: 7/12/95
	ORIGINATING DEPARTMENT: County Attorney

PURPOSE/SCOPE:

The purpose of this code is to provide guidance to the custodian of the record with respect to preparation of the record in the event a decision rendered by the Hearing Examiner is appealed to the circuit court.

POLICY/PROCEDURE:

A statutory right to appeal the decision of the Code Enforcement Hearing Examiner to the circuit court exists pursuant to F.S. §162.11. Any such appeal must be filed in accordance with Rules 9.110 and 9.200 of the Florida Rules of Appellate Procedure.

A. Definitions

1. Appeal. For purposes of this code "appeal" means resort to the circuit court for relief from a decision of the Lee County Code Enforcement Hearing Examiner.
2. Appellant. The party filing the Notice of Appeal and who desires to see a reversal of the Hearing Examiner decision. In most instances the appellant will be the respondent in the code enforcement case.
3. Appellee. The party having an interest in preserving the Hearing Examiner's decision and against whom the appeal is taken. In most instances this will be the County.
4. Custodian. The custodian of the records in Code Enforcement proceedings is the Department of Community Development.
5. FRAP. Florida Rules of Appellate Procedure.
6. Record. In accordance with FRAP Rule 9.200, the record consists of the original documents, exhibits etc. presented to the Hearing Examiner during the course of the code enforcement hearing and all orders rendered by the Hearing Examiner. As all code enforcement hearings are recorded, a copy of the recording will also be considered part of the official record.
7. Rendered. For purposes of this code, the date the order is "rendered" will be on the date it is reduced to writing, dated and signed by the Hearing Examiner.

B. Time for Preparation

1. Notice of Appeal

A Notice of Appeal must be filed by the aggrieved party within 30 days of the date the Hearing Examiner's order is rendered. The notice must be filed with the circuit court in the form prescribed by FRAP Rules 9.110 and 9.990(a). A copy of the Notice of Appeal must be furnished to the Department of Community Development/Code Enforcement, the County Attorney's Office and the Office of the Hearing Examiner.

AC-2-4 (Continued)

2. Index

FRAP Rule 9.110(e) provides that the custodian must prepare the record and provide all parties with a copy of the index to the record within 50 days from the date the Notice of Appeal is properly filed. Prior to commencing creation of the index, the custodian should contact the Litigation section of the County Attorney's Office to determine whether the Notice of Appeal is properly filed.

3. Filing with the Circuit Court

In accordance with FRAP, a complete copy of the record must be filed with the circuit court within 110 days from the date the Notice of Appeal is properly filed. Again, the Litigation section should be consulted prior to transmission of the record to determine whether the case is scheduled to go forward.

C. Designation as to Contents of the Record

1. Written Record

If the Notice of Appeal is properly filed, the custodian will be responsible for preparation of the record. No further request is required of the Appellant, unless the Appellant seeks to limit the contents of the record.

In the event the Appellant seeks to limit the record by designating particular documents for inclusion or exclusion, a written request specifying the documents and exhibits for inclusion or exclusion must be submitted to the custodian within 10 days of the filing of the Notice of Appeal. A copy of this request must be furnished to the County Attorney's office. If a request is made to transmit less than the entire record, the Appellee will have 20 days from the date the Notice of Appeal is filed to include additional documents or exhibits.

2. Transcript of the proceedings.

A transcript of the proceedings derived from the recording will not be prepared unless requested by one of the parties.

Any request for a transcript of the recording or portion thereof, must be made in writing to the custodian within 20 days of the filing of the Notice of Appeal. This request must provide a designation as to the provider of the transcription service and the portions of the recording to be transcribed. Within ten (10) days of receiving this request the custodian will furnish a certified copy of the official recording, along with the written transcription request, to the designated provider of the transcription service. It will be the responsibility of the party requesting the transcript to alert the transcription service that the recording will arrive in this manner.

If a party requests only a partial transcript, the opposing party will have 10 days from the date of the transcript request to designate additional portions of the proceedings to be transcribed.

Within 30 days of the transcription request, or within additional time as provided for in FRAP Rule 9.200, the reporter will deliver a copy of the transcript to the custodian.

The transcript must be bound in volumes of 200 pages or less. Each volume must have an index containing the names of the witnesses, a list of all exhibits offered and introduced into evidence and the pages where each may be found.

The cost of transcription will initially be born by the party requesting the transcript. Payment for the cost of the transcription will be made directly to the provider of the transcription service.

D. Preparation and Transmission of the Record

1. Preparation of the Record:

To follow are general directions on compiling the record. The custodian is responsible for the actual preparation of the record. In the event a question arises concerning the preparation, the Office of the County Attorney should be consulted.

AC-2-4 (Continued)

a. Upon receipt of any transcript received from the reporter, the custodian will number each page consecutively, starting with the index to the transcript. The custodian will not be responsible for verification of the contents of the transcript.

b. The balance of the documents and exhibits will then be compiled and numbered consecutively continuing with the sequence begun with the transcript. The documents should be ordered in a manner substantially similar to the following:

- (1) Notice of Violation
- (2) Proof of Service of Notice of Violation
- (3) Notice of Hearing
- (4) Proof of service of Notice of Hearing
- (5) Photographic Evidence (Usually County Exhibit 1)
- (6) County Exhibits (these should be listed separately and specifically identified)
- (7) Respondent Exhibits (these should be listed separately and specifically identified)
- (8) Order or orders rendered by the Hearing Examiner
- (9) Notice of Appeal

c. The above documentation should then be bound in volumes of no more than 200 pages and an index prepared for each volume. (Prior to binding this information a copy of all documentation is to be made and kept by the custodian until the circuit court returns the original record on appeal.) A sample index is attached hereto for reference. The first entry on the index should be the recording, followed by the transcript and then the written record. An index must be prepared for each separate volume. (Note, each volume should be bound in a fashion similar to a spiral notebook. The County duplicating department or the County Attorney's Office can assist with binding the documents.)

d. At the end of the index the custodian must provide a certification as to the contents of the record. The certification should be acknowledged before a notary and in the following form: "I hereby certify, as agent of the Lee County Department of Community Development/Code Enforcement, the office to whose custody the records are entrusted, that the foregoing represents the official record of these proceedings and consists of __ pages". Only one certification is necessary. The certification document should be placed after the last index page in the final volume.

2. Transmittal of the Record

a. In accordance with FRAP Rule 9.110, the custodian is responsible to transmit a copy of the index only to the parties (Appellant and Appellee) within 50 days of the filing of the Notice of Appeal. In the event a party requests a copy of the entire record or a portion thereof, the custodian may compile and transmit the items requested and charge the party accordingly.

b. The entire record, including the recording and all bound volumes must be transmitted to the circuit court within 110 days of the filing of the Notice of Appeal. This should be accomplished by the custodian through delivery to the Appeals Division of the Circuit Court located on the second floor of the Lee County Justice Center.

E. Duty of Appellant

In accordance with FRAP Rule 9.200 (e), the burden to ensure that the record is prepared and transmitted to the circuit court rests with the appellant.

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA

LINDA WHITEHEAD SEARS,
Appellant,

vs.

Hearing Examiner Case # 93-564
Appeal Case No. 94-355 CA/RWP

LEE COUNTY, a political
subdivision of the State
of Florida,

Appellee.

ORIGINAL RECORD ON APPEAL

VOLUME I

Hearing Examiner:
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Lee County Hearing Examiner

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Law Offices of Robert L. Donald
11930 Fairway Lakes Drive
Fort Myers, Florida 33913
Co-Counsel for Appellant

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Attorney for Appellee

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Post Office Drawer 1507
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Co-Counsel for Appellant

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LEE COUNTY DIVISION OF CODES
AND BUILDING SERVICES

By: [Signature]
Custodian of the Records

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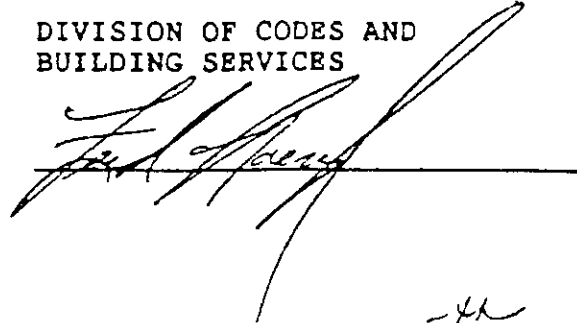
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I HEREBY CERTIFY, as agent of the Lee County Division of Codes and Building Services, the office to whose custody the records are entrusted, that the foregoing represents the official record of these proceedings.

DIVISION OF CODES AND
BUILDING SERVICES

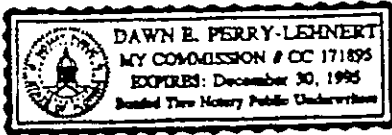
By: _____



STATE OF FLORIDA
COUNTY OF LEE

The foregoing was acknowledged before me on the 5th day of May, 1994 by Fred Roenigk, Code Enforcement Officer II, who is personally known to me.

Notary Public



**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Committees/Boards/Commissions/Examiners	CODE NUMBER: AC-2-4
TITLE: Preparation of the Record Pursuant to Appeal of a Code Enforcement Hearing Examiner Decision	ADOPTED: 3/8/95
	AMENDED: 7/12/95
	ORIGINATING DEPARTMENT: County Attorney

PURPOSE/SCOPE:

The purpose of this code is to provide guidance to the custodian of the record with respect to preparation of the record in the event a decision rendered by the Hearing Examiner is appealed to the circuit court.

POLICY/PROCEDURE:

A statutory right to appeal the decision of the Code Enforcement Hearing Examiner to the circuit court exists pursuant to F.S. §162.11. Any such appeal must be filed in accordance with Rules 9.110 and 9.200 of the Florida Rules of Appellate Procedure.

A. Definitions

1. Appeal. For purposes of this code "appeal" means resort to the circuit court for relief from a decision of the Lee County Code Enforcement Hearing Examiner.
2. Appellant. The party filing the Notice of Appeal and who desires to see a reversal of the Hearing Examiner decision. In most instances the appellant will be the respondent in the code enforcement case.
3. Appellee. The party having an interest in preserving the Hearing Examiner's decision and against whom the appeal is taken. In most instances this will be the County.
4. Custodian. The custodian of the records in Code Enforcement proceedings is the ~~Division of Codes and Building Services, Section of~~ Department of Community Development/Code Enforcement.
5. FRAP. Florida Rules of Appellate Procedure.
6. Record. In accordance with FRAP Rule 9.200, the record consists of the original documents, exhibits etc. presented to the Hearing Examiner during the course of the code enforcement hearing and all orders rendered by the Hearing Examiner. As all code enforcement hearings are recorded, a copy of the recording will also be considered part of the official record.
7. Rendered. For purposes of this code, the date the order is "rendered" will be ~~the date of the public hearing during which an oral decision is made by the Hearing Examiner. If, in an exceptional case, the Hearing Examiner takes the case under advisement, the order will be deemed rendered on the date it is reduced to writing, dated and signed by the Hearing Examiner.~~

B. Time for Preparation

1. Notice of Appeal
A Notice of Appeal must be filed by the aggrieved party within 30 days of the date the Hearing Examiner's

order is rendered. The notice must be filed with the circuit court in the form prescribed by FRAP Rules 9.110 and 9.990(a). A copy of the Notice of Appeal must be furnished to the ~~Code Enforcement Section of the Division of Codes and Building Services~~ Department of Community Development/Code Enforcement, the County Attorney's Office and the Office of the Hearing Examiner.

2. Index

FRAP Rule 9.110(e) provides that the custodian must prepare the record and provide all parties with a copy of the index to the record within 50 days from the date the Notice of Appeal is properly filed. Prior to commencing creation of the index, the custodian should contact the Litigation section of the County Attorney's Office to determine whether the Notice of Appeal is properly filed.

3. Filing with the Circuit Court

In accordance with FRAP, a complete copy of the record must be filed with the circuit court within 110 days from the date the Notice of Appeal is properly filed. Again, the Litigation section should be consulted prior to transmission of the record to determine whether the case is scheduled to go forward.

C. Designation as to Contents of the Record

1. Written Record

If the Notice of Appeal is properly filed, the custodian will be responsible for preparation of the record. No further request is required of the Appellant, unless the Appellant seeks to limit the contents of the record.

In the event the Appellant seeks to limit the record by designating particular documents for inclusion or exclusion, a written request specifying the documents and exhibits for inclusion or exclusion must be submitted to the custodian within 10 days of the filing of the Notice of Appeal. A copy of this request must be furnished to the County Attorney's office. If a request is made to transmit less than the entire record, the Appellee will have 20 days from the date the Notice of Appeal is filed to include additional documents or exhibits.

2. Transcript of the proceedings.

A transcript of the proceedings derived from the recording will not be prepared unless requested by one of the parties.

Any request for a transcript of the recording or portion thereof, must be made in writing to the custodian within 20 days of the filing of the Notice of Appeal. This request must provide a designation as to the provider of the transcription service and the portions of the recording to be transcribed. Within ten (10) days of receiving this request the custodian will furnish a certified copy of the official recording, along with the written transcription request, to the designated provider of the transcription service. It will be the responsibility of the party requesting the transcript to alert the transcription service that the recording will arrive in this manner.

If a party requests only a partial transcript, the opposing party will have 10 days from the date of the transcript request to designate additional portions of the proceedings to be transcribed.

Within 30 days of the transcription request, or within additional time as provided for in FRAP Rule 9.200, the reporter will deliver a copy of the transcript to the custodian.

The transcript must be bound in volumes of 200 pages or less. Each volume must have an index containing the names of the witnesses, a list of all exhibits offered and introduced into evidence and the pages where each may be found.

The cost of transcription will initially be born by the party requesting the transcript. Payment for the cost of the transcription will be made directly to the provider of the transcription service.

D. Preparation and Transmission of the Record

1. Preparation of the Record:

To follow are general directions on compiling the record. The custodian is responsible for the actual preparation of the record. In the event a question arises concerning the preparation, the Office of the County

Attorney should be consulted.

a. Upon receipt of any transcript received from the reporter, the custodian will number each page consecutively, starting with the index to the transcript. The custodian will not be responsible for verification of the contents of the transcript.

b. The balance of the documents and exhibits will then be compiled and numbered consecutively continuing with the sequence begun with the transcript. The documents should be ordered in a manner substantially similar to the following:

- (1) Notice of Violation
- (2) Proof of Service of Notice of Violation
- (3) Notice of Hearing
- (4) Proof of service of Notice of Hearing
- (5) Photographic Evidence (Usually County Exhibit 1)
- (6) County Exhibits (these should be listed separately and specifically identified)
- (7) Respondent Exhibits (these should be listed separately and specifically identified)
- (8) Order or orders rendered by the Hearing Examiner
- (9) Notice of Appeal

c. The above documentation should then be bound in volumes of no more than 200 pages and an index prepared for each volume. (Prior to binding this information a copy of all documentation is to be made and kept by the custodian until the circuit court returns the original record on appeal.) A sample index is attached hereto for reference. The first entry on the index should be the recording, followed by the transcript and then the written record. An index must be prepared for each separate volume. (Note, each volume should be bound in a fashion similar to a spiral notebook. The County duplicating department or the County Attorney's Office can assist with binding the documents.)

d. At the end of the index the custodian must provide a certification as to the contents of the record. The certification should be acknowledged before a notary and in the following form: "I hereby certify, as agent of the Lee County ~~Division of Codes and Building Services~~ Department of Community Development/Code Enforcement, the office to whose custody the records are entrusted, that the foregoing represents the official record of these proceedings and consists of _ pages". Only one certification is necessary. The certification document should be placed after the last index page in the final volume.

2. Transmittal of the Record

a. In accordance with FRAP Rule 9.110, the custodian is responsible to transmit a copy of the index only to the parties (Appellant and Appellee) within 50 days of the filing of the Notice of Appeal. In the event a party requests a copy of the entire record or a portion thereof, the custodian may compile and transmit the items requested and charge the party accordingly.

b. The entire record, including the recording and all bound volumes must be transmitted to the circuit court within 110 days of the filing of the Notice of Appeal. This should be accomplished by the custodian through delivery to the Appeals Division of the Circuit Court located on the second floor of the Lee County Justice Center.

E. Duty of Appellant

In accordance with FRAP Rule 9.200 (e), the burden to ensure that the record is prepared and transmitted to the circuit court rests with the appellant.

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37.	Notice of Appeal	419-420

I HEREBY CERTIFY, as agent of the Lee County Division of Codes and Building Services, the office to whose custody the records are entrusted, that the foregoing represents the official record of these proceedings.

DIVISION OF CODES AND BUILDING SERVICES

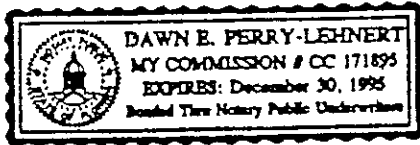
By:

[Handwritten signature]

STATE OF FLORIDA
COUNTY OF LEE

The foregoing was acknowledged before me on the 5th day of May, 1994 by Fred Roenigk, Code Enforcement Officer II, who is personally known to me.

[Handwritten signature]
Notary Public



ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS

CATEGORY:

COMMITTEES/BOARDS/COMMISSIONS/EXAMINING

CODE NUMBER:

2-9

TITLE:

Preparation of Appendix or Record in
Certiorari Proceedings

ADOPTED:

3/8/95

AMENDED:

ORIGINATING DEPARTMENT:

County Attorney's Office

PURPOSE/SCOPE:

The purpose of this code is to provide the Lee County Custodian of the record with guidelines for the preparation of an appendix or record in the event a Petition for Writ of Certiorari is filed.

POLICY/PROCEDURE:

A. Policy

In instances where a statutory right of appeal is not prescribed, decisions of the Lee County Hearing Examiner and the Board of County Commissioners may only be challenged by filing a Petition for Writ of Certiorari with the circuit court. Examples of decisions that are "appealable" by Petition for Writ of Certiorari include, but are not limited to, administrative appeal decisions, zoning decisions and decisions regarding variances, and special exceptions and special permits.

B. Procedure

1. Definitions

a. Appeal. For purposes of this code, "appeal" means resort to the circuit court for relief from a decision of the Lee County Hearing Examiner or the Board by Petition for Writ of Certiorari.

b. Appendix. A compilation of parts of the record of the proceedings which is indexed and attached to a pleading filed with the circuit court in accordance with FRAP Rule 9.220.

c. Board. Lee County Board of County Commissioners.

d. Custodian. The custodian of the record is the Lee County Department responsible for scheduling the initial hearing before the Hearing Examiner or the Board. For example, the Department of Community Development, Zoning Division, is the custodian of the record for zoning and variance proceedings.

e. FRAP. Florida Rules of Appellate Procedure.

f. Petitioner. The party filing the Petition for Writ of Certiorari who desires to see a reversal of the underlying decision. In most instances the petitioner will be the applicant in a zoning, variance or administrative hearing.

g. Record. In accordance with FRAP Rule 9.200, the record consists of the original documents, exhibits etc. presented to the Hearing Examiner or Board during the Hearing. It also includes any written decision rendered by the Hearing Examiner or Board.

(Continued)

h. Rendition or rendered. For purposes of this code, "rendition" or "rendered" have the meaning ascribed pursuant to LDC §§ 34-84 and 34-146. (ie., BOCC decisions are rendered on the date of the public hearing during which a decision is made by oral motion; a Hearing Examiner decision is rendered on the date it is reduced to writing, dated and signed.)

i. Respondent. The party having an interest in preserving the decision of the Hearing Examiner or the Board. In most instances this party will be the County.

2. Time for Preparation.

a. Petition for Writ of Certiorari

In accordance with FRAP Rule 9.100, a Petition for Writ of Certiorari must be filed with the circuit court within 30 days of rendition of the order to be reviewed. The form of the petition is outlined in FRAP Rule 9.100(e). A copy of the Petition must also be furnished to the County Attorney's Office within this 30 day period.

b. Record

FRAP Rule 9.100 ~~(g)~~ (i) specifically states that a record of the proceedings will not be transmitted to the circuit court unless ordered by the circuit court.

In the event the circuit court requests transmission of the record, the preparation and transmission must be done in accordance with the court's order. (Guidance with respect to the contents of the record can be obtained from the administrative code dealing with preparation of the record in Code Enforcement cases.)

c. Appendix

(1) Preparation of an Appendix by the custodian is necessary only if requested by the County Attorney's Office. If an appendix is requested, the County Attorney must designate the necessary contents.

(2) Once the contents for the appendix have been gathered, the custodian should number each page of the appendix and create an index or table of contents.

(3) If the original documents are submitted as part of the appendix, a copy of the appendix should be made by the custodian prior to releasing the documents to the County Attorney's Office.

(4) The County Attorney will establish the time frame for preparation of the appendix.

(5) The custodian is not responsible for the creation of an appendix for any party other than the County. If someone other than the County requests a copy of the record, the custodian is to make the records available and charge for copies of documents accordingly.

d. Transcript of the Proceedings.

A transcript of the subject proceedings will not be prepared unless requested by one of the parties.

Any request for a transcript of the subject proceedings or portion thereof must be made in writing to the custodian within ten (10) days of the date the decision is rendered. This request must provide a designation as to the provider of the transcription service and the portions of the subject proceedings to be transcribed. Within five (5) days of receiving this request, the custodian will furnish a certified copy of the recording, along with the written transcription request, to the designated provider of the transcription service. It will be the responsibility of the party requesting the transcript to alert the transcription service that the recording will arrive in this manner.

The transcript must be bound in volumes of 200 pages or less. Each volume must have an index containing the names of the witnesses, a list of all exhibits offered and introduced into evidence and the pages where they may be found.

The cost of the transcript will initially be born by the party requesting the transcript. Payment for the cost of the transcription will be made directly to the provider of the transcription service.

The official recording of hearings before the Board of County Commissioners is the audio tape on file with the Lee County Clerk's Office.

The official recording of hearings before the Lee County Hearing Examiner (except code enforcement hearings) is produced by a court reporter and kept on file at Official Court Reporter which is located in the Lee County Justice Center.

**ADMINISTRATION CODE
BOARD OF COUNTY COMMISSIONERS**

**CATEGORY:
COMMITTEES/BOARDS/COMMISSIONS/
EXAMINING**

**CODE NUMBER:
AC-2-9**

**ADOPTED:
3/8/95**

**TITLE:
Preparation of Appendix or Record in Certiorari
Proceedings**

AMENDED:

**ORIGINATING DEPARTMENT:
County Attorney's Office**

PURPOSE/SCOPE:

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- f. Petitioner. The party filing the Petition for Writ of Certiorari who desires to see a reversal of the underlying decision. In most instances the petitioner will be the applicant in a zoning, variance or administrative hearing.
- g. Record. In accordance with FRAP Rule 9.200, the record consists of the original documents, exhibits etc. presented to the Hearing Examiner or Board during the Hearing. It also includes any written decision rendered by the Hearing Examiner or Board.

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**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: COMMITTEES/BOARDS/COMMISSIONS/EXAMINERS	CODE NUMBER: AC-2-13
TITLE: Administrative Procedure for retention of exhibits submitted during proceedings before the Lee County Hearing Examiner.	ADOPTED: 7/5/95
	AMENDED:
	ORIGINATING DEPARTMENT: County Attorney's Office

PURPOSE/SCOPE:

The purpose of this administrative code is to establish a procedure for the retention of exhibits submitted at all code enforcement cases, all zoning, variance, special permit and special exception cases, as well as all of the proceedings for administrative appeals heard before the Lee County Hearing Examiner. This code identifies the custodian of the record, sets forth the time and manner for retention of exhibits, and implements the relevant provisions of F.S. 257.36 and related Florida Administrative Code (FAC) rules. This procedure does not apply to visual aids displayed at public hearings before the Hearing Examiner intended for display or demonstration purposes only.

POLICY/PROCEDURE:

SECTION 1. DEFINITIONS

- 1.1 "Attachment" means those records included as an integral part of any staff report, code enforcement file or appellate request when they are submitted or presented to the Hearing Examiner's Office. Typically such records would be of letter or legal size and would be cross-referenced as an attachment. Examples would include reports from other staff departments, site location maps, or a map of local zoning classifications, etc.
- 1.2 "Case Files" means those documents that are the official records memorializing proceedings before the Hearing Examiner. For example, in Code Enforcement cases, the case file contains all orders finding violations, imposing fines, acknowledging compliance, mitigating fines or liens, etc., including any attachments and exhibits. In rezoning, variance and special permit or exception cases, the case file contains all hearing examiner orders recommending action to the Board of County Commissioners or rendering a final decision, including all attachments and exhibits. For administrative appeals, the case file contains all orders rendered by the Hearing Examiner including any attachments and exhibits.
- 1.3 "Custodian" means the person who has responsibility for retention of the record. The custodian for Code Enforcement files is the Code Enforcement ~~Section of the Division of Codes and Building Services~~ / Department of Community Development. (See AC 2-14, Rule 1.07(a)). The custodian for Zoning/Variance Hearing and Administrative Appeal case files is the Administrative Assistant in the Division of Zoning and Development Services designated by the Director of Community Development unless the department involved in the appeal is not Community Development, in which case the custodian will be the person(s) designated by the appropriate department's director.
- 1.4 "Duplicate record" means any material that is a duplicate, facsimile or likeness of a document that exists separately elsewhere in the same case file, and therefore, has no independent legal, fiscal, historical or administrative value.
- 1.5 "Exhibit" means any document marked or identified as an "exhibit," including but not limited to models, photographic reproductions, video or audio tapes, maps, aerial photographs, charts or other forms of demonstrative evidence that may be included as part of the official record in any proceeding before the Hearing Examiner. Exhibits typically are larger in size than a letter or legal sized page and may be a duplicate record,

supporting document or part of a case file.

- 1.6 "Non-Exhibits" means materials that are used solely for display or demonstration purposes and typically are not marked as an exhibit or entered into evidence in a case. Visual aids are non-exhibits.
- 1.7 "Supporting documents" means those public records which are needed to trace the actions, steps or decisions of the hearing examiner that result in a final order or decision. See FAC ~~1B-24.002(15)~~ 1B-24.001(3)(o). Supporting documents are retained in the same manner and for the same period of time as case files.

SECTION 2. DETERMINING THE PROPER RETENTION PERIOD FOR EXHIBITS

- 2.1 The appropriate record retention period of an exhibit is determined by the actual function or use made of a particular exhibit.
 - a. Materials that are intended merely as an aid in visualizing a location or a structure, or are otherwise used to demonstrate a non-material fact, are not considered as exhibits for the purpose of record retention. As a general rule, non-exhibits are not marked or entered into evidence as an exhibit. Non-exhibits will be returned to the person providing them at the conclusion of the proceeding before the Hearing Examiner. These materials may include, but are not limited to, photographs, videotapes, drawings or maps.
 - b. All documents marked or identified as an exhibit by any person appearing at a public hearing, and then submitted and accepted as a record exhibit, will be retained by the custodian of such records for the applicable minimum record retention period. Examples would include, but are not limited to, those items listed above as examples as well as: charts, diagrams, site plans, land use or zoning maps, aerial photographs and any reports submitted by a participant or requested by the Hearing Examiner.
- 2.2 As defined above, any exhibit that duplicates information otherwise found in the official record of a case is a duplicate record. The statutory requirements for record retention imposed by Section 257.36 F.S. (see below), do not apply to duplicate records. Similarly, it is not necessary to send a Records Disposition Request to the State Division of Libraries and Information Services prior to disposing of duplicate records.
- 2.3 Exhibits marked and entered into evidence and specifically referenced in a Hearing Examiner order or decision that are not duplicate records will be considered either supporting documents or a part of the official case files for record retention purposes. Examples would include any of those examples described in section 2.1 above, as well as an enlarged photograph, aerial photograph, map or site plan, etc.

SECTION 3. RECORD RETENTION SCHEDULE

- 3.1 The custodian will observe the following minimum record retention guidelines:
 - a. Case files and supporting documents: will be retained for a period of five (5) years from the later of: the rendition of the Hearing Examiner's or BOCC's decision, or of a final determination following appellate review. Prior to disposal or destruction of these records, the custodian will comply with the provisions of Section 257.36(7) (6), F.S. ~~This statute requires the custodian to obtain the approval of the Division of Library and Information Services of the Florida Department of State before disposing of records.~~ See General Records Schedule for Local Government Agencies, Publication ~~BC-1~~ GS1-L.
 - b. Duplicate records: exhibit's submitters who submit a written request within thirty (30) days of a final decision will be notified in writing of the availability for pick up of duplicate records. Such notification to submitters will not be sent until all times for appellate remedies have been exhausted or expired. If the exhibit's submitter fails to claim the exhibit from the custodian within a thirty (30) day period following the mailing of a notice for pick-up, the custodian may elect to destroy the exhibit without further notice to the Division of Library and Information Services or the exhibit's submitter.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: COMMITTEES/BOARDS/COMMISSIONS/EXAMINERS	CODE NUMBER: AC-2-13
TITLE: Administrative Procedure for retention of exhibits submitted during proceedings before the Lee County Hearing Examiner.	ADOPTED: 7/5/95
	AMENDED:
	ORIGINATING DEPARTMENT: County Attorney's Office

PURPOSE/SCOPE:

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 - b. Duplicate records: exhibit's submitters who submit a written request within thirty (30) days of a final decision will be notified in writing of the availability for pick up of duplicate records. Such notification to submitters will not be sent until all times for appellate remedies have been exhausted or expired. If the exhibit's submitter fails to claim the exhibit from the custodian within a thirty (30) day period following the mailing of a notice for pick-up, the custodian may elect to destroy the exhibit without further notice to the Division of Library and Information Services or the exhibit's submitter.

ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS

CATEGORY: Committees/Boards/Commissions/Examiners	CODE NUMBER: AC 2-16
TITLE: Procedural Rules for Special Magistrate Dispute Resolution under the Florida Land Use and Environmental Dispute Resolution Act.	ADOPTED: 3/20/96
	AMENDED: 4/3/01
	ORIGINATING DEPARTMENT: County Attorney

PURPOSE/SCOPE:

The purpose of this administrative code is to adopt procedural guidelines for Special ~~Master~~ Magistrate proceeding designed to implement the Florida Land Use and Environmental Dispute Resolution Act.

POLICY/PROCEDURE:

The following procedural guidelines will apply to the Special ~~Master~~ Magistrate process in Lee County:

A. SPECIAL MASTER MAGISTRATE TIMELINE AND DUE DATES

<u>DAY</u>	<u>ACTION</u>
0	Private Property Owner receives development order or notice of enforcement action by the County,
30	Private Property Owner must have filed for relief by serving the County.

RECEIPT OF REQUEST FOR RELIEF BY COUNTY

<u>DAY</u>	<u>ACTION</u>
+ 10	County and Private Property Owner agree on who will serve as Special Master <u>Magistrate</u> and forward the request for relief to Special Master.
+ 10	County serves copies of the request for relief on contiguous land owners and any substantially affected person who participated in any of the previous proceedings and who requested notice of the request for relief. They have 21 days from receipt of the request for relief to request participation in the proceedings.
+ 15	Special Master <u>Magistrate</u> provides notice of the place, date and time of the hearing to all parties and all others requesting notice. (This must occur at least 40 days prior to the hearing.)

- + 15 County files response to request for relief with the Special Master Magistrate and serves the Private Property Owner with a copy. Any governmental entity added by the Special Master Magistrate have 15 days to file a response to the request for relief with the Special Master Magistrate.
- + 60 45 Special Master Magistrate commences hearing on request for relief unless parties agree otherwise.
- + 165 Entire procedure (including the pre-hearing stage, the mediation phase, the information gathering hearing stage and recommendation) must conclude unless all parties agree otherwise.

SPECIAL MASTER MAGISTRATE HEARING CONCLUDED

DAY ACTION

- + 15 14 Special Master Magistrate prepares a written recommendation and provides it to all parties and the Department of Legal Affairs.
- + 45 Each Governmental Entity must confer among themselves and each must convey to the Private Property Owner in writing their decision to accept the recommendation, or accept the recommendation with modifications, or reject the recommendation. Failure to act on the recommendation within 45 days constitutes a rejection.
- + 60 Each Governmental Entity must notify the Department of Legal Affairs in writing as to the action it has taken on the Special Masters Magistrate's recommendation.
- + 75 The County must issue a written decision that describes as specifically as possible the uses available to the property, if (1) the County rejects the Special Master Magistrate recommendation or (2) the County accepts the Special Master Magistrate recommendation with or without modification and the Private Property Owner rejects the County's action.

B. PROCEDURAL GUIDELINES FOR SPECIAL MASTER MAGISTRATE PROCEEDINGS

General Provisions

- Guideline 1. Purpose and Intent**
- Guideline 2. Definitions**
- Guideline 3. Time Requirements and Furnishing Copies**
- Guideline 4. Standards of Conduct**

Pre-Hearing Procedures

- Guideline 5. Administrative Appeals and Judicial Review**
- Guideline 6. Pre-Initiation Meeting**
- Guideline 7. Request for Relief**
- Guideline 8. Selection of Special Master Magistrate**
- Guideline 9. Special Master Magistrate Agreement; Fees and Expenses**
- Guideline 10. Response to Request for Relief**
- Guideline 11. Additional Parties to the Proceeding**
- Guideline 12. Other Persons Who May Participate**
- Guideline 13. Consolidation**

Conduct of the Proceeding

- Guideline 14. Representatives**
- Guideline 15. Order of the Proceeding**
- Guideline 16. Mediation Phase**
- Guideline 17. Information-gathering Hearing**
- Guideline 18. Witnesses and Materials**
- Guideline 19. Access to the Property**
- Guideline 20. Offer to Compromise**
- Guideline 21. Settlement**

Post-Hearing Procedures

- Guideline 22. Special Master's Magistrate's Recommendation**
- Guideline 23. Effect of Special Master's Magistrate's Recommendation**
- Guideline 24. Disposition of Special Master's Magistrate's Recommendation**

General Provisions

Guideline 1. Purpose and Intent

- (1) These guidelines establish procedures for the initiation, conduct and conclusion of a Special Master Magistrate proceeding under the Florida Land Use and Environmental Dispute Resolution Act involving a development order or enforcement action by Lee County. This proceeding is voluntary for the landowner.
- (2) This is a nonadjudicatory settlement and expedited hearing procedure. A Special Master Magistrate may not impose a decision but is intended primarily to explore opportunities for compromise and to assist the parties in negotiation. Settlement through the Special Master Magistrate process is intended to save time and money for everyone.
- (3) If a settlement is not reached, the Special Master Magistrate will conduct an independent and impartial assessment of the dispute and prepare a nonbinding recommendation.

- (4) The Special ~~Master~~ Magistrate proceeding is intended to be a speedy, inexpensive, simple and solution-oriented method for settlement of land use and environmental disputes. As much as possible, a landowner and regulator meet face-to-face and discuss issues directly without the need for advocacy by a lawyer.
- (5) The Special ~~Master~~ Magistrate and the parties should adapt these guidelines to the needs of each case, consistent with the requirements of law.

Guideline 2. Definitions

- (1) "Development" means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels, and all other work customarily associated with such activities.
- (2) "Development order" means any order, or notice of proposed state or regional governmental agency action, which is or will have the effect of granting, denying, or granting with conditions an application for a development permit. It includes the rezoning of a specific parcel of land. It does not include actions on an amendment to the local comprehensive plan.
- (3) "Development permit" means:

Any building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance, or any other official action of Lee County having the effect of authorizing the development of land including, but not limited to, programs implementing Chapters 125, 161, 163, 166, 187, 258, 372, 373, 378, and 403, Florida Statutes, or
- (4) "Governmental entity" includes an agency of the state, a regional or a local government created by the State Constitution or by general or special act, any county or municipality, or any other entity that independently exercises governmental authority. The term does not include the United States or any of its agencies.
- (5) "Land" or "real property" means land and includes any appurtenances and improvements to the land, including any other relevant real property in which the owner had a relevant interest.
- (6) "Owner" means a person with a legal or equitable interest in land who filed an application for a development permit for the land with Lee County and who received a development order, or who has an interest in land that is the subject of an enforcement action by Lee County.

- (7) "Participant" means:
 - (a) A person with a legal or equitable interest in land contiguous to the owner's property; or
 - (b) A substantially affected person who submitted oral or written testimony, sworn or unsworn, of a substantive nature which stated with particularity support for or objections to the development order or enforcement action in a prior proceeding, including a public hearing.
- (8) "Party" or "parties" include the Owner, Lee County and any other governmental entity made a party to the proceeding.
- (9) "Person" includes individuals, firms, incorporated or unincorporated associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
- (10) "Proposed use of the property" means the proposal filed by the owner to develop or otherwise use the owner's land.

Guideline 3. Time Requirements and Furnishing Copies

- (1) Unless the parties agree in writing to extend the time for performing any act under these guidelines, including the overall 165-day time period, a Special Master Magistrate proceeding may not continue longer than 165 days from the date the owner files the request for relief.
- (2) Any copy which must be furnished to the Special Master Magistrate, a party or a participant may be sent by regular mail, postage prepaid, or by hand delivery to the recipient's last known address. The burden of proving a copy has been furnished is on the person responsible for furnishing it.
- (3) Except for an owner's request for relief, any document which must be submitted, or any copy which must be furnished, may be submitted or furnished by facsimile transmission. Facsimile documents will be deemed submitted or furnished on the date transmitted as shown on the recipient's copy, if the copy is complete.
- (4) Filing means that the signed original must be received by the office that is to receive the document by the date specified. Any document received after 5:00 p.m. will be deemed filed as of 8:00 a.m. the next regular business day.

Guideline 4. Standards of Conduct

- (1) The Special Master Magistrate holds a position of trust and should adhere to the highest standards of personal integrity, impartiality and competence. The Special Master Magistrate should be honest and unbiased, act in good faith, be diligent and avoid any conflict of interest or the appearance of a conflict of interest. The Special

Master Magistrate should disclose any facts or circumstances that may give rise to justifiable doubts as to impartiality or independence.

- (2) The parties and the Special Master Magistrate may establish additional standards of conduct for Special Master Magistrate, and standards of conduct for parties and participants, in a Special Master Magistrate Agreement as authorized by Guideline 9(1).

Pre-Hearing Procedures

Guideline 5. Administrative Appeals and Judicial Review

- (1) A petition by the owner for judicial review of the development order or enforcement action or a formal administrative hearing pursuant to Section 120.57, F.S., if applicable, will waive all rights to a Special Master Magistrate proceeding.
- (2) A request for relief through a Special Master Magistrate proceeding will toll the time for filing a petition for judicial review of the development order or enforcement action, or a formal administrative hearing pursuant to Section 120.57, F.S., if applicable.
- (3) Invoking the procedures for a Special Master Magistrate proceeding is not a precondition for judicial review of the development order or enforcement action or a formal administrative hearing pursuant to Section 120.57, F.S., if applicable.
- (4) Prior to initiating a Special Master Magistrate proceeding, the owner must request review through an administrative appeal before the county hearing examiner if applicable under the Land Development Code (LDC), so long as review takes no longer than four months. The filing of a valid administrative appeal before the county hearing examiner will toll the time for filing a request for relief.
- (5) The owner may initiate a Special Master Magistrate proceeding within 30 days after conclusion of the administrative appeal before the county hearing examiner or, if the administrative appeal before the county hearing examiner has not concluded, within 30 days after four months from its commencement.

Guideline 6. Pre-Initiation Meeting

- (1) Prior to filing a request for relief, an owner may request in writing an informal meeting with the County Attorney, the County Manager, or designee to ascertain whether the issues relating to a development order or enforcement action would be appropriate for a Special Master Magistrate proceeding or other form of alternative dispute resolution. The County Attorney and the County Manager will convene such a meeting promptly and include staff necessary to address the owner's concerns.

- (2) The County may agree with the owner in writing to extend the time for filing a request for relief to create an opportunity for mediation or other form of alternative dispute resolution.
- (3) A Special ~~Master~~ Magistrate proceeding is intended to be an additional remedy for the owner. It does not supplant other lawfully available methods agreed to by the parties, such as arbitration, mediation or other form of dispute resolution.

Guideline 7. Request for Relief

- (1) Any owner who believes a development order or enforcement action, by itself or in conjunction with the actions of other governmental entities, is unreasonable or unfairly burdens the use of the owner's land may file a request for relief.
- (2) A request for relief must be post marked or hand delivered within 30 days after:
 - (a) Receipt of the development order or enforcement action; or,
 - (b) If an administrative appeal before the county hearing examiner is permissible, the later of its conclusion or the expiration of four months after its initiation.
- (3) A signed original and one copy of the request for relief must be filed with the Chairman of the Board of County Commissioners at 2115 Second Street, Fort Myers, Florida 33901. No fee will be charged for filing a request for relief.
- (4) The request for relief must contain:
 - (a) A brief statement of the owner's proposed use of the property.
 - (b) A summary of the development order or description of the enforcement action. A copy of the development order or documentation of the enforcement action must be attached.
 - (c) A brief statement of the impact of the development order or enforcement action on the ability of the owner to achieve the proposed use of the property, including an explanation why the development order or enforcement action is unreasonable or an unfair burden.
 - (d) The signature of the owner or, if the owner is a corporation, partnership or other organization, the signature of a responsible official, and the mailing address and telephone number at which the owner may be reached. An attorney may sign the request for relief on behalf of the owner.
 - (e) A statement regarding whether an administrative appeal before the county hearing examiner is available and, if so, whether and when it was commenced by the owner and, if completed, the date of completion.

- (f) A certification by the signer of the request identifying the persons who have been furnished with copies of the request for relief.
- (5) Upon receipt of a request for relief, the Chairman of the Board of County Commissioners must forward the copy of the request to the County Attorney, who will:
- (a) Notify appropriate staff that the request was filed and direct preparation of a response; and
 - (b) Confer with the owner or owner's representative, if one, and any other governmental entity identified as a party in the request for relief to agree on a Special ~~Master~~ Magistrate no later than 10 days from the date the request for relief was received.
 - (c) Furnish a copy of the request for relief to:
 - 1. Persons holding title to land contiguous to the owner's property, at the address on the latest County tax roll.
 - 2. Persons who submitted oral or written testimony, sworn or unsworn, of a substantive nature which stated with particularity support for or objections to the development order or enforcement action. A copy must be furnished to such a person only if that person requested in writing or at a public hearing a desire to be placed on a mailing list to receive notice of any subsequent proceeding on the development order or enforcement action at issue.

The mailing to the persons listed in 1 and 2 above must include the following information:

 - (a) Request for relief.
 - (b) Application number and date of filing.
 - (c) Location and total area of the property.
 - (d) Present zoning and comprehensive plan designation of the property.
 - (e) Instructions for obtaining further information regarding the application.
 - 3. A copy provided for purposes of notice may omit attachments or supporting documentation so long as it informs the recipient where such materials may be inspected and copied.
- (6) At the next regular meeting of the Board of County Commissioners after receipt of a request for relief, the County Attorney must inform the Board that a request for

relief has been filed, the name of the owner, a description of the development order or enforcement action at issue, and the timetable for consideration of the matter.

- (7) The owner may voluntarily dismiss the proceeding at any time by submitting a written request for dismissal to the Special Master Magistrate or, if one has not been selected, to the Chairman of the Board of County Commissioners. A voluntary dismissal will be effective upon filing with the Special Master Magistrate or, if one has not been selected, the Chairman of the Board of County Commissioners.

Guideline 8. Selection of Special Master Magistrate

- (1) In order to serve as a Special Master Magistrate in a proceeding under these guidelines, a person must:
 - (a) Be a resident of the State of Florida;
 - (b) Possess experience and expertise in mediation; and
 - (c) Possess experience and expertise in at least one of the following disciplines and a working familiarity with the others:
 1. Land use and environmental permitting;
 2. Land planning;
 3. Land economics;
 4. Local and state government organization and powers, and the law governing the same.

A Special Master Magistrate need not be a lawyer or a mediator certified by the Florida Supreme Court.

- (2) The County Attorney will forward the original request for relief to the Special Master Magistrate upon selection.
- (3) Any member of the Florida Bar selected as a Special Master Magistrate in a particular matter will not, for that reason, be disqualified from serving as counsel in any other matter before Lee County.
- (4) If the owner, any other governmental entity identified as a party in the request for relief and the County Attorney do not agree on a Special Master Magistrate, they may jointly agree on an impartial third party to select the Special Master Magistrate according to agreed criteria.

Guideline 9. Special Master Magistrate Agreement; Fees and Expenses

- (1) The Special Master Magistrate and the parties must memorialize the selection of the Special Master Magistrate in an agreement which provides for the payment of all fees and expenses associated with the proceeding. In addition, a Special Master Magistrate Agreement may:
 - (a) Vary the time for performance of any act.
 - (b) Establish ground rules for the conduct of the proceeding, including standards of conduct for the Special Master Magistrate, parties and participants, and the enforceability of subpoenas in circuit court.
 - (c) Identify factual issues to be addressed in the proceeding or specify procedures for resolving factual issues, including stipulation.
 - (d) Provide for the exchange of information by the parties prior to the mediation or hearing.
 - (e) Identify participants known to the parties who should be notified of the proceeding.
 - (f) Address such other issues as the parties may decide will assist in settlement of the dispute.
- (2) Payment of fees and expenses for the Special Master Magistrate, and costs of providing notice and effecting service, will be borne equally by the parties. Other costs will be paid as agreed by the parties.
- (3) A Special Master Magistrate will be compensated as agreed in writing by the Special Master Magistrate and the parties upon selection or as thereafter modified in writing. Parties may place funds on deposit to assure payment at the conclusion of the proceeding, or provide a retainer against which fees and expenses will be charged.
- (4) The parties may authorize the Special Master Magistrate to retain an independent expert, or to obtain any materials, to assist in evaluating any issue. Fees and costs will be paid as agreed in writing by the parties and the Special Master Magistrate.

Guideline 10. Response to Request for Relief

- (1) No more than 15 days after the filing of a request for relief, the County Attorney will file a response to the request for relief on behalf of the county . A copy must be furnished to the owner and any person who has requested to participate in the proceeding.
- (2) The response must set forth in reasonable detail the position of the county regarding the matters raised by the owner. The response must include a brief

statement explaining the public purpose of the regulations on which the development order or enforcement action is based.

- (3) The response may include a request that the Special Master Magistrate dismiss the owner's request for relief for any failure to observe these Guidelines (Sufficiency Report). If the request is dismissed, the owner will be permitted to file an amended request within a reasonable time fixed by the Special Master Magistrate. Failure to file an adequate amended request within the time specified by the Special Master Magistrate will result in final dismissal of the matter without the right to submit another request. Final dismissal may not be appealed to the Board of County Commissioners.
- (4) Any party may request, in its response or otherwise, a request to be dropped from the proceeding. The request must set forth facts and circumstances to aid the Special Master Magistrate in deciding on the request. All such requests must be disposed of prior to a hearing on the substance of the owner's request for relief. If the Special Master Magistrate denies a request to be dropped, that party must participate in the proceeding.

Guideline 11. Additional Parties to the Proceeding

- (1) The Special Master Magistrate may add additional governmental entities as parties to the proceeding when:
 - (a) The owner or County asks the Special Master Magistrate to add that governmental entity to the proceeding as a party; and
 - (b) The development order or enforcement action is the culmination of a process involving a governmental entity in addition to the County; or
 - (c) A complete resolution of all relevant issues would require active participation of that additional governmental entity.
- (2) A governmental entity added as a party must actively participate in the proceeding as set forth in these Guidelines and as required by the Special Master Magistrate.
- (3) These Guidelines are intended to give the Special Master Magistrate the flexibility to alter the time periods within which a governmental entity added to a proceeding must perform any act. A governmental entity added as a party must submit a response to the request for relief under Guideline 10(1) and may request dismissal of the request for relief under Guideline 10(3). Ordinarily, a request to be dropped under Guideline 10(4) would be without purpose.

Guideline 12. Other Persons Who May Participate

- (1) Other persons who may participate in the proceeding are:

- (a) Any person with a legal or equitable interest in land contiguous to the owner's property; or
 - (b) Any substantially affected person who submitted oral or written testimony, sworn or unsworn, of a substantive nature which stated with particularity support for or objections to the development order or enforcement action in a prior proceeding.
- (2) Within 21 days after receiving a copy of the request for relief, a person seeking to participate must submit a written request to participate. The request must state:
- (a) The person has a legal or equitable interest in land contiguous to the owner's property and, if so, identify the land in relation to the owner's property; or
 - (b) How the person is substantially affected by the development order or enforcement action at issue.

The request must be submitted to the Special ~~Master~~ Magistrate or, if one has not yet been selected, to the County Attorney for forwarding to the Special ~~Master~~ Magistrate after selection.

- (3) The Special ~~Master~~ Magistrate may decide any issue necessary to determine whether a person qualifies as a participant. If the Special ~~Master~~ Magistrate accepts a request to participate, the person or any witnesses and representatives may address only those issues raised regarding alternatives, variances, and other types of adjustment to the development order or enforcement action which may impact the participant's substantial interests, unless the parties agree to allow a participant to address additional issues. Denial of a request to participate may not be appealed to the Board of County Commissioners.

Guideline 13. Consolidation

- (1) If there are separate matters which involve similar issues or identical parties, they may be consolidated if the parties agree and it appears that consolidation would promote the speedy, efficient, and inexpensive resolution of the matters.
- (2) If the separate matters are pending before different Special ~~Masters~~ Magistrates, the parties may decide which Special ~~Master~~ Magistrate will conduct the consolidated proceeding. If they cannot agree on one or multiple Special ~~Masters~~ Magistrate to conduct the proceeding, the proceedings will not be consolidated.

Conduct of the Proceeding

Guideline 14. Representatives

- (1) A party or participant may be represented by an attorney or other person at any phase of the proceeding, but such representation is not required.

- (2) At the mediation, each party must be represented by a person with authority to bind that party to a settlement, or to recommend a settlement directly to the persons with authority to bind the party. The Special ~~Master~~ Magistrate may ask a representative to provide assurances of such authority.

Guideline 15. Order of the Proceeding

- (1) In keeping with the overriding intent of the Legislature that the Special ~~Master~~ Magistrate proceeding be a flexible, problem-solving procedure which results in a voluntary settlement, the Special ~~Master~~ Magistrate may conduct the phases of the proceeding in any sequence and on separate days.
- (2) The proceeding will be open to the public and be held in a location accessible to the public, including the physically handicapped.
- (3) The proceeding will be recorded and minutes will be kept.
- (4) The proceeding will be conducted under the direction and supervision of the Special ~~Master~~ Magistrate. The Special ~~Master~~ Magistrate will determine the order of presentation of issues and information unless otherwise set forth in the Special ~~Master~~ Magistrate Agreement. The Special ~~Master~~ Magistrate will decide questions of procedure in a manner which provides reasonable due process.
- (5) Prior to any other portion of the proceeding, the Special ~~Master~~ Magistrate will conduct a hearing on any request to dismiss the request for relief (Sufficiency Hearing).
- (6) At any time after commencement of the information-gathering hearing, the Special ~~Master~~ Magistrate may recess the hearing to recommence mediation and facilitation.
- (7) After the hearing, the Special ~~Master~~ Magistrate may reconvene the parties to present a written recommendation, in draft or final form, and seek to re-commence negotiations.

Guideline 16. Mediation Phase

- (1) The Special ~~Master's~~ Magistrate's first responsibility is to facilitate a resolution of the dispute and arrive at a settlement acceptable to the parties. It may involve a modification of the owner's proposed use of the property or adjustment in the development order or enforcement action or regulatory efforts by one or more of the governmental parties.
- (2) The Special ~~Master~~ Magistrate will, among other things, suggest alternatives, analyze issues, question perceptions, use logic, stimulate and facilitate negotiations between the parties, and keep order. The Special ~~Master~~ Magistrate will at all times

promote conciliation, cooperation, compromise and settlement of the dispute within the bounds established by law.

- (3) As alternatives, variances, and other types of adjustments to the development order or enforcement action are presented, the Special ~~Master~~ Magistrate will afford participants an opportunity to address the impacts of such adjustments on their substantial interests.

Guideline 17. Information-gathering Hearing

- (1) Within 5 days of receipt of the request for relief, the Special ~~Master~~ Magistrate will provide written notice of the place, date, and time of the hearing to all parties, and to all persons who have requested such notice. The hearing must be held within 45 days of the Special ~~Master's~~ Magistrate's receipt of the request for relief. The parties may agree to extend the date for the hearing.
- (2) The hearing must be held in Lee County. The Special ~~Master's~~ Magistrate's decision on the specific place of the mediation and hearing will be final.
- (3) The Special ~~Master~~ Magistrate will hear from anyone with information necessary to understand the matter. The Special ~~Master~~ Magistrate may question anyone presenting information at the hearing but will give all parties an opportunity for follow-up questions.
- (4) The Special ~~Master~~ Magistrate will weigh all information offered at the hearing. Information will not be subject to the rules of evidence, but the criteria for determining and the determination of verification and authentication are within the Special ~~Master's~~ Magistrate's discretion.
- (5) At any time, the Special ~~Master~~ Magistrate may require any party to provide additional information in the interest of gaining a complete understanding of the request for relief.
- (6) Each party may record the hearing at its own expense. The Special ~~Master~~ Magistrate may record the hearing to assist in preparing a recommendation as required by Guideline 22. If the Special ~~Master~~ Magistrate makes such a recording, it will be forwarded to the county with the recommendation but will be subject to the restrictions on information contained in Guideline 20.
- (7) Any documents or tangible materials presented to the Special ~~Master~~ Magistrate at hearing will be submitted to the Chairman of the Board of County Commissioners with the Special ~~Master's~~ Magistrate's recommendation. Any notes or drafts produced by the Special ~~Master~~ Magistrate and not intended to record information in a permanent form will remain the property of the Special ~~Master~~ Magistrate.

- (8) If a party fails to appear at the hearing after notice, the Special ~~Master~~ Magistrate may proceed without that party or may adjourn the hearing to another day, giving notice to the absent party.
- (9) Information may be given and parties, participants or their representatives may participate by telephone, videotape or other communications medium unless otherwise agreed in a Special ~~Master~~ Magistrate Agreement.

Guideline 18. Witnesses and Materials

- (1) Each party must assure attendance at the hearing by those persons qualified by training or experience to address issues raised by the request for relief, the response, or by the Special ~~Master~~ Magistrate, or to address alternatives, variances, and other types of modifications to the development order or enforcement action.
- (2) The Special ~~Master~~ Magistrate may issue a subpoena for any nonparty witness in the state who will aid in the disposition of the matter. A subpoena issued by a Special ~~Master~~ Magistrate may require the witness to bring a specified document or thing.
- (3) The Special ~~Master~~ Magistrate may require and receive documents and other tangible materials from any party or participant. All parties and participants will have the opportunity to examine and respond to such submissions.
- (4) The Special ~~Master~~ Magistrate may weigh the credibility of witnesses.
- (5) Although an attorney is not required, any person compelled to appear or furnish documents or tangible materials, or who appears voluntarily, may be represented and advised by legal counsel at his or her own expense.
- (6) Any part of the evidence may be received in written form, and all testimony will be under oath.

Guideline 19. Access to the Property

- (1) A request for relief constitutes a consent by the owner for the Special ~~Master~~ Magistrate and parties or representatives to have reasonable access to the owner's land.
- (2) The owner may grant access to the land to participants.

Guideline 20. Offer to Compromise

- (1) As provided by law:

- (a) All actions or statements of the Special Master Magistrate, the parties and all participants are evidence of an offer to compromise and are inadmissible in any judicial or administrative proceeding.
 - (b) The proceeding may not be made known by a party or participant to any judicial or administrative tribunal, or be construed for any purpose as an admission against interest.
- (2) A party or participant is not bound by anything said or done during the proceeding unless a written settlement is reached, in which case only the terms of the written settlement will be binding.
 - (3) The Special Master Magistrate may not be called to appear before the Board of County Commissioners with respect to any aspect of the proceeding, nor may the Special Master Magistrate be compelled to furnish notes or drafts.

Guideline 21. Settlement

- (1) The owner and the county may enter into a settlement agreement or other agreement as to the permissible use of the owner's land prior to the Special Master Magistrate filing a recommendation under Guideline 22.
- (2) A settlement agreement or other agreement as to the permissible use of the owner's land may be executed subject to approval by the Board of County Commissioners. Any such agreement will not bind any party until duly approved and executed by all parties to the agreement.

Post-Hearing Procedures

Guideline 22. Special Master's Magistrate's Recommendation

- (1) The Special Master Magistrate must file a recommendation with the chairman of the Board of County Commissioners within 14 days after the conclusion of the hearing. The Special Master Magistrate must also furnish a copy to all parties and participants.
- (2) If a settlement agreement or other agreement as to the permissible use of the owner's land is executed prior to the Special Master's Magistrate's recommendation, the recommendation will only:
 - (a) Set forth the date and location of the hearing;
 - (b) Identify the parties and other participants in attendance at the hearing;
 - (c) Record, without comment, the fact that a settlement agreement or other agreement as to the permissible use of the owner's land has been executed; and

- (d) Include as an attachment an executed copy of the settlement agreement or other agreement as to the permissible use of the owner's property.
- (3) If a settlement agreement or other agreement as to the permissible use of the owner's land is not executed prior to the filing of the Special ~~Master's~~ Magistrate's recommendation, the Special ~~Master~~ Magistrate will consider the facts and circumstances set forth in the request for relief, any responses, and any other information produced at the hearing to determine whether the development order or enforcement action, by itself or in conjunction with an action of the county or another governmental entity, is unreasonable or unfairly burdens the owner's land.
- (4) In making a determination, the Special ~~Master~~ Magistrate may consider, among other things:
- (a) The history of the land, including when it was purchased, how much was purchased, where it is located, the nature of the title, the composition of the property, and how it was previously used.
 - (b) The history of development and use of the land, including what was developed and by whom, if it was subdivided and how and to whom it was sold, whether plats were filed or recorded, and whether infrastructure and other public services or improvements may have been dedicated to the public.
 - (c) The history of relevant environmental protection and land use controls and other regulations, including how and whether the land was classified, any uses that may have been proscribed, and what changes in classifications have occurred.
 - (d) The present nature and extent of the land, including natural and altered characteristics.
 - (e) The reasonable expectations of the owner at the time of acquisition, or immediately prior to the implementation of the regulation at issue, whichever is later, under the regulations then in effect and under common law.
 - (f) The public purpose sought to be achieved by the development order or enforcement action, including the nature and magnitude of the problem addressed by the underlying regulations on which the development order or enforcement action is based; whether the development order or enforcement action is necessary to the achievement of the public purpose; and whether there are alternative development order or enforcement action conditions that would achieve the public purpose and allow for reduced restrictions on the use of the owner's land.

- (g) Uses authorized for and restrictions placed on similar property, including adjacent lands.
 - (h) Any other information determined to be relevant by the Special Master Magistrate or agreed by the parties to be addressed by the Special Master Magistrate.
- (5) The Special Master Magistrate will utilize his or her expertise in formulating a recommendation and, in applying this expertise, must rely upon the sort of information that a reasonable, prudent person would rely upon in the conduct of his or her affairs.
- (6) If the Special Master Magistrate determines the development order or enforcement action, by itself or in conjunction with another action of the county or another governmental entity, is reasonable and does not unfairly burden the owner's land, the Special Master Magistrate will recommend that the development order or enforcement action remain undisturbed.
- (7) If the Special Master Magistrate determines the development order or enforcement action, by itself or in conjunction with another action of the county or another governmental entity, is unreasonable or unfairly burdens the owner's property, and the owner has consented, the Special Master Magistrate will recommend one or more alternative actions that protect the public interest served by the regulations at issue but allow for reduced restraints on the use of the owner's real property. The alternatives may include:
- (a) An adjustment of land development or permit standards or conditions controlling the development or use of the owner's land.
 - (b) Increases or modifications in the density, intensity, or use of areas of development.
 - (c) The transfer of development rights.
 - (d) Land swaps or exchanges.
 - (e) Mitigation, including payments in lieu of on-site mitigation.
 - (f) Location of the development or use at issue on the least sensitive portion of the property.
 - (g) Conditioning the amount of development or use permitted on the owner's land.
 - (h) A requirement that issues be addressed on a more comprehensive basis than a single proposed use or development.

- (i) Issuance of the development order, a variance, special exception, or other extraordinary relief, including withdrawal of the enforcement action.
- (j) Purchase of the owner's land, or an interest in it, by the county or another governmental entity.

If an apportionment of responsibility among governmental entities is necessary, the Special ~~Master~~ Magistrate will make such apportionment.

- (8) The Special ~~Master~~ Magistrate will furnish a copy of the written recommendation to the Florida Department of Legal Affairs.
- (9) The Special ~~Master's~~ Magistrate's recommendation is a public record. A copy will be available for public inspection and copying at the office of the Clerk of the Board of County Commissioners.

Guideline 23. Effect of Special ~~Master's~~ Magistrate's Recommendation

- (1) The Special ~~Master's~~ Magistrate's recommendation is advisory and not binding on the owner or the Board of County Commissioners.
- (2) A Special ~~Master's~~ Magistrate's recommendation constitutes data which will be considered with respect to any pertinent amendment to the comprehensive plan.
- (3) A Special ~~Master's~~ Magistrate's determination that the development order or enforcement action, by itself or in conjunction with actions of the county or another governmental entity, is unreasonable or unfairly burdens the owner's land will constitute a determination of hardship which will support a modification, variance, or special exception as otherwise authorized by applicable rules and regulations.

Guideline 24. Disposition of Special ~~Master's~~ Magistrate's Recommendation

- (1) Within 45 days of receipt of the Special ~~Master's~~ Magistrate's recommendation, the Board of County Commissioners must deliberate and determine whether to:
 - (a) accept the recommendation as submitted and implement it in the ordinary course and consistent with all other rules and regulations; or
 - (b) modify the recommendation as submitted and implement it in the ordinary course and consistent with all other rules and regulations; or
 - (c) reject the recommendation as submitted. Failure to act within 45 days of receipt of the recommendation will be deemed a rejection, unless the owner and the county agree to an extension of time.

- (2) The deliberations of the Board of County Commissioners regarding whether to accept, reject or modify the Special ~~Master's~~ Magistrate's recommendation will be made at a public hearing.

The Board of County Commissioners will determine the appropriate course of action based solely upon the request for relief, the Special ~~Master's~~ Magistrate's recommendation and supporting documents. All persons addressing the Board will be limited to five minutes. The Board, at its discretion, may allow additional time to the staff or the property owner, or his designee.

- (3) Notice of public hearing:

- (a) Newspaper Publication.

The County must publish notice of the Board of County Commissioner public hearing in a newspaper of general circulation in the County at least ten (10) calendar days prior to the public hearing. The notice must include the name of property owner requesting relief, location of the property and substance of the proposed request for relief. The notice must also include the date, time, and place of the hearing and state the place in the County where the file may be inspected by the public. The notice must also advise that interested parties may appear at the hearing and be heard with respect to the Board of County Commissioner's deliberations regarding whether to accept, reject or modify the Special ~~Master's~~ Magistrate's recommendation.

- (b) Mailed Notice.

The County will mail notice of the public hearing to all parties of record in the Special ~~Master~~ Magistrate proceeding at least ten (10) calendar days prior to the Board of County Commissioner's consideration of the matter; however, the mailed notice is a courtesy only and is not jurisdictional. Accordingly, the County's failure to mail or to timely mail such notice or the failure of any party of record in the Special ~~Master~~ Magistrate proceeding to receive mailed notice will not constitute a defect in notice or bar the public hearing as scheduled.

- (4) If the Board of County Commissioners adopts a recommendation to grant a modification, variance, or special exception to the application of ordinances or regulations as they otherwise would apply to the land, the owner will not be required to duplicate processes that the owner previously has participated in order to effectuate the modification, variance or special exception.
- (5) If the Special ~~Master~~ Magistrate recommends relief or other action in conjunction with another governmental entity, the County Attorney must confer with appropriate staff from the other entities to review the recommendation and determine whether a joint staff recommendation can be made to the heads of the respective governmental entities.

- (6) Within 15 days after final action on the Special ~~Master's~~ Magistrate's recommendation by the Board of County Commissioners, its Clerk will send a copy of the order or other document memorializing final action to the Florida Department of Legal Affairs.
- (7) Within 10 days of final action on the recommendation, the owner must notify the County Attorney in writing whether the owner accepts the decision on the recommendation.
- (8) If the Board of County Commissioners accepts the recommendation or modifies it and the owner rejects the acceptance or modification, or if the Board of County Commissioners rejects the recommendation, the Board of County Commissioners must issue a written decision that describes as specifically as possible the use or uses available on the owner's land. The decision must be issued within 30 days of final action on the recommendation.
- (9) After the Board of County Commissioners has acted on the Special ~~Master's~~ Magistrate's recommendation and a written decision has been issued describing the use or uses available on the owner's land, or if the Board of County Commissioners has not acted within 45 days, the owner may seek a formal adjudication on the development order or enforcement action as otherwise authorized by law.

C. APPENDIX A - SAMPLE FORMS

Appendix A
Sample Forms

These sample forms are nonexclusive and their use is permissive. The following sample forms may be used in a Special Master Magistrate proceeding under these guidelines:

(a) OWNER'S REQUEST FOR RELIEF FORMS

1. Local Development Order; Administrative Appeal Available

TO: CHAIRMAN, LEE COUNTY BOARD OF COMMISSIONERS
(2115 SECOND STREET, FORT MYERS, FL 33901)
P.O. BOX 398
FORT MYERS, FLORIDA 33902-0398

This is a request for relief pursuant to Section 70.51, F.S.

1. I own real property at [address].
2. On [date], I filed an application for [type of application] in order to [briefly describe proposed use of the property]. A copy of the application is attached as Attachment A.
3. On [date], the [adopting governmental entity] took the following action: [summarize development order]. A copy of the development order is attached as Attachment B.
4. On [date], I appealed the development order to [name of appellate body].
5. Four months have elapsed since I filed that appeal.
(or)
5. On [date], the [name of appellate body] issued a final decision regarding the _____ development order which [briefly summarize the development order based on the appellate decision].

ANNOTATION: THE PROPERTY OWNER SHOULD CHOOSE THE APPROPRIATE PARAGRAPH 5.

6. The development order is unreasonable and unfairly burdens the use of the property in that it [describe how development order is unreasonable or unfairly burdens property].

Dated

/s/

[name of owner]

[address]

[phone number]

Attachment: (copy of the application filed by the owner)

2. Local enforcement action; administrative appeal unavailable--

OWNER'S REQUEST FOR RELIEF

TO: Chairman, Lee County Board of Commissioners
(2115 Second Street, Fort Myers, FL 33901)
P.O. Box 398
Fort Myers, Florida 33902-0398

This is a request for relief pursuant to Section 70.51, F.S.

1. I own real property at [address].
2. On [date], I was notified that an enforcement action had been instituted by [adopting governmental entity] regarding the property, alleging [briefly describe alleged violation]. A copy of the notification of enforcement action is attached as Attachment A.
3. This governmental action is not subject to a local administrative appeal.
4. As a result, [adopting governmental entity] has taken or is preparing to take the following enforcement action: [briefly describe the enforcement action].
5. The enforcement action is unreasonable and unfairly burdens the use of my property in that it [briefly discuss the impact of the enforcement action on the use of the property].

Dated

/s/

[name of owner]

[address]

[phone number]

Attachment: (copy of the notification of enforcement action)

3. **Development order by agency subject to Section 120.57, F.S.-**

OWNER'S REQUEST FOR RELIEF

TO: [elected or appointed head of adopting governmental entity]
[address]

This is a request for relief provided by Section 70.51, F.S.

1. I own the real property located at [address].
2. On [date], I filed an application for [type of application] so that I could [briefly describe proposed use of the property]. A copy of the application is attached as Attachment A.
3. On [date], Lee County took the following action on my application: [briefly summarize development order or enforcement action]. A copy of the development order is attached as Attachment B.
4. The development order is subject to a proceeding pursuant to Section 120.57, F.S. I have not initiated an adjudicatory proceeding pursuant to that section prior to this request for relief.

Dated

/s/
[name of owner]
[address]
[phone number]

Attachment: (copy of the application filed by the owner)

**(b) NOTICE OF OWNER'S REQUEST FOR RELIEF
(to be used by the County)**

NOTICE OF REQUEST FOR RELIEF

TO: [name of property owner or other person]
[address]

PLEASE TAKE NOTICE that [name of owner requesting relief] has filed a request for relief provided by Section 70.51, F.S. The property subject to the request for relief is located at [address]. The request for relief relates to [identify development order or enforcement action by name and number, if one] and has been or will be referred to an impartial **Special Master Magistrate** for hearing.

As provided by Section 70.51, F.S., you may participate in the proceeding only if you submit a written request to [name and address of Special Master Magistrate or adopting governmental entity's designated official] within 21 days of your receipt of this notice. Your participation will be limited to addressing those issues regarding alternatives, variances or adjustments of the development order or enforcement action which may affect your substantial interests.

You may obtain a copy of the procedural guidelines and sample forms for Special Master proceedings at the Office of the Lee County Attorney, 2115 Second Street, Fort Myers, FL 33901 (P.O. Box 398, Fort Myers, FL 33902).

Dated

/s/
[designated official]
[address]
[phone number]

(c) **SPECIAL MASTER MAGISTRATE AGREEMENT**
(to be used by parties and Special Master Magistrate)

1. Short version.--

SPECIAL MASTER MAGISTRATE AGREEMENT

The [owner], LEE COUNTY and [name of Special Master Magistrate] agree that [name of Special Master Magistrate] shall will serve as the Special Master Magistrate in this proceeding subject to the following provisions:

1. Fees and Expenses. The Special Master Magistrate will be compensated at a rate of \$_____ per hour plus actual expenses. The parties will equally share these fees and expenses. Each party will deposit the sum of \$_____ with the [name of custodian of funds] by [date] as a retainer and partial payment for the special master's magistrate's expected fees and expenses. Any additional fees and expenses in excess of this amount shall will be payable to the Special Master Magistrate by the parties on an equal basis within 30 days of the conclusion of this proceeding.

2. Standards of Conduct. The conduct of all parties and participants will be governed by the standards set forth in the procedural guidelines for Special Master Magistrate proceeding adopted by [adopting governmental entity] as supplemented by the standards of conduct set forth in Attachment A.

3. Factual Issues. The parties stipulate to the facts set forth in Attachment B. The parties agree that the factual issues to be addressed in the information-gathering hearing, if one, shall will include those set forth in Attachment C.

4. Witnesses. Attachment D contains a list of the witnesses each party expects to call.

5. Location. The hearing will be held at [location] at a date specified by the Special Master Magistrate.

Dated

/s/
[owner]
[address]
[phone number]

/s/
[designated official]
[address]
[phone number]

/s/
[Special Master Magistrate]
[address]
[phone number]

2. Long Version.--

SPECIAL MASTER MAGISTRATE AGREEMENT

Between the Governmental entity(ies) and Private Property Owner

This Special Master Magistrate Agreement dated this ___ day of _____, 20___ is executed by _____, on behalf of the (governmental entity) and by _____, on behalf of _____, hereinafter referred to as _____;

On the ___ day of 20___, the parties enter into this ___ in response to the Request for Relief filed by _____ dated _____.

WHEREAS, Lee County has adopted procedures to implement the Florida Land Use and Environmental Dispute Resolution Act to provide a voluntary means of attempting to resolve disputes involving a development order or enforcement action without the necessity of length and costly litigation but without prejudicing such proceedings; and consistent with those procedures the parties agree as follows.

1. Special Master Magistrate Proceeding. The Lee County and _____ will engage in a non binding Special Master Magistrate proceeding on the claim contained in _____'s Request for Relief, dated _____. The dispute underlying the claim will be presented to a Special Master Magistrate agreed to and selected by the parties. The Special Master Magistrate will then issue a report including any agreement reached by the parties, and if necessary, a non-binding finding of reasonableness or undue burden and if requested by the Private Property Owner recommendations regarding settlement of the matter.

2. Purpose of the Proceeding. The Special Master Magistrate proceeding is intended to be a speedy, inexpensive, simple and solution-oriented method for settlement of land use and environmental disputes. A Special Master Magistrate will explore with the parties opportunities for settlement and will assist the parties in negotiation. If a settlement is not reached, the Special Master Magistrate will conduct an independent and impartial assessment of the dispute and prepare a non-binding report.

3. Selection of a Special Master Magistrate. The Special Master will be selected by mutual agreement of the parties, who ~~shall~~ will exchange lists of no more than three potential Special Masters Magistrate. All potential Special Masters Magistrates should meet the statutory definition and must be able to arrange their schedules to hear the dispute continuously over a ___ period. In addition, the Special Master Magistrate must be able to devote the time necessary to render a non-binding report within 14 days after the close of the Special Master Magistrate proceeding. Fees and expenses of the Special Master Magistrate ~~shall~~ will be borne by the parties equally.

4. Independent and Impartial Review. The Special Master Magistrate shall will render an independent and impartial review of the claim presented.

5. Information Exchange and Submission of Exhibits and Witness Lists.

(a) Upon selection of the Special Master Magistrate, the Private Property Owner shall will provide to the Special Master Magistrate a copy of the request for relief and to the parties and special master magistrate copies of exhibits and other information on which it intends to rely at the hearing and to each other a position and interest paper setting forth.

(b) The governmental entity(ies) shall will provide a written response to the request for relief including the documentary material on which it intends to rely at the hearing to the Special Master Magistrate, the owner and any participant who has requested to participate in the proceeding.

(c) No later than ___ days before the hearing, the parties will exchange a listing of witnesses and a brief description of the testimony of each witness.

(d) No later than _____ days before the hearing, participants will exchange with the Special Master Magistrate and the parties a short statement of no more than ___ pages in length, double spaced, setting forth the basis for their participation, their concerns with the or support for the development order or enforcement action that is the subject of the proceedings.

6. Other governmental entities and controlling procedures. When there is more than one governmental entity named as a party, the procedures of the governmental entity where the property is located will control.

7. Proceedings before the Special Master Magistrate. The presentations made in the proceeding shall will be informal. The rules of evidence do not apply and the hearing will be conducted under the direction and supervision of the Special Master Magistrate. The Special Master Magistrate will determine the order and presentation of issues and shall will hear from anyone with information necessary to understand the matter. The special master magistrate may question anyone presenting information but shall will give all parties an opportunity for relevant follow up questions.

8. Schedule. The Special Master Magistrate proceeding shall will take _____ day(s).

9. The Special Master Magistrate Recommendation. The Special Master Magistrate will render a written report within 14 days of the conclusion of the proceeding. The report may include: (a) a concise summary of the claim; (b) a summary of the material facts and information presented; (c) a discussion of the issues; (d) a statement of the recommendation of the Special Master Magistrate.

10. Recommendation Meeting. (Optional) The report will be formally presented to representatives of the parties by the Special ~~Master~~ Magistrate at which time the representatives may attempt to negotiate a settlement.

11. Admissible Evidence - Subsequent Hearing. No papers or other written material supplied to the Special ~~Master~~ Magistrate is admissible in a subsequent proceeding unless otherwise made so by the rules of evidence applicable to such other proceeding. Any Special ~~Master~~ Magistrate report and recommendations ~~shall~~ will be admissible in such subsequent proceedings and each party hereby stipulates to its admissibility.

12. Recording or Transcript. A recording or transcript of the hearing may be made for the use of the Special ~~Master~~ Magistrate. In the event that the claim is not resolved, this transcript ~~shall~~ will constitute an offer to compromise and is not admissible in any judicial or administrative proceeding.

13. Termination. The Private Property Owner has the right to terminate this agreement at any time for any reason whatsoever.

14. Ex Parte Communications. After the selection of the Special ~~Master~~ Magistrate, no party ~~shall~~ will engage in any ex parte communications with the designated Special ~~Master~~ Magistrate. This prohibition does not apply to routine requests for fees and expenses to be borne by the parties. No written communication ~~shall~~ will be made between the Special ~~Master~~ Magistrate and a party without the other party receiving a copy, and no oral communication ~~shall~~ will take place without the other party being present.

15. Identification of Hearing Representative. The hearing representative for _____ will be _____. The hearing representative for (the governmental entity) will be _____.

Dated

/s/
[owner]
[address]
[phone number]

/s/
[designated official]
[address]
[phone number]

/s/
[Special ~~Master~~ Magistrate]
[address]
[phone number]

**(d) RESPONSE TO OWNER'S REQUEST FOR RELIEF
(to be used by the county)**

RESPONSE TO OWNER'S REQUEST FOR RELIEF

In response to the request for relief filed by [owner] dated [date of request] and relating to [development order by name and number, if any], LEE COUNTY states:

1. The development order is not unreasonable or impose an unfair burden on the property because [state reasons].
2. This development order is based upon [rule or regulation] which serves the necessary public purpose of [briefly state public purpose of the rule or regulation].
3. As an alternative to the current development order, LEE COUNTY offers the following, less restrictive option:

[specify alternative].

Dated

/s/
[designated official]
[address]
[phone number]

Copies furnished to:
[list persons to be sent copies]

**(e) REQUEST TO DISMISS OWNER'S REQUEST FOR RELIEF
(to be used by the county)**

REQUEST TO DISMISS OWNER'S REQUEST FOR RELIEF

LEE COUNTY requests that the request for relief filed by [owner] on [date] be dismissed because:

1. The owner failed to exhaust local administrative appeals by not appealing to the Lee County Hearing Examiner as provided by the Lee County Land Development Code.
2. The request for relief was received more than 30 days after issuance of the [development order or enforcement action].
3. The request for relief fails to provide a statement of the owner's proposed use of the property.
4. A copy of the [development order or enforcement action] was not attached to the request for relief.
5. The request for relief does not provide a statement of the effect of the [development order or enforcement action] on the owner's ability to use the property.

Dated

/s/
[designated official]
[address]
[phone number]

Copies furnished to:

(f) **REQUEST TO PARTICIPATE IN SPECIAL MASTER MAGISTRATE PROCEEDING**

REQUEST TO PARTICIPATE IN SPECIAL MASTER MAGISTRATE PROCEEDING

TO: [Special Master Magistrate or designated official of adopting governmental entity]

RE: Request for Relief of [owner requesting relief]

1. I hereby request the right to participate in the proceeding on this request for relief, pursuant to Section 70.51(12), F.S. I received written notice of this Special Master Magistrate proceeding from Lee County on [date].

2. I own the real property located adjacent to the property which is the subject of this proceeding.

or

2. I submitted oral or written testimony of a substantive nature which stated with particularity objections to or support for the subject of this proceeding at the following time and place: [state body which conducted proceeding and date or appearance or submission of written materials]. I am substantially affected by the action at issue in that [explain how you are substantially affected].

ANNOTATION. A PERSON REQUESTING THE RIGHT TO PARTICIPATE IN THE PROCEEDING SHOULD CHOOSE THE VERSION OF PARAGRAPH 2 WHICH IS APPLICABLE.

3. I understand that, if allowed to participate in the proceeding, I will be limited to addressing the prospective relief for the owner as it may affect my substantial interests.

Dated

/s/
[person requesting participation]
[address]
[phone number]

(g) ORDER RULING ON REQUEST TO PARTICIPATE IN SPECIAL MASTER MAGISTRATE PROCEEDING (to be used by Special Master Magistrate).

1. Granting request to participate--

ORDER GRANTING REQUEST TO PARTICIPATE IN SPECIAL MASTER MAGISTRATE PROCEEDING

Your request to participate in the Special Master Magistrate proceeding initiated by [name of owner requesting relief] is granted.

Be advised that pursuant to Section 70.51(12), F.S., your participation in this proceeding is limited to addressing those issues raised regarding alternatives, variances, and other types of adjustment to the [development order or enforcement action] which may impact your substantial interests, unless the owner requesting relief and Lee County agree to allow you to address other issues.

You may obtain a copy of the procedural guidelines and sample forms for special master master proceedings at [location and phone number of office where guidelines and forms may be obtained].

Dated

/s/
[Special Master Magistrate]
[address]
[phone number]

2. Denying request to participate.--

ORDER DENYING REQUEST TO PARTICIPATE IN SPECIAL MASTER MAGISTRATE PROCEEDING

Your request to participate in the Special Master Magistrate proceeding initiated by [owner requesting relief] is denied.

Your request is denied because [state grounds for denial].

Dated

/s/
[Special Master Magistrate]
[address]
[phone number]

**(h) NOTICE OF SPECIAL MASTER MAGISTRATE HEARING
(to be issued by Special Master Magistrate).**

NOTICE OF SPECIAL MASTER MAGISTRATE HEARING

TO: [name]
[address]

You are hereby notified that the Special Master Magistrate hearing on the request for relief filed by [owner requesting relief] has been set as follows:

PLACE: [location by street address and room number]
TIME: [time]
DATE: [date]

You may obtain a copy of the procedural guidelines and sample forms for Special Master Magistrate proceedings at [location and phone number of office where guidelines and forms may be obtained].

Dated

/s/
[Special Master Magistrate]
[address]
[phone number]

(i) **SPECIAL MASTER'S MAGISTRATE'S RECOMMENDATION**
(to be issued by Special Master Master).

1. With settlement.--

SPECIAL MASTER'S MAGISTRATE'S RECOMMENDATION

RE: Request for Relief of [owner]

A Special Master Magistrate proceeding has been conducted pursuant to Section 70.51, F.S. A settlement agreement was reached by and between [owner] and Lee County . A copy of the settlement agreement is attached as Attachment A.

Dated

/s/

[Special Master Magistrate]

[address]

[phone number]

Copies furnished to:

2. Finding for owner.--

SPECIAL MASTER'S MAGISTRATE'S RECOMMENDATION

RE: Request for Relief of [owner]

A Special Master's Magistrate's hearing was held on [date]. The parties were unable to reach a settlement. Therefore, I received information from the parties, participants and witnesses to determine whether [development order or enforcement action] was unreasonable or an unfair burden on the real property.

Based on this information and pursuant to Section 70.51(19)(b), F.S., I find the [development order or enforcement action] is unreasonable and/or unfairly burdens the real property because: [set forth reasons].

Therefore, with the owner's consent, I recommend the following: [recommended adjustment to development order]

Dated

/s/

[Special Master Magistrate]

[address]

[phone number]

Copies furnished to:

3. Finding for governmental entity.--

SPECIAL MASTER'S MAGISTRATE'S RECOMMENDATION

RE: Request for Relief of [owner]

A Special Master's Magistrate's hearing was held on [date]. The parties were unable to reach a settlement. Therefore, I received information from the parties, participants and witnesses to determine whether [development order or enforcement action] was unreasonable or an unfair burden on the real property.

Based on this information and pursuant to Section 70.51(19)(a), F.S., I find this [development order or enforcement action] is not unreasonable and does not unfairly burden the owner's property because: [set forth reasons].

Therefore, I recommend that the development order remain undisturbed.

Dated

/s/

[Special Master Magistrate]

[address]

[phone number]

Copies furnished to:

(j) NOTICE OF ACTION TAKEN ON SPECIAL MASTER'S MAGISTRATE'S RECOMMENDATION (to be issued by the county)

NOTICE OF ACTION TAKEN ON Special Master'S Magistrate's RECOMMENDATION

TO: Florida Department of Legal Affairs
[address]

RE: Request for Relief of [owner]

On [date], the Special Master Magistrate issued a recommendation on the above request for relief. As required by Section 70.51(27), F.S., Lee County hereby notifies the Florida Department of Legal Affairs that the following action was taken on the Special Master's Magistrate's recommendation: [summarize action taken].

A copy of the order by the [elected or appointed head of adopting governmental entity] formally taking this action is attached as Attachment A.

Dated

/s/
[designated official]
[address]
[phone number]

Copies furnished to:

**(k) STATEMENT OF USES AVAILABLE ON OWNER'S LAND
(to be used by the county)**

STATEMENT OF USES AVAILABLE ON OWNER'S LAND

RE: Request for Relief of [owner]

1. On [date], the Special ~~Master~~ Magistrate issued a recommendation on the request for relief by [name of owner]. On [date], the Board of County Commissioners of Lee County [accepted, or accepted with modifications, or rejected] the Special ~~Master's~~ Magistrate's recommendation.

2. On [date], the owner notified [designated official] that the decision of the [elected or appointed head of adopting governmental entity] regarding the Special ~~Master's~~ Magistrate's recommendation had been rejected.

Therefore, as required by Section 70.51(22), F.S., Lee County identifies the following uses that are available on the owner's property:

[specifically describe use or uses available]

Dated

[designated official]

[address]

[phone number]

Copies furnished to:

(I) **SUBPOENA (to be used by Special Master Magistrate).**

SUBPOENA

TO: [name]
[address]

RE: Request for Relief of [owner]

YOU ARE HEREBY COMMANDED to appear at [location] to testify at a Special ~~Master~~ Magistrate hearing at ___ o'clock __.m., on the day of _____, 20____, with respect to the request for relief filed by [owner] regarding the [development order or enforcement action] by Lee County affecting the owner's real property.

PURSUANT TO SECTION 70.51(14), F.S., you ~~shall~~ must comply with this subpoena as directed unless excused by the party who requested issuance of the subpoena or by order of the Special ~~Master~~ Magistrate.

ISSUED this ___ day of _____, 20 __, at _____, Florida.

/s/
[Special Master Magistrate]
[address]
[phone number]

THIS SUBPOENA ISSUED
AT THE REQUEST OF:
[name of party]
[address]
[phone number]

**(m) SUBPOENA DUCES TECUM
(to be used by the Special Master Magistrate).**

SUBPOENA DUCES TECUM

TO: [name]
[address]

RE: Request for Relief of [owner]

YOU ARE HEREBY COMMANDED to appear at [location] to testify at a Special ~~Master~~ Magistrate hearing at ___ o'clock __.m., on the day of _____, 20___, with respect to the request for relief filed by [owner] regarding the [development order or enforcement action] by [adopting governmental entity] affecting the owner's real property.

YOU ARE FURTHER COMMANDED to have with you at said time and place the following: [list items to be produced at hearing]

PURSUANT TO SECTION 70.51(14), F.S., you ~~shall~~ must comply with this subpoena as directed unless excused by the party who requested issuance of the subpoena or by order of the Special ~~Master~~ Magistrate.

ISSUED this ___ day of _____, 20___, at _____, Florida.

/s/
[Special ~~Master~~ Magistrate]
[address]
[phone number]

THIS SUBPOENA ISSUED
AT THE REQUEST OF:
[name of party]
[address]
[phone number]

ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS

CATEGORY: Committees/Boards/Commissions/Examiners	CODE NUMBER: AC 2-16
TITLE: Procedural Rules for Special Magistrate Dispute Resolution under the Florida Land Use and Environmental Dispute Resolution Act.	ADOPTED: 3/20/96
	AMENDED: 4/3/01
	ORIGINATING DEPARTMENT: County Attorney

PURPOSE/SCOPE:

The purpose of this administrative code is to adopt procedural guidelines for Special Magistrate proceeding designed to implement the Florida Land Use and Environmental Dispute Resolution Act.

POLICY/PROCEDURE:

The following procedural guidelines will apply to the Special Magistrate process in Lee County:

A. SPECIAL MAGISTRATE TIMELINE AND DUE DATES

<u>DAY</u>	<u>ACTION</u>
0	Private Property Owner receives development order or notice of enforcement action by the County,
30	Private Property Owner must have filed for relief by serving the County.

RECEIPT OF REQUEST FOR RELIEF BY COUNTY

<u>DAY</u>	<u>ACTION</u>
+ 10	County and Private Property Owner agree on who will serve as Special Magistrate and forward the request for relief to Special Magistrate.
+ 10	County serves copies of the request for relief on contiguous land owners and any substantially affected person who participated in any of the previous proceedings and who requested notice of the request for relief. They have 21 days from receipt of the request for relief to request participation in the proceedings.
+ 15	Special Magistrate provides notice of the place, date and time of the hearing to all parties and all others requesting notice. (This must occur at least 40 days prior to the hearing.)

- + 15 County files response to request for relief with the Special Magistrate and serves the Private Property Owner with a copy. Any governmental entity added by the Special Magistrate have 15 days to file a response to the request for relief with the Special Magistrate.
- + 45 Special Magistrate commences hearing on request for relief unless parties agree otherwise.
- + 165 Entire procedure (including the pre-hearing stage, the mediation phase, the information gathering hearing stage and recommendation) must conclude unless all parties agree otherwise.

SPECIAL MAGISTRATE HEARING CONCLUDED

DAY ACTION

- + 14 Special Magistrate prepares a written recommendation and provides it to all parties and the Department of Legal Affairs.
- + 45 Each Governmental Entity must confer among themselves and each must convey to the Private Property Owner in writing their decision to accept the recommendation, or accept the recommendation with modifications, or reject the recommendation. Failure to act on the recommendation within 45 days constitutes a rejection.
- + 60 Each Governmental Entity must notify the Department of Legal Affairs in writing as to the action it has taken on the Special Magistrate's recommendation.
- + 75 The County must issue a written decision that describes as specifically as possible the uses available to the property, if (1) the County rejects the Special Magistrate recommendation or (2) the County accepts the Special Magistrate recommendation with or without modification and the Private Property Owner rejects the County's action.

B. PROCEDURAL GUIDELINES FOR SPECIAL MAGISTRATE PROCEEDINGS

General Provisions

- Guideline 1. Purpose and Intent**
- Guideline 2. Definitions**
- Guideline 3. Time Requirements and Furnishing Copies**
- Guideline 4. Standards of Conduct**

Pre-Hearing Procedures

- Guideline 5. Administrative Appeals and Judicial Review**
- Guideline 6. Pre-Initiation Meeting**
- Guideline 7. Request for Relief**
- Guideline 8. Selection of Special Magistrate**
- Guideline 9. Special Magistrate Agreement; Fees and Expenses**
- Guideline 10. Response to Request for Relief**
- Guideline 11. Additional Parties to the Proceeding**
- Guideline 12. Other Persons Who May Participate**
- Guideline 13. Consolidation**

Conduct of the Proceeding

- Guideline 14. Representatives**
- Guideline 15. Order of the Proceeding**
- Guideline 16. Mediation Phase**
- Guideline 17. Information-gathering Hearing**
- Guideline 18. Witnesses and Materials**
- Guideline 19. Access to the Property**
- Guideline 20. Offer to Compromise**
- Guideline 21. Settlement**

Post-Hearing Procedures

- Guideline 22. Special Magistrate's Recommendation**
- Guideline 23. Effect of Special Magistrate's Recommendation**
- Guideline 24. Disposition of Special Magistrate's Recommendation**

General Provisions

Guideline 1. Purpose and Intent

- (1) These guidelines establish procedures for the initiation, conduct and conclusion of a Special Magistrate proceeding under the Florida Land Use and Environmental Dispute Resolution Act involving a development order or enforcement action by Lee County. This proceeding is voluntary for the landowner.
- (2) This is a nonadjudicatory settlement and expedited hearing procedure. A Special Magistrate may not impose a decision but is intended primarily to explore opportunities for compromise and to assist the parties in negotiation. Settlement through the Special Magistrate process is intended to save time and money for everyone.
- (3) If a settlement is not reached, the Special Magistrate will conduct an independent and impartial assessment of the dispute and prepare a nonbinding recommendation.

- (4) The Special Magistrate proceeding is intended to be a speedy, inexpensive, simple and solution-oriented method for settlement of land use and environmental disputes. As much as possible, a landowner and regulator meet face-to-face and discuss issues directly without the need for advocacy by a lawyer.
- (5) The Special Magistrate and the parties should adapt these guidelines to the needs of each case, consistent with the requirements of law.

Guideline 2. Definitions

- (1) "Development" means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels, and all other work customarily associated with such activities.
- (2) "Development order" means any order, or notice of proposed state or regional governmental agency action, which is or will have the effect of granting, denying, or granting with conditions an application for a development permit. It includes the rezoning of a specific parcel of land. It does not include actions on an amendment to the local comprehensive plan.
- (3) "Development permit" means:

Any building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance, or any other official action of Lee County having the effect of authorizing the development of land including, but not limited to, programs implementing Chapters 125, 161, 163, 166, 187, 258, 372, 373, 378, and 403, Florida Statutes, or
- (4) "Governmental entity" includes an agency of the state, a regional or a local government created by the State Constitution or by general or special act, any county or municipality, or any other entity that independently exercises governmental authority. The term does not include the United States or any of its agencies.
- (5) "Land" or "real property" means land and includes any appurtenances and improvements to the land, including any other relevant real property in which the owner had a relevant interest.
- (6) "Owner" means a person with a legal or equitable interest in land who filed an application for a development permit for the land with Lee County and who received a development order, or who has an interest in land that is the subject of an enforcement action by Lee County.

- (7) "Participant" means:
 - (a) A person with a legal or equitable interest in land contiguous to the owner's property; or
 - (b) A substantially affected person who submitted oral or written testimony, sworn or unsworn, of a substantive nature which stated with particularity support for or objections to the development order or enforcement action in a prior proceeding, including a public hearing.
- (8) "Party" or "parties" include the Owner, Lee County and any other governmental entity made a party to the proceeding.
- (9) "Person" includes individuals, firms, incorporated or unincorporated associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
- (10) "Proposed use of the property" means the proposal filed by the owner to develop or otherwise use the owner's land.

Guideline 3. Time Requirements and Furnishing Copies

- (1) Unless the parties agree in writing to extend the time for performing any act under these guidelines, including the overall 165-day time period, a Special Magistrate proceeding may not continue longer than 165 days from the date the owner files the request for relief.
- (2) Any copy which must be furnished to the Special Magistrate, a party or a participant may be sent by regular mail, postage prepaid, or by hand delivery to the recipient's last known address. The burden of proving a copy has been furnished is on the person responsible for furnishing it.
- (3) Except for an owner's request for relief, any document which must be submitted, or any copy which must be furnished, may be submitted or furnished by facsimile transmission. Facsimile documents will be deemed submitted or furnished on the date transmitted as shown on the recipient's copy, if the copy is complete.
- (4) Filing means that the signed original must be received by the office that is to receive the document by the date specified. Any document received after 5:00 p.m. will be deemed filed as of 8:00 a.m. the next regular business day.

Guideline 4. Standards of Conduct

- (1) The Special Magistrate holds a position of trust and should adhere to the highest standards of personal integrity, impartiality and competence. The Special Magistrate should be honest and unbiased, act in good faith, be diligent and avoid any conflict of interest or the appearance of a conflict of interest. The Special

Magistrate should disclose any facts or circumstances that may give rise to justifiable doubts as to impartiality or independence.

- (2) The parties and the Special Magistrate may establish additional standards of conduct for Special Magistrate, and standards of conduct for parties and participants, in a Special Magistrate Agreement as authorized by Guideline 9(1).

Pre-Hearing Procedures

Guideline 5. Administrative Appeals and Judicial Review

- (1) A petition by the owner for judicial review of the development order or enforcement action or a formal administrative hearing pursuant to Section 120.57, F.S., if applicable, will waive all rights to a Special Magistrate proceeding.
- (2) A request for relief through a Special Magistrate proceeding will toll the time for filing a petition for judicial review of the development order or enforcement action, or a formal administrative hearing pursuant to Section 120.57, F.S., if applicable.
- (3) Invoking the procedures for a Special Magistrate proceeding is not a pre-condition for judicial review of the development order or enforcement action or a formal administrative hearing pursuant to Section 120.57, F.S., if applicable.
- (4) Prior to initiating a Special Magistrate proceeding, the owner must request review through an administrative appeal before the county hearing examiner if applicable under the Land Development Code (LDC), so long as review takes no longer than four months. The filing of a valid administrative appeal before the county hearing examiner will toll the time for filing a request for relief.
- (5) The owner may initiate a Special Magistrate proceeding within 30 days after conclusion of the administrative appeal before the county hearing examiner or, if the administrative appeal before the county hearing examiner has not concluded, within 30 days after four months from its commencement.

Guideline 6. Pre-Initiation Meeting

- (1) Prior to filing a request for relief, an owner may request in writing an informal meeting with the County Attorney, the County Manager, or designee to ascertain whether the issues relating to a development order or enforcement action would be appropriate for a Special Magistrate proceeding or other form of alternative dispute resolution. The County Attorney and the County Manager will convene such a meeting promptly and include staff necessary to address the owner's concerns.
- (2) The County may agree with the owner in writing to extend the time for filing a request for relief to create an opportunity for mediation or other form of alternative dispute resolution.

- (3) A Special Magistrate proceeding is intended to be an additional remedy for the owner. It does not supplant other lawfully available methods agreed to by the parties, such as arbitration, mediation or other form of dispute resolution.

Guideline 7. Request for Relief

- (1) Any owner who believes a development order or enforcement action, by itself or in conjunction with the actions of other governmental entities, is unreasonable or unfairly burdens the use of the owner's land may file a request for relief.
- (2) A request for relief must be post marked or hand delivered within 30 days after:
 - (a) Receipt of the development order or enforcement action; or,
 - (b) If an administrative appeal before the county hearing examiner is permissible, the later of its conclusion or the expiration of four months after its initiation.
- (3) A signed original and one copy of the request for relief must be filed with the Chairman of the Board of County Commissioners at 2115 Second Street, Fort Myers, Florida 33901. No fee will be charged for filing a request for relief.
- (4) The request for relief must contain:
 - (a) A brief statement of the owner's proposed use of the property.
 - (b) A summary of the development order or description of the enforcement action. A copy of the development order or documentation of the enforcement action must be attached.
 - (c) A brief statement of the impact of the development order or enforcement action on the ability of the owner to achieve the proposed use of the property, including an explanation why the development order or enforcement action is unreasonable or an unfair burden.
 - (d) The signature of the owner or, if the owner is a corporation, partnership or other organization, the signature of a responsible official, and the mailing address and telephone number at which the owner may be reached. An attorney may sign the request for relief on behalf of the owner.
 - (e) A statement regarding whether an administrative appeal before the county hearing examiner is available and, if so, whether and when it was commenced by the owner and, if completed, the date of completion.
 - (f) A certification by the signer of the request identifying the persons who have been furnished with copies of the request for relief.

- (5) Upon receipt of a request for relief, the Chairman of the Board of County Commissioners must forward the copy of the request to the County Attorney, who will:
- (a) Notify appropriate staff that the request was filed and direct preparation of a response; and
 - (b) Confer with the owner or owner's representative, if one, and any other governmental entity identified as a party in the request for relief to agree on a Special Magistrate no later than 10 days from the date the request for relief was received.
 - (c) Furnish a copy of the request for relief to:
 - 1. Persons holding title to land contiguous to the owner's property, at the address on the latest County tax roll.
 - 2. Persons who submitted oral or written testimony, sworn or unsworn, of a substantive nature which stated with particularity support for or objections to the development order or enforcement action. A copy must be furnished to such a person only if that person requested in writing or at a public hearing a desire to be placed on a mailing list to receive notice of any subsequent proceeding on the development order or enforcement action at issue.

The mailing to the persons listed in 1 and 2 above must include the following information:

 - (a) Request for relief.
 - (b) Application number and date of filing.
 - (c) Location and total area of the property.
 - (d) Present zoning and comprehensive plan designation of the property.
 - (e) Instructions for obtaining further information regarding the application.
 - 3. A copy provided for purposes of notice may omit attachments or supporting documentation so long as it informs the recipient where such materials may be inspected and copied.
- (6) At the next regular meeting of the Board of County Commissioners after receipt of a request for relief, the County Attorney must inform the Board that a request for relief has been filed, the name of the owner, a description of the development order or enforcement action at issue, and the timetable for consideration of the matter.

- (7) The owner may voluntarily dismiss the proceeding at any time by submitting a written request for dismissal to the Special Magistrate or, if one has not been selected, to the Chairman of the Board of County Commissioners. A voluntary dismissal will be effective upon filing with the Special Magistrate or, if one has not been selected, the Chairman of the Board of County Commissioners.

Guideline 8. Selection of Special Magistrate

- (1) In order to serve as a Special Magistrate in a proceeding under these guidelines, a person must:
 - (a) Be a resident of the State of Florida;
 - (b) Possess experience and expertise in mediation; and
 - (c) Possess experience and expertise in at least one of the following disciplines and a working familiarity with the others:
 1. Land use and environmental permitting;
 2. Land planning;
 3. Land economics;
 4. Local and state government organization and powers, and the law governing the same.

A Special Magistrate need not be a lawyer or a mediator certified by the Florida Supreme Court.

- (2) The County Attorney will forward the original request for relief to the Special Magistrate upon selection.
- (3) Any member of the Florida Bar selected as a Special Magistrate in a particular matter will not, for that reason, be disqualified from serving as counsel in any other matter before Lee County.
- (4) If the owner, any other governmental entity identified as a party in the request for relief and the County Attorney do not agree on a Special Magistrate, they may jointly agree on an impartial third party to select the Special Magistrate according to agreed criteria.

Guideline 9. Special Magistrate Agreement; Fees and Expenses

- (1) The Special Magistrate and the parties must memorialize the selection of the Special Magistrate in an agreement which provides for the payment of all fees and

expenses associated with the proceeding. In addition, a Special Magistrate Agreement may:

- (a) Vary the time for performance of any act.
 - (b) Establish ground rules for the conduct of the proceeding, including standards of conduct for the Special Magistrate, parties and participants, and the enforceability of subpoenas in circuit court.
 - (c) Identify factual issues to be addressed in the proceeding or specify procedures for resolving factual issues, including stipulation.
 - (d) Provide for the exchange of information by the parties prior to the mediation or hearing.
 - (e) Identify participants known to the parties who should be notified of the proceeding.
 - (f) Address such other issues as the parties may decide will assist in settlement of the dispute.
- (2) Payment of fees and expenses for the Special Magistrate, and costs of providing notice and effecting service, will be borne equally by the parties. Other costs will be paid as agreed by the parties.
 - (3) A Special Magistrate will be compensated as agreed in writing by the Special Magistrate and the parties upon selection or as thereafter modified in writing. Parties may place funds on deposit to assure payment at the conclusion of the proceeding, or provide a retainer against which fees and expenses will be charged.
 - (4) The parties may authorize the Special Magistrate to retain an independent expert, or to obtain any materials, to assist in evaluating any issue. Fees and costs will be paid as agreed in writing by the parties and the Special Magistrate.

Guideline 10. Response to Request for Relief

- (1) No more than 15 days after the filing of a request for relief, the County Attorney will file a response to the request for relief on behalf of the county . A copy must be furnished to the owner and any person who has requested to participate in the proceeding.
- (2) The response must set forth in reasonable detail the position of the county regarding the matters raised by the owner. The response must include a brief statement explaining the public purpose of the regulations on which the development order or enforcement action is based.

- (3) The response may include a request that the Special Magistrate dismiss the owner's request for relief for any failure to observe these Guidelines (Sufficiency Report). If the request is dismissed, the owner will be permitted to file an amended request within a reasonable time fixed by the Special Magistrate. Failure to file an adequate amended request within the time specified by the Special Magistrate will result in final dismissal of the matter without the right to submit another request. Final dismissal may not be appealed to the Board of County Commissioners.
- (4) Any party may request, in its response or otherwise, a request to be dropped from the proceeding. The request must set forth facts and circumstances to aid the Special Magistrate in deciding on the request. All such requests must be disposed of prior to a hearing on the substance of the owner's request for relief. If the Special Magistrate denies a request to be dropped, that party must participate in the proceeding.

Guideline 11. Additional Parties to the Proceeding

- (1) The Special Magistrate may add additional governmental entities as parties to the proceeding when:
 - (a) The owner or County asks the Special Magistrate to add that governmental entity to the proceeding as a party; and
 - (b) The development order or enforcement action is the culmination of a process involving a governmental entity in addition to the County; or
 - (c) A complete resolution of all relevant issues would require active participation of that additional governmental entity.
- (2) A governmental entity added as a party must actively participate in the proceeding as set forth in these Guidelines and as required by the Special Magistrate.
- (3) These Guidelines are intended to give the Special Magistrate the flexibility to alter the time periods within which a governmental entity added to a proceeding must perform any act. A governmental entity added as a party must submit a response to the request for relief under Guideline 10(1) and may request dismissal of the request for relief under Guideline 10(3). Ordinarily, a request to be dropped under Guideline 10(4) would be without purpose.

Guideline 12. Other Persons Who May Participate

- (1) Other persons who may participate in the proceeding are:
 - (a) Any person with a legal or equitable interest in land contiguous to the owner's property; or

- (b) Any substantially affected person who submitted oral or written testimony, sworn or unsworn, of a substantive nature which stated with particularity support for or objections to the development order or enforcement action in a prior proceeding.
- (2) Within 21 days after receiving a copy of the request for relief, a person seeking to participate must submit a written request to participate. The request must state:
 - (a) The person has a legal or equitable interest in land contiguous to the owner's property and, if so, identify the land in relation to the owner's property; or
 - (b) How the person is substantially affected by the development order or enforcement action at issue.

The request must be submitted to the Special Magistrate or, if one has not yet been selected, to the County Attorney for forwarding to the Special Magistrate after selection.

- (3) The Special Magistrate may decide any issue necessary to determine whether a person qualifies as a participant. If the Special Magistrate accepts a request to participate, the person or any witnesses and representatives may address only those issues raised regarding alternatives, variances, and other types of adjustment to the development order or enforcement action which may impact the participant's substantial interests, unless the parties agree to allow a participant to address additional issues. Denial of a request to participate may not be appealed to the Board of County Commissioners.

Guideline 13. Consolidation

- (1) If there are separate matters which involve similar issues or identical parties, they may be consolidated if the parties agree and it appears that consolidation would promote the speedy, efficient, and inexpensive resolution of the matters.
- (2) If the separate matters are pending before different Special Magistrates, the parties may decide which Special Magistrate will conduct the consolidated proceeding. If they cannot agree on one or multiple Special Magistrate to conduct the proceeding, the proceedings will not be consolidated.

Conduct of the Proceeding

Guideline 14. Representatives

- (1) A party or participant may be represented by an attorney or other person at any phase of the proceeding, but such representation is not required.

- (2) At the mediation, each party must be represented by a person with authority to bind that party to a settlement, or to recommend a settlement directly to the persons with authority to bind the party. The Special Magistrate may ask a representative to provide assurances of such authority.

Guideline 15. Order of the Proceeding

- (1) In keeping with the overriding intent of the Legislature that the Special Magistrate proceeding be a flexible, problem-solving procedure which results in a voluntary settlement, the Special Magistrate may conduct the phases of the proceeding in any sequence and on separate days.
- (2) The proceeding will be open to the public and be held in a location accessible to the public, including the physically handicapped.
- (3) The proceeding will be recorded and minutes will be kept.
- (4) The proceeding will be conducted under the direction and supervision of the Special Magistrate. The Special Magistrate will determine the order of presentation of issues and information unless otherwise set forth in the Special Magistrate Agreement. The Special Magistrate will decide questions of procedure in a manner which provides reasonable due process.
- (5) Prior to any other portion of the proceeding, the Special Magistrate will conduct a hearing on any request to dismiss the request for relief (Sufficiency Hearing).
- (6) At any time after commencement of the information-gathering hearing, the Special Magistrate may recess the hearing to recommence mediation and facilitation.
- (7) After the hearing, the Special Magistrate may reconvene the parties to present a written recommendation, in draft or final form, and seek to re-commence negotiations.

Guideline 16. Mediation Phase

- (1) The Special Magistrate's first responsibility is to facilitate a resolution of the dispute and arrive at a settlement acceptable to the parties. It may involve a modification of the owner's proposed use of the property or adjustment in the development order or enforcement action or regulatory efforts by one or more of the governmental parties.
- (2) The Special Magistrate will, among other things, suggest alternatives, analyze issues, question perceptions, use logic, stimulate and facilitate negotiations between the parties, and keep order. The Special Magistrate will at all times promote conciliation, cooperation, compromise and settlement of the dispute within the bounds established by law.

- (3) As alternatives, variances, and other types of adjustments to the development order or enforcement action are presented, the Special Magistrate will afford participants an opportunity to address the impacts of such adjustments on their substantial interests.

Guideline 17. Information-gathering Hearing

- (1) Within 5 days of receipt of the request for relief, the Special Magistrate will provide written notice of the place, date, and time of the hearing to all parties, and to all persons who have requested such notice. The hearing must be held within 45 days of the Special Magistrate's receipt of the request for relief. The parties may agree to extend the date for the hearing.
- (2) The hearing must be held in Lee County. The Special Magistrate's decision on the specific place of the mediation and hearing will be final.
- (3) The Special Magistrate will hear from anyone with information necessary to understand the matter. The Special Magistrate may question anyone presenting information at the hearing but will give all parties an opportunity for follow-up questions.
- (4) The Special Magistrate will weigh all information offered at the hearing. Information will not be subject to the rules of evidence, but the criteria for determining and the determination of verification and authentication are within the Special Magistrate's discretion.
- (5) At any time, the Special Magistrate may require any party to provide additional information in the interest of gaining a complete understanding of the request for relief.
- (6) Each party may record the hearing at its own expense. The Special Magistrate may record the hearing to assist in preparing a recommendation as required by Guideline 22. If the Special Magistrate makes such a recording, it will be forwarded to the county with the recommendation but will be subject to the restrictions on information contained in Guideline 20.
- (7) Any documents or tangible materials presented to the Special Magistrate at hearing will be submitted to the Chairman of the Board of County Commissioners with the Special Magistrate's recommendation. Any notes or drafts produced by the Special Magistrate and not intended to record information in a permanent form will remain the property of the Special Magistrate.
- (8) If a party fails to appear at the hearing after notice, the Special Magistrate may proceed without that party or may adjourn the hearing to another day, giving notice to the absent party.

- (9) Information may be given and parties, participants or their representatives may participate by telephone, videotape or other communications medium unless otherwise agreed in a Special Magistrate Agreement.

Guideline 18. Witnesses and Materials

- (1) Each party must assure attendance at the hearing by those persons qualified by training or experience to address issues raised by the request for relief, the response, or by the Special Magistrate, or to address alternatives, variances, and other types of modifications to the development order or enforcement action.
- (2) The Special Magistrate may issue a subpoena for any nonparty witness in the state who will aid in the disposition of the matter. A subpoena issued by a Special Magistrate may require the witness to bring a specified document or thing.
- (3) The Special Magistrate may require and receive documents and other tangible materials from any party or participant. All parties and participants will have the opportunity to examine and respond to such submissions.
- (4) The Special Magistrate may weigh the credibility of witnesses.
- (5) Although an attorney is not required, any person compelled to appear or furnish documents or tangible materials, or who appears voluntarily, may be represented and advised by legal counsel at his or her own expense.
- (6) Any part of the evidence may be received in written form, and all testimony will be under oath.

Guideline 19. Access to the Property

- (1) A request for relief constitutes a consent by the owner for the Special Magistrate and parties or representatives to have reasonable access to the owner's land.
- (2) The owner may grant access to the land to participants.

Guideline 20. Offer to Compromise

- (1) As provided by law:
 - (a) All actions or statements of the Special Magistrate, the parties and all participants are evidence of an offer to compromise and are inadmissible in any judicial or administrative proceeding.
 - (b) The proceeding may not be made known by a party or participant to any judicial or administrative tribunal, or be construed for any purpose as an admission against interest.

- (2) A party or participant is not bound by anything said or done during the proceeding unless a written settlement is reached, in which case only the terms of the written settlement will be binding.
- (3) The Special Magistrate may not be called to appear before the Board of County Commissioners with respect to any aspect of the proceeding, nor may the Special Magistrate be compelled to furnish notes or drafts.

Guideline 21. Settlement

- (1) The owner and the county may enter into a settlement agreement or other agreement as to the permissible use of the owner's land prior to the Special Magistrate filing a recommendation under Guideline 22.
- (2) A settlement agreement or other agreement as to the permissible use of the owner's land may be executed subject to approval by the Board of County Commissioners. Any such agreement will not bind any party until duly approved and executed by all parties to the agreement.

Post-Hearing Procedures

Guideline 22. Special Magistrate's Recommendation

- (1) The Special Magistrate must file a recommendation with the chairman of the Board of County Commissioners within 14 days after the conclusion of the hearing. The Special Magistrate must also furnish a copy to all parties and participants.
- (2) If a settlement agreement or other agreement as to the permissible use of the owner's land is executed prior to the Special Magistrate's recommendation, the recommendation will only:
 - (a) Set forth the date and location of the hearing;
 - (b) Identify the parties and other participants in attendance at the hearing;
 - (c) Record, without comment, the fact that a settlement agreement or other agreement as to the permissible use of the owner's land has been executed; and
 - (d) Include as an attachment an executed copy of the settlement agreement or other agreement as to the permissible use of the owner's property.
- (3) If a settlement agreement or other agreement as to the permissible use of the owner's land is not executed prior to the filing of the Special Magistrate's recommendation, the Special Magistrate will consider the facts and circumstances set forth in the request for relief, any responses, and any other information

produced at the hearing to determine whether the development order or enforcement action, by itself or in conjunction with an action of the county or another governmental entity, is unreasonable or unfairly burdens the owner's land.

- (4) In making a determination, the Special Magistrate may consider, among other things:
- (a) The history of the land, including when it was purchased, how much was purchased, where it is located, the nature of the title, the composition of the property, and how it was previously used.
 - (b) The history of development and use of the land, including what was developed and by whom, if it was subdivided and how and to whom it was sold, whether plats were filed or recorded, and whether infrastructure and other public services or improvements may have been dedicated to the public.
 - (c) The history of relevant environmental protection and land use controls and other regulations, including how and whether the land was classified, any uses that may have been proscribed, and what changes in classifications have occurred.
 - (d) The present nature and extent of the land, including natural and altered characteristics.
 - (e) The reasonable expectations of the owner at the time of acquisition, or immediately prior to the implementation of the regulation at issue, whichever is later, under the regulations then in effect and under common law.
 - (f) The public purpose sought to be achieved by the development order or enforcement action, including the nature and magnitude of the problem addressed by the underlying regulations on which the development order or enforcement action is based; whether the development order or enforcement action is necessary to the achievement of the public purpose; and whether there are alternative development order or enforcement action conditions that would achieve the public purpose and allow for reduced restrictions on the use of the owner's land.
 - (g) Uses authorized for and restrictions placed on similar property, including adjacent lands.
 - (h) Any other information determined to be relevant by the Special Magistrate or agreed by the parties to be addressed by the Special Magistrate.

- (5) The Special Magistrate will utilize his or her expertise in formulating a recommendation and, in applying this expertise, must rely upon the sort of information that a reasonable, prudent person would rely upon in the conduct of his or her affairs.
- (6) If the Special Magistrate determines the development order or enforcement action, by itself or in conjunction with another action of the county or another governmental entity, is reasonable and does not unfairly burden the owner's land, the Special Magistrate will recommend that the development order or enforcement action remain undisturbed.
- (7) If the Special Magistrate determines the development order or enforcement action, by itself or in conjunction with another action of the county or another governmental entity, is unreasonable or unfairly burdens the owner's property, and the owner has consented, the Special Magistrate will recommend one or more alternative actions that protect the public interest served by the regulations at issue but allow for reduced restraints on the use of the owner's real property. The alternatives may include:
 - (a) An adjustment of land development or permit standards or conditions controlling the development or use of the owner's land.
 - (b) Increases or modifications in the density, intensity, or use of areas of development.
 - (c) The transfer of development rights.
 - (d) Land swaps or exchanges.
 - (e) Mitigation, including payments in lieu of on-site mitigation.
 - (f) Location of the development or use at issue on the least sensitive portion of the property.
 - (g) Conditioning the amount of development or use permitted on the owner's land.
 - (h) A requirement that issues be addressed on a more comprehensive basis than a single proposed use or development.
 - (i) Issuance of the development order, a variance, special exception, or other extraordinary relief, including withdrawal of the enforcement action.
 - (j) Purchase of the owner's land, or an interest in it, by the county or another governmental entity.

If an apportionment of responsibility among governmental entities is necessary, the Special Magistrate will make such apportionment.

- (8) The Special Magistrate will furnish a copy of the written recommendation to the Florida Department of Legal Affairs.
- (9) The Special Magistrate's recommendation is a public record. A copy will be available for public inspection and copying at the office of the Clerk of the Board of County Commissioners.

Guideline 23. Effect of Special Magistrate's Recommendation

- (1) The Special Magistrate's recommendation is advisory and not binding on the owner or the Board of County Commissioners.
- (2) A Special Magistrate's recommendation constitutes data which will be considered with respect to any pertinent amendment to the comprehensive plan.
- (3) A Special Magistrate's determination that the development order or enforcement action, by itself or in conjunction with actions of the county or another governmental entity, is unreasonable or unfairly burdens the owner's land will constitute a determination of hardship which will support a modification, variance, or special exception as otherwise authorized by applicable rules and regulations.

Guideline 24. Disposition of Special Magistrate's Recommendation

- (1) Within 45 days of receipt of the Special Magistrate's recommendation, the Board of County Commissioners must deliberate and determine whether to:
 - (a) accept the recommendation as submitted and implement it in the ordinary course and consistent with all other rules and regulations; or
 - (b) modify the recommendation as submitted and implement it in the ordinary course and consistent with all other rules and regulations; or
 - (c) reject the recommendation as submitted. Failure to act within 45 days of receipt of the recommendation will be deemed a rejection, unless the owner and the county agree to an extension of time.
- (2) The deliberations of the Board of County Commissioners regarding whether to accept, reject or modify the Special Magistrate's recommendation will be made at a public hearing.

The Board of County Commissioners will determine the appropriate course of action based solely upon the request for relief, the Special Magistrate's recommendation and supporting documents. All persons addressing the Board will be limited to five

minutes. The Board, at its discretion, may allow additional time to the staff or the property owner, or his designee.

(3) Notice of public hearing:

(a) Newspaper Publication.

The County must publish notice of the Board of County Commissioner public hearing in a newspaper of general circulation in the County at least ten (10) calendar days prior to the public hearing. The notice must include the name of property owner requesting relief, location of the property and substance of the proposed request for relief. The notice must also include the date, time, and place of the hearing and state the place in the County where the file may be inspected by the public. The notice must also advise that interested parties may appear at the hearing and be heard with respect to the Board of County Commissioner's deliberations regarding whether to accept, reject or modify the Special Magistrate's recommendation.

(b) Mailed Notice.

The County will mail notice of the public hearing to all parties of record in the Special Magistrate proceeding at least ten (10) calendar days prior to the Board of County Commissioner's consideration of the matter; however, the mailed notice is a courtesy only and is not jurisdictional. Accordingly, the County's failure to mail or to timely mail such notice or the failure of any party of record in the Special Magistrate proceeding to receive mailed notice will not constitute a defect in notice or bar the public hearing as scheduled.

- (4) If the Board of County Commissioners adopts a recommendation to grant a modification, variance, or special exception to the application of ordinances or regulations as they otherwise would apply to the land, the owner will not be required to duplicate processes that the owner previously has participated in order to effectuate the modification, variance or special exception.
- (5) If the Special Magistrate recommends relief or other action in conjunction with another governmental entity, the County Attorney must confer with appropriate staff from the other entities to review the recommendation and determine whether a joint staff recommendation can be made to the heads of the respective governmental entities.
- (6) Within 15 days after final action on the Special Magistrate's recommendation by the Board of County Commissioners, its Clerk will send a copy of the order or other document memorializing final action to the Florida Department of Legal Affairs.
- (7) Within 10 days of final action on the recommendation, the owner must notify the County Attorney in writing whether the owner accepts the decision on the recommendation.

- (8) If the Board of County Commissioners accepts the recommendation or modifies it and the owner rejects the acceptance or modification, or if the Board of County Commissioners rejects the recommendation, the Board of County Commissioners must issue a written decision that describes as specifically as possible the use or uses available on the owner's land. The decision must be issued within 30 days of final action on the recommendation.
- (9) After the Board of County Commissioners has acted on the Special Magistrate's recommendation and a written decision has been issued describing the use or uses available on the owner's land, or if the Board of County Commissioners has not acted within 45 days, the owner may seek a formal adjudication on the development order or enforcement action as otherwise authorized by law.

C. APPENDIX A - SAMPLE FORMS

Appendix A
Sample Forms

These sample forms are nonexclusive and their use is permissive. The following sample forms may be used in a Special Magistrate proceeding under these guidelines:

(a) OWNER'S REQUEST FOR RELIEF FORMS

1. Local Development Order; Administrative Appeal Available

TO: CHAIRMAN, LEE COUNTY BOARD OF COMMISSIONERS
(2115 SECOND STREET, FORT MYERS, FL 33901)
P.O. BOX 398
FORT MYERS, FLORIDA 33902-0398

This is a request for relief pursuant to Section 70.51, F.S.

1. I own real property at [address].
2. On [date], I filed an application for [type of application] in order to [briefly describe proposed use of the property]. A copy of the application is attached as Attachment A.
3. On [date], the [adopting governmental entity] took the following action: [summarize development order]. A copy of the development order is attached as Attachment B.
4. On [date], I appealed the development order to [name of appellate body].
5. Four months have elapsed since I filed that appeal.
(or)
5. On [date], the [name of appellate body] issued a final decision regarding the _____ development order which [briefly summarize the development order based on the appellate decision].

ANNOTATION: THE PROPERTY OWNER SHOULD CHOOSE THE APPROPRIATE PARAGRAPH 5.

6. The development order is unreasonable and unfairly burdens the use of the property in that it [describe how development order is unreasonable or unfairly burdens property].

Dated

/s/

[name of owner]

[address]

[phone number]

Attachment: (copy of the application filed by the owner)

2. Local enforcement action; administrative appeal unavailable--

OWNER'S REQUEST FOR RELIEF

TO: Chairman, Lee County Board of Commissioners
(2115 Second Street, Fort Myers, FL 33901)
P.O. Box 398
Fort Myers, Florida 33902-0398

This is a request for relief pursuant to Section 70.51, F.S.

1. I own real property at [address].
2. On [date], I was notified that an enforcement action had been instituted by [adopting governmental entity] regarding the property, alleging [briefly describe alleged violation]. A copy of the notification of enforcement action is attached as Attachment A.
3. This governmental action is not subject to a local administrative appeal.
4. As a result, [adopting governmental entity] has taken or is preparing to take the following enforcement action: [briefly describe the enforcement action].
5. The enforcement action is unreasonable and unfairly burdens the use of my property in that it [briefly discuss the impact of the enforcement action on the use of the property].

Dated

/s/

[name of owner]

[address]

[phone number]

Attachment: (copy of the notification of enforcement action)

3. **Development order by agency subject to Section 120.57, F.S.-**

OWNER'S REQUEST FOR RELIEF

TO: [elected or appointed head of adopting governmental entity]
[address]

This is a request for relief provided by Section 70.51, F.S.

1. I own the real property located at [address].
2. On [date], I filed an application for [type of application] so that I could [briefly describe proposed use of the property]. A copy of the application is attached as Attachment A.
3. On [date], Lee County took the following action on my application: [briefly summarize development order or enforcement action]. A copy of the development order is attached as Attachment B.
4. The development order is subject to a proceeding pursuant to Section 120.57, F.S. I have not initiated an adjudicatory proceeding pursuant to that section prior to this request for relief.

Dated

/s/
[name of owner]
[address]
[phone number]

Attachment: (copy of the application filed by the owner)

**(b) NOTICE OF OWNER'S REQUEST FOR RELIEF
(to be used by the County)**

NOTICE OF REQUEST FOR RELIEF

TO: [name of property owner or other person]
[address]

PLEASE TAKE NOTICE that [name of owner requesting relief] has filed a request for relief provided by Section 70.51, F.S. The property subject to the request for relief is located at [address]. The request for relief relates to [identify development order or enforcement action by name and number, if one] and has been or will be referred to an impartial Special Magistrate for hearing.

As provided by Section 70.51, F.S., you may participate in the proceeding only if you submit a written request to [name and address of Special Magistrate or adopting governmental entity's designated official] within 21 days of your receipt of this notice. Your participation will be limited to addressing those issues regarding alternatives, variances or adjustments of the development order or enforcement action which may affect your substantial interests.

You may obtain a copy of the procedural guidelines and sample forms for Special Magistrate proceedings at the Office of the Lee County Attorney, 2115 Second Street, Fort Myers, FL 33901 (P.O. Box 398, Fort Myers, FL 33902).

Dated

/s/
[designated official]
[address]
[phone number]

**(c) SPECIAL MAGISTRATE AGREEMENT
(to be used by parties and Special Magistrate)**

1. Short version.--

SPECIAL MAGISTRATE AGREEMENT

The [owner], LEE COUNTY and [name of Special Magistrate] agree that [name of Special Magistrate] will serve as the Special Magistrate in this proceeding subject to the following provisions:

1. Fees and Expenses. The Special Magistrate will be compensated at a rate of \$____ per hour plus actual expenses. The parties will equally share these fees and expenses. Each party will deposit the sum of \$____ with the [name of custodian of funds] by [date] as a retainer and partial payment for the special magistrate's expected fees and expenses. Any additional fees and expenses in excess of this amount ~~shall~~ will be payable to the Special Magistrate by the parties on an equal basis within 30 days of the conclusion of this proceeding.

2. Standards of Conduct. The conduct of all parties and participants will be governed by the standards set forth in the procedural guidelines for Special Magistrate proceeding adopted by [adopting governmental entity] as supplemented by the standards of conduct set forth in Attachment A.

3. Factual Issues. The parties stipulate to the facts set forth in Attachment B. The parties agree that the factual issues to be addressed in the information-gathering hearing, if one, will include those set forth in Attachment C.

4. Witnesses. Attachment D contains a list of the witnesses each party expects to call.

5. Location. The hearing will be held at [location] at a date specified by the Special Magistrate.

Dated

/s/
[owner]
[address]
[phone number]

/s/
[designated official]
[address]
[phone number]

/s/
[Special Magistrate]
[address]
[phone number]

2. Long Version.--

SPECIAL MAGISTRATE AGREEMENT

Between the Governmental entity(ies) and Private Property Owner

This Special Magistrate Agreement dated this ___ day of _____, 20___ is executed by _____, on behalf of the (governmental entity) and by _____, on behalf of _____, hereinafter referred to as _____;

On the ___ day of 20___, the parties enter into this ___ in response to the Request for Relief filed by _____ dated _____.

WHEREAS, Lee County has adopted procedures to implement the Florida Land Use and Environmental Dispute Resolution Act to provide a voluntary means of attempting to resolve disputes involving a development order or enforcement action without the necessity of length and costly litigation but without prejudicing such proceedings; and consistent with those procedures the parties agree as follows.

1. Special Magistrate Proceeding. The Lee County and _____ will engage in a non binding Special Magistrate proceeding on the claim contained in _____'s Request for Relief, dated _____. The dispute underlying the claim will be presented to a Special Magistrate agreed to and selected by the parties. The Special Magistrate will then issue a report including any agreement reached by the parties, and if necessary, a non-binding finding of reasonableness or undue burden and if requested by the Private Property Owner recommendations regarding settlement of the matter.

2. Purpose of the Proceeding. The Special Magistrate proceeding is intended to be a speedy, inexpensive, simple and solution-oriented method for settlement of land use and environmental disputes. A Special Magistrate will explore with the parties opportunities for settlement and will assist the parties in negotiation. If a settlement is not reached, the Special Magistrate will conduct an independent and impartial assessment of the dispute and prepare a non-binding report.

3. Selection of a Special Magistrate. The Special Magistrate will be selected by mutual agreement of the parties, who will exchange lists of no more than three potential Special Magistrate. All potential Special Magistrates should meet the statutory definition and must be able to arrange their schedules to hear the dispute continuously over a ___ period. In addition, the Special Magistrate must be able to devote the time necessary to render a non-binding report within 14 days after the close of the Special Magistrate proceeding. Fees and expenses of the Special Magistrate will be borne by the parties equally.

4. Independent and Impartial Review. The Special Magistrate will render an independent and impartial review of the claim presented.

5. Information Exchange and Submission of Exhibits and Witness Lists.

(a) Upon selection of the Special Magistrate, the Private Property Owner will provide to the Special Magistrate a copy of the request for relief and to the parties and special magistrate copies of exhibits and other information on which it intends to rely at the hearing and to each other a position and interest paper setting forth.

(b) The governmental entity(ies) will provide a written response to the request for relief including the documentary material on which it intends to rely at the hearing to the Special Magistrate, the owner and any participant who has requested to participate in the proceeding.

(c) No later than ___ days before the hearing, the parties will exchange a listing of witnesses and a brief description of the testimony of each witness.

(d) No later than _____ days before the hearing, participants will exchange with the Special Magistrate and the parties a short statement of no more than ___ pages in length, double spaced, setting forth the basis for their participation, their concerns with the or support for the development order or enforcement action that is the subject of the proceedings.

6. Other governmental entities and controlling procedures. When there is more than one governmental entity named as a party, the procedures of the governmental entity where the property is located will control.

7. Proceedings before the Special Magistrate. The presentations made in the proceeding will be informal. The rules of evidence do not apply and the hearing will be conducted under the direction and supervision of the Special Magistrate. The Special Magistrate will determine the order and presentation of issues and will hear from anyone with information necessary to understand the matter. The special magistrate may question anyone presenting information but will give all parties an opportunity for relevant follow up questions.

8. Schedule. The Special Magistrate proceeding will take ___ day(s).

9. The Special Magistrate Recommendation. The Special Magistrate will render a written report within 14 days of the conclusion of the proceeding. The report may include: (a) a concise summary of the claim; (b) a summary of the material facts and information presented; (c) a discussion of the issues; (d) a statement of the recommendation of the Special Magistrate.

10. Recommendation Meeting. (Optional) The report will be formally presented to representatives of the parties by the Special Magistrate at which time the representatives may attempt to negotiate a settlement.

11. Admissible Evidence - Subsequent Hearing. No papers or other written material supplied to the Special Magistrate is admissible in a subsequent proceeding unless otherwise made so by the rules of evidence applicable to such other proceeding. Any Special Magistrate report and recommendations will be admissible in such subsequent proceedings and each party hereby stipulates to its admissibility.

12. Recording or Transcript. A recording or transcript of the hearing may be made for the use of the Special Magistrate. In the event that the claim is not resolved, this transcript will constitute an offer to compromise and is not admissible in any judicial or administrative proceeding.

13. Termination. The Private Property Owner has the right to terminate this agreement at any time for any reason whatsoever.

14. Ex Parte Communications. After the selection of the Special Magistrate, no party will engage in any ex parte communications with the designated Special Magistrate. This prohibition does not apply to routine requests for fees and expenses to be borne by the parties. No written communication will be made between the Special Magistrate and a party without the other party receiving a copy, and no oral communication will take place without the other party being present.

15. Identification of Hearing Representative. The hearing representative for _____ will be _____. The hearing representative for (the governmental entity) will be _____.

Dated

/s/
[owner]
[address]
[phone number]

/s/
[designated official]
[address]
[phone number]

/s/
[Special Magistrate]
[address]
[phone number]

**(d) RESPONSE TO OWNER'S REQUEST FOR RELIEF
(to be used by the county)**

RESPONSE TO OWNER'S REQUEST FOR RELIEF

In response to the request for relief filed by [owner] dated [date of request] and relating to [development order by name and number, if any], LEE COUNTY states:

1. The development order is not unreasonable or impose an unfair burden on the property because [state reasons].
2. This development order is based upon [rule or regulation] which serves the necessary public purpose of [briefly state public purpose of the rule or regulation].
3. As an alternative to the current development order, LEE COUNTY offers the following, less restrictive option:

[specify alternative].

Dated

/s/
[designated official]
[address]
[phone number]

Copies furnished to:
[list persons to be sent copies]

**(e) REQUEST TO DISMISS OWNER'S REQUEST FOR RELIEF
(to be used by the county)**

REQUEST TO DISMISS OWNER'S REQUEST FOR RELIEF

LEE COUNTY requests that the request for relief filed by [owner] on [date] be dismissed because:

1. The owner failed to exhaust local administrative appeals by not appealing to the Lee County Hearing Examiner as provided by the Lee County Land Development Code.
2. The request for relief was received more than 30 days after issuance of the [development order or enforcement action].
3. The request for relief fails to provide a statement of the owner's proposed use of the property.
4. A copy of the [development order or enforcement action] was not attached to the request for relief.
5. The request for relief does not provide a statement of the effect of the [development order or enforcement action] on the owner's ability to use the property.

Dated

/s/
[designated official]
[address]
[phone number]

Copies furnished to:

(f) REQUEST TO PARTICIPATE IN SPECIAL MAGISTRATE PROCEEDING

REQUEST TO PARTICIPATE IN SPECIAL MAGISTRATE PROCEEDING

TO: [Special Magistrate or designated official of adopting governmental entity]

RE: Request for Relief of [owner requesting relief]

1. I hereby request the right to participate in the proceeding on this request for relief, pursuant to Section 70.51(12), F.S. I received written notice of this Special Magistrate proceeding from Lee County on [date].

2. I own the real property located adjacent to the property which is the subject of this proceeding.

or

2. I submitted oral or written testimony of a substantive nature which stated with particularity objections to or support for the subject of this proceeding at the following time and place: [state body which conducted proceeding and date or appearance or submission of written materials]. I am substantially affected by the action at issue in that [explain how you are substantially affected].

ANNOTATION. A PERSON REQUESTING THE RIGHT TO PARTICIPATE IN THE PROCEEDING SHOULD CHOOSE THE VERSION OF PARAGRAPH 2 WHICH IS APPLICABLE.

3. I understand that, if allowed to participate in the proceeding, I will be limited to addressing the prospective relief for the owner as it may affect my substantial interests.

Dated

/s/
[person requesting participation]
[address]
[phone number]

(g) ORDER RULING ON REQUEST TO PARTICIPATE IN SPECIAL MAGISTRATE PROCEEDING (to be used by Special Magistrate).

1. Granting request to participate--

ORDER GRANTING REQUEST TO PARTICIPATE IN SPECIAL MAGISTRATE PROCEEDING

Your request to participate in the Special Magistrate proceeding initiated by [name of owner requesting relief] is granted.

Be advised that pursuant to Section 70.51(12), F.S., your participation in this proceeding is limited to addressing those issues raised regarding alternatives, variances, and other types of adjustment to the [development order or enforcement action] which may impact your substantial interests, unless the owner requesting relief and Lee County agree to allow you to address other issues.

You may obtain a copy of the procedural guidelines and sample forms for special Magistrate proceedings at [location and phone number of office where guidelines and forms may be obtained].

Dated

/s/
[Special Magistrate]
[address]
[phone number]

2. Denying request to participate.--

**ORDER DENYING REQUEST TO
PARTICIPATE IN SPECIAL MAGISTRATE PROCEEDING**

Your request to participate in the Special Magistrate proceeding initiated by [owner requesting relief] is denied.

Your request is denied because [state grounds for denial].

Dated

/s/
[Special Magistrate]
[address]
[phone number]

**(h) NOTICE OF SPECIAL MAGISTRATE HEARING
(to be issued by Special Magistrate).**

NOTICE OF SPECIAL MAGISTRATE HEARING

TO: [name]
[address]

You are hereby notified that the Special Magistrate hearing on the request for relief filed by [owner requesting relief] has been set as follows:

PLACE: [location by street address and room number]
TIME: [time]
DATE: [date]

You may obtain a copy of the procedural guidelines and sample forms for Special Magistrate proceedings at [location and phone number of office where guidelines and forms may be obtained].

Dated

/s/
[Special Magistrate]
[address]
[phone number]

(i) **SPECIAL MAGISTRATE'S RECOMMENDATION**
(to be issued by Special Magistrate).

1. **With settlement.--**

SPECIAL MAGISTRATE'S RECOMMENDATION

RE: Request for Relief of [owner]

A Special Magistrate proceeding has been conducted pursuant to Section 70.51, F.S. A settlement agreement was reached by and between [owner] and Lee County . A copy of the settlement agreement is attached as Attachment A.

Dated

/s/

[Special Magistrate]

[address]

[phone number]

Copies furnished to:

2. Finding for owner.--

SPECIAL MAGISTRATE'S RECOMMENDATION

RE: Request for Relief of [owner]

A Special Magistrate's hearing was held on [date]. The parties were unable to reach a settlement. Therefore, I received information from the parties, participants and witnesses to determine whether [development order or enforcement action] was unreasonable or an unfair burden on the real property.

Based on this information and pursuant to Section 70.51(19)(b), F.S., I find the [development order or enforcement action] is unreasonable and/or unfairly burdens the real property because: [set forth reasons].

Therefore, with the owner's consent, I recommend the following: [recommended adjustment to development order]

Dated

/s/

[Special Magistrate]

[address]

[phone number]

Copies furnished to:

3. Finding for governmental entity.--

SPECIAL MAGISTRATE'S RECOMMENDATION

RE: Request for Relief of [owner]

A Special Magistrate's hearing was held on [date]. The parties were unable to reach a settlement. Therefore, I received information from the parties, participants and witnesses to determine whether [development order or enforcement action] was unreasonable or an unfair burden on the real property.

Based on this information and pursuant to Section 70.51(19)(a), F.S., I find this [development order or enforcement action] is not unreasonable and does not unfairly burden the owner's property because: [set forth reasons].

Therefore, I recommend that the development order remain undisturbed.

Dated

/s/

[Special Magistrate]

[address]

[phone number]

Copies furnished to:

(j) NOTICE OF ACTION TAKEN ON SPECIAL MAGISTRATE'S RECOMMENDATION (to be issued by the county)

NOTICE OF ACTION TAKEN ON SPECIAL MAGISTRATE'S RECOMMENDATION

TO: Florida Department of Legal Affairs
[address]

RE: Request for Relief of [owner]

On [date], the Special Magistrate issued a recommendation on the above request for relief. As required by Section 70.51(27), F.S., Lee County hereby notifies the Florida Department of Legal Affairs that the following action was taken on the Special Magistrate's recommendation: [summarize action taken].

A copy of the order by the [elected or appointed head of adopting governmental entity] formally taking this action is attached as Attachment A.

Dated

/s/
[designated official]
[address]
[phone number]

Copies furnished to:

**(k) STATEMENT OF USES AVAILABLE ON OWNER'S LAND
(to be used by the county)**

STATEMENT OF USES AVAILABLE ON OWNER'S LAND

RE: Request for Relief of [owner]

1. On [date], the Special Magistrate issued a recommendation on the request for relief by [name of owner]. On [date], the Board of County Commissioners of Lee County [accepted, or accepted with modifications, or rejected] the Special Magistrate's recommendation.

2. On [date], the owner notified [designated official] that the decision of the [elected or appointed head of adopting governmental entity] regarding the Special Magistrate's recommendation had been rejected.

Therefore, as required by Section 70.51(22), F.S., Lee County identifies the following uses that are available on the owner's property:

[specifically describe use or uses available]

Dated

[designated official]

[address]

[phone number]

Copies furnished to:

(I) SUBPOENA (to be used by Special Magistrate).

SUBPOENA

TO: [name]
[address]

RE: Request for Relief of [owner]

YOU ARE HEREBY COMMANDED to appear at [location] to testify at a Special Magistrate hearing at ___ o'clock __.m., on the day of _____, 20___, with respect to the request for relief filed by [owner] regarding the [development order or enforcement action] by Lee County affecting the owner's real property.

PURSUANT TO SECTION 70.51(14), F.S., you must comply with this subpoena as directed unless excused by the party who requested issuance of the subpoena or by order of the Special Magistrate.

ISSUED this ___ day of _____, 20___, at _____, Florida.

/s/
[Special Magistrate]
[address]
[phone number]

THIS SUBPOENA ISSUED
AT THE REQUEST OF:
[name of party]
[address]
[phone number]

**(m) SUBPOENA DUCES TECUM
(to be used by the Special Magistrate).**

SUBPOENA DUCES TECUM

TO: [name]
[address]

RE: Request for Relief of [owner]

YOU ARE HEREBY COMMANDED to appear at [location] to testify at a Special Magistrate hearing at ___ o'clock __.m., on the day of _____, 20___, with respect to the request for relief filed by [owner] regarding the [development order or enforcement action] by [adopting governmental entity] affecting the owner's real property.

YOU ARE FURTHER COMMANDED to have with you at said time and place the following: [list items to be produced at hearing]

PURSUANT TO SECTION 70.51(14), F.S., you must comply with this subpoena as directed unless excused by the party who requested issuance of the subpoena or by order of the Special Magistrate.

ISSUED this ___ day of _____, 20___, at _____, Florida.

/s/
[Special Magistrate]
[address]
[phone number]

THIS SUBPOENA ISSUED
AT THE REQUEST OF:
[name of party]
[address]
[phone number]

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Committees/Boards/Commissions/Examiners	CODE NUMBER: AC 2-18
TITLE: Guidelines for Lee County Board of Adjustment and Appeals	ADOPTED: 3/23/94
	AMENDED: 7/12/95
	ORIGINATING DEPARTMENT: County Attorney

PURPOSE/SCOPE:

To provide rules of Procedure for the Board of Adjustment and Appeals

POLICY/PROCEDURE:

SECTION I: PURPOSE

The purpose of this Board is to hear and decide appeals from decisions of the Building Official, Fire Official, Lee County Flood Insurance Coordinator ("Coordinator") or their designees, on any of the various standard codes regulated and enforced by Lee County except for the Plumbing Code and Mechanical Code.

SECTION II: GOVERNING RULES

Except as otherwise provided, all meetings of the Board of Adjustment and Appeals ~~shall~~ will be governed by Robert's Rule of Order.

SECTION III: MEMBERSHIP

The Board of Adjustment and Appeals ~~shall~~ will consist of thirteen (13) members. One person representing each of the following categories ~~shall~~ will be appointed by the Board of County Commissioners to serve on the Board of Adjustment and Appeals: Architect or Engineer; General Contractor; Electrical Contractor; Mechanical Contractor; Residential or Building Contractor; Aluminum Contractor; Solar Contractor; Roofing Contractor; Sign or Outdoor Advertising Contractor; Mobile Home Installer; representative of fire service; and representative of handicapped persons. Appointments ~~shall~~ will be for a term of four (4) years to commence as stated in the Board of Adjustment and Appeals ordinance. Vacancies ~~shall~~ will be filled by appointment for the unexpired term. The unexcused absence of any member for three (3) consecutive meetings ~~shall~~ will be construed as a voluntary resignation and a new member ~~shall~~ will be appointed.

SECTION IV: QUORUM

Seven (7) members of the Board ~~shall~~ will constitute a quorum. A motion of the Board ~~shall~~ will be deemed adopted only if the motion is presented to a quorum and receives an affirmative vote from the majority of members present. An affirmative majority vote must consist of at least four (4) affirmative votes.

SECTION V: BOARD COUNSEL

The Board ~~shall~~ will be represented by independent counsel. The Board Attorney ~~shall~~ will have a duty to

advise the Board members with respect to any legal issues that may arise affecting Board decisions and to prepare a draft order based upon the Board's decision regarding the issue presented in each case.

SECTION VI: INITIATING PROCEEDINGS BEFORE THE BOARD OF ADJUSTMENT AND APPEALS

1. A decision of the Building Official, Fire Official, Coordinator or their designees may be appealed to the Board of Adjustment and Appeals by the filing of a written Notice of Appeal with the ~~Division of Codes and Building Services~~ Department of Community Development/Building Department within thirty (30) days, or less if so indicated by the Building Official's decision, after the date such decision is rendered.
2. The Notice of Appeal ~~shall~~ must be on the form prescribed by the ~~Division of Codes and Building Services~~ Department of Community Development/Building Department and accompanied by the appropriate fee as set out in the Administrative Code.
3. The Notice must indicate the following:
 - a. The address/location of the subject property;
 - b. The name and mailing address of the owner of the subject property;
 - c. The name of the person filing the Notice of Appeal;
 - d. The person who ~~shall~~ will represent the owner before the Board;
 - e. The name and title of the person who reviewed the plan and whose decision is being appealed;
 - f. A specific citation to the code, section or ordinance being appealed;
 - g. A brief explanation as to the reason for the appeal and the basis for any variance being requested.
4. Twenty (20) copies of the Notice of appeal, as well as any exhibits attached thereto, must be provided at the time the Notice is filed.
5. In the event sealed plans/drawings accompany the Notice, the engineer/architect whose seal appears on those plans must be present at the Board hearing.
6. Prior to hearing by the Board, staff ~~shall~~ will prepare a written memorandum concerning the appeal which ~~shall~~ must include the following:
 - a. The action the applicant suggested which was denied by the Building Official, Fire Official or Coordinator and the reason for the denial. Relevant regulations should be cited with copies attached to the memorandum.
 - b. Staff's recommendation to the Board with respect to the ramifications of granting or denying a variance or modification as to the relevant code provisions. This should also encompass any conditions which may reasonably be imposed in the event the variance is granted.
7. Once the Notice of Appeal has been filed, it ~~shall~~ will be heard by the Board within fifteen (15) days thereafter, unless good cause for the delay can be shown.

SECTION VII: RECORD OF PROCEEDINGS

1. The Building Official, or his designee, ~~shall~~ will act as an ex officio secretary of the Board and ~~shall~~ will keep a written record of all Board proceedings which ~~shall~~ will include:
 - a. A copy of the application and any exhibits presented to the Board;

- b. A statement as to the issues before the Board;
- c. The Board's decision with regard to the issues and the reasons therefor;
- d. A record of the members in attendance, including whether any member was excused by the Chairman;
- e. A copy of any order which results from Board action.

2. The County will record all meetings of the Board of Adjustment and Appeals in order to preserve a detailed record of the proceedings. The official record of these proceedings will consist of the recording along with any written/printed documentation considered by the Board.

SECTION VIII: POWER OF BOARD OF ADJUSTMENT AND APPEALS

1. Variation or Modification of Specific Code Section:

Based upon the information presented at the hearing, the Board can vote to vary the application of a particular code, section or ordinance when, in its opinion, it is appropriate to do so. The order granting the variance or modification ~~shall~~ must state with specificity the reason for the decision and any conditions placed upon same.

2. Decisions:

a. A decision ~~shall~~ will be reached by the Board of Adjustment and Appeals without unreasonable or unnecessary delay.

b. All decisions of the Board ~~shall~~ must be rendered as a written order signed and attested to by the Chairman of the Board. The order ~~shall~~ must set forth the grounds for appeal, the facts relied upon by the Board, and the Board's decision regarding the issues.

c. All orders of the Board are deemed final, subject to any remedy the aggrieved party may have in law or equity.

d. Once the decision of the Board of Adjustment and Appeals has become final, the appropriate official must immediately take any required action in accordance with the decision.

SECTION IX: APPEAL OF A BOARD OF ADJUSTMENT AND APPEALS DECISION

Any aggrieved person may obtain judicial review of a final decision of the Board of Adjustment and Appeals by filing a Petition for Writ of Certiorari in Circuit Court. Such Petition must be filed within thirty (30) calendar days after the Board of Adjustment and Appeals decision is rendered pursuant to Florida Rules of Appellate Procedure. The original Petition for Writ of Certiorari must be filed with the Clerk of the Circuit Court. Copies of the Petition ~~shall~~ must be filed with the ~~Division of Codes and Building Services~~ Department of Community Development/Building Department for forwarding to the County Attorney's Office.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Committees/Boards/Commissions/Examiners	CODE NUMBER: AC 2-18
TITLE: Guidelines for Lee County Board of Adjustment and Appeals	ADOPTED: 3/23/94
	AMENDED: 7/12/95
	ORIGINATING DEPARTMENT: County Attorney

PURPOSE/SCOPE:

To provide rules of Procedure for the Board of Adjustment and Appeals.

POLICY/PROCEDURE:

SECTION I: PURPOSE

The purpose of this Board is to hear and decide appeals from decisions of the Building Official, Fire Official, Lee County Flood Insurance Coordinator ("Coordinator") or their designees, on any of the various standard codes regulated and enforced by Lee County except for the Plumbing Code and Mechanical Code.

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Except as otherwise provided, all meetings of the Board of Adjustment and Appeals will be governed by Robert's Rule of Order.

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2. The Notice of Appeal must be on the form prescribed by the Department of Community Development/Building Department and accompanied by the appropriate fee as set out in the Administrative Code.
3. The Notice must indicate the following:
 - a. The address/location of the subject property;
 - b. The name and mailing address of the owner of the subject property;
 - c. The name of the person filing the Notice of Appeal;
 - d. The person who will represent the owner before the Board;
 - e. The name and title of the person who reviewed the plan and whose decision is being appealed;
 - f. A specific citation to the code, section or ordinance being appealed;
 - g. A brief explanation as to the reason for the appeal and the basis for any variance being requested.
4. Twenty (20) copies of the Notice of appeal, as well as any exhibits attached thereto, must be provided at the time the Notice is filed.
5. In the event sealed plans/drawings accompany the Notice, the engineer/architect whose seal appears on those plans must be present at the Board hearing.
6. Prior to hearing by the Board, staff will prepare a written memorandum concerning the appeal which must include the following:
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 - b. Staff's recommendation to the Board with respect to the ramifications of granting or denying a variance or modification as to the relevant code provisions. This should also encompass any conditions which may reasonably be imposed in the event the variance is granted.
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 - a. A copy of the application and any exhibits presented to the Board;
 - b. A statement as to the issues before the Board;
 - c. The Board's decision with regard to the issues and the reasons therefor;

- d. A record of the members in attendance, including whether any member was excused by the Chairman;
 - e. A copy of any order which results from Board action.
2. The County will record all meetings of the Board of Adjustment and Appeals in order to preserve a detailed record of the proceedings. The official record of these proceedings will consist of the recording along with any written/printed documentation considered by the Board.

SECTION VIII: POWER OF BOARD OF ADJUSTMENT AND APPEALS

1. Variation or Modification of Specific Code Section:

Based upon the information presented at the hearing, the Board can vote to vary the application of a particular code, section or ordinance when, in its opinion, it is appropriate to do so. The order granting the variance or modification must state with specificity the reason for the decision and any conditions placed upon same.

2. Decisions:

a. A decision will be reached by the Board of Adjustment and Appeals without unreasonable or unnecessary delay.

b. All decisions of the Board must be rendered as a written order signed and attested to by the Chairman of the Board. The order must set forth the grounds for appeal, the facts relied upon by the Board, and the Board's decision regarding the issues.

c. All orders of the Board are deemed final, subject to any remedy the aggrieved party may have in law or equity.

d. Once the decision of the Board of Adjustment and Appeals has become final, the appropriate official must immediately take any required action in accordance with the decision.

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TOTAL REWRITE

ADMINISTRATIVE CODE BOARD OF COUNTY COMMISSIONERS	
CATEGORY:	CODE NUMBER:
Financial/Fiscal/Budget	AC-3-2
TITLE: Billing for Services Between County Departments	ADOPTED: 9/9/81
	AMENDED: 9/21/94
	ORIGINATING DEPARTMENT: County Administration/Budget Services
PURPOSE/SCOPE: To provide for a more efficient and streamlined approach for processing of billings through intergovernmental service funds between County departments.	
POLICY/PROCEDURE: Services provided to County departments through intergovernmental service funds can be automatically charged to the budgetary accounts of the department being serviced upon by billing the intergovernmental service fund department providing the service upon approval by the Budget Services Director. The service department providing the service shall submit the billing to the department receiving the service. The department receiving the service shall also be provided with a memo billing for their review and records. Should adjustments be necessary due to incorrect billings, they shall be made through subsequent billings. In some instances, for intergovernmental service funds, a one-time annual billing will be processed by utilizing the County's and Clerk's computer systems to transfer revenues and expenditures between funds in lieu of processing purchase orders and periodic billings. The payments will be based on budgeted amounts. This policy may be applied to interdepartmental billing for services not involving intergovernmental service funds where practical and agreeable to both parties.	

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Financial/Fiscal/Budget	CODE NUMBER: AC-3-3
TITLE: Handling of Unclaimed and Unclaimed and Uncashed County Warrants	ADOPTED: 9/21/89
	AMENDED: 9/21/94
	ORIGINATING DEPARTMENT: Clerk of Circuit Court/Finance Division Department

PURPOSE/SCOPE:

To authorize the Clerk of Circuit Court, Finance ~~Division~~Department (Finance), to dispose of unclaimed and uncashed County Warrants.

POLICY/PROCEDURE:

County Warrants which remain unclaimed, ~~unclaimed~~, uncashed for a period of six month are to be treated as "voided" checks.

Banks are to be notified in writing, and on the face of all checks that **any warrant** which carries an issuance date *greater* than six months are invalid and are not to be honored for payments(s).

Funds resulting from such "voided" checks shall remain with the county as provide in Chapter 717, Florida Statues, and shall be promptly remitted to the State of Florida in compliance with the laws of Florida.

~~The Finance Division~~ is hereby directed to file such reports with the Department of ~~Banking and Finance, Office of State Comptroller~~ Financial Services, State of Florida, Bureau of Unclaimed Property as may be prescribed by applicable Florida Statue.

Should a person, firm or entity make a claim against the County (CGI) for the amount which has not previously been remitted by ~~the Finance Division~~ to the State of Florida as ~~required by statue~~, then:

a. ~~The Finance Division~~ shall obtain an Affidavit of Certification from the person, firm, or entity making the claim which essentially sets forth the fact that payment has never been received. Said Affidavit shall be notarized.

b. ~~The Finance Division~~ shall make every reasonable effort to determine that payment has never been received by the person, firm, -or entity requesting payment for goods or services. The Finance Director shall have authority to require such other -reasonable supporting documentation as may be deemed necessary in order to adequately audit and ascertain the proprietary of the claim being made.

c. -Upon determining to its complete satisfaction that the claim is in order and appropriate for payment, ~~the Finance Division~~ shall make the appropriate disbursement of the claim.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:
Financial/Fiscal/Budget

CODE NUMBER:
AC-3-3

TITLE:
Handling of Unclaimed and Uncashed County
Warrants

ADOPTED:
9/21/89

AMENDED:
9/21/94

ORIGINATING DEPARTMENT:
Clerk of Circuit Court/Finance Department

PURPOSE/SCOPE:

To authorize the Clerk of Circuit Court, Finance Department (Finance), to dispose of unclaimed and uncashed County Warrants.

POLICY/PROCEDURE:

County Warrants which remain unclaimed, uncashed for a period of six month are to be treated as “**voided**” checks.

Banks are to be notified in writing, and on the face of all checks that **any warrant** which carries an issuance date *greater* than six months are invalid and are not to be honored for payment(s).

Funds resulting from such “voided” checks shall remain with the county as provide in Chapter 717, Florida Statues, and shall be promptly remitted to the State of Florida in compliance with the laws of Florida.

Finance is hereby directed to file such reports with the Department of Financial Services, State of Florida, Bureau of Unclaimed Property as may be prescribed by applicable Florida Statue.

Should a person, firm or entity make a claim against the County for the amount which has not previously been remitted by Finance to the State of Florida, then:

- a. Finance shall obtain an Affidavit of Certification from the person, firm, or entity making the claim which essentially sets forth the fact that payment has never been received. Said Affidavit shall be notarized.
- b. Finance shall make every reasonable effort to determine that payment has never been received by the person, firm, or entity requesting payment for goods or services. The Finance Director shall have authority to require such other reasonable supporting documentation as may be deemed necessary in order to adequately audit and ascertain the propriety of the claim being made.
- c. Upon determining to its complete satisfaction that the claim is in order and appropriate for payment, Finance shall make the appropriate disbursement of the claim.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:

Financial/Fiscal/Budget

CODE NUMBER:

AC - 3 - 413

TITLE:

Investment Policy for the Board of County Loans Between Funds and Subfunds _____ 1/19/838/2/95
Commissioners

ADOPTED:

AMENDED:

9/21/9415/98; 8/1/00; 08/21/01

ORIGINATING DEPARTMENT:

Clerk of Circuit Court
Finance/Records Department

PURPOSE/PROCEDURE:

The purpose of this code is to establish policy and procedure for loans between funds and subfunds. Due to the timing of cash flows and the need to carry out certain activities, a loan or the cash advance between funds and subfunds may be necessary.

POLICY/PROCEDURE:

Authorization of Loans

Loans between funds and subfunds may be made for a period not to exceed beyond the current fiscal year or thirty days whichever is greater, with the approval of the County Manager or his designee. Loans that will not be re-paid by the end of the current fiscal year must be approved by the Board of County Commissioners to be carried into the new fiscal year.

Interest Bearing Loans

Interest bearing loans are designed to compensate the loaning fund for the loss of interest on the money extended to the borrowing fund. Interest will be calculated monthly using the "simple interest" method. Interest on loans will commence on the origination date of the loan through the repayment date.

Types of Interest Rates

Investment modeling rate – This is a variable rate of interest that is reset each month based on the interest rate used on Board funds deposited at the State Board of Administration (SBA).

Special interest rate – This is a fixed rate of interest that is determined at the time the Interfund Loan Approval form is fully executed.

Interest Free Loans

In some instances it may be desirable or required to loan or advance funds without charging interest to the borrowing fund or subfund (grant regulations). This can be accomplished by designating the loan as "Interest Free" on the Interfund Loan Approval form.

Incremental Principal Payments

Principal prepayments can be applied to an outstanding loan providing there is sufficient cash in the borrowing fund or subfund to do so. This can be accomplished by notifying the Finance Department in

writing of the specific loan and dollar amount of the principal prepayment.

Maturing Loans

Loans will mature on the date specified on the Interfund Loan Approval form, or sooner if requested. Maturing interest bearing loans will consist of the principal amount of the loan (less any principal prepayments) plus accrued interest through the loan maturity date.

The Finance Department will notify the administrative contact prior to the designated maturity dates so the appropriate action can be taken to repay or renew the loan. The administrative contact shall be responsible for notifying Finance that a loan is to be re-paid at maturity, paid prior to maturity and request all loan renewals. Loans should be re-paid prior to maturity whenever there is sufficient cash available to do so. If funds are available on a loan maturity date the Finance Department will repay the loan unless otherwise notified.

Loan Renewals

Loans may be renewed for a period not to exceed beyond the current fiscal year end with the approval of the County Manager or his designee. Loan renewals are to be prepared and processed by using the Interfund Loan Approval form. The principal amount of a loan renewal plus any available cash in the borrowing fund or subfund must be a value equal to or greater than the total principal and accrued interest of the original loan maturing.

ADMINISTRATION OF LOANS

The Finance Department shall establish a method for tracking and administering interest free and interest bearing loans made between funds and subfunds. The information required to administer all Interfund Loans shall be provided on the Interfund Loan Approval form that include the following:

1. Loaning fund/subfund
2. Borrowing fund/subfund
3. Loan amount
4. Loan origination date
5. Loan repayment date
6. Type of loan (Interest Free, Investment Modeling Rate or Special Interest Rate)
7. Account string for interest revenue of the loaning fund
8. Account string for interest expense of the borrowing fund
9. Administrative contact
10. Approval authority and approval date

BUDGETING OF LOANS

Loans that are initiated and repaid within the same fiscal year are not required to provide budget in the loaning or borrowing funds. It may be necessary to budget a loan as revenue in the borrowing fund to provide a source of budgetary revenue for the necessary expenditure authority where no other source of revenue can be anticipated during the fiscal year.

Normal year-end accruals of payables between funds, that are incurred prior to September 30th, but paid after fiscal year-end, shall not be considered loans for the purpose of this policy.

I. SCOPE

This investment policy applies to all monetary assets of the government of Lee County Board of County Commissioners (Board) in excess of those required to meet current expenses. In accordance with the Board's Ordinance 01-08, the administration of all investment of surplus funds of the Board is delegated to the Clerk. All investment transactions using funds managed by the Clerk shall be decided upon by at least three (3) persons (Investment Team Committee) designated by the Clerk.

Deferred compensation, bond proceeds, debt service funds, and funds held by other agencies (Tax Collector, State of Florida) during collection periods may be further limited or expanded by their respective resolutions, covenants, contracts, or policies and shall not be considered to be in conflict with this Investment Policy.

II. INVESTMENT OBJECTIVES

The following investment objectives shall be applied in the management of the Board's monetary assets:

- A. Safety of principal is the foremost objective of the Board. Each investment transaction shall seek to first ensure that capital losses are avoided, whether from security defaults or erosion of market value. Purchases and sales shall be made for investment purposes and not speculation.
- B. The investment portfolio will remain sufficiently liquid to enable the Board to meet operating requirements, which may be reasonably anticipated.
- C. In investing public funds, the Clerk will strive to maximize the return on the portfolio and to preserve the purchasing power, but will avoid assuming unreasonable investment risk.

III. ~~PERFORMANCE MEASUREMENT~~

~~A benchmark for the portfolio rate of return is to exceed the current yield on the three-month Treasury bill, which is auctioned each week. This index is considered a benchmark for riskless investment transactions.~~

IV. ~~PRUDENCE AND ETHICAL STANDARDS~~

~~The standard of prudence to be used by investment officials shall be the "prudent person" and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.~~

V. ~~AUTHORIZED INVESTMENTS~~

~~The authorized investments as provided by Florida Statute 218.415, Local Ordinance 01-08 and 93-08 are listed below.~~

~~A. Negotiable direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States Government at the then prevailing market price for such securities [Treasury bills, notes and/or bonds and State and Local Governments Series (SLGS)].~~

~~B. Obligations of Federal Farm Credit Banks (FFCB); the Federal Home Loan Mortgage Corporation (FHLMC), including Federal Home Loan Mortgage Corporation participation certificates; or the Federal Home Loan Bank (FHLB) or its district banks or obligations guaranteed by the Government National Mortgage Association (GNMA).~~

~~C. Obligations of the Federal National Mortgage Association (FNMA), including Federal National Mortgage Association participation certificates and mortgage pass-through certificates guaranteed by the Federal National Mortgage Association; Small Business Administration; Federal Housing Administration (FHA); Farmers Home Administration (FMHA); and General Services Administration (GSA).~~

~~D. Local Government Surplus Funds Trust Fund [State of Florida Board of Administration (SBA)].~~

~~E. Interest-bearing time deposits or savings accounts in banks organized under the laws of this state, in national banks organized under the laws of the United States and doing business and situated in this state, in savings and loan associations which are under state supervision, or in federal savings and loan associations located in this state and organized under federal law and federal supervision, provided that any such deposits are secured by collateral as may be prescribed by law. [Certificates of Deposit (CD's) are under the same guidelines. The institutions must be fully insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC) and approved by the State Treasurer as a public depository].~~

~~F. Securities of, or other interests in, any open-end or closed-end, management type investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. ss 80a-1, et seq., as amended from time to time, provided the portfolio of such investment company or investment trust is limited to United States Government obligations and to repurchase agreements fully collateralized by such United States Government obligations and provided such investment company or investment trust takes delivery of such collateral either directly or through an authorized custodian. The average maturity of bond mutual funds shall not exceed four (4) years.~~

V. AUTHORIZED INVESTMENTS (continued)

~~G. Any repurchase agreement with any primary brokers/dealers who report daily to the New York Federal Reserve Bank provided such agreements are: (1) in writing; and (2) fully secured by securities as noted in Section V (A, B, C) of this policy, and provided further that: (a) such collateral is held by the County or any agent acting solely for the County during the full term of such agreements; (b) such collateral is not subject to liens or claims of third parties; (c) the County has a perfected first security interest in such collateral; and (d) such agreement shall provide that the failure to maintain such collateral at the level required by the Clerk will require the County or its agents to request additional collateral or liquidate when such request is not met.~~

~~H. Overnight repurchase agreements with collateral held by the trust department of the bank(s) or custodian bank(s).~~

~~I. Bonds, notes, or obligations of any state of the United States, any municipality, political subdivision, agency, or authority of this state, which are exempt from the federal income taxation [if such obligations are insured and rated by at least one (1) of the nationally recognized rating agencies for municipal bonds in any one of the two (2) highest classifications].~~

~~J. Domestic Bankers' acceptance, which are inventory-based and eligible to qualify for use as collateral at the Federal Reserve Bank.~~

~~K. S.E.C.-registered, money-market mutual funds with portfolio maturities under 120 days, whose investment objectives include seeking to maintain a stable price of \$1.00 per share. The portfolios of such mutual funds shall consist of United States Government securities and repurchase agreements secured by such securities.~~

~~L. S.E.C.-registered, no-load money market mutual funds whose portfolios consist of tax-exempt securities and repurchase agreements. The maturities or optional redemption dates of securities in the fund's portfolio may not exceed one (1) year, and shares of the mutual fund must be rated in the two (2) highest categories by a nationally recognized rating service. Portfolio securities may not be invested in bonds subject to the federal alternative minimum tax, and 98 percent of the fund's securities' dividends must be tax-exempt.~~

~~M. Florida Local Government Investment Trust (FLGIT), authorized in Resolution Number 93-2-31 and through Ordinance Number 93-08.~~

VI. RESTRICTIONS TO AUTHORIZED INVESTMENTS

~~A. Investments in derivative products may be considered only if the Finance Director and staff Investment Committee have developed sufficient understanding of the derivative product and have the expertise to manage them. For the purpose of this policy, a "derivative" is defined as a financial instrument, the value of which depends on, or is derived from, the value of one or more underlying assets or index of asset values.~~

~~B. The use of securities lending, reverse repurchase agreements, or other forms of leverage shall be prohibited.~~

~~C. At any time the Clerk may impose additional restrictions to the above, authorized investments.~~

VII. MATURITY AND LIQUIDITY

~~The investment portfolio shall be structured in such a manner as to provide sufficient liquidity to pay obligations as they come due. To the extent possible, the Clerk will attempt to match investment maturities with known cash needs and anticipated cash-flow requirements.~~

VIII. PORTFOLIO COMPOSITION

~~Securities will not be directly invested in, or accepted as collateral that mature greater than 5 years from the settlement date. The maximum percentage of the total portfolio in each eligible security is as follows:~~

- ~~_____ A) United States treasuries/agencies/instrumentalities _____ 100% maximum
(As approved in Section V.)~~
- ~~_____ B) Florida Local Government Surplus Funds Trust Fund (SBA) _____ 75% maximum~~
- ~~_____ C) Repurchase agreements 50% maximum~~
- ~~_____ D) Mutual Funds _____ 25% maximum~~
- ~~_____ E) Other (CD's and FLGIT) to be individually calculated _____ 20% maximum~~

~~The Clerk shall have the option to further restrict or increase investment limits from time to time based on market conditions.~~

IX. RISK AND DIVERSIFICATION

~~Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism worthy of the public trust. The governing body, however, recognizes that, in a diversified portfolio, occasional measured losses are inevitable and must be considered within the context of the overall portfolio's investment return, provided diversification has been implemented.~~

~~Assets held should be diversified to control the risk of loss resulting from the over-concentration of assets in a specific maturity, issuer, instrument, dealer, or bank through which these instruments are bought and sold. Investments purchased with bond proceeds or debt service funds, for which a resolution or covenant dictates investment guidelines, will not be included in the portfolio's diversification calculation. Also, overnight repurchase agreements and overnight discount notes are an exclusion from this calculation. The diversification strategy established shall be reviewed and revised as deemed necessary by the Clerk or his designee.~~

X. AUTHORIZED INVESTMENT INSTITUTIONS AND DEALERS

~~Financial intermediaries allowed are as follows: (1) financial institutions which qualify under Florida Law as qualified public depositories for interest-bearing time deposits; (2) primary securities dealers as designated by the New York Federal Reserve Bank for the purchase of government securities and repurchase agreements for which the Clerk has Master Repurchase Agreements on file; (3) the Florida Local Government Surplus Funds Trust Fund (SBA); and (4) the Florida Local Government Investment Trust (FLGIT). These institutions, dealers, and issuers must meet capital adequacy guidelines as determined by their respective regulatory agencies.~~

~~The Clerk will maintain a list of authorized institutions, dealers, and issuers of the various security types. Criteria for addition or deletion from the list will be based on the following: (1) State law, Board resolution, and ordinance; (2) investment policy; (3) perceived financial difficulties; (4) consistent lack of competitiveness; (5) lack of experience or familiarity of the account representative in providing service to large institutional accounts; (6) request of the institution or dealer; and/or (7) when deemed in the best interest of the Board~~

XI. ~~THIRD PARTY CUSTODIAL AGREEMENT~~

- ~~To protect against possible fraud and embezzlement, the collateral and securities held by the Board shall be secured through third-party custody and safekeeping procedures.~~
- ~~All of the securities purchased for the Board under this section shall be properly designated as an asset of the Board and held in safekeeping by a third-party custodial bank, chartered by the United States Government or the State of Florida; and no withdrawal/sale of such securities, in whole or in part, shall be made from safekeeping except by the Clerk's designated employees. The exception to safekeeping, are mutual funds, SBA, CD's, SLGS, and FLGIT.~~
- ~~The Clerk will execute Third-Party Custodial Agreement(s) with the Board's bank(s) and depository institutions(s). Such agreements will include letters of authority from the Clerk with details as to the responsibilities of each party in regards to the following: notification of security purchases, sales, delivery, repurchase agreements, wire transfers, safekeeping, transaction agreements, reporting requirements, costs, and procedures in case of wire failure.~~
- ~~All security transactions between a broker dealer and the custodian (involving sales/purchases) must be made on a delivery vs. payment basis, if applicable. This is to ensure that the custodian will have the securities or funds (as appropriate) in hand at the conclusion of each transaction.~~

XII. ~~MASTER REPURCHASE AGREEMENT~~

- ~~All approved institutions and dealers engaging in repurchase agreements with Board funds shall have on file with the Clerk a Master Repurchase Agreement and perform in accordance with the terms outlined in such agreements. All repurchase agreement transactions shall adhere to the requirements of the Master Repurchase Agreement.~~

XIII. ~~BID REQUIREMENT~~

- ~~After the Investment Team Committee has determined the approximate maturity date based on cash flow needs and market conditions and has analyzed and selected one or more optimal types of investments, the security in question shall, when feasible and appropriate, be competitively bid.~~

XIV. ~~INTERNAL CONTROL~~

- ~~The Clerk shall establish and monitor a set of internal controls designed to protect the Board's assets and ensure proper accounting and reporting of the transactions related thereto.~~
- ~~A. For each investment purchased, the broker must supply a trade confirmation, which shall describe in detail (maturity dates) the securities purchased.~~
- ~~B. Internal controls will also encompass, at a minimum, the following additional issues:~~
 - ~~1. Transfers of all funds (purchases, sales, etc.)~~
 - ~~2. Separation of functions including transaction authority for accounting and record keeping~~
 - ~~3. Custodial safekeeping~~
 - ~~4. Delegation of authority to subordinate staff members~~
 - ~~5. Written confirmation of telephone transactions~~
 - ~~6. Supervisory control of employee actions~~
 - ~~7. Specific guidelines regarding security losses and remedial action~~
 - ~~8. Documentation of decisions and transactions~~
 - ~~9. An annual review for compliance with the investment policy's internal controls by the independent auditors performing the annual financial audit of the County~~

XV. CONTINUING EDUCATION

~~The Clerk's Investment Team Committee must annually complete eight hours of continuing education in subjects related to investment practices and products.~~

XVI. REPORTING

~~An investment portfolio shall be provided on a weekly basis to the Clerk of Circuit Court's Administrative Director and Finance/Records Director. This report shall list in detail all the investments purchased on behalf of the Lee County Board of County Commissioners. In addition, a monthly report will be submitted to the BOCC that shall include, at minimum, a listing of all securities by type, the book value, income earned, and market value of each investment as of the report date. These reports shall be made available to the public for review.~~

~~The Clerk of Circuit Court shall be notified immediately of any deviations from the approved investment policy.~~

XVII. SECURITIES DISPOSITION

~~A. All securities purchased on behalf of the Board must be properly earmarked as follows:~~

~~1. Securities registered with the issuer or its agents, must be immediately placed for safekeeping in a location that protects the Board's interest in the security.~~

~~2. Securities in book-entry form must be held for the credit of the Board by a depository chartered by the federal government, the state or any other state or territory of the United States which has a branch or principal place of business in this state. In addition, they may be held by a national association organized and existing under the laws of the United States, which is authorized to accept and execute trusts and doing business in this state, and must be kept by the depository in an account separate and apart from the assets of the financial institution.~~

~~3. Securities physically issued to the Board but not registered with the issuer or its agents, must be immediately placed for safekeeping in a secured vault.~~

XVIII. SALE OF SECURITIES

~~When invested funds are needed in whole or in part for the purposes originally intended or for more optimal investments, the Clerk may sell such investments at the then-prevailing market price and place the proceeds into the proper account or fund of the Board.~~

XIX. PREEXISTING CONTRACT

~~Any public funds subject to a contract or agreement existing on October 1, 2000, may not be invested contrary to such contract or agreement.~~

XX. PREEMPTION

~~Any provision of any special act, charter, or other law, which prohibits or restricts the Board from complying with S. 218.415 or any rules adopted under this policy is void to the extent of the conflict.~~

XXI. AUDITS

~~The independent auditors conducting the annual financial audit of the County shall report, as part of the audit, whether the Clerk has complied with the investment policy.~~

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:

Financial/Fiscal/Budget

CODE NUMBER:

AC 3 - 4

TITLE:

Loans Between Funds and Subfunds

ADOPTED:

1/19/83

AMENDED:

9/21/94

ORIGINATING DEPARTMENT:

Clerk of Circuit Court
Finance/Records Department

PURPOSE/PROCEDURE:

The purpose of this code is to establish policy and procedure for loans between funds and subfunds. Due to the timing of cash flows and the need to carry out certain activities, a loan or the cash advance between funds and subfunds may be necessary.

POLICY/PROCEDURE:

Authorization of Loans

Loans between funds and subfunds may be made for a period not to exceed beyond the current fiscal year or thirty days whichever is greater, with the approval of the County Manager or his designee. Loans that will not be re-paid by the end of the current fiscal year must be approved by the Board of County Commissioners to be carried into the new fiscal year.

Interest Bearing Loans

Interest bearing loans are designed to compensate the loaning fund for the loss of interest on the money extended to the borrowing fund. Interest will be calculated monthly using the "simple interest" method. Interest on loans will commence on the origination date of the loan through the repayment date.

Types of Interest Rates

Investment modeling rate – This is a variable rate of interest that is reset each month based on the interest rate used on Board funds deposited at the State Board of Administration (SBA).

Special interest rate – This is a fixed rate of interest that is determined at the time the Interfund Loan Approval form is fully executed.

Interest Free Loans

In some instances it may be desirable or required to loan or advance funds without charging interest to the borrowing fund or subfund (grant regulations). This can be accomplished by designating the loan as "Interest Free" on the Interfund Loan Approval form.

Incremental Principal Payments

Principal prepayments can be applied to an outstanding loan providing there is sufficient cash in the borrowing fund or subfund to do so. This can be accomplished by notifying the Finance Department in writing of the specific loan and dollar amount of the principal prepayment.

Maturing Loans

Loans will mature on the date specified on the Interfund Loan Approval form, or sooner if requested. Maturing interest bearing loans will consist of the principal amount of the loan (less any principal prepayments) plus accrued interest through the loan maturity date.

The Finance Department will notify the administrative contact prior to the designated maturity dates so the appropriate action can be taken to repay or renew the loan. The administrative contact shall be responsible for notifying Finance that a loan is to be re-paid at maturity, paid prior to maturity and request all loan renewals. Loans should be re-paid prior to maturity whenever there is sufficient cash available to do so. If funds are available on a loan maturity date the Finance Department will repay the loan unless otherwise notified.

Loan Renewals

Loans may be renewed for a period not to exceed beyond the current fiscal year end with the approval of the County Manager or his designee. Loan renewals are to be prepared and processed by using the Interfund Loan Approval form. The principal amount of a loan renewal plus any available cash in the borrowing fund or subfund must be a value equal to or greater than the total principal and accrued interest of the original loan maturing.

ADMINISTRATION OF LOANS

The Finance Department shall establish a method for tracking and administering interest free and interest bearing loans made between funds and subfunds. The information required to administer all Interfund Loans shall be provided on the Interfund Loan Approval form that include the following:

1. Lending fund/subfund
2. Borrowing fund/subfund
3. Loan amount
4. Loan origination date
5. Loan repayment date
6. Type of loan (Interest Free, Investment Modeling Rate or Special Interest Rate)
7. Account string for interest revenue of the loaning fund
8. Account string for interest expense of the borrowing fund
9. Administrative contact
10. Approval authority and approval date

BUDGETING OF LOANS

Loans that are initiated and repaid within the same fiscal year are not required to provide budget in the loaning or borrowing funds. It may be necessary to budget a loan as revenue in the borrowing fund to provide a source of budgetary revenue for the necessary expenditure authority where no other source of revenue can be anticipated during the fiscal year.

Normal year-end accruals of payables between funds, that are incurred prior to September 30th, but paid after fiscal year-end, shall not be considered loans for the purpose of this policy.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Financial/Fiscal/Budget	CODE NUMBER: AC-3-5
TITLE: Procedure for Payment of Medical Bills for Arrested Parsons	ADOPTED: 1/25/84
	AMENDED: 9/21/94
	ORIGINATING DEPARTMENT: County Administration/Budget Services

PURPOSE/SCOPE:

Florida Statutes 901.35 provides that the **costs of medical treatment for arrested persons** shall be paid by the **arrestee's insurance company**, or by the arrestee if he/she has no insurance. However, if the provider of medical treatment can show that the aforementioned methods of reimbursement are not available, then the cost will be paid by the County Commission or Sheriff's Department.

POLICY/PROCEDURE:

- In determining responsibility for payment, the following format will be used:
- A. If the illness or injury was pre-existing or occurred during the arrest, the Board of County Commissioners will pay medical expenses.
 - B. If the illness or injury happened while the arrestee was in jail, the Sheriff's Department will pay **medical** expenses:

In an effort to reduce overall expenditures, **some types of medical treatment will be performed by the Lee County Health Department, pursuant to the three-party contract between the Health Department, Sheriff's Department, and the Board of County Commissioners.** In many cases, however, medical treatment will be provided by another source which will require reimbursement. In order to coordinate **payment between the Sheriff's Department and Board of County Commissioners, the following procedure has been established:**

- A. **All bills** are to be submitted to the Sheriff's Department. Any bills submitted **to the Board of County Commissioners, or any other party, will be returned to the organization or individual requesting payment, with instructions that all bills must first be submitted to the Sheriff's Department.**
- B. **The Sheriff's Department** will review all bills, and forward to the Division of Budget Services office those bills which the Board of County Commissioners are responsible to pay.
- C. The Division of Budget Services will establish purchase orders from which payment can be made.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: FINANCIAL/FISCAL/BUDGET	CODE NUMBER: AC-3-6
TITLE: Budget Amendment, Revenue and Expenditure Authority	ADOPTED: 1/23/85
	AMENDED: 10/14/92, 9/21/94, 7/24/96, 7/20/05
	ORIGINATING DEPARTMENT: County Administration/Budget Services

PURPOSE/SCOPE:

The budget the Board adopts at the beginning of the fiscal year is a policy plan. The implementation of that policy plan is the responsibility of the County Administrator/Manager and the management employees of the Board. The Board recognizes that the details of the budget plan may need to be adjusted during the fiscal year in order to respond to changing conditions. It is the intention of the Board that these guidelines provide the County Administrator/Manager and the management employees of the Board (1) the maximum authority and flexibility to administer and amend the annual budget that is consistent with Florida law and (2) the accomplishment of the Board's policies as adopted in the budget.

POLICY/PROCEDURE:

WHEREAS, the Lee County Board of County Commissioners recognizes that its annual budget appropriation is a plan for revenue and expenditure that may need to be adjusted during the fiscal year in order to keep pace with changing conditions, and the Board wishes to eliminate unnecessary delays or procedures in the process of adjusting the budget; and

WHEREAS, a concise statement of roles, responsibilities, and authority in administering and amending the County's budget that conforms to and clarifies Florida law can be used by the County Administrator/Manager and management employees, the Clerk to the Board, and the County's auditors to guide them in the performance of their duties;

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners of Lee County, Florida does hereby establish the following guidelines for administering and amending the County's annual budget:

1. **ROLES AND RESPONSIBILITIES**

The Board of County Commissioners adopts the budget as the annual appropriation of the County. The budget is a plan for revenues and expenditures that is adopted in order to provide specific services and thereby implement policies of the Board.

- A. The County Administrator/Manager and the management employees of the Board manage the receipt of revenues and the expenditure of funds in order to deliver the services and thereby implement policies of the Board.
- B. The Division of Budget Services (DBS) supervises the preparation of the budget, and acts for the County Administrator/Manager in administering and amending the budget after its adoption. The Division of Budget Services (DBS) is authorized to develop procedures and forms, and their use is hereby authorized and required.
- C. The Purchasing Division maintains lists of vendors, assists in acquiring all goods and services, and creates encumbrances; the requirements of the Purchasing Manual, adopted separately by the Board, are incorporated in these guidelines by this reference.
- D. The Human Resources Division assists in the aspects of recruiting, hiring, training, and evaluating County employees, and the rules and procedures adopted separately by the Board for personnel management are incorporated in these guidelines by this reference.
- E. The Division of Budget Services and the Clerk to Board record, monitor and maintain the revenue and expenditure transactions conducted by the County Administrator/Manager and the departments management employees of the Board in such a manner as to conform with the State's uniform accounting system, and to facilitate the preparation of management reports specified by the County Administrator. The Board specifically acknowledges and authorizes the use of the financial management reporting system developed for the County Administrator in February 1980, and the Board authorizes the County Administrator to modify that system at any time.
- F. The Clerk to the Board, as custodian of County funds, maintains the bank accounts and manages the investment of County funds, and makes payments of the County funds upon the authorization of the Board, or the County Administrator/Manager, or the management employees of the Board authorized department personnel, as authorized in these guidelines.

- GI. The auditors audit the financial reports and statements of the County and offer their opinion as to fairness of presentation of the financial statements.
- HG. Each year the County administration Budget Services, in conjunction with an independent consultant, will (1) prepare an indirect cost allocation plan which conforms to generally accepted accounting principles and to federal guidelines for grant reimbursement of administrative costs, and (2) will bill departments and collect for indirect cost charges where funds are available and such charges are appropriate.

2. **LEGAL APPROPRIATION AND MANAGEMENT INFORMATION**

The legal appropriation of the County is by fund as adopted in accordance with Chapter 129, Florida Statutes. Detailed line-item information is prepared by the departments and Budget Services County Administrator and the management employees of the Board in order to improve the accuracy of budget planning and implementation. Detailed line-item information is not part of the legal appropriation, but it may be required by the County Administrator Manager to manage the administration and amendment of the budget.

3. **ADMINISTRATION AND AMENDMENT AUTHORITY**

The County Administrator Manager and the management employees of the Board are authorized to authorized department personnel may expend funds as appropriated by the Board in the annual budget. The following guidelines for administering and amending the budget apply to activities within any single fund or single subfund, recognizing that the budget of each fund or subfund is independent and self balancing and must be amended in such a manner so that each fund's or subfund's budget remains in balance.

- A. Changes in the adopted total budget of a fund or subfund will be made only with Board approval of a budget amendment resolution.
- B. The following guidelines are to be applied according to a hierarchy, with each level of hierarchy empowered to exercise the authority granted to all levels below it within the restrictions imposed on each of the expenditure object groups in the policy.

<u>Level of Hierarchy</u>	<u>Scope of Authority Within Funds or Subfunds</u>
Board of County Commissioners	Constitutional Officers & County & Circuit Courts
Board of County Commissioners	County & Circuit Courts
County Admin. Mgr. & Div. of Budget Services Director	All departments under the BOCC
Administrative Directors of Departments	Within Depts. (Except between capital projects and as noted elsewhere in this policy)
Directors of Divisions	Within Divisions (Except between capital projects)

- C. Each Department and Division Director has the authority to transfer budget within their budget operating budget that is within the same fund or subfund. No transfers may be made by departments between capital projects (except as noted under Paragraph E.3 below) or between various funds or subfunds or from Reserve accounts without Board review and approval.
- D. Personal Personnel services expenditures are primarily controlled by the authorization of positions. Establishment of permanent part-time or full-time positions may only be authorized by Board approval.
- E. All budget transfers and amendments are to be processed through the Division of Budget Services for review, approval, and implementation. The Division of Budget Services and the Clerk's Finance Department will process transfers and the Finance Department will process amendments to update the adopted budget.
- F. In the categories listed below, the italic headings are expenditure object groups which appear in the budget. Any references to an expenditure object group includes, by inference, all line-items within that group, unless otherwise stated. In the guidelines below, the authority to expend or transfer appropriations includes the authority to amend the budget. In order to minimize delays and increase flexibility, the County ~~Administrative~~ Manager and the Director of Budget Services Director are specifically empowered to authorize expenditures in excess of budgeted line items and to amend the budget after the date of the expenditures (but before the end of the fiscal year) as long as the "over-expenditure" and subsequent amendment would otherwise have been within the authority granted to them in these guidelines. Department Directors may authorize expenditures within the limits of budgeted line items. ~~Department directors and~~ may make transfers as authorized elsewhere in this code.

Transfers among expenditures or revenue accounts may be made during the fiscal year by the County ~~Administrative~~ Manager or the Director of Budget Services Director if reallocations within a fund are determined to be needed, provided no transfers will be made between capital projects (except as noted under Paragraph E.3 below) or between various funds or subfunds or from Reserves. (However, the County Manager is authorized to transfer from Reserves up to \$25,000). Other restrictions apply as noted in Paragraphs E.1, and E.2, below.

- 1. *Personal Personnel Services - Accounts 501000-502999*
Creation of permanent part-time or full-time positions requires approval of the Board. Action which changes the function or purpose of authorized positions are considered to involve the simultaneous abolition of one position and the creation of another do not require Board approval. Actions in which a full-time position is created from an existing part-time

position requires Board approval. Actions which change the job title but not the functional purpose of authorized permanent positions and actions to abolish permanent positions authorized in the budget require the Board, County Administrator, Manager or Budget Director approval. Temporary over hiring/overfilling of existing positions and labor pool and grant participant positions may be authorized by Department Directors, dependent upon budget availability. Departments may not make transfers of funds as it relates to the following Personnel Services object codes: Workers Compensation - 502410, Sick Leave Buy Back - 501260, Performance Pay - 501280.

2. *Operating Expenses - Accounts 503000-505999*

Administrative directors of departments/Department Directors may make transfers among any operating expense line items within divisions and programs in their department as long as the transfers remain within the same fund or subfund. Division Directors may make transfers among any operating expense line items within programs in their division as long as the transfers remain within the same fund or subfund. Department and Division Directors may not, however, make transfers as it relates to any operating IGS/Intergovernmental Services object code or Indirect Cost - 504950.

3. *Capital Outlay - Accounts 506000-506999*

Fund balances carried forward to a new fiscal year in amounts greater than the adopted budget will be transferred upon Board approval to capital construction (6500 series) unless such transfers are prohibited by law, contractual agreement, or administrative requirements. No transfers may be made between capital projects without Board review and approval with the following "Master" capital project exceptions: 204683 - Road Resurface/Rebuild Program, 206713 - Traffic Signal/Intersection Improvements, 205714 - Master Bridge Project.

4. *Debt Service - Account 507000-507999*

The County Administrator, Manager or Budget Services may transfer debt service line items to any other expenditure object group. The County Administrator or Budget Services may make transfers among any debt service line items. All debt service schedules are in each Official Statement of all debt approved and issued by the Board of County Commissioners. These debt service schedules are to act as authorization in lieu of budget for the Clerk's Office Finance Department to insure the debt principal and interest payments are made timely. Payments are made according to these debt schedules except in those cases where principal has been called early using an extraordinary mandatory redemption feature. If principal is called early, the debt service schedule is revised to show the decrease in both principal and interest owed.

5. *Grants and Aids - Accounts 508000-508999*

The County Administrator, Manager or Budget Services may transfer grants and aids line items to any other expenditure object group. The County Administrator, Manager, or Budget Services, or departments may make transfers among any grants and aids line items.

6. *Non-Operating - Accounts 509000-509999*

Non-operating appropriations are interfund transfers or reserves. Transfers to reserve accounts may be made during the fiscal year by the County Administrator Manager or Budget Services without Board approval if allocations to expenditure accounts are determined to be unneeded and will be processed administratively, but in no event may such transfers cause contingency reserve accounts to exceed 5% of budgeted totals of operating funds, or 10% of budget totals of capital funds without Board approval. Transfers from reserves of \$25,000 or below may be authorized by the County Manager. Transfers from reserves of more than \$25,000 require approval of the Board. The County Administrator or Budget Services may increase reserves by transfer from other expenditure object groups and such transfers will be processed administratively. The County Administrator Manager or Budget Services may increase or decrease any interfund transfer appropriation by transfers from any other expenditure object group (excluding Reserves, excepting County Manager authorization of up to \$25,000 as noted elsewhere within this policy), and interfund transfers will be processed administratively by Budget Services and the Clerk's Finance Department.

7. *Revenue and Fund Balances*

To increase or decrease budgeted total fund revenue (to reflect actual revenue collected) and to amend budgeted fund balance (to reflect actual beginning fund balance) requires the approval of the Board. The County Administrator Manager or Budget Services may reclassify revenue between revenue codes to reflect a more appropriate classification if it does not change the total budget of a fund. Any amendment which changes the total budget of a fund must be approved by the Board of County Commissioners as required by Chapter 129, Florida Statutes. Fund balances carried forward to a new fiscal year in amounts greater than the adopted budget will be transferred upon Board approval to capital construction funds, unless such transfers are prohibited by law, or restricted by contractual agreement, or administrative requirements.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: FINANCIAL/FISCAL/BUDGET	CODE NUMBER: AC-3-6
TITLE: Budget Amendment, Revenue and Expenditure Authority	ADOPTED: 1/23/85
	AMENDED: 10/14/92, 9/21/94, 7/24/96, 7/20/05
	ORIGINATING DEPARTMENT: County Administration/Budget Services
<p>PURPOSE/SCOPE:</p> <p>The budget the Board adopts at the beginning of the fiscal year is a policy plan. The implementation of that policy plan is the responsibility of the County Manager and the management employees of the Board. The Board recognizes that the details of the budget plan may need to be adjusted during the fiscal year in order to respond to changing conditions. It is the intention of the Board that these guidelines provide the County Manager and the management employees of the Board (1) the maximum authority and flexibility to administer and amend the annual budget that is consistent with Florida law and (2) the accomplishment of the Board's policies as adopted in the budget.</p> <p>POLICY/PROCEDURE:</p> <p>WHEREAS, the Lee County Board of County Commissioners recognizes that its annual budget appropriation is a plan for revenue and expenditure that may need to be adjusted during the fiscal year in order to keep pace with changing conditions, and the Board wishes to eliminate unnecessary delays or procedures in the process of adjusting the budget; and</p> <p>WHEREAS, a concise statement of roles, responsibilities, and authority in administering and amending the County's budget that conforms to and clarifies Florida law can be used by the County Manager and management employees, the Clerk to the Board, and the County's auditors to guide them in the performance of their duties;</p> <p>NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners of Lee County, Florida does hereby establish the following guidelines for administering and amending the County's annual budget:</p>	

1. **ROLES AND RESPONSIBILITIES**

The Board of County Commissioners adopts the budget as the annual appropriation of the County. The budget is a plan for revenues and expenditures that is adopted in order to provide specific services and thereby implement policies of the Board.

- A. The County Manager and the management employees of the Board manage the receipt of revenues and the expenditure of funds in order to deliver the services and thereby implement policies of the Board.
- B. Budget Services supervises the preparation of the budget, and acts for the County Manager in administering and amending the budget after its adoption. Budget Services is authorized to develop procedures and forms, and their use is hereby authorized and required.
- C. The Purchasing Division maintains lists of vendors, assists in acquiring all goods and services, and creates encumbrances; the requirements of the Purchasing Manual, adopted separately by the Board, are incorporated in these guidelines by this reference.
- D. Budget Services and the Clerk to Board record, monitor and maintain the revenue and expenditure transactions conducted by the County Manager and the departments in such a manner as to conform with the State's uniform accounting system.

The Clerk to the Board, as custodian of County funds, maintains the bank accounts and manages the investment of County funds, and makes payments of the County funds upon the authorization of the Board, the County Manager, or authorized department personnel, as authorized in these guidelines.
- F. The auditors audit the financial reports and statements of the County and offer their opinion as to fairness of presentation of the financial statements.
- G. Each year Budget Services, in conjunction with an independent consultant, will (1) prepare an indirect cost allocation plan which conforms to generally accepted accounting principles and to federal guidelines for grant reimbursement of administrative costs, and (2) will bill departments for indirect cost charges where funds are available and such charges are appropriate.

2. **LEGAL APPROPRIATION AND MANAGEMENT INFORMATION**

The legal appropriation of the County is by fund as adopted in accordance with Chapter 129, Florida Statutes. Detailed line-item information is prepared by the departments and Budget Services in order to improve the accuracy of budget planning and implementation.

Detailed line-item information is not part of the legal appropriation, but it may be required by the County Manager to manage the administration and amendment of the budget.

3. **ADMINISTRATION AND AMENDMENT AUTHORITY**

The County Manager and authorized department personnel may expend funds as appropriated by the Board in the annual budget. The following guidelines for administering and amending the budget apply to activities within any single fund or single subfund, recognizing that the budget of each fund or subfund is independent and self balancing and must be amended in such a manner so that each fund's or subfund's budget remains in balance.

- A. Changes in the adopted total budget of a fund or subfund will be made only with Board approval of a budget amendment resolution.
- B. The following guidelines are to be applied according to a hierarchy, with each level of hierarchy empowered to exercise the authority granted to all levels below it within the restrictions imposed on each of the expenditure object groups in the policy.

<u>Level of Hierarchy</u>	<u>Scope of Authority Within Funds or Subfunds</u>
Board of County Commissioners	Constitutional Officers, & County & Circuit Courts
County Mgr. & Budget Director,	All departments under the BOCC
Directors of Departments	Within Depts. (Except between capital projects
Directors of Divisions	and as noted elsewhere in this policy)
Directors of Divisions	Within Divisions (Except between capital projects)

- C. Each Department and Division Director has the authority to transfer budget within his/her operating budget that is within the same fund or subfund. No transfers may be made by departments between capital projects (except as noted under Paragraph F.3. below) or between various funds or subfunds or from Reserve accounts without Board review and approval.
- D. Personnel services expenditures are primarily controlled by the authorization of positions. Establishment of permanent part-time or full-time positions may only be authorized by Board approval.
- E. All budget transfers and amendments are to be processed through Budget Services for review, approval, and implementation. Budget Services and the Clerk's Finance Department will process transfers and amendments to update the adopted budget.
- F. In the categories listed below, the italic headings are expenditure object groups which appear in the budget. Any references to an expenditure object group includes, by inference, all line-items within that group, unless otherwise stated. In the guidelines below, the authority to expend or transfer appropriations includes the authority to amend the budget. In order to minimize delays and increase flexibility, the County Manager and the Budget Director are specifically empowered to authorize expenditures in excess of budgeted line items and to

amend the budget after the date of the expenditures (but before the end of the fiscal year) as long as the “over-expenditure” and subsequent amendment would otherwise have been within the authority granted to them in these guidelines. Department Directors may authorize expenditures within the limits of budgeted line items and may make transfers as authorized elsewhere in this code.

Transfers among expenditures or revenue accounts may be made during the fiscal year by the County Manager or the Budget Director if reallocations within a fund are determined to be needed, provided no transfers will be made between capital projects (except as noted under Paragraph F.3. below or between various funds or subfunds or from Reserves. (However, the County Manager is authorized to transfer from Reserves up to \$25,000). Other restrictions apply as noted in Paragraph F.1. and F.2. below.

1. *Personnel Services - Accounts 501000-502999*

Creation of permanent part-time or full-time positions requires approval of the Board. Action which changes the function or purpose of authorized positions or involve the simultaneous abolition of one position and the creation of another do not require Board approval. Actions in which a full-time position is created from an existing part-time position requires Board approval. Actions to abolish permanent positions authorized in the budget require the Board, County Manager or Budget Director approval. Temporary overhiring of existing positions and labor pool positions may be authorized by Directors, dependent upon budget availability. Departments may not make transfers of funds as it relates to the following Personnel Services object codes: Workers Compensation – 502410, Sick Leave Buy Back – 501260, Performance Pay – 501280.

2. *Operating Expenses - Accounts 503000-505999*

Department Directors may make transfers among any operating expense line items within divisions and programs in their department as long as the transfers remain within the same fund or subfund. Division Directors may make transfers among any operating expense line items within programs in their division as long as the transfers remain within the same fund or subfund. Department and Division Directors may not, however, make transfers as it relates to any operating IGS (Intergovernmental Services) object code or Indirect Cost – 504950.

3. *Capital Outlay - Accounts 506000-506999*

Fund balances carried forward to a new fiscal year in amounts greater than the adopted budget will be transferred upon Board approval to capital construction (6500 series) unless such transfers are prohibited by law, contractual agreement, or administrative requirements. No transfers may be made between “Master” capital projects without Board review and approval with the following capital project exceptions: 204683 – Road

Resurface/Rebuild Program, 206713 – Traffic Signal/Intersection Improvements, 205714 – Master Bridge Project.

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The County Manager or Budget Services may transfer debt service line items to any other expenditure object group or may make transfers among any debt service line items. All debt service schedules are in each Official Statement of all debt approved and issued by the Board of County Commissioners. These debt service schedules are to act as authorization in lieu of budget for the Clerk's Finance Department to insure the debt principal and interest payments are made timely. Payments are made according to these debt schedules except in those cases where principal has been called early using an extraordinary mandatory redemption feature. If principal is called early, the debt service schedule is revised to show the decrease in both principal and interest owed.

5. *Grants and Aids - Accounts 508000-508999*

The County Manager or Budget Services may transfer grants and aids line items to any other expenditure object group. The County Manager, Budget Services, or departments may make transfers among any grants and aids line items.

6. *Non-Operating - Accounts 509000-509999*

Non-operating appropriations are interfund transfers or reserves. Transfers to reserve accounts may be made during the fiscal year by the County Manager or Budget Services without Board approval if allocations to expenditure accounts are determined to be unneeded and will be processed administratively. Transfers from reserves of \$25,000 or below may be authorized by the County Manager; transfers from reserves of more than \$25,000 require approval of the Board. The County Manager or Budget Services may increase or decrease any interfund transfer appropriation by transfers from any other expenditure object group (excluding Reserves, excepting County Manager authorization of up to \$25,000 as noted elsewhere within this policy). Interfund transfers will be processed administratively by Budget Services and the Clerk's Finance Department.

7. *Revenue and Fund Balances*

To increase or decrease budgeted total fund revenue (to reflect actual revenue collected) and to amend budgeted fund balance (to reflect actual beginning fund balance) requires the approval of the Board. The County Manager or Budget Services may reclassify revenue between revenue codes to reflect a more appropriate classification if it does not change the total budget of a fund. Any amendment which changes the total budget of a fund must be approved by the Board of County Commissioners as required by Chapter 129, Florida Statutes. Fund balances carried forward to a new fiscal year in amounts greater than the adopted budget will be transferred upon Board approval unless such transfers are prohibited by law, or restricted by contractual agreement, or administrative requirements.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:
Financial/Fiscal/Budget

CODE NUMBER:
AC-3-9

TITLE:

Criteria For Evaluating CIP Projects

ADOPTED:
7/5/95

AMENDED:

ORIGINATING DEPARTMENT:
County Administration/Budget Services

PURPOSE/SCOPE:

The purpose of adopting formalized criteria for evaluating CIP projects is to:

- A. Ensure projects are prioritized in a consistent, objective manner;
- B. Ensure no undue burden is placed on ad valorem funding sources to cover proposed CIP projects.

POLICY/PROCEDURE:

The policy is broken down by general policy statements followed by specific non-restrictive-funded project criteria (i.e., ad valorem funded) and then specific restrictive funded project criteria. (i.e., impact fees, gas, tax, user fees, tourist tax, grants, TIF, and bonding.

I. GENERAL

1. Mandated projects will be considered first in importance for funding considerations; non-mandated projects of countywide or regional benefit will be considered second and non-mandated projects not of countywide or regional benefit will be considered last.

Projects will be considered mandatory if: 1) the Lee Plan (Comprehensive Land Use Plan) specifies a required level of service, i.e., is considered regulatory, or if the project is deemed necessary to comply with a policy set forth in the Lee Plan; and/or, 2) Federal or State or other County mandates dictate a need for a CIP project. Non-mandated projects are those projects needed to meet a non-regulatory Comprehensive Land Use Plan level of service, projects that fit general Comprehensive Land Use Plan goals and objectives, but not actually required, projects not addressed in the Comprehensive Land Use Plan, and/or projects not dictated by Federal, State, or County mandates.

1. The ~~Project~~ project managing departments will determine whether their proposed projects are mandated. Lee County's Planning Division ~~Will~~ will review to determine if a project is considered mandated or *not mandated* by Comprehensive Land Use Plan.
2. The project managing department will determine whether the proposed new project is reasonable, justifiable, and beneficial to Lee County.
3. Grants should be explored for possible CIP funding through construction. Grant funds should be sought if a project is eligible, and the grant conditions appear to be cost effective to the County in the long run.
4. Operational and maintenance plans (see attached) shall be submitted for projects which are public/private partnerships that include the following:
 - a. An identification of the revenues expected to be generated by the proposed project, once completed.
 - b. A five-year projection of revenues from the facility. Revenue producing projects that completely offset operational expenses will be more favorably considered.
 - c. A proposed operation/maintenance plan that meets the County's expectations and a sufficient budget to cover materials, equipment, and labor needed to carry out the plan.
5. New projects ~~to~~ may be considered by the Board for placement in a year other than the fifth year of the proposed five year CIP plan, if: ~~will automatically be placed in the last year of the five year at the earliest.~~ UNLESS: a) the new project is a mandated project that cannot be delayed; b) the new project would replace a project budgeted an earlier year, assuming that ~~as the new project does not exceed the funding of the existing budgeted project from the same funding source(s);~~ c) conditions indicate that funding the new project in an earlier year would be more cost effective or advantageous to the County; d) funding is available for a new project even if placed in an earlier year rather than the fifth year. Project managing departments will recommend the timing for proposed new project funding.
6. Supplemental CIP information is contained in Section VIII, Capital Improvement Element of The Lee Plan. Pursuant to Policy 70.1.1b, the Lee County Planning Division will rank non-mandated projects ~~in accordance with the five listed "Priorities for CIP"~~ prior to submittal to the Board of County Commissioners for consideration.
7. All CIP project requests seeking Capital Improvement Fund (Fund 301) funding will be further evaluated by Budget Services by applying the following ranking system:

Departments will prioritize each of their Capital Improvement Fund-related CIP project requests by placing a "CIP rating" on each CIP Request Form in the space provided. The purpose of the rating is to gain the department's perspective on the necessity/urgency/practicality of the project request in general and to assist in prioritizing requests in the event funding is limited.

The four categories departments will utilize in rating each CIP request are listed below:

Mandated

Non-Mandated – Core Critical

Non-Mandated – Essential

Non-Mandated – Discretionary/Deferrable

II. NON-RESTRICTIVE FUNDING SOURCE (Ad Valorem Collections)

II-A Mandated

1. The project should not exceed Federal/State/Lee County Comprehensive Land Use Plan required level of service unless deemed advantageous to the County. Project managing departments will determine whether a project should exceed the Comprehensive Land Use Plan requirements.
2. Capital Ad Valorem Revenue may be used as a funding source through construction ~~for~~ relating to non-transportation and subsidized enterprise operation projects, a) if the project is not eligible for alternative types of funding or, b) if the project cannot be postponed until sufficient funds are available from an alternative funding source. Consideration should be given to the cost benefits associated with funding a project earlier rather than postponing it until alternative funding is available.
3. The General Fund may be used only as a last resort for funding maintenance and operation costs for non-transportation projects (but not as a funding source for enterprise operation projects) with: initial CIP approval by County Administration. Proposed mandatory projects that can generate their own funds to cover maintenance and operating costs will be given a higher priority.

II-B Non-Mandated (Countywide Benefit Area)

1. Non-mandated projects of countywide benefit will be considered *only* after all mandated projects are funded.
2. Government facility projects, special large-scale maintenance projects, projects that are needed to protect the health, safety, and welfare of Lee County citizenry, or other special projects are the *only* non-transportation and subsidized enterprise operation projects authorized for funding from capital ad valorem funds for the projects' planning through construction stages.
3. Consideration may be given to fund construction with capital ad valorem dollars in those cases wherein it is demonstrated to and accepted by the Board of County Commissioners that the capital expenses will be reimbursed by another funding source at a later date.
4. The General Fund is an acceptable funding source for maintenance and operation costs ~~once the project is completed when:~~ relating to a non-transportation and/or non-enterprise project upon completion when: a) General Fund user fees are generated once the project comes on line, and are sufficient to cover the project's operation and maintenance cost; or, b) the project is deemed necessary to help protect the health, safety, and welfare of Lee County citizens and no other funding source is available or sufficient.

II-C Non-Mandated (~~Limited~~ Limited Benefit Area of Less Than a Countywide Nature)

1. Ad funds may be used to fund a project through construction if the new project will significantly help to protect the health, safety, & welfare of Lee County citizens when no other funding source is available or sufficient.
2. Non-mandated projects of limited benefit area will be considered *only after all mandated projects are funded*.
3. Government facility projects, special large-scale maintenance projects, projects that are needed to protect the health, safety and welfare of Lee County citizenry, or other special projects are the *only* non-transportation and subsidized enterprise operation projects allowable for funding from capital ad valorem for the projects', planning through construction stages.
4. MSTU's and MSBU's should be considered for covering operating and maintenance costs whenever legally permissible.

III. RESTRICTIVE FUNDING SOURCES
(i.e., OTHER THAN AD VALOREM REVENUES)

1. The project should not exceed Federal/State/Lee County Comprehensive Land Use Plan required level of *service, unless* deemed advantageous to the County. Project managing departments will determine whether it is advantageous for a project to exceed Federal/State or Comprehensive Land Use Plan requirements. Projects shall be proposed and developed within the restrictions of the revenue source.
2. With regard to enterprise funding, the project must be cost effective, cover or significantly reduce future operation and maintenance cost, and satisfy future capacity needs.

IV. CRITERIA FOR RETAINING, FROM YEAR TO YEAR, EXISTING BUDGETED CIP PROJECT

Existing budgeted CIP projects will remain budgeted, from year to year, with remaining balance carried forward, unless one of the following occurs:

1. The Project is complete;
2. The Project has been deleted by -Board action; or
3. A: review of the 18-month period just prior to the preliminary CIP carryover process reveals little expenditure activity, and there is no valid reason for inactivity.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Financial/Fiscal/Budget	CODE NUMBER: AC-3-9
TITLE: Criteria For Evaluating CIP Projects	ADOPTED: 7/5/95
	AMENDED:
	ORIGINATING DEPARTMENT: County Administration/Budget Services

PURPOSE/SCOPE:

The purpose of adopting formalized criteria for evaluating CIP projects is to:

- A. Ensure projects are prioritized in a consistent, objective manner;
- B. Ensure no undue burden is placed on ad valorem funding sources to cover proposed CIP projects.

POLICY/PROCEDURE:

The policy is broken down by general policy statements followed by specific non-restrictive-funded project criteria (i.e., ad valorem funded) and then specific restrictive funded project criteria. (i.e., impact fees, gas, tax, user fees, tourist tax, grants, TIF, and bonding.

I. GENERAL

1. Mandated projects will be considered first in importance for funding considerations; non-mandated projects of countywide or regional benefit will be considered second and non-mandated projects not of countywide or regional benefit will be considered last.

Projects will be considered mandatory if: 1) the Lee Plan (Comprehensive Land Use Plan) specifies a required level of service, i.e., is considered regulatory, or if the project is deemed necessary to comply with a policy set forth in the Lee Plan; and/or, 2) Federal or State or other County mandates dictate a need for a CIP project. Non-mandated projects are those projects needed to meet a non-regulatory Comprehensive Land Use Plan level of service, projects that fit general Comprehensive Land Use Plan goals and objectives, but not actually required, projects not addressed in the Comprehensive Land Use Plan, and/or projects not dictated by Federal, State, or County mandates.

1. The Project managing departments will determine whether their proposed projects are mandated. Lee County's Planning Division will review to determine if a project is considered mandated or *not mandated* by the Comprehensive Land Use Plan.
2. The project managing department will determine whether the proposed new project is reasonable, justifiable, and beneficial to Lee County.
3. Grants should be explored for possible CIP funding through construction. Grant funds should be sought if a project is eligible, and the grant conditions appear to be cost effective to the County in the long run.
4. Operational and maintenance plans (see attached) shall be submitted for projects which are public/private partnerships that include the following:
 - a. An identification of the revenues expected to be generated by the proposed project, once completed.
 - b. A five-year projection of revenues from the facility. Revenue producing projects that completely offset operational expenses will be more favorably considered.
 - c. A proposed operation/maintenance plan that meets the County's expectations and a sufficient budget to cover materials, equipment, and labor needed to carry out the plan.
5. New projects may be considered by the Board for placement in a year other than the fifth year of the proposed five year CIP plan, if: a) the new project is a mandated project that cannot be delayed; b) the new project would replace a project budgeted an earlier year, assuming that the new project does not exceed the funding of the existing budgeted project from the same funding source(s); c) conditions indicate that funding the new project in an earlier year would be more cost effective or advantageous to the County; d) funding is available for a new project even if placed in an earlier year rather than the fifth year. Project managing departments will recommend the timing for proposed new project funding.
6. Supplemental CIP information is contained in Section VIII, Capital Improvement Element of The Lee Plan. Pursuant to Policy 70.1.1b, the Lee County Planning Division will rank non-mandated projects prior to submittal to the Board of County Commissioners for consideration.
7. All project requests seeking Capital Improvement Fund (Fund 301) funding will be further evaluated by Budget Services by applying the following ranking system:

Departments will prioritize each of their Capital Improvement Fund-related CIP project requests by placing a "CIP rating" on each CIP Request Form in the space provided. The purpose of the rating is to gain the department's perspective on the necessity/urgency/practicality of the project request in general and to assist in prioritizing requests in the event funding is limited.

The four categories departments will utilize in rating each CIP request are listed below:

Mandated

Non-Mandated – Core Critical

Non-Mandated – Essential

Non-Mandated – Discretionary/Deferrable

II. NON-RESTRICTIVE FUNDING SOURCE (Ad Valorem Collections)

II-A Mandated

1. The project should not exceed Federal/State/Lee County Comprehensive Land Use Plan required level of service unless deemed advantageous to the County. Project managing departments will determine whether a project should exceed the Comprehensive Land Use Plan requirements.
2. Capital Ad Valorem Revenue may be used as a funding source through construction relating to non-transportation and subsidized enterprise operation projects, a) if the project is not eligible for alternative types of funding or, b) if the project cannot be postponed until sufficient funds are available from an alternative funding source. Consideration should be given to the cost benefits associated with funding a project earlier rather than postponing it until alternative funding is available.
3. The General Fund may be used only as a last resort for funding maintenance and operation costs for non-transportation projects (but not as a funding source for enterprise operation projects) with initial CIP approval by County Administration. Proposed mandatory projects that can generate their own funds to cover maintenance and operating costs will be given a higher priority.

II-B Non-Mandated (Countywide Benefit- Area)

1. Non-mandated projects of countywide benefit will be considered *only* after all mandated projects are funded.
2. Government facility projects, special large-scale maintenance projects, projects that are needed to protect the health, safety, and welfare of Lee County citizenry, or other special projects are the *only* non-transportation and subsidized enterprise operation projects authorized for funding from capital ad valorem funds for the projects' planning through construction stages.
3. Consideration may be given to fund construction with capital ad valorem dollars in those cases wherein it is demonstrated to and accepted by the Board of County Commissioners that the capital expenses will be reimbursed by another funding source at a later date.

4. The General Fund is an acceptable funding source for maintenance and operation costs relating to a non-transportation and/or non-enterprise project upon completion when: a) General Fund user fees are generated once the project comes on line, and are sufficient to cover the project's operation and maintenance cost; or, b) the project is deemed necessary to help protect the health, safety, and welfare of Lee County citizens and no other funding source is available or sufficient.

II-C Non-Mandated (Limited Benefit Area of Less Than a Countywide Nature)

1. Ad funds may be used to fund a project through construction if the new project will significantly help to protect the health, safety, & welfare of Lee County citizens when no other funding source is available or sufficient.
2. Non-mandated projects of limited benefit area will be considered *only after all mandated projects are funded*.
3. Government facility projects, special large-scale maintenance projects, projects that are needed to protect the health, safety and welfare of Lee County citizenry, or other special projects are the only non-transportation and subsidized enterprise operation projects allowable for funding from capital ad valorem for the projects', planning through construction stages.
4. MSTU's and MSBU's should be considered for covering operating and maintenance costs whenever legally permissible.

III. RESTRICTIVE FUNDING SOURCES
(i.e., OTHER THAN AD VALOREM REVENUES)

1. The project should not exceed Federal/State/Lee County Comprehensive Land Use Plan required level of *service, unless* deemed advantageous to the County. Project managing departments will determine whether it is advantageous for a project to exceed Federal/State or Comprehensive Land Use Plan requirements. Projects shall be proposed and developed within the restrictions of the revenue source.
2. With regard to enterprise funding, the project must be cost effective, cover or significantly reduce future operation and maintenance cost, and satisfy future capacity needs.

IV. CRITERIA FOR RETAINING, FROM YEAR TO YEAR, EXISTING BUDGETED CIP PROJECT

Existing budgeted CIP projects will remain budgeted, from year to year, with remaining balance carried forward, unless one of the following occurs:

1. The Project is complete;
2. The Project has been deleted by Board action; or
3. A review of the 18-month period just prior to the preliminary CIP carryover process reveals little expenditure activity, and there is no valid reason for inactivity.

ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS

CATEGORY: FINANCIAL/FISCAL/BUDGET	CODE NUMBER: AC-3-12
TITLE: CASH & CAPITAL ASSET DONATIONS POLICY	ADOPTED: 5-2-84
	AMENDED: 9/21/94 7/20/05
	ORIGINATING DEPARTMENT: County Administration/Budget Services

<p><u>PURPOSE/SCOPE:</u></p> <p><u>Any individual or organization may donate funds or capital assets for a specific purpose or to help defray general County expenses.</u></p> <p>The establishment of any cash donation arrangement or single donation of <u>any funds or capital asset, other than a general purpose donation which entails a stipulated as opposed to general purpose use</u> must receive the approval of the Board of County Commissioners. Any individual or organization may donate funds for a specific purpose or to help defray general County expenses.</p> <p><u>POLICY/PROCEDURES:</u></p> <p>Definitions</p> <p>Donated Funds: Those funds, which are generated independent of any County function or activity and are voluntarily given to the County by an individual or organization. By law, all donations received by the County are public money as defined in Per Florida Statutes, Chapter 219, all. All donated funds are County funds once received by Lee County, and are governed by applicable laws, rules, regulations and procedures.</p> <p>Endowment: A <u>Established as a permanent</u> fund whose principal must remain at the original amount by whose income may be expended.</p> <p>Trust Fund: A fund consisting of resources received and held by the governmental unit as trustee to be expended or invested in accordance with the conditions of the trust.</p> <p>General Purpose <u>Cash</u> -Donation: A general purpose donation is a A donation for which a specified purpose is not designated or whose purpose is to defray the operating costs of the department to which it is given. These donated funds shall be considered to be the first funds spent for the operation of the department to which they are donated.</p> <p>Donation of Funds: The funds donated must be sufficient for the purpose donated.</p> <p><u>Capital Assets:</u></p>
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Assets accepted by the Board refers to property, land or equipment (with a value of a least \$1,000) and infrastructure needs. Contributed assets are recorded as estimated fair market value at the time received.

ADMINISTRATIVE CODE #AC-3-12 (CONTD.)

Funds donated for a specific purpose must be accompanied by a written outline of the purpose for which the funds are to be used. The Department Director of the department to which the funds are donated shall have the authority to expend the donated funds, unless otherwise specified. All funds donated for a specific purpose must receive the approval of the Board of County Commissioners before being received. The written outline of the specific purpose and any other terms of the donation must be presented to the Board for their approval.

All donations received for a specific purpose of an amount less than \$2,000 not spent within twelve months of the date received, and all donations received for a specific purpose of an amount more than \$2,000 not spent within twenty-four months of the date received shall revert to a general purpose donation unless ~~County Administrator approval not to revert is made.~~dictated otherwise by the County Manager.

Every effort will be made by the responsible department to expend the donated funds for the purpose identified prior to the end of the specified period.

Funds donated for a Capital Improvement Project may be accumulated for a period not exceeding sixty months from the date of the original donation. If at the end of the time period sufficient donations are not available to accomplish the planned project, suggestions for an alternate capital project will be accepted by the Board of County Commissioners from the ~~effected~~affected department and the citizen or citizens group originating the project. The Board of County Commissioners will then determine the project to be funded. If the donated funds are insufficient for any proposed project, the Board of County Commissioners may provide additional funds to the project, or at the Board's option, include the funds in the Departmental budget to help defray operating expenses for that fiscal year. It shall be the responsibility of the originating organization or individual to notify subsequent donors of this policy when soliciting funds for the project.

Donations for a specified purpose must be for a minimum of \$100, except for a capital project accumulation account, approved by the Board of County Commissioners. General purpose donations may be accepted for any amount.

The one-time donation of an endowment or trust fund to be used for awards or donations by the County, may be arranged for a period of up to five years, and may be continued in five-year increments with the approval of the Board of County Commissioners. The Board of County Commissioners may assess a reasonable charge for administration of the endowment or trust fund. The Board reserves the right to dissolve the endowment or trust fund arrangement and return the unspent principal and interest amount to the donor. If no donor is found, the funds would revert to a general purpose donation.

The administration and expenditure of all donated funds must follow established County purchasing procedures and all laws, rules, regulations and procedures which apply to County funds. Donated funds may not be used for any public purpose ~~for~~ which it is not permissible by law to use County funds.

ADMINISTRATIVE CODE #AC-3-12 (CONTD.)

Donations for a specific project will be placed in a capital project or special revenue fund as appropriate, and assigned an account number and a project code in the capital project series for the purpose of tracking expenditures.

Funds donated for an endowment shall be placed in a trust fund and assigned a fund or subfund for purposes of tracking expenditures.

General purpose donations and all other donations will be deposited to the primary operating fund of the department or the County General Fund or appropriate proprietary fund. No further documentation will be required of the County for general purpose donations. All other donations received for a specified purpose will be tracked by the Department. Documentation of the expenditure of the donated funds shall be maintained by the Department as proof of the proper expenditure of the donated funds.

INTEREST EARNINGS:

Donated funds will earn interest only when an interest provision is agreed to by the Board of County Commissioners and the initial donation is \$5,000 or more. The interest earned on donated funds shall be credited to the respective donation account and considered part of the donated funds subject to the original time constraints of each type of donation.

ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS

CATEGORY: FINANCIAL/FISCAL/BUDGET	CODE NUMBER: AC-3-12
TITLE: CASH & CAPITAL ASSET DONATIONS POLICY	ADOPTED: 5-2-84
	AMENDED:
	ORIGINATING DEPARTMENT: County Administration/Budget Services
<p><u>PURPOSE/SCOPE:</u></p> <p>Any individual or organization may donate funds or capital assets for a specific purpose or to help defray general County expenses.</p> <p>The establishment of any cash donation arrangement or single donation of any funds or capital asset, which entails a stipulated as opposed to general purpose use must receive the approval of the Board of County Commissioners.</p> <p><u>POLICY/PROCEDURES:</u></p> <p>Definitions:</p> <p>Donated Funds: Those funds, which are generated independent of any County function or activity and are voluntarily given to the County by an individual or organization. Per Florida Statutes, Chapter 219, all donated funds are County funds once received by Lee County, and are governed by applicable laws, rules, regulations and procedures.</p> <p>Endowment: Established as a permanent fund whose principal must remain at the original amount by whose income may be expended.</p> <p>Trust Fund: A fund consisting of resources received and held by the governmental unit as trustee to be expended or invested in accordance with the conditions of the trust.</p> <p>General Purpose Cash Donation: A donation for which a specified purpose is not designated or whose purpose is to defray the operating costs of the department to which it is given. These donated funds shall be considered to be the first funds spent for the operation of the department to which they are donated.</p> <p>Capital Assets:</p> <p>Assets accepted by the Board refers to property, land or equipment (with a value of at least \$1,000) and infrastructure needs. Contributed assets are recorded as estimated fair market value at the time received.</p> <p>Funds donated for a specific purpose must be accompanied by a written outline of the purpose for which the funds are to be used. The Department Director of the department to which the funds are donated shall have the authority to expend the donated funds, unless otherwise specified. All funds donated for a specific purpose must receive the approval of the Board of County Commissioners before being received. The written outline of the specific purpose and any other terms of the donation must be presented to the Board for their approval.</p>	

AC-3-12 (Continued)

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Every effort will be made by the responsible department to expend the donated funds for the purpose identified prior to the end of the specified period.

Funds donated for a Capital Improvement Project may be accumulated for a period not exceeding sixty months from the date of the original donation. If at the end of the time period sufficient donations are not available to accomplish the planned project, suggestions for an alternate capital project will be accepted by the Board of County Commissioners from the affected department and the citizen or citizens group originating the project. The Board of County Commissioners will then determine the project to be funded. If the donated funds are insufficient for any proposed project, the Board of County Commissioners may provide additional funds to the project, or at the Board's option, include the funds in the Departmental budget to help defray operating expenses for that fiscal year. It shall be the responsibility of the originating organization or individual to notify subsequent donors of this policy when soliciting funds for the project.

Donations for a specified purpose must be for a minimum of \$100, except for a capital project accumulation account, approved by the Board of County Commissioners. General purpose donations may be accepted for any amount.

The one-time donation of an endowment or trust fund to be used for awards or donations by the County may be arranged for a period of up to five years, and may be continued in five-year increments with the approval of the Board of County Commissioners. The Board of County Commissioners may assess a reasonable charge for administration of the endowment or trust fund. The Board reserves the right to dissolve the endowment or trust fund arrangement and return the unspent principal and interest amount to the donor. If no donor is found, the funds would revert to a general purpose donation.

The administration and expenditure of all donated funds must follow established County purchasing procedures and all laws, rules, regulations and procedures which apply to County funds. Donated funds may not be used for any public purpose which is not permissible by law.

Donations for a specific project will be placed in a capital project or special revenue fund as appropriate, for the purpose of tracking expenditures.

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General purpose donations and all other donations will be deposited to the primary operating fund of the department or the County General Fund or appropriate proprietary fund. No further documentation will be required of the County for general purpose donations. All other donations received for a specified purpose will be tracked by the Department. Documentation of the expenditure of the donated funds shall be maintained by the Department as proof of the proper expenditure of the donated funds.

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**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:

Financial/Fiscal/Budget

CODE NUMBER:

AC - 3 - 13

TITLE:

Investment Policy for the Board of County Commissioners

ADOPTED:

8/2/95

AMENDED:

9/15/98; 8/1/00; 08/21/01

ORIGINATING DEPARTMENT:

Clerk of Circuit Court
Finance/Records Department

PURPOSE/PROCEDURE::

POLICY/PROCEDURE:

I. SCOPE

This investment policy applies to all monetary assets of the government of Lee County Board of County Commissioners (Board) in excess of those required to meet current expenses. In accordance with the Board's Ordinance **01-08**, the administration of all investment of surplus funds of the Board is delegated to the Clerk. All investment transactions using funds managed by the Clerk shall be decided upon by at least three (3) ~~persons~~ members of the (Investment Team) Committee, designated by the Clerk.

Deferred compensation, bond proceeds, debt service funds, and funds held by other agencies (Tax Collector, State of Florida) during collection periods may be further limited or expanded by their respective resolutions, covenants, contracts, or policies and shall not be considered to be in conflict with this Investment Policy.

II. INVESTMENT OBJECTIVES

The following investment objectives shall be applied in the management of the Board's monetary assets:

- A. Safety of principal is the foremost objective of the Board. Each investment transaction shall seek to first ensure that capital losses are avoided, whether from security defaults or erosion of market value. Purchases and sales shall be made for investment purposes and not speculation.
- B. The investment portfolio will remain sufficiently liquid to enable the Board to meet operating requirements, which may be reasonably anticipated.
- C. In investing public funds, the Clerk will strive to maximize the return on the portfolio and to preserve the purchasing power, but will avoid assuming unreasonable investment risk.

III. PERFORMANCE MEASUREMENT

A benchmark for the portfolio rate of return is to exceed the current yield on the three-month Treasury bill, which is auctioned each week. This index is considered a benchmark for riskless investment transactions.

IV. PRUDENCE AND ETHICAL STANDARDS

The standard of prudence to be used by investment officials shall be the "prudent person" and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

V. AUTHORIZED INVESTMENTS

The authorized investments as provided by Chapter 218.415, Florida Statute, 218.415, Local Ordinance **01-08** and 93-08 are listed below.

- A. Negotiable direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States Government at the then prevailing market price for such securities [Treasury bills, notes and/or bonds and State and Local Governments Series (SLGS)].
- B. Obligations of Federal Farm Credit Banks (FFCB); the Federal Home Loan Mortgage Corporation (FHLMC), including Federal Home Loan Mortgage Corporation participation certificates; or the Federal Home Loan Bank (FHLB) or its district banks or obligations guaranteed by the Government National Mortgage Association (GNMA).
- C. Obligations of the Federal National Mortgage Association (FNMA), including Federal National Mortgage Association participation certificates and mortgage pass-through certificates guaranteed by the Federal National Mortgage Association; Small Business Administration; Federal Housing Administration (FHA); Farmers Home Administration (FMHA); and General Services Administration (GSA).
- D. Local Government Surplus Funds Trust Fund [State of Florida Board of Administration (SBA)].
- E. Interest-bearing time deposits or savings accounts in banks organized under the laws of this state, in national banks organized under the laws of the United States and doing business and situated in this state, in savings and loan associations which are under state supervision, or in federal savings and loan associations located in this state and organized under federal law and federal supervision, provided that any such deposits are secured by collateral as may be prescribed by law. [Certificates of Deposit (CD's) are under the same guidelines. The institutions must be fully insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC) and approved by the State Treasurer as a public depository].
- F. Securities of, or other interests in, any open-end or closed-end, management type investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. ss 80a-1, et seq., as amended from time to time, provided the portfolio of such investment company or investment trust is limited to United States Government obligations and to repurchase agreements fully collateralized by such United States Government obligations and provided such investment company or investment trust takes delivery of such collateral either directly or through an authorized custodian. The average maturity of bond mutual funds shall not exceed four (4) years.

V. AUTHORIZED INVESTMENTS (continued)

- G. Any repurchase agreement with any primary brokers/dealers who report daily to the New York Federal Reserve Bank provided such agreements are: (1) in writing; and (2) fully secured by securities as noted in Section V (A, B, C) of this policy, and provided further that: (a) such collateral is held by the County or any agent acting solely for the County during the full term of such agreements; (b) such collateral is not subject to liens or claims of third parties; (c) the County has a perfected first security interest in such collateral; and (d) such agreement shall provide that the failure to maintain such collateral at the level required by the Clerk will require the County or its agents to request additional collateral or liquidate when such request is not met.
- H. Overnight repurchase agreements with collateral held by the trust department of the bank(s) or custodian bank(s).
- I. Bonds, notes, or obligations of any state of the United States, any municipality, political subdivision, agency, or authority of this state, which are exempt from the federal income taxation [if such obligations are insured and rated by at least one (1) of the nationally recognized rating agencies for municipal bonds in any one of the two (2) highest classifications].
- J. Domestic Bankers' acceptance, which are inventory-based and eligible to qualify for use as collateral at the Federal Reserve Bank.
- K. S.E.C.-registered, money-market mutual funds with portfolio maturities under 120 days, whose investment objectives include seeking to maintain a stable price of \$1.00 per share. The portfolios of such mutual funds shall consist of United States Government securities and repurchase agreements secured by such securities.
- L. S.E.C.-registered, no-load money market mutual funds whose portfolios consist of tax-exempt securities and repurchase agreements. The maturities or optional redemption dates of securities in the fund's portfolio may not exceed one (1) year, and shares of the mutual fund must be ~~rated in the two (2) highest credit quality categories by a nationally recognized rating from a nationally recognized rating agency service.~~ Portfolio securities may not be invested in bonds subject to the federal alternative minimum tax, and 98 percent of the fund's securities' dividends must be tax-exempt.
- M. Florida Local Government Investment Trust (FLGIT), authorized in Resolution Number 93-2-31 and through Ordinance Number 93-08.

VI. RESTRICTIONS TO AUTHORIZED INVESTMENTS

- A. Investments in derivative products may be considered only if the ~~Finance Director Investment Committee~~ and staff have developed sufficient understanding of the derivative product and have the expertise to manage them. For the purpose of this policy, a "derivative" is defined as a financial instrument, the value of which depends on, or is derived from, the value of one or more underlying assets or index of asset values.
- B. The use of securities lending, reverse repurchase agreements, or other forms of leverage shall be prohibited.
- C. At any time the Clerk may impose additional restrictions to the above, authorized investments.

VII. MATURITY AND LIQUIDITY

The investment portfolio shall be structured in such a manner as to provide sufficient liquidity to pay obligations as they come due. To the extent possible, the Clerk will attempt to match investment maturities with known cash needs and anticipated cash-flow requirements.

VIII. PORTFOLIO COMPOSITION

Securities will not be directly invested in, or accepted as collateral that mature greater than 5 years from the settlement date. The maximum percentage of the total portfolio in each eligible security is as follows:

A) United States treasuries/agencies/instrumentalities (As approved in Section V.)	100% maximum
B) Florida Local Government Surplus Funds Trust Fund (SBA)	75% maximum
C) Repurchase agreements	50% maximum
D) Mutual Funds	25% maximum
E) Other (CD's and FLGIT) to be individually calculated	20% maximum

The Clerk shall have the option to further restrict or increase investment limits from time to time based on market conditions.

IX. RISK AND DIVERSIFICATION

Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism worthy of the public trust. The governing body, however, recognizes that, in a diversified portfolio, occasional measured losses are inevitable and must be considered within the context of the overall portfolio's investment return, provided diversification has been implemented.

Assets held should be diversified to control the risk of loss resulting from the over-concentration of assets in a specific maturity, issuer, instrument, dealer, or bank through which these instruments are bought and sold. Investments purchased with bond proceeds or debt service funds, for which a resolution or covenant dictates investment guidelines, will not be included in the portfolio's diversification calculation. Also, overnight repurchase agreements and overnight discount notes are an exclusion from this calculation. The diversification strategy established shall be reviewed and revised as deemed necessary by the Clerk or his designee.

X. AUTHORIZED INVESTMENT INSTITUTIONS AND DEALERS

Financial intermediaries allowed are as follows: (1) financial institutions which qualify under Florida Law as qualified public depositories for interest-bearing time deposits; (2) primary securities dealers as designated by the New York Federal Reserve Bank for the purchase of government securities and repurchase agreements for which the Clerk has Master Repurchase Agreements on file; (3) the Florida Local Government Surplus Funds Trust Fund (SBA); and (4) the Florida Local Government Investment Trust (FLGIT). These institutions, dealers, and issuers must meet capital adequacy guidelines as determined by their respective regulatory agencies.

The Clerk will maintain a list of authorized institutions, dealers, and issuers of the various security types. Criteria for addition or deletion from the list will be based on the following: (1) State law, Board resolution, and ordinance; (2) investment policy; (3) perceived financial difficulties; (4) consistent lack of competitiveness; (5) lack of experience or familiarity of the account representative in providing service to large institutional accounts; (6) request of the institution or dealer; and/or (7) when deemed in the best interest of the Board

XI. THIRD PARTY CUSTODIAL AGREEMENT

To protect against possible fraud and embezzlement, the collateral and securities held by the Board shall be secured through third-party custody and safekeeping procedures.

All of the securities purchased for the Board under this section shall be properly designated as an asset of the Board and held in safekeeping by a third-party custodial bank, chartered by the United States Government or the State of Florida; and no withdrawal/sale of such securities, in whole or in part, shall be made from safekeeping except by the Clerk's designated employees. The exception to safekeeping, are mutual funds, SBA, CD's, Time Deposits, SLGS, and FLGIT.

The Clerk will execute Third-Party Custodial Agreement(s) with the Board's bank(s) and depository institutions(s). Such agreements will include letters of authority from the Clerk with details as to the responsibilities of each party in regards to the following: notification of security purchases, sales, delivery, repurchase agreements, wire transfers, safekeeping, transaction agreements, reporting requirements, costs, and procedures in case of wire failure.

All security transactions between a broker dealer and the custodian (involving sales/purchases) must be made on a delivery vs. payment basis, if applicable. This is to ensure that the custodian will have the securities or funds (as appropriate) in hand at the conclusion of each transaction.

XII. MASTER REPURCHASE AGREEMENT

All approved institutions and dealers engaging in repurchase agreements with Board funds shall have on file with the Clerk a Master Repurchase Agreement and perform in accordance with the terms outlined in such agreements. All repurchase agreement transactions shall adhere to the requirements of the Master Repurchase Agreement.

XIII. BID REQUIREMENT

Once After the Investment Team Committee has determined the approximate maturity date based on cash flow needs and market conditions and has analyzed and selected one or more optimal types of investments, the security in question shall, when feasible and appropriate, be competitively bid.

XIV. INTERNAL CONTROL

The Clerk shall establish and monitor a set of internal controls designed to protect the Board's assets and ensure proper accounting and reporting of the transactions related thereto.

A. For each investment purchased, the broker must supply a trade confirmation, which shall describe in detail (maturity dates) the securities purchased.

B. Internal controls will also encompass, at a minimum, the following additional issues:

1. Transfers of all funds (purchases, sales, etc.)
2. Separation of functions including transaction authority for accounting and record keeping
3. Custodial safekeeping
4. Delegation of authority to subordinate staff members
5. Written confirmation of telephone transactions
6. Supervisory control of employee actions
7. Specific guidelines regarding security losses and remedial action
8. Documentation of decisions and transactions
9. An annual review for compliance with the investment policy's internal controls by the independent auditors performing the annual financial audit of the County

XV. CONTINUING EDUCATION

The Clerk's Investment Team Committee must annually complete eight hours of continuing education in subjects related to investment practices and products.

XVI. REPORTING

An investment portfolio shall be provided on a weekly basis to the Clerk of Circuit Court's ~~Administrative Director and Finance Director~~. This report shall list in detail all the investments purchased on behalf of the Lee County Board of County Commissioners. In addition, a monthly report will be submitted to the BOCC that shall include, at minimum, a listing of all securities by type, the book value, income ~~earned~~, received, and market value of each investment as of the report date. These reports shall be made available to the public for review.

The Clerk of Circuit Court shall be notified immediately of any deviations from the approved investment policy.

XVII. SECURITIES DISPOSITION

A. All securities purchased on behalf of the Board must be properly earmarked as follows:

1. Securities registered with the issuer or its agents, must be immediately placed for safekeeping in a location that protects the Board's interest in the security.
2. Securities in book-entry form must be held for the credit of the Board by a depository chartered by the federal government, the state or any other state or territory of the United States which has a branch or principal place of business in this state. In addition, they may be held by a national association organized and existing under the laws of the United States, which is authorized to accept and execute trusts and doing business in this state, and must be kept by the depository in an account separate and apart from the assets of the financial institution.
3. Securities physically issued to the Board but not registered with the issuer or its agents, must be immediately placed for safekeeping in a secured vault.

XVIII. SALE OF SECURITIES

When invested funds are needed in whole or in part for the purposes originally intended or for more optimal investments, the Clerk may sell such investments at the then-prevailing market price and place the proceeds into the proper account or fund of the Board.

XIX. PREEXISTING CONTRACT

Any public funds subject to a contract or agreement existing on October 1, 2000, may not be invested contrary to such contract or agreement.

XX. PREEMPTION

Any provision of any special act, charter, or other law, which prohibits or restricts the Board from complying with Chapter 218.415, Florida Statute, S. 218.415 or any rules adopted under this policy is void to the extent of the conflict.

XXI. AUDITS

The independent auditors conducting the annual financial audit of the County shall report, as part of the audit, whether the Clerk has complied with the investment policy.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:

Financial/Fiscal/Budget

CODE NUMBER:

AC - 3 - 13

TITLE:

Investment Policy for the Board of County Commissioners

ADOPTED:

8/2/95

AMENDED:

9/15/98; 8/1/00; 08/21/01

ORIGINATING DEPARTMENT:

Clerk of Circuit Court
Finance/Records Department

PURPOSE/PROCEDURE:

POLICY/PROCEDURE:

I. SCOPE

This investment policy applies to all monetary assets of the government of Lee County Board of County Commissioners (Board) in excess of those required to meet current expenses. In accordance with the Board's Ordinance **01-08**, the administration of all investment of surplus funds of the Board is delegated to the Clerk. All investment transactions using funds managed by the Clerk shall be decided upon by at least three (3) members of the Investment Committee, designated by the Clerk.

Deferred compensation, bond proceeds, debt service funds, and funds held by other agencies (Tax Collector, State of Florida) during collection periods may be further limited or expanded by their respective resolutions, covenants, contracts, or policies and shall not be considered to be in conflict with this Investment Policy.

II. INVESTMENT OBJECTIVES

The following investment objectives shall be applied in the management of the Board's monetary assets:

- A. Safety of principal is the foremost objective of the Board. Each investment transaction shall seek to first ensure that capital losses are avoided, whether from security defaults or erosion of market value. Purchases and sales shall be made for investment purposes and not speculation.
- B. The investment portfolio will remain sufficiently liquid to enable the Board to meet operating requirements, which may be reasonably anticipated.
- C. In investing public funds, the Clerk will strive to maximize the return on the portfolio and to preserve the purchasing power, but will avoid assuming unreasonable investment risk.

III. PERFORMANCE MEASUREMENT

A benchmark for the portfolio rate of return is to exceed the current yield on the three-month Treasury bill, which is auctioned each week. This index is considered a benchmark for riskless investment transactions.

IV. PRUDENCE AND ETHICAL STANDARDS

The standard of prudence to be used by investment officials shall be the "prudent person" and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

V. AUTHORIZED INVESTMENTS

The authorized investments as provided by Chapter **218.415**, Florida Statute, Local Ordinance **01-08** and 93-08 are listed below.

- A. Negotiable direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States Government at the then prevailing market price for such securities [Treasury bills, notes and/or bonds and State and Local Governments Series (SLGS)].
- B. Obligations of Federal Farm Credit Banks (FFCB); the Federal Home Loan Mortgage Corporation (FHLMC), including Federal Home Loan Mortgage Corporation participation certificates; or the Federal Home Loan Bank (FHLB) or its district banks or obligations guaranteed by the Government National Mortgage Association (GNMA).
- C. Obligations of the Federal National Mortgage Association (FNMA), including Federal National Mortgage Association participation certificates and mortgage pass-through certificates guaranteed by the Federal National Mortgage Association; Small Business Administration; Federal Housing Administration (FHA); Farmers Home Administration (FMHA); and General Services Administration (GSA).
- D. Local Government Surplus Funds Trust Fund [State of Florida Board of Administration (SBA)].
- E. Interest-bearing time deposits or savings accounts in banks organized under the laws of this state, in national banks organized under the laws of the United States and doing business and situated in this state, in savings and loan associations which are under state supervision, or in federal savings and loan associations located in this state and organized under federal law and federal supervision, provided that any such deposits are secured by collateral as may be prescribed by law. [Certificates of Deposit (CD's) are under the same guidelines. The institutions must be fully insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC) and approved by the State Treasurer as a public depository].
- F. Securities of, or other interests in, any open-end or closed-end, management type investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. ss 80a-1, et seq., as amended from time to time, provided the portfolio of such investment company or investment trust is limited to United States Government obligations and to repurchase agreements fully collateralized by such United States Government obligations and provided such investment company or investment trust takes delivery of such collateral either directly or through an authorized custodian. The average maturity of bond mutual funds shall not exceed four (4) years.

V. AUTHORIZED INVESTMENTS (continued)

- G. Any repurchase agreement with any primary brokers/dealers who report daily to the New York Federal Reserve Bank provided such agreements are: (1) in writing; and (2) fully secured by securities as noted in Section V (A, B, C) of this policy, and provided further that: (a) such collateral is held by the County or any agent acting solely for the County during the full term of such agreements; (b) such collateral is not subject to liens or claims of third parties; (c) the County has a perfected first security interest in such collateral; and (d) such agreement shall provide that the failure to maintain such collateral at the level required by the Clerk will require the County or its agents to request additional collateral or liquidate when such request is not met.
- H. Overnight repurchase agreements with collateral held by the trust department of the bank(s) or custodian bank(s).
- I. Bonds, notes, or obligations of any state of the United States, any municipality, political subdivision, agency, or authority of this state, which are exempt from the federal income taxation [if such obligations are insured and rated by at least one (1) of the nationally recognized rating agencies for municipal bonds in any one of the two (2) highest classifications].
- J. Domestic Bankers' acceptance, which are inventory-based and eligible to qualify for use as collateral at the Federal Reserve Bank.
- K. S.E.C.-registered, money-market mutual funds with portfolio maturities under 120 days, whose investment objectives include seeking to maintain a stable price of \$1.00 per share. The portfolios of such mutual funds shall consist of United States Government securities and repurchase agreements secured by such securities.
- L. S.E.C.-registered, no-load money market mutual funds whose portfolios consist of tax-exempt securities and repurchase agreements. The maturities or optional redemption dates of securities in the fund's portfolio may not exceed one (1) year, and shares of the mutual fund must the highest credit quality rating from a nationally recognized rating agency. Portfolio securities may not be invested in bonds subject to the federal alternative minimum tax, and 98 percent of the fund's securities' dividends must be tax-exempt.
- M. Florida Local Government Investment Trust (FLGIT), authorized in Resolution Number 93-2-31 and through Ordinance Number 93-08.

VI. RESTRICTIONS TO AUTHORIZED INVESTMENTS

- A. Investments in derivative products may be considered only if the Investment Committee and staff have developed sufficient understanding of the derivative product and have the expertise to manage them. For the purpose of this policy, a "derivative" is defined as a financial instrument, the value of which depends on, or is derived from, the value of one or more underlying assets or index of asset values.
- B. The use of securities lending, reverse repurchase agreements, or other forms of leverage shall be prohibited.
- C. At any time the Clerk may impose additional restrictions to the above, authorized investments.

VII. MATURITY AND LIQUIDITY

The investment portfolio shall be structured in such a manner as to provide sufficient liquidity to pay obligations as they come due. To the extent possible, the Clerk will attempt to match investment maturities with known cash needs and anticipated cash-flow requirements.

VIII. PORTFOLIO COMPOSITION

Securities will not be directly invested in, or accepted as collateral that mature greater than 5 years from the settlement date. The maximum percentage of the total portfolio in each eligible security is as follows:

A) United States treasuries/agencies/instrumentalities (As approved in Section V.)	100%	maximum
B) Florida Local Government Surplus Funds Trust Fund (SBA)	75%	maximum
C) Repurchase agreements	50%	maximum
D) Mutual Funds	25%	maximum
E) Other (CD's and FLGIT) to be individually calculated	20%	maximum

The Clerk shall have the option to further restrict or increase investment limits from time to time based on market conditions.

IX. RISK AND DIVERSIFICATION

Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism worthy of the public trust. The governing body, however, recognizes that, in a diversified portfolio, occasional measured losses are inevitable and must be considered within the context of the overall portfolio's investment return, provided diversification has been implemented.

Assets held should be diversified to control the risk of loss resulting from the over-concentration of assets in a specific maturity, issuer, instrument, dealer, or bank through which these instruments are bought and sold. Investments purchased with bond proceeds or debt service funds, for which a resolution or covenant dictates investment guidelines, will not be included in the portfolio's diversification calculation. Also, overnight repurchase agreements and overnight discount notes are an exclusion from this calculation. The diversification strategy established shall be reviewed and revised as deemed necessary by the Clerk or his designee.

X. AUTHORIZED INVESTMENT INSTITUTIONS AND DEALERS

Financial intermediaries allowed are as follows: (1) financial institutions which qualify under Florida Law as qualified public depositories for interest-bearing time deposits; (2) primary securities dealers as designated by the New York Federal Reserve Bank for the purchase of government securities and repurchase agreements for which the Clerk has Master Repurchase Agreements on file; (3) the Florida Local Government Surplus Funds Trust Fund (SBA); and (4) the Florida Local Government Investment Trust (FLGIT). These institutions, dealers, and issuers must meet capital adequacy guidelines as determined by their respective regulatory agencies.

The Clerk will maintain a list of authorized institutions, dealers, and issuers of the various security types. Criteria for addition or deletion from the list will be based on the following: (1) State law, Board resolution, and ordinance; (2) investment policy; (3) perceived financial difficulties; (4) consistent lack of competitiveness; (5) lack of experience or familiarity of the account representative in providing service to large institutional accounts; (6) request of the institution or dealer; and/or (7) when deemed in the best interest of the Board

XI. THIRD PARTY CUSTODIAL AGREEMENT

To protect against possible fraud and embezzlement, the collateral and securities held by the Board shall be secured through third-party custody and safekeeping procedures.

All of the securities purchased for the Board under this section shall be properly designated as an asset of the Board and held in safekeeping by a third-party custodial bank, chartered by the United States Government or the State of Florida; and no withdrawal/sale of such securities, in whole or in part, shall be made from safekeeping except by the Clerk's designated employees. The exception to safekeeping, are mutual funds, SBA, CD's, Time Deposits, SLGS, and FLGIT.

The Clerk will execute Third-Party Custodial Agreement(s) with the Board's bank(s) and depository institutions(s). Such agreements will include letters of authority from the Clerk with details as to the responsibilities of each party in regards to the following: notification of security purchases, sales, delivery, repurchase agreements, wire transfers, safekeeping, transaction agreements, reporting requirements, costs, and procedures in case of wire failure.

All security transactions between a broker dealer and the custodian (involving sales/purchases) must be made on a delivery vs. payment basis, if applicable. This is to ensure that the custodian will have the securities or funds (as appropriate) in hand at the conclusion of each transaction.

XII. MASTER REPURCHASE AGREEMENT

All approved institutions and dealers engaging in repurchase agreements with Board funds shall have on file with the Clerk a Master Repurchase Agreement and perform in accordance with the terms outlined in such agreements. All repurchase agreement transactions shall adhere to the requirements of the Master Repurchase Agreement.

XIII. BID REQUIREMENT

Once the Investment Committee has determined the approximate maturity date based on cash flow needs and market conditions and has analyzed and selected one or more optimal types of investments, the security in question shall, when feasible and appropriate, be competitively bid.

XIV. INTERNAL CONTROL

The Clerk shall establish and monitor a set of internal controls designed to protect the Board's assets and ensure proper accounting and reporting of the transactions related thereto.

- A. For each investment purchased, the broker must supply a trade confirmation, which shall describe in detail (maturity dates) the securities purchased.
- B. Internal controls will also encompass, at a minimum, the following additional issues:
 - 1. Transfers of all funds (purchases, sales, etc.)
 - 2. Separation of functions including transaction authority for accounting and record keeping
 - 3. Custodial safekeeping
 - 4. Delegation of authority to subordinate staff members
 - 5. Written confirmation of telephone transactions
 - 6. Supervisory control of employee actions
 - 7. Specific guidelines regarding security losses and remedial action
 - 8. Documentation of decisions and transactions
 - 9. An annual review for compliance with the investment policy's internal controls by the independent auditors performing the annual financial audit of the County

XV. CONTINUING EDUCATION

The Clerk's Investment Committee must annually complete eight hours of continuing education in subjects related to investment practices and products.

XVI. REPORTING

An investment portfolio shall be provided on a weekly basis to the Clerk of Circuit Court's Finance Director. This report shall list in detail all the investments purchased on behalf of the Lee County Board of County Commissioners. In addition, a monthly report will be submitted to the BOCC that shall include, at minimum, a listing of all securities by type, the book value, income received, and market value of each investment as of the report date. These reports shall be made available to the public for review.

The Clerk of Circuit Court shall be notified immediately of any deviations from the approved investment policy.

XVII. SECURITIES DISPOSITION

- A. All securities purchased on behalf of the Board must be properly earmarked as follows:
1. Securities registered with the issuer or its agents, must be immediately placed for safekeeping in a location that protects the Board's interest in the security.
 2. Securities in book-entry form must be held for the credit of the Board by a depository chartered by the federal government, the state or any other state or territory of the United States which has a branch or principal place of business in this state. In addition, they may be held by a national association organized and existing under the laws of the United States, which is authorized to accept and execute trusts and doing business in this state, and must be kept by the depository in an account separate and apart from the assets of the financial institution.
 3. Securities physically issued to the Board but not registered with the issuer or its agents, must be immediately placed for safekeeping in a secured vault.

XVIII. SALE OF SECURITIES

When invested funds are needed in whole or in part for the purposes originally intended or for more optimal investments, the Clerk may sell such investments at the then-prevailing market price and place the proceeds into the proper account or fund of the Board.

XIX. PREEXISTING CONTRACT

Any public funds subject to a contract or agreement existing on October 1, 2000, may not be invested contrary to such contract or agreement.

XX. PREEMPTION

Any provision of any special act, charter, or other law, which prohibits or restricts the Board from complying with Chapter 218.415, Florida Statute, or any rules adopted under this policy is void to the extent of the conflict.

XXI. AUDITS

The independent auditors conducting the annual financial audit of the County shall report, as part of the audit, whether the Clerk has complied with the investment policy.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: FINANCIAL/FISCAL/BUDGET	CODE NUMBER: AC-3-14
TITLE: Policy on Tangible Personal Property Owned by Local Governments (FS 274)	ADOPTED: 5/23/90
	AMENDED: 06/03/93, 09/29/93, 12/15/93, 03/23/94, 04/09/97, 01/09/01, 07/24/01
	ORIGINATING DEPARTMENT: County Administration

PURPOSE/SCOPE:
This code will define the County's policy on the recording and disposal of the County's tangible personal property of a nonconsumable nature. In all cases, Florida Statutes will govern.

DEFINITIONS:
The following definitions will apply for the purpose of this administrative code:

COUNTY: Board of County Commissioners, Hearing Examiner, County Attorney, Port Authority, Clerk of Courts, Property Appraiser, Supervisor of Elections, Tax Collector, and their associated departments and divisions.

CONSTITUTIONAL OFFICERS: Clerk of Courts, Property Appraiser, Supervisor of Elections, and Tax Collector.

POLICY/PROCEDURE:
A. RECORDING OF TANGIBLE PERSONAL PROPERTY

The Board of County Commissioners (Board) is required by Chapter 274, Florida Statutes, to maintain fixed asset records on tangible personal property of a nonconsumable nature the value of which exceeds the minimum amount stated in said statute with a normal expected life of one year or more in accordance with Chapter 10.400, Rules of the Auditor General, except for land which will always be capitalized at amount expended. Additionally, when the fixed asset is acquired with federal grant monies, compliance by the department with Federal regulations identified in the grant contract must be maintained.

In order to comply with the Rules of the Auditor General, the Board has established a fixed assets system in cooperation with the Finance Department (Finance) of the Clerk of Circuit Courts. Finance has developed a record keeping system and an associated Fixed Assets Users' Manual to comply with the Rules of the Auditor General and to maintain adequate fixed assets records for control and financial statement purposes. All County departments, divisions and Constitutional Officers will follow the procedures in the Fixed Assets Users' Manual.

- All tangible personal property obtained by the County through the use of federal grants will be controlled under the property management standards of the appropriate Federal regulations governing the grant regarding the acquisition, record keeping, use and disposal of the asset, in addition to the procedures outlined in this administrative code.
- Donations to the County will be reported to Finance through the procedures in the Fixed Asset Users' Manual. Donated items are subject to the same rules as all other property of the County. The value to be reported on donated fixed assets is the appraised or estimated value at the time of the donation

Comment [CG1]:
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AC-3-14 (Continued)

3. Constructed assets will be recorded to the fixed assets inventory by the County's property control clerk via the fixed assets property control form upon substantial completion of the project (for example, issuance of certificate of occupancy for a building; park, bridge, or road opened for public use).
 - a. Capitalized costs do not include cost of grand opening ceremonies, machinery, furniture, or any item that is not considered permanently attached to the building, bridge, or other improvement.
 - b. The Board has adopted the policy of capitalizing infrastructure constructed or purchased through either a governmental or proprietary fund with a minimum \$100,000 threshold. Infrastructure is defined as public domain fixed assets such as roads, bridges, curbs and gutters, streets and sidewalks, drainage systems, lighting systems, and similar assets that are immovable and of value only to the government unit.
4. Pursuant to Chapter 274.03, Florida Statutes, the Board has delegated the custodian function to the County Manager, Hearing Examiner, County Attorney, Port Authority Executive Director, and the Constitutional Officers who will be referred to as Custodians.
 - a. The Board also allows the Custodians to designate their custodianship to a Division/Department Director/Manager.
 - b. The Board also allows for further delegation by the Custodian to assist with the custodial function. For property purposes only, the assistant shall be referred to as the Property Control Clerk.
 - c. Custodians will notify Finance upon change of either position.

Deleted: Florida Statute 274.03

B. DISPOSAL OF PROPERTY - AUTHORITY

Pursuant to Chapter 274.07, Florida Statutes, the Board has delegated authority of all disposal of property through the Custodian or designee.

Deleted: Florida Statute 274.07

1. Authority for the disposal of property will be recorded in the minutes of the Board of County Commissioners. Such authority is specified in this administrative code.
2. The following applies for the disposal of fixed assets:
 - a. Approval of the Custodian or designee must be obtained prior to the sale, donation, abandonment, trade-in, or destruction of fixed assets with an original value equal to or greater than the amount specified in the Florida Statutes.
 - b. All items which are lost or stolen shall be reported to the Custodian or designee for approval to be removed from the fixed assets inventory per the procedures set forth in the Fixed Asset User's Manual.
 - c. Property purchased by an enterprise or internal service fund will be controlled under the fixed assets system. All transfers of assets to or from the proprietary funds will have approval of the Custodian or designee for the transfer of the asset and the amount to be paid.
 - d. The department or division having custody of fixed assets acquired through the use of federal grant monies must follow the disposal procedures outlined in the appropriate Federal regulations listed in the grant contract governing the acquisition, use, and disposition of assets in addition to the procedures outlined in this administrative code.
3. The Board delegates authority of all disposal of property utilized by a Constitutional Officer to that Constitutional Officer, however, the Constitutional Officers are responsible for reporting the disposal of their assets to the Board according to the Fixed Asset User's Manual.

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Deleted: Constitutional Officers will be responsible for the development and maintenance of their internal fixed assets disposal procedures.

C. DISPOSAL OF PROPERTY UNDER THE BOARD OF COUNTY COMMISSIONERS AND THE PORT COMMISSIONERS

No property will be received or released without a completed fixed assets property control form.

1. TRADE-IN

The department or division will request approval from the Custodian or designee to use the trade-in procedure. When trade-in (exchange of property with the seller, with the exchange allowance being applied to the cost of the property being acquired) is authorized, the specifications should be written to include a trade-in price as an alternate which may or may not be selected when awarding the quote. Regardless of the disposal method utilized, it will be the department or division's property control clerk's responsibility to have the item removed from their inventory per procedures set forth in the Fixed Asset User's Manual.

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2. LOST OR STOLEN ITEMS

After all efforts have been exhausted to locate lost or stolen items, they will be reported and removed from inventory per the procedures in the Fixed Asset User's Manual. All stolen items will be verified by providing a police report, all lost items require a certified affidavit by the reporting property control clerk.

Deleted: items (items that cannot be located through physical inventory or transfer records), and/or to recover stolen items (verified by police report).

3. SURPLUS PROPERTY

The Custodian or designee shall determine the method of disposal of all surplus property. (Property that is 1) obsolete, 2) uneconomical or inefficient, 3) of no useful purpose, or 4) is considered scrap.) In all instances, the best interests of the County, the value and condition of the property classified as surplus, and the probability of such property being desired by prospective bidders will be considered. Mobile equipment, including but not limited to trucks, automobiles, trailers, tractors, and riding lawn mowers will not be cannibalized for spare parts until they have been declared junk by the Custodian or designee.

Deleted: they will be reported to the Custodian or designee for approval to be removed from the fixed assets inventory.

4. SURPLUS VEHICLES

To establish guidelines for disposal of surplus vehicles and equipment in accordance with Florida Statutes and to ensure that equipment is disposed of in the most efficient and cost effective means.

a. Procedure

Vehicles placed into County surplus will be evaluated by the Fleet Manager to determine an estimated value. Value will be determined by using the Kelley Blue Book or National Automobile Dealers' Association (NADA). Based on that value, the proper method of disposal will be determined.

b. Value > \$5,000

Vehicles whose retail value is estimated to be \$5,000 or more "...can only be sold to the highest responsible bidder or at public auction..." in accordance with Chapter 274.06, Florida Statutes.

Deleted: Florida Statute 274.06

Value < \$5,000

The method for disposal of vehicles whose retail value is less than \$5,000 according to Kelley Blue Book or National Automobile Dealers' Association (NADA) will be determined by the Fleet Manager. These methods may include trade-in, sale at public auction or competitive bid. This equipment may be offered for sale only to other local governmental units within Lee County prior to auction at prices determined by the above methods. Prior sales history may be used to determine selling price if no listing is available through Kelley Blue Book or NADA. Private individuals or other local non-profit agencies will be allowed to bid on equipment at the County's public auction.

AC-3-14 (continued)

c. General

Funds received from the sale of equipment will be deposited into each department's Vehicle Replacement Fund account and used to offset the replacement costs of that equipment. Deposited funds will be less the costs of conducting the auction (auctioneer's fees, advertising, etc.)

Donations of County equipment to outside agencies must meet all of the following criteria:

1. Majority vote of the Board of County Commissioners; and
2. Alternative funding source identified to replace lost departmental revenues

5. JUNK PROPERTY

Junk property (property without commercial value or which is unable to function as intended without repair, the cost of which exceeds its book value) may be donated, destroyed, or abandoned. The procedures for disposing Junk Property are set forth in the Fixed Asset User's Manual.

6. DONATIONS

All donations of County property will be made in compliance with Florida statutes and will be approved by the Custodian or designee.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:
FINANCIAL/FISCAL/BUDGET

CODE NUMBER:
AC-3-14

TITLE:
Policy on Tangible Personal Property Owned by
Local Governments (FS 274)

ADOPTED:
5/23/90

AMENDED:
06/03/93, 09/29/93, 12/15/93, 03/23/94, 04/09/97, 01/09/01,
07/24/01

ORIGINATING DEPARTMENT:
County Administration

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POLICY/PROCEDURE:

A. RECORDING OF TANGIBLE PERSONAL PROPERTY

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In order to comply with the Rules of the Auditor General, the Board has established a fixed assets system in cooperation with the Finance Department (Finance) of the Clerk of Circuit Courts. Finance has developed a record keeping system and an associated Fixed Assets Users' Manual to comply with the Rules of the Auditor General and to maintain adequate fixed assets records for control and financial statement purposes. All County departments, divisions and Constitutional Officers will follow the procedures in the Fixed Assets Users' Manual.

1. All tangible personal property obtained by the County through the use of federal grants will be controlled under the property management standards of the appropriate Federal regulations governing the grant regarding the acquisition, record keeping, use and disposal of the asset, in addition to the procedures outlined in this administrative code.
2. Donations to the County will be reported to Finance through the procedures in the Fixed Asset Users' Manual. Donated items are subject to the same rules as all other property of the County. The value to be reported on donated fixed assets is the appraised or estimated value at the time of the donation

AC-3-14 (Continued)

3. Constructed assets will be recorded to the fixed assets inventory by the County's property control clerk via the fixed assets property control form upon substantial completion of the project (for example, issuance of certificate of occupancy for a building; park, bridge, or road opened for public use).
 - a. Capitalized costs do not include cost of grand opening ceremonies, machinery, furniture, or any item that is not considered permanently attached to the building, bridge, or other improvement.
 - b. The Board has adopted the policy of capitalizing infrastructure constructed or purchased through either a governmental or proprietary fund with a minimum \$100,000 threshold. Infrastructure is defined as public domain fixed assets such as roads, bridges, curbs and gutters, streets and sidewalks, drainage systems, lighting systems, and similar assets that are immovable and of value only to the government unit.
4. Pursuant to Chapter 274.03, Florida Statutes, the Board has delegated the custodian function to the County Manager, Hearing Examiner, County Attorney, Port Authority Executive Director, and the Constitutional Officers who will be referred to as Custodians.
 - a. The Board also allows the Custodians to designate their custodianship to a Division/Department Director/Manager.
 - b. The Board also allows for further delegation by the Custodian to assist with the custodial function. For property purposes only, the assistant shall be referred to as the Property Control Clerk.
 - c. Custodians will notify Finance upon change of either position.

B. DISPOSAL OF PROPERTY - AUTHORITY

Pursuant to Chapter 274.07, Florida Statutes, the Board has delegated authority of all disposal of property through the Custodian or designee.

1. Authority for the disposal of property will be recorded in the minutes of the Board of County Commissioners. Such authority is specified in this administrative code.
2. The following applies for the disposal of fixed assets:
 - a. Approval of the Custodian or designee must be obtained prior to the sale, donation, abandonment, trade-in, or destruction of fixed assets with an original value equal to or greater than the amount specified in the Florida Statutes.
 - b. All items which are lost or stolen shall be reported to the Custodian or designee for approval to be removed from the fixed assets inventory per the procedures set forth in the Fixed Asset User's Manual.
 - c. Property purchased by an enterprise or internal service fund will be controlled under the fixed assets system. All transfers of assets to or from the proprietary funds will have approval of the Custodian or designee for the transfer of the asset and the amount to be paid.
 - d. The department or division having custody of fixed assets acquired through the use of federal grant monies must follow the disposal procedures outlined in the appropriate Federal regulations listed in the grant contract governing the acquisition, use, and disposition of assets in addition to the procedures outlined in this administrative code.
3. The Board delegates authority of all disposal of property utilized by a Constitutional Officer to that Constitutional Officer, however, the Constitutional Officers are responsible for reporting the disposal of their assets to the Board according to the Fixed Asset User's Manual.

C. *DISPOSAL OF PROPERTY UNDER THE BOARD OF COUNTY COMMISSIONERS AND THE PORT COMMISSIONERS*

No property will be received or released without a completed fixed assets property control form.

1. TRADE-IN

The department or division will request approval from the Custodian or designee to use the trade-in procedure. When trade-in (exchange of property with the seller, with the exchange allowance being applied to the cost of the property being acquired) is authorized, the specifications should be written to include a trade-in price as an alternate which may or may not be selected when awarding the quote. Regardless of the disposal method utilized, it will be the department or division's property control clerk's responsibility to have the item removed from their inventory per procedures set forth in the Fixed Asset User's Manual.

2. LOST OR STOLEN ITEMS

After all efforts have been exhausted to locate lost or stolen items, they will be reported and removed from inventory per the procedures in the Fixed Asset User's Manual. All stolen items will be verified by providing a police report, all lost items require a certified affidavit by the reporting property control clerk.

3. SURPLUS PROPERTY

The Custodian or designee shall determine the method of disposal of all surplus property. (Property that is 1) obsolete, 2) uneconomical or inefficient, 3) of no useful purpose, or 4) is considered scrap.) In all instances, the best interests of the County, the value and condition of the property classified as surplus, and the probability of such property being desired by prospective bidders will be considered. Mobile equipment, including but not limited to trucks, automobiles, trailers, tractors, and riding lawn mowers will not be cannibalized for spare parts until they have been declared junk by the Custodian or designee.

4. SURPLUS VEHICLES

To establish guidelines for disposal of surplus vehicles and equipment in accordance with Florida Statutes and to ensure that equipment is disposed of in the most efficient and cost effective means.

a. Procedure

Vehicles placed into County surplus will be evaluated by the Fleet Manager to determine an estimated value. Value will be determined by using the Kelley Blue Book or National Automobile Dealers' Association (NADA). Based on that value, the proper method of disposal will be determined.

b. Value > \$5,000

Vehicles whose retail value is estimated to be \$5,000 or more ".....can only be sold to the highest responsible bidder or at public auction.. ." in accordance with Chapter 274.06, Florida Statutes.

Value < \$5,000

The method for disposal of vehicles whose retail value is less than \$5,000 according to Kelley Blue Book or National Automobile Dealers' Association (NADA) will be determined by the Fleet Manager. These methods may include trade-in, sale at public auction or competitive bid. This equipment may be offered for sale only to other local governmental units within Lee County prior to auction at prices determined by the above methods. Prior sales history may be used to determine selling price if no listing is available through Kelley Blue Book or NADA. Private individuals or other local non-profit agencies will be allowed to bid on equipment at the County's public auction.

AC-3-14 (continued)

c. General

Funds received from the sale of equipment will be deposited into each department's Vehicle Replacement Fund account and used to offset the replacement costs of that equipment. Deposited funds will be less the costs of conducting the auction (auctioneer's fees, advertising, etc.)

Donations of County equipment to outside agencies must meet all of the following criteria:

1. Majority vote of the Board of County Commissioners; and
2. Alternative funding source identified to replace lost departmental revenues

5. JUNK PROPERTY

Junk property (property without commercial value or which is unable to function as intended without repair, the cost of which exceeds its book value) may be donated, destroyed, or abandoned. The procedures for disposing Junk Property are set forth in the Fixed Asset User's Manual.

6. DONATIONS

All donations of County property will be made in compliance with Florida statutes and will be approved by the Custodian or designee.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Financial/Fiscal/Budget	CODE NUMBER: AC 3-15
TITLE: Procedure to Establish or Change a Municipal Service Taxing or Benefit Unit Which May or May Not be Empowered to Issue Debt	ADOPTED: 7/24/85
	AMENDED: 11/27/85; 4/11/90; 9/21/94
	ORIGINATING DEPARTMENT: PUBLIC RESOURCES

PURPOSE/SCOPE:

When special services or projects which benefit a limited and specifically defined area of the County are desired by a majority of the property owners, they may petition the Board of County Commissioners to create a dependent unit of government to carry out the services or projects desired and annually impose ad valorem taxes, assessments or charges on the properties which are benefited by the service or project. If ad valorem taxes are authorized as a method of payment, then the department unit of government shall be called a Municipal Services Taxing Unit (MSTU). If special assessments or charges are authorized as a method of payment, then the dependent unit of government shall be called a Municipal Services Benefit Unit (MSBU). Property owners may also petition the Board of County Commissioners to expand the Boundaries or make other changes to an already existing MSTU or MSBU. The Board of County Commissioners has established the petition process outlined herein which shall be followed unless the Board of County Commissioners waives the use of the petition process. The Board has designated an office to assist in the administration of this process.

POLICY/PROCEDURE:

Property owners interested in pursuing a Municipal Service Taxing or Benefit Unit shall contact the Office designated by the Board of County Commissioners to obtain the steps necessary for the petitioners to take in order for the County to prepare the formal petition form.

I. Requirements of the formal petition:

- A. The petition shall clearly describe the service or project being requested or the changes being requested to an existing unit. Examples of services are streetlighting, landscape maintenance and security services. Examples of projects are roads, drainage, water and sewer
- B. The petition shall set forth the method of funding the service or project either by ad valorem tax, special assessment or other charges along with the estimated cost of the services/project.

II. Petition signatures:

- A. All signatures must be notarized to be valid.
- B. In order for a signature to be valid, it must be a record titleholder to a parcel or property in the unit.
- C. Each record titleholder shall be allowed one signature for each parcel owned.
- D. In the event of multiple owners, the signature of any one owner shall give full credit for that parcel.

AC-3-15 Continued

- E. The submittal package must contain signatures, as determined by the County designee, representing at least ~~51 PERCENT~~ **50 percent + 1** of the owners of record or homesteaded properties for residential areas; or ~~and 51 PERCENT~~ **50 percent + 1** of the property owners by land area, ~~number of owners and property value~~ for principally undeveloped areas.
- III. When the signed petition submittal package is received by the County and found to be in compliance with the above, staff will proceed to public hearing before the Board of County Commissioners.
- IV. At the public hearing, property owners within the proposed unit are invited to participate and make their wishes known to the Board of County Commissioners.

If it is determined that the proposed unit is necessary and desirable, the Board may adopt an ordinance/resolution to either:

- A. Create the requested Municipal Service Unit WITHOUT a referendum being held, OR
- B. Establish a date for a referendum election to be held on the question of creating the requested Municipal Service Unit.
- V. For any unit, which required the levy of ad valorem tax to be operational within any given year, it must have been legally created prior to December 31 of the previous year.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Financial/Fiscal/Budget	CODE NUMBER: AC-3-15
TITLE: Procedure to Establish or Change a Municipal Service Taxing or Benefit Unit Which May or May Not be Empowered to Issue Debt	ADOPTED: 7/24/85
	AMENDED: 11/27/85; 4/11/90; 9/21/94
	ORIGINATING DEPARTMENT: PUBLIC RESOURCES

PURPOSE/SCOPE:
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AC-3-15 (Continued)

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**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Financial/Fiscal/Budget	CODE NUMBER: AC-3-16
TITLE: Replacement of Payment of Lost, Stolen, or Destroyed Bonds and Coupons	ADOPTED: 4/5/89
	AMENDED: 9/21/94
	ORIGINATING DEPARTMENT: Clerk of Circuit Court/Finance Department

~~Deleted: Division~~

PURPOSE/SCOPE:
To authorize the Clerk of Circuit Court, Finance Department to approve replacement or payment of lost, stolen, or destroyed bonds and coupons.

POLICY/PROCEDURE:

The Clerk of Circuit Court's Finance Director or the Debt Analyst may approve requests from bond paying agents regarding the replacement or payment of lost, stolen, or destroyed bonds and/or coupons.

Bond paying agents will provide the Finance Department with all documentation necessary to support claims and will provide additional documentation as may be required. Documentation can include, but not be limited to:

- Copy of specimen bearer bond;
- Affidavit, Lost, Stolen, or Destroyed Securities;
- Power of Attorney, Surety Company;
- Complete description of the bonds or coupons being claimed;
- Any other documentation deemed necessary to approve the paying agent's request in accordance with the bond covenants.

The Finance Director or Debt Analyst will approve in writing (to the paying agent), the replacement or payment of the lost, stolen, or destroyed bonds and/or coupons after proper documentation has been reviewed and accepted.

~~Deleted: Division~~

~~Deleted: Long-Term Deb Administrator~~

~~Deleted: Division~~

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~~Deleted: Long-Term Debt Administrator~~

Comment [CG1]:

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:
Financial/Fiscal/Budget

CODE NUMBER:
AC-3-16

TITLE:
Replacement of Payment of Lost, Stolen, or
Destroyed Bonds and Coupons

ADOPTED:
4/5/89

AMENDED:
9/21/94

ORIGINATING DEPARTMENT:
Clerk of Circuit Court/Finance Department

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EXISTING

ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS

CATEGORY:

Financial/Fiscal/Budget

CODE NUMBER:

AC-3-18

TITLE:

Policy for Issuance and Administration
of Debt Proceeds

ADOPTED:

8/29/90

AMENDED:

11/27/91 9/21/94

ORIGINATING DEPARTMENT:

~~Clerk of Circuit Court/Finance Division~~
Budget Services

PURPOSE/SCOPE:

The administration of the debt proceeds is necessarily more restrictive due to the debt covenants designed to protect the bond/certificate holder; as a result, additional and/or modified administrative procedures are necessary to insure debt compliance.

This policy is to insure that appropriate financial and administrative procedures and controls are in place to facilitate timely completion and support of the project(s) upon issuance of the debt and to ensure that the debt is properly priced.

POLICY/PROCEDURE:

Upon determination by the County Administrator's Office that the issuance of debt is appropriate to support the needs of the County, Budget Services, the Clerk of Circuit Court's Finance Division, and the County department/division in charge of the project will designate staff personnel, who will be responsible for ensuring that appropriate fiscal support is in place to track and monitor issuance, expenditures, and repayment of the debt prior to the debt closing date and that the debt is properly priced.

The designated staff personnel shall implement the necessary administrative procedures and controls to ensure timely issuance of debt and use of the proceeds.

SELECTION OF UNDERWRITER(S) AND BOND COUNSEL - The Senior Manager(s) and Co-Manager(s) shall be recommended by administrative personnel designated by the County Administrator and the Financial Advisor to the Board of County Commissioners. Any selling group or additional Co-Managers, if deemed to be in the best interest of the County, shall be proposed by the Financial Advisor and administrative personnel. The Bond Counsel will be selected by the County Attorney.

DEBT PRICING AND COSTS OF ISSUANCE - The Clerk's Finance Division, Budget Services, and the County's financial advisor shall participate in the debt's pricing call(s) to insure that the County obtains the most advantageous pricing and minimizes the costs of issuance. Final authorization of rates, risk, and other costs shall be made by the County Administrator or designee. Budget Services shall be responsible for recommending the approval of all administrative expenses for debt issues with the exception of the charge by Bond Counsel, which shall be the responsibility of the County Attorney.

REQUEST FOR BOARD APPROVAL - The Request for Board Approval shall be undertaken through a series of "blue sheets".

Blue Sheet #1

Request to authorize County personnel to begin preparation of documents for particular bond sale and designate Underwriters and Bond Counsel.

Blue Sheet #2

Request to authorize the Chairman of the Board of the County Commissioners to accept as final the Preliminary Official Statement (POS) and authorize distribution. The POS is the "selling document" upon which the bonds will be marketed and this blue sheet formalizes the intent to proceed with the sale. This action also fulfills the requirements of Securities and Exchange Commission (SEC) Rule 15c2-12.

Blue Sheet #3

Once bonds have been sold by the underwriters, this agenda item authorizes:

- a. the issuance of the bonds;
- b. the sale of the bonds to underwriters;
- c. the execution of the Bond Purchase Agreement;
- d. the use of the final Official Statement (OS).

At the time the Bond Purchase Agreement is executed, the following will be part of the debt package presented to the Board:

- a. Defined project(s) and associated estimated costs;
- b. Request for authorization of the transfer of any county monies needed in addition to the debt proceeds of the project;
- c. List the proposed trustee, paying agent, registrar, and selection of insurer (contained in Blue Sheet #3);
- d. Designated authorized signors for the debt-funded projects;
- e. Proposed debt service funding source and fiscal impact.

Blue Sheet #4

The budgets for the debt service and construction fund(s) will be presented to the Board for approval.

AT DEBT CLOSING - At the closing of the debt issue, the project drawdown schedule will be provided to the Finance Division by the Project's department/division.

ADMINISTRATION OF THE DEBT - Within two weeks after closing, Budget Services and the Finance Division will jointly hold a briefing with each department/division employee who will be monitoring and processing payment and budget requests from the debt proceeds. The briefing will cover the restrictions on the debt monies, including, but not limited to, the needed approval signatures, investment procedures, and purchase order processing.

In all cases, the following restrictions apply:

1. The debt fund's purchase orders will be restricted to the debt fund. No purchase order will cross funds when debt proceeds are involved.

ADMINISTRATION OF THE DEBT (continued)

2. All transactions requiring debt proceed monies will be authorized by the County Administrator's designated signers, including, but not limited to, invoices, purchase order changes, invoice corrections, and journal entries.
3. Debt construction proceeds are not readily available as they are invested based on a drawdown schedule provided by the department/division. The department/division, prior to making a request for a handwritten check from debt proceeds, will confirm with the Finance Division's Long-Term Debt Administrator that the monies are available and not invested, in order to avoid selling investments at a loss.
4. Expenditures from debt monies may include direct and indirect project expenses; administrative costs may be permitted to the extent authorized in the debt covenants as a proper expenditure.
5. Due to the authorized signature requirement by project, separate invoices for each project's cost, with an authorized signature, must be provided.

CHANGING DEBT PROJECTS - If the County Administrator determines it is in the best interest of the County to modify the debt projects, Budget Services will prepare the necessary debt resolution amendment for Board action.

Once the Board has authorized any changes in project list or other material changes in debt agreements, the designated staff personnel of the following departments/divisions will coordinate the items indicated below:

- Budget Services will obtain new designated signers for the Finance Division.
- Budget Services will identify and recommend the necessary changes to the Capital Improvement Program and, with the project department, prepare the necessary debt/project budget realignments. The updated debt project list will be provided to the Finance Division.
- The affected department(s) will provide projected cash drawdown schedules to the Finance Division.
- Finance Division will attempt to adjust the invested debt proceeds to the new projected cash flows.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:
Financial/Fiscal Budget

CODE NUMBER:
AC-3-18

TITLE:
**Policy for Issuance and Administration of
Debt Proceeds**

ADOPTED:
8/29/90

AMENDED:
11/27/91; 9/21/94

ORIGINATING DEPARTMENT:
County Administration/Budget Services

PURPOSE/SCOPE:

The purpose of the Lee County Debt Policy is to provide guidelines, parameters and procedural requirements for the issuance and management of debt.

POLICY/PROCEDURE:

I. ADMINISTRATIVE PROCESS FOR ISSUING DEBT

The Budget Services Division of the County Manager's Office shall be responsible for the process of securing professional services that are required to develop and implement Lee County's (County) debt program. Goals of the solicitation and selection process shall include encouraging participation from qualified service providers, both local and national, and securing services at competitive prices. A Bond Selection Committee shall be created for each bond issue. The Committee shall consist of County Department(s) with capital financing needs relative to the proposed bond issue, Public Works Director, Clerk of Courts, Budget Director, Fiscal Analyst in Budget Services, Finance Director and Debt Analyst in the Clerk of Courts Finance & Records Department. Voting members will be limited to the Clerk of Courts, Fiscal Analyst in Budget Services and Public Works Director or their designees.

A. Bond Counsel. As part of its responsibility to oversee and coordinate the marketing of all County indebtedness, the County Attorney shall make recommendations to the Board of County Commissioners regarding the selection of Bond Counsel to be employed and the duration of the employment for individual or a series of financing.

B. Disclosure Counsel. If it is determined that disclosure Counsel is needed for a specific bond financing, the County Attorney shall make recommendations to the Board of County Commissioners regarding the selection of Disclosure Counsel to be employed and the duration of the employment for individual or a series of financings.

AC-3-18 (Continued)

C. Underwriter. Proposals for underwriting services will be solicited for all debt issued in a negotiated or private placement sale mode. The solicitation process used for these services shall include the formation of a Bond Selection Committee to evaluate written proposals and, if deemed necessary, conduct oral interviews. The selection of underwriters may be for an individual or series of financings, or for a specified time period. The Board of County Commissioners will approve selections taking into consideration the recommendations of the Bond Selection Committee.

D. Financial Advisor. The County Manager and the Bond Selection Committee shall make recommendations to the Board of County Commissioners regarding the selection of financial advisors to be employed and the duration of such employment. The solicitation and selection process for such services will comply with County requirements for Professional Services. The time period for employment may relate to an individual or a series of financings, or for a specified period of time.

Assistance to be provided by a financial advisor will include, but not be limited to:

1. Monitoring market opportunities
2. Evaluating proposals submitted to the County by underwriters
3. Analyzing the costs and risks of debt issuances
4. Structuring and pricing debt issuances
5. Advising on terms and conditions of credit facilities dealing with the issuance of variable rate debt
6. Preparing official statements
7. Preparing presentations for rating agencies and investors
8. Conducting special studies as needed

E. Escrow Agent and Paying Agent/Registrar. The Clerk of Courts Finance & Records Department shall solicit in connection with specific financings for paying agent/escrow agent (if applicable) registrar services from qualified commercial and trustee banks. The cost of providing such services shall be used along with other qualitative measurements, in developing the selection of an Escrow Agent and a Paying Agent/Registrar.

Selection criteria will include, but not be limited to:

1. Demonstrated ability to support bank operations as prescribed by appropriate federal or state bank regulators
2. Demonstrated ability to provide accurate and timely securities processing
3. Demonstrated ability to make timely payments to bondholders
4. Demonstrated ability to respond promptly and appropriately to bondholders and issuers
5. Demonstrated ability to provide services convenient to bondholders
6. Fees and expenses to provide services

F. Other Service Providers. The Clerk of Courts Finance & Records Department shall solicit in connection with specific financings for other service providers (i.e., trustees). Solicitation for Verification Agents shall be made by the Financial Advisor. The cost of providing such services shall be used along with other qualitative measurements, in developing a recommendation to the Board of County Commissioners, along with the term of such agreement.

II. GUIDELINES FOR THE ISSUANCE OF DEBT

Proper debt management provides a locality and its citizens fiscal advantages. The violation of the debt policy places an undue burden on the County and its taxpayers. The following administrative policies provide the framework to limit the use of debt in Lee County:

A. Financing for County Operations

Lee County will not use long-term debt to fund current or future operations.

B. Types of Debt

The types of debt that Lee County will issue include:

1. General Obligation Bonds of the County
2. Tax Exempt Commercial Paper
3. All Lease appropriation debt (includes Certificates of Participation)
4. Revenue Bonds

C. Revenue Bond Guidelines

Whenever Lee County finds it necessary to issue revenue bonds, the following guidelines will be adhered to:

1. Revenue bonds are defined as a bond on which the debt service is payable solely from the revenue generated from the operation of the project being financed or a category of facilities, or from other non-property tax sources of the County.
2. Revenue bonds of the County and any of its agencies will be analyzed carefully by the Budget Services Division and the Clerk of Courts Finance & Records Department for fiscal soundness. The issuance of County revenue bonds will be subject to the most careful review and must be secured by covenants sufficient to protect the bondholders and the name of the County.
3. Revenue bonds will be structured to allow an approximately equal annual debt service amount over the life of the issue unless this negatively impacts County finances. The County may then structure annual debt services to best meet financial conditions at that time.
4. The term of any revenue bond issue will not exceed the useful life of the capital project/facility or equipment for which the borrowing is intended.

D. Arbitrage

1. Lee County shall comply with all Internal Revenue Service arbitrage rebate requirements for bonded indebtedness.

III. COMPREHENSIVE CAPITAL PLANNING AND FINANCING SYSTEM

A. Capital Planning and Financing System. The County has a capital planning and financing system for use in preparing a multi-year Capital Improvement Program for consideration and adoption by the Board of County Commissioners as part of the County's budget process. Individual departments and constitutional officers prepare multi-year capital plans. Coordination and preparation of the Countywide Capital Improvement Program resides with Budget Services. This Program is for the

coming five fiscal years and shall be updated annually. The Program shall contain a comprehensive description of the sources of funds and the timing of capital projects for future operating and capital budgets. Affordability impacts of the Program shall be evaluated by Budget Services in consultation with the various County Departments.

B. Debt Calendar and Financing Priorities. It shall be the responsibility of the Budget Services Division within the context of the Capital Improvement Program, to oversee and coordinate the timing, process of issuance and marketing of the County's borrowing and capital funding activities required in support of the Program. In this capacity, County Administration shall make recommendations to the Board of County Commissioners regarding necessary and desirable actions and shall keep them informed as to the progress and results of current-year activities under the Program.

C. Agenda Process for Board of County Commissioner Approval of Debt Financings

The Request for Board Approval is undertaken through the following series of "Blue Sheets" or agenda items:

Blue Sheet #1 – Authorization to Proceed

Request Board of County Commissioners to authorize County personnel to begin preparation of documents that may lead to a financing transaction (usually a bond issue or bank financing).

Blue Sheet #2 – Selection of Financing Team

Request Board of County Commissioners to approve underwriters (if negotiated transaction), bond counsel and disclosure counsel.

Blue Sheet #3 – Delegating Resolution

Request Board of County Commissioners to authorize Chairman or Vice Chairman to sign a delegating resolution for delivery of a Bond Purchase Agreement that meets certain specific criteria. These criteria include:

1. Maximum size of bond issue.
2. Net Present Savings required if a refunding bond
3. Underwriter Discount
4. True Interest Cost
5. First Call Date and Final Maturity Date
6. Call Premium
7. Latest date Bond Purchase Agreement can be executed.
8. Receipt of disclosure statement and truth-in-bonding statement of the Underwriter
9. Receipt of Good Faith Deposit

AC-3-18 (Continued)

This action "deems final" the Preliminary Official Statement (POS) and authorizes its distribution in accordance with the meaning of Rule 15c2-12(b) under the Securities Exchange Act of 1934. The resolution also authorizes the execution and delivery of an Official Statement (OS) – if the bonds are sold - appoints the paying agent, registrar and verification agent for the bonds, approves the execution and delivery of a continuing disclosure certificate and authorizes purchase of municipal bond insurance as well as an effective date for the bonds. For refunded issues, this resolution will also authorize execution and delivery of an escrow deposit agreement and appoint an escrow agent.

Blue Sheet #4 – Establishing Budgets

The budgets for the debt service and construction fund(s) will be presented to the Board of County Commission for approval.

D. Maintenance, Replacement and Renewal. Consistent with its philosophy of keeping its capital facilities and infrastructure systems in good repair and to maximize the capital stock's useful life, the County sets aside sufficient current revenues to finance ongoing maintenance needs and to provide reserves for periodic replacement and renewal.

E. Debt Authorization. No County debt issued for the purpose of funding capital projects will be authorized by the Board of County Commissioners unless the impact of debt issuance has been analyzed and it has been included in the Capital Improvement Program.

IV. LIMITATIONS ON COUNTY INDEBTEDNESS

A. Target Limitations on General Obligation Indebtedness. The County shall, as a matter of policy, conduct its finances so that the amount of direct general obligation debt outstanding at any time is subject to approval by the voters (excluding long-term, non-self supporting leases).

B. Limitations on Lease-Purchase Financing of Equipment and Furnishings. The County may enter into lease-purchase obligations to finance the acquisitions of capital equipment and furnishings. Repayment of these lease-purchase obligations shall occur over a period not to exceed the useful life of the underlying asset.

C. Limitations on General Fund Loan Guarantees and Credit Support. As part of the County's financing activities, General Fund resources may be used to provide credit support or loan guarantees for public or private developments with a public purpose that meet high priority County needs subject to Board of County Commission approval.

D. Limitations on the Issuance of General Fund Secured Debt Obligations. Recognizing the limited capacity of the County's General Fund to support both ongoing operating programs and secure long-term debt obligations, use of the General Fund to secure such obligations must first be approved by County Administration. Key factors that will be considered in determining whether or not the General

Fund should be used to secure a particular debt obligation will include the following:

1. Demonstration of underlying self-support, thus limiting potential General Fund financial exposure.

2. Use of General Fund support as a transition to a fully stand alone credit structure, where interim use of General Fund credit support reduces borrowing costs and provides a credit history for new or hard to establish credits.
3. General Fund support as determined by the Board of County Commissioners is in the County's overall best interest.

V. STRUCTURE AND TERM OF COUNTY INDEBTEDNESS

A. Rapidity of Debt Repayment. Generally, borrowings by the County should be of a duration that does not exceed the economic life of the improvement that it finances and where feasible should be shorter than the projected economic life. Moreover, to the extent possible, the County will design the repayment of debt so as to recapture rapidly its credit capacity for future use.

B. Use of Variable-Rate Securities. When appropriate, the County may choose to issue securities that pay a rate of interest that varies according to a pre-determined formula or results from a periodic remarketing of the securities. The decision to issue such securities must be reviewed and approved by a majority of the Bond Selection Committee with the advice of the Financial Advisor, before the County Manager and the Board of County Commissioners are requested to approve their issuance.

C. Pledge of Restricted Funds to Secure Debt. The County has the power to make an irrevocable pledge of a security interest in an account created exclusively for the security of holders of County obligations. Before restricted funds are used to secure a prospective financing, policies regarding the use of such restricted funds shall be reviewed by the affected County Department, Budget Services and the Clerk of Courts Finance & Records Department to ensure that the use of such funds to secure bonds does not violate restriction on such funds. Also, the review shall determine that underlying program commitments can be maintained in addition to meeting debt service obligations on debt secured by the restricted funds.

D. Use of Subordinate Lien Obligations. Creation of a subordinate lien financing structure, if appropriate, shall be based on the overall financing needs of a particular Department, expected credit ratings, relative cost of a subordinate lien structure, and impacts on the County as determined by Budget Services. The results of this review shall be presented in the form of recommendations to the Board of County Commissioners for consideration prior to or at the time such bonds are being authorized.

E. Debt Pricing and Costs of Issuance. The Clerk of Courts Finance & Records Department, Budget Services, and the Financial Advisor shall participate in the debt's pricing call(s) to insure that the County obtains the most advantageous pricing and minimizes the cost of issuance. Final authorization of rates, risks, and other costs shall be made by the County Manager or designee. Budget Services shall be responsible for recommending the approval of all administrative expenses for debt issues with the exception of the charge by Bond Counsel, which shall be the responsibility of the County Attorney.

VI. METHOD OF SALE

A. Competitive Sales. The County, as a matter of policy, shall seek to issue its debt obligations in a competitive sale unless it is determined by the Bond Selection Committee that such a sale method will not produce the best results for the County. The County and the Financial Advisor shall design an official bid form to be made part of each official notice of sale that is issued in connection with the sale of debt securities in a competitive sale by the County. In such instances where the County in a competitive bidding for its debt securities (whether general obligation or non-general obligation debt) deems the bids received as unsatisfactory or does not receive bids, it may, at the election of the Board of County Commissioners, enter into negotiation for sale of securities.

B. Negotiated Sales. When determined appropriate by the Bond Selection Committee, the County may elect to sell its debt obligations through a negotiated sale. Such determination may be made on an issue by issue bases, for a series of issues, or for part or all of a specific financing program. Selection of the underwriting team shall be made pursuant to selection procedures set forth in the Lee County Debt Management Policies, consistent with County requirements.

VII. SHORT-TERM DEBT AND INTERIM FINANCING

A. Lines and Letters of Credit. Where their use is judged by the Bond Selection Committee to be prudent and advantageous to the County, the County has the power to enter into agreements with commercial banks or other financial entities for purposes of acquiring lines or letters of credit that shall provide the County with access to credit under terms and conditions as specified in such agreements. Before entering into any such agreements, liquidation of financing for such lines or letters of credit must be planned for and determined to be feasible by the County Manager or his designee. Any agreements with financial institutions for the acquisition of lines or letters of credit shall be approved by the Board of County Commissioners. Lines and letters of credit entered into by the County shall be in support of projects contained in the approved Capital Improvement Plan.

B. Bond Anticipation Notes. Where their use is judged by the Bond Selection Committee to be prudent and advantageous to the County, the County may choose to issue Bond Anticipation Notes as a source of interim construction financing. Before issuing such notes, takeout financing for such notes must be planned for and determined to be feasible by the County Manager or his designee. Bond Anticipation Notes may be sold in either a competitive or negotiated sale, subject to authorization and approval by the Board of County Commissioners.

C. Tax Exempt Commercial Paper. The County may choose to issue Tax Exempt Commercial Paper as a source of interim construction financing for projects contained in the County's approved Capital Improvement Plan only after the County Manager or his designee determines that such a financing represents the least cost interim financing option for the County. All Commercial Paper issues shall be approved by the Board of County Commissioners.

VIII. IMPROVEMENT DISTRICT AND ASSESSMENT CONTRACT FINANCING

A. Financial Policies. The policies guiding the County's improvement district and assessment contract financing program shall be guided by the Bond Selection Committee.

B. Interest Rates on Improvement Assessment Loans. The contract interest rate on loans made from the proceeds of Improvement Assessment Bonds shall be equal to the effective interest rate paid on the bonds to finance such loans plus an additional percentage markup to cover administrative and loan servicing costs. The administrative and servicing charge markup shall be adjusted annually based upon the historical Improvement Assessment Bond collection history and cost of administering the program. The contract interest rate shall be determined on the day of the sale of Improvement Assessment Bonds for those assessment contracts financed with proceeds of the sale.

C. Interim Assessment Contract Interest Rates. The interim assessment contract interest rate is the interest rate set on contracts that precedes the sale of Improvement Assessment Bonds. This rate shall be set at a level deemed reasonable and prudent by the County to insure that funds collected through assessment contract payments are sufficient to meet that portion of future debt service requirements on Improvement Assessment Bonds attributable to such contracts.

IX. REFUNDING OF COUNTY INDEBTEDNESS

A. Debt Service Savings-Advance Refundings. The County shall issue advance refunding bonds (as defined for federal tax law purposes) when advantageous, legally permissible and prudent. An advance refunding should produce minimum net debt service savings (net of reserve fund earnings and other offsets) of at least 3% of the par value of the refunded bonds on a net present value basis, using the refunding issue's True Interest Cost ("TIC") as the discount rate. Exceptions to this requirement shall be made only upon the approval of the Board of County Commissioners and will be based on needs that may arise due to bond covenants and/or the structure of the debt.

B. Debt Service Savings-Current Refundings. The County shall issue current refunding bonds (as defined for federal tax law purposes) when advantageous, legally permissible and prudent. A current refunding should produce minimum net debt service savings (net of reserve fund earnings and other offsets) of at least 3% of the par value of the refunded bonds on a net present value basis, using the refunding issue's True Interest Cost ("TIC") as the discount rate.

C. Debt Service Savings-Forward Refundings. The County shall consider the issuance of forward refundings if the percentage of the Option Value on the transaction will be at least 70%. If this criterion is met, the County must receive detailed information from the underwriting firms to analyze the forward pricing premium in terms of economic value and liquidity value. The County will need to negotiate the payment of fees.

D. Restructuring of Debt. The County may choose to refund outstanding indebtedness to the benefit of the County's debt and financial management goals when existing bond covenants or other financial structures impinge on prudent and sound financial management. Savings requirements for undertaking to restructure debt may be waived by the Board of County Commissioners upon a finding that such a

restructuring is in the County's overall best financial interest.

X. USE OF CREDIT ENHANCEMENT

The County shall seek to use credit enhancement (i.e., letters of credit, bond insurance, surety bonds, etc.) when such credit enhancement proves cost-effective. Selection of credit enhancement providers shall be subject to a competitive process. Credit enhancement may be used to improve or establish a credit rating on a County debt obligation even if such credit enhancement is not cost effective if, in the opinion of the County Manager, the use of such credit enhancement meets the County's debt financing goals and objectives.

XI. REBATE REPORTING AND COVENANT COMPLIANCE

The Clerk of Courts Finance & Records Department shall establish a system of record keeping and reporting to meet the arbitrage rebate compliance requirements of the federal tax code. This effort shall include tracking investment earnings on bond proceeds, calculating rebate payments in compliance with tax law, and remitting any rebatable earnings to the federal government in a timely manner in order to preserve the tax-exempt status of the County's outstanding debt issues. Additionally, general financial reporting and certification requirements embodied in Bond covenants shall be monitored to ensure that all covenants are met.

XII. CONDUIT FINANCINGS

The County may sponsor conduit financings for those activities (i.e., economic development, housing, health facilities, etc.) that have a general public purpose and are consistent with the County's overall service and policy objectives as determined by the County Manager. All conduit financing must insulate the County completely from any credit risk or exposure and must first be approved by the County Manager before being submitted to the Board of County Commissioners for authorization and implementation.

XIII. FINANCING PROPOSALS

Any capital financing proposal involving a pledge or other extension of the County's credit through the sale of securities, execution of loans or leases, or making of guarantees or otherwise involving directly or indirectly the lending or pledging of the County's credit shall be referred to the Bond Selection Committee. The Bond Selection Committee shall be responsible for analyzing the proposal, responding to the proposal, and recommending to the Board of County Commissioners the required action be taken in a timely manner.

XIV. INVESTMENTS

The investment of any debt service proceeds shall be governed by Board ordinance, Board policy and Bond Covenants.

XV. OTHER POLICIES AND REQUIREMENTS

A. Annual Financial Reports of County. The Comprehensive Annual Financial Report of the County presents in detail all funds and fund balances established as part of any direct debt financing of the County

B. Debt Service Transfers and Payments. The County will transfer each month one-sixth of the next interest payment due and one-twelfth of the next principal payment due from the revenue funds to the debt service funds for each debt issue as required to do so by bond covenants. These transfers are to be made on a timely basis to protect the rights of the bond/certificate holders. All debt service schedules are in each Official Statement of all debt approved and issued by the Board of County Commissioners. These debt service schedules are to act as authorization in lieu of budget for the Clerk of Courts Finance & Records Department to ensure the debt principal and interest payments are made timely. Payments are made according to these debt schedules except in those cases where principal has been called early using an extraordinary mandatory redemption feature. If principal is called early, the debt service schedule is revised to show the decrease in both principal and interest owed.

XVI. CREDIT RATINGS

A. Rating Agency Relationships. The County Manager, Budget Services and Financial Advisor shall be responsible for maintaining relationships with the rating agencies that currently assign ratings to the County's various debt obligations. This effort shall include providing periodic updates on the County's general financial condition along with coordinating meetings and presentations as necessary in conjunction with a new debt issuance.

B. Use of Rating Agencies. The County Manager, Budget Services and Financial Advisor shall be responsible for determining whether or not a rating shall be requested on a particular financing, and which of the major rating agencies shall be asked to provide such a rating.

C. Minimum Long-Term Rating Requirements. The County's minimum rating requirement for its direct long-term, debt obligations is a rating of "A" or higher. If such a debt obligation cannot meet this requirement based on its underlying credit strength, then credit enhancement such as bond insurance shall be sought to ensure that the minimum rating is achieved. If credit enhancement is unavailable or is determined by the Bond Selection Committee to be not economically advantageous, then it will be recommended to the Board of County Commissioners that the obligations be issued without a rating.

A lower rating may be accepted for indirect or conduit obligations subject to the approval of the Board of County Commissioners.

XVII. ONGOING DISCLOSURE

The Clerk of Courts Finance & Records Department shall be responsible for providing required ongoing financial information to established national information repositories and for maintaining compliance with disclosure standards promulgated by state and national regulatory bodies. Budget Services will provide ongoing material events disclosures as needed.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:
MSTBU

CODE NUMBER:
AC 3-23

TITLE:
MSBU Penalty Waiver

ADOPTED:
July 11, 2000

AMENDED:

ORIGINATING DEPARTMENT:
~~County Administration/MSTBU Services~~

Public Resources

PURPOSE/SCOPE:

This Administrative Code is established for the purpose of implementing a Penalty Waiver Policy for MSBU Programs.

POLICY/PROCEDURE:

A. PENALTY WAIVER

- (1) The MSTBU Office will review the requests on a case by case basis and retains the right to approve or deny. Consideration will only be given to residential/homesteaded properties which have an MSBU special assessment lien on it.
- (2) Any penalty clause within the Creation or Final Assessment documents of a specific project will take precedence over this administrative code.
- (3) The penalty can be waived if a) the account is paid in full in one payment, or b) if a payment plan executed between the MSTBU Office and the property owner, and complied with, bringing the account current within one year. Should an additional bill be run in that time, consideration will be given to extending the payment plan.
- (4) Penalty can only be waived one time for any given project/property.
- (5) Penalty cannot be waived if the MSTBU Office has sent a certified letter to the property owner and the property owner has not responded as per the letter, or if the account has been turned over to the County Attorney's office for action.
- (6) If an account has been turned over to the County Attorney's office, the County Attorney has the option of waiving penalty.
- (7) Payments received will be applied directly to the interest and principal amounts of the account. When the account is current the MSTBU Office will delete the accrued penalty. Should the property owner fail to meet with the agreed payment plan, no penalty will be waived, and no further consideration will be given for a penalty waiver.
- (8) Any property with an executed payment plan must be paid in full upon the sale, transferred through an estate, or title/name changed, in order to have the penalty waived.

Any property owner who currently participates in the Lee County Solid Waste Hardship program for garbage can have penalty waived if the interest due is current and/or a payment plan for interest is agreed to. Penalty Waiver in a hardship case can be applied for annually. Documentation of hardship status approved by the Lee County Solid Waste Department must be provided to the MSTBU office annually. The penalty waiver will become null and void upon sale and/or transfer of title of the property.

AC _____ (Continued)

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**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY:
MSTBU

CODE NUMBER:
AC 3-23

TITLE:
MSBU Penalty Waiver

ADOPTED:
July 11, 2000

AMENDED:

ORIGINATING DEPARTMENT:
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**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Financial/Fiscal/Budget	CODE NUMBER: AC-3-25
TITLE: Policies and Procedure for application and Administration of MSBU Financial Support through a Matching Grant/Contribution and/or Hardship Programs	ADOPTED: 08/05/03
	AMENDED:
	ORIGINATING DEPARTMENT: Public Resources

PURPOSE/SCOPE:

Establish a standard policy and procedure for the application and administration of three financial support programs offered for an identified and created Municipal Services Benefit Unit Capital Infrastructure Project.

POLICY/PROCEDURE:

A. Policy for Matching Grant Program

1. Approval of the application will be by the County Manager or designee.
2. Application for the Matching Grant will be for an individual property identified by a single strap number for a specific Municipal Services Capital Project in which a special assessment is being applied.
3. ~~A sub-fund utilizing The MSBU Restricted fund will utilize~~ residual MSTBU funds ~~will be set up~~ to provide for a 25:75% (County 25%, Property Owners 75%) match.
4. Applicant must apply for the matching grant prior to the Public Hearing for approval of Resolution of Final Assessment, for the identified MSBU project following the completion of the project.
5. The matching grant program is available for properties that are documented by the Property Appraisers Office as homesteaded, during the calendar year in which the project is completed.
6. Gross Income levels and assets will be considered when reviewing the application. Gross income should not exceed the annual HUD Home Program Low Income Limits. Exceptions will be considered based on extenuating circumstances related to extraordinary medical expenses, not covered by a medical plan.
7. Documented income of all household members over the age of 18 must be provided for consideration.
8. All income including but not limited to rental properties, businesses, and/or Trusts, as may be reported under separate IRS returns for the property owner(s) of record must also be submitted and considered as income when applying for a matching grant.

B. Policy for Applying MSBU Contribution

1. Contributions will be made for projects that are voluntary, with no requirements per development order or development of regional impact.
2. Contributions will be for projects in which the property owners are paying for a minimum of 80% of the project. Projects which are partially supported by federal, state and/or local grants, or any other County funding will be eligible only for that portion which would reduce the property owner's portion to 80%.
3. Contributions for an MSBU Capital Project will be made based on availability of funds in the MSBU residual fund, as determined by the County Manager or designee.
4. The MSTBU Services Staff, when preparing an estimate for any MSBU capital project will estimate contributions to a project. The final calculation will be based on the actual costs calculated upon the completion of the project.
5. The contribution shall not exceed 20% of the project costs borne by the property owners, inclusive of cost for obtaining right of way, permits, testing, inspection, engineering, administrative, short-term interest, and construction expenses only. Direct costs to property owners for actual consideration paid for right of way and/or condemnation, mitigation, long-term finance and interest costs shall not be included in the calculation of the contribution.

C. Policy for Hardship Deferral Program

1. Approval of the application will be made by the County Manager or designee.
2. The Hardship Deferral program will initially be funded by the MSBU Restricted fund using residual funds and will continue as a revolving loan fund.
3. Application for the hardship deferral will be for an individual property identified by a single strap number.
4. Applicants must apply for the deferral each year by June 15th for the following year's assessment.
5. The hardship program is available for properties that are documented by the Property Appraisers Office as homesteaded during the year in which the application is made.
6. Gross Income and assets for all adult members (over 18 years of age) of the identified household will be considered when determining eligibility for a Hardship Deferral. The annual HUD Home Program levels will be used to determine eligibility. Total gross incomes should not exceed the 60% income limits. Exceptions will be considered based on documented extraordinary non-reimbursed medical expenses.
7. All income including but not limited to rental properties, businesses, trusts and/or retirement programs as may be reported under separate IRS returns for the property owner(s) of record must also be submitted and considered as income when applying for the hardship deferral.
8. A deferral will not eliminate the responsibility of full payment of all accrued amounts including the principal, interest, penalties, or other related expenses accrued prior to approval of the deferral.
9. Payment of the full assessment is due at time of sale, transfer or refinancing of the property.
10. Neither interest nor penalty will accrue on the special assessment during any period in which a property is approved for the deferral.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Financial/Fiscal/Budget	CODE NUMBER: AC-3-25
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6. Gross Income levels and assets will be considered when reviewing the application. Gross income should not exceed the annual HUD Home Program Low Income Limits. Exceptions will be considered based on extenuating circumstances related to extraordinary medical expenses, not covered by a medical plan.
7. Documented income of all household members over the age of 18 must be provided for consideration.
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4. The MSBU Services Staff, when preparing an estimate for any MSBU capital project will estimate contributions to a project. The final calculation will be based on the actual costs calculated upon the completion of the project.
5. The contribution shall not exceed 20% of the project costs borne by the property owners, inclusive of cost for obtaining right of way, permits, testing, inspection, engineering, administrative, short-term interest, and construction expenses only. Direct costs to property owners for actual consideration paid for right of way and/or condemnation, mitigation, long-term finance and interest costs shall not be included in the calculation of the contribution.

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6. Gross Income and assets for all adult members (over 18 years of age) of the identified household will be considered when determining eligibility for a Hardship Deferral. The annual HUD Home Program levels will be used to determine eligibility. Total gross incomes should not exceed the 60% income limits. Exceptions will be considered based on documented extraordinary non-reimbursed medical expenses.
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9. Payment of the full assessment is due at time of sale, transfer or refinancing of the property.
10. Neither interest nor penalty will accrue on the special assessment during any period in which a property is approved for the deferral.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Safety/Risk Management

CODE NUMBER AC 7-1

**TITLE: Risk Management Requirements
for Contracts**

ADOPTED

AMENDED

**ORIGINATING DEPARTMENT
County Administration/Budget Services**

Purpose / Scope: The purpose of this Administrative Code (AC) is to clearly identify the role of Risk Management in creating all contracts. It is the intent of this AC to allow Risk Management to review and advise staff when creating contracts that include indemnification language, whereby that agreement transfers or assumes risk of another party. The scope of this Administrative Code, policy and procedures contained herein govern all Divisions and Departments under the jurisdiction of the Board of County Commissioners of Lee County.

The Board of County Commissioners has authorized the County Manager or designee to approve procedural revision to this Administrative Code.

For the purpose of this Administrative Code; the definition of a contract includes, but is not limited to Construction Contracts; Service Agreements; Lease Agreements for Real and or Personal Property; Vehicles Lease Agreements; Independent Contractor's Agreements; and or Rental Agreements.

Policy / Scope: As formally adopted by AC 4-4, Contracts Manuals are maintained by Public Works. The insurance provisions are contained therein.

Accordingly, Risk Management will review all contracts to identify and analyze exposures and determine the most effective method of ~~treating~~ managing the risk.

Risk Management will review the scope of work and takes the estimated cost and duration into consideration when setting the appropriate insurance and minimum limits of coverage.

Before any work is performed by an independent contractor the respective Department will obtain the following in an appropriate agreement; indemnification language acceptable to the County Attorney's Office and proof of appropriate insurance outlined by Risk Management. During the term of the contract, Risk Management will monitor the certificate of insurance and advise the respective Department in the event that the Contractors and or Vendors' insurance is cancelled, non-renewed, and or the insurance coverage is in adequate. If at anytime that it is determine that the contractor and or vendor's insurance is cancelled, non-renewed, and or the insurance is in adequate, the respective department will order the Contractor and or Vendor to "stop work" until which time the problem is corrected and verified by Risk Management.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Safety/Risk Management	CODE NUMBER AC-7-1
TITLE: Risk Management Requirements for Contracts	ADOPTED
	AMENDED
	ORIGINATING DEPARTMENT County Administration/Budget Services

AUTHORITY	Lee County Board of County Commissioners / Budget Services / Risk Management
PURPOSE	The purpose of this revision is to minimize the County's exposure and to clearly identify the role of Risk Management in the development of any contract or agreement, whereby that contract or agreement transfers and or assumes risks of another party.
APPLICABILITY	All Divisions, Departments and staff members employed by Lee County Board of County Commissioners (BoCC).
POLICY & PROCEDURE	<p>The County is self-funded and relies on sovereign immunity as outlined by s. 768.28, F.S. . As a result Risk Management will review and counsel with staff as necessary in contract development.</p> <p>No independent contractor, sub-contractor, trades person, or vendor will be allowed to perform their work on behalf of BoCC, unless there is a legal contract between parties. As effort to transfer risk whenever possible, the contract will include the following; an indemnification agreement in favor of the County; the County will be named as an "Additional Insured" on the Contractor policy, as outlined by Risk Management; the Contractor will provide proof of insurance in the form of a certificate of insurance to County Risk Management.</p>

**LEASE
AGREEMENTS**

Indemnification language normally found in lease agreements is problematic for public entities. Therefore, special attention must be given by Risk Management and County Attorney's Office before the lease agreement is signed by all parties. It is Risk Manager's recommendation that the departments attempt to avoid lease agreements, wherever possible.

The County Attorney, Risk Management and or County Manager's offices has the sole authority to waive the proof of insurance requirements whenever appropriate.

The Board of County Commissioners has authorized the County Manager or designee to approve procedural revision to this Administrative Code as necessary.

**RISK
MANAGEMENT**

Risk Management will consider s.725.06, F.S. when establishing construction contracts insurance limitations. In addition, Risk Management will review and consider the contract's scope of work, estimated cost and duration, when setting the appropriate type of insurance and minimum limits of liability.

**CONTRACTS
MANAGEMENT**

As formally adopted by AC 4-4, Contracts Manual are maintained by Public Works. Contract Management's procedures are contained therein.

**EMPLOYEE'S
SUPERVISOR**

Accordingly, BoCC staffers will forward all contracts described in this AC to County Attorney's Office and Risk Management for review and comments.

**EMPLOYEE'S
SUPERVISOR**

Before any work is performed by an independent contractor, for Lee County, the respective Department will obtain the following; indemnification language acceptable to the County Attorney's Office and proof of appropriate insurance outlined by Risk Management. If at anytime that it is determined that the contractor's and or sub-contractor's insurance is cancelled, non-renewed, and or the insurance is inadequate, the respective department will order the contractor and or sub-contractor to "stop work" until which time the problem is corrected and verified by Risk Management.

**COUNTY
ATTORNEY**

Will review all contracts to determine legal sufficiency.

**RISK
MANAGEMENT**

Will review all contracts to determine insurance sufficiency of the contract, to include independent contractor's, and that the contract does not expose the County to unnecessary risks.

During the term of the contracts, Risk Management will monitor the certificate of insurance and advise the respective Departments in the event that the contractor's and or sub-contractor's insurance is cancelled, non-renewed, and or the insurance coverage is in adequate. If at anytime that it is determine that the contractor and or sun-contractor's insurance is cancelled, non-renewed, and or the insurance is in adequate, the respective department will order the Contractor and or Vendor to "stop work" until which time the problem is corrected and verified by Risk Management.

DEFINITIONS

For the purpose of this Administrative Code the definition of a contract includes, but is not limited to independent contractors' agreements, construction contracts, service agreements, lease agreements for real or personal property, vehicles and heavy equipment leases, and or rental agreements, whereby that contract or agreement transfers and or assumes risks of another party.

TOTAL REWRITE

ADMINISTRATIVE CODE BOARD OF COUNTY COMMISSIONERS

CATEGORY:

Safety/Risk Management/Disaster Preparedness

CODE NUMBER:

AC-7-2

TITLE:

Fire Emergency Evacuation

ADOPTED:

2/18/76

AMENDED:

ORIGINATING DEPARTMENT:

County Administration/Budget Services

PURPOSE/SCOPE:

The evacuation plan as listed herein is for the safety of all personnel and visitors in the County Building. Your cooperation in responding to an emergency and following the procedures as quickly as possible will assure everyone a safe

POLICY/PROCEDURE:

1. Discovery of Fire. Immediately locate nearest fire alarm pull station and pull alarm.
2. Telephone operator upon hearing alarm will call City Fire Department to verify if they received the alarm and give them as much information as possible at that time, call the Director of Facilities Management office, secure the equipment and leave the building.
3. Designated persons on each floor will check alarm station in their area. If alarm was activated in their area, will report location via telephone to Director of Facilities Management.
4. All personnel shall evacuate the building by designated route and move to the designated area outdoors.
5. ELEVATORS ARE NOT TO BE USED. (Shall be ready for Fire Department use.)
6. All corridors and exit-ways will be maintained and free of storage.
7. All evacuation shall be by stairway and will be down to ground level then outside. (Exit to the roof will only be in extreme emergencies.)
8. Where security is involved, Department heads will plan the securing of their sections of the building before evacuation and also see that all corridor doors are closed.
9. Personnel assigned offices East of the elevator lobby on each floor will use the East stairway, on reaching outside will proceed East across Broadway to Hendry Street then North.
10. Personnel assigned offices West of elevator lobby on each floor will use the West stairway, on reaching outside will proceed across Monroe Street and assemble Northward.
11. All other areas will evacuate the building as per the floor plan sketches in their area and on reaching outdoors will proceed away from the building.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Safety/Risk Management/Disaster Preparedness	CODE NUMBER: AC-7-2
TITLE: Employee Emergency Action Plan	ADOPTED:
	AMENDED:
	ORIGINATING DEPARTMENT: County Administration/Budget Services

GENERAL

1. **SITUATION:** If an emergency happened in your workplace right now, what would you do? Natural disasters, bomb threats/explosions, and fires are always unexpected events demanding fast decisions and quick actions. The possibility of such an emergency is remote, but requires advanced planning and training to ensure the orderly and safe evacuation of all endangered persons when necessary.

2. **POLICY:** Lee County requires all persons to immediately leave a facility by the nearest available exit when notified, a fire alarm is activated or whenever it becomes clear that an emergency exists. No one is expected to endanger him/herself in order to assist with the evacuation of others, but everyone has the responsibility to ensure other building occupants are aware of the emergency. Similarly, we encourage trained individuals to aid anyone requiring medical assistance or to safely evacuate. If you are a disabled employee, even only temporarily disabled, please contact your supervisor to arrange for assistance now.

3. **PLAN:** This guidance plan applies to all emergency action and fire prevention plans required by OSHA standards and covers required actions that designated County employees must take to ensure the safety of our employees and guests from fire and other emergencies. Each County department/facility is required to modify its own emergency action and fire prevention plan, based on their needs. Your department/facility's plan must:
 - a. Address emergencies that may reasonably be expected in your specific workplace.
 - b. Determine what types of fire and life safety systems your facility has: voice alarms, smoke detectors, sprinklers, manual pull alarms, monitoring, portable fire extinguishers, fixed fire suppression system, fire doors, emergency lighting, etc.
 - c. Survey your employees to see whether they have any special needs such as physical disabilities.
 - d. Be kept at the workplace and made available for employee review. The best-laid plans are worthless unless people are made aware of and practice them.
 - e. Additionally, each team shall designate and train a sufficient number of persons to assist in the safe and orderly emergency evacuation of employees.

TENANTS

As building owner, the Lee County BoCC has a general responsibility for tenant safety. This plan is offered to tenants as guidance in formulating their own specific emergency action and fire evacuation plans.

1. A building-wide or standardized plan for the whole building is acceptable provided that each employer informs their respective employees of their duties and responsibilities under the plan.
2. When multi-employer building-wide plans are not established, employers should coordinate their plans with the other employers within the building to assure that conflicts and confusion are avoided during times of emergencies. This is a special need for multi-story buildings where more than one employer is on a single floor.

EMERGENCY ACTIONS

At the minimum, each department/facility plan will designate:

1. **Critical Action Procedures:** At the time of an emergency, employees should know what type of evacuation is necessary and what their role is in carrying out the plan. Employees must be sure that they know what is expected of them in all such emergency possibilities.
 - a. In some cases, where the emergency is very serious, total, and immediate evacuation of all employees is necessary.
 - b. In other emergencies, nonessential employees may be evacuated immediately but the evacuation of critical employees, necessary for continued plant operation, is delayed. The department should list detailed procedures to be taken by these critical employees to include when it is absolutely necessary to evacuate. Essential plant operations may include the monitoring of plant power supplies, water supplies, and other *essential* services, which cannot be shut down for every emergency alarm. Essential plant operations may also include plant operations that must be shut down in stages where certain employees must be present to assure safe shut down procedures are completed.
2. **Alarm System:** OSHA requires alarm systems to provide warning for necessary emergency action and ample reaction time for safe escape of employees from the endangered area. Some alarm systems are activated automatically through detection devices and/or manually.
 - a. The alarm has to be a distinctive and recognizable signal that employees can hear above the noise or see above the light in the work area. Alarm horns, flashing strobe lights, and public address systems are common throughout our buildings.

Since there is no audio system within County Facilities, it is not possible to differentiate the type of emergency. Therefore, it is necessary to survey the contents in your room for "suspect objects" before every evacuation of the building. Should you locate any suspect object before the evacuation, DO NOT TOUCH THE OBJECT! As you evacuate the building, be certain to tell your Floor Monitor (or any supervisor) of the location and description of the suspect object.

NOTE: Employees who are unable to recognize the audible or visual alarms may require the use of tactile devices. Please notify your employer as to this need.

AC-7-2 (Continued)

- b. If a mechanical audible alarm is not available, each team shall establish an employee verbal alarm procedure to provide warning.
- c. Where a communication (public address or radio) system also serves as the employee alarm system, all emergency messages shall have priority over all non-emergency messages.
- d. Treat *every* alarm as a real emergency.

3. **Emergency Communications:**

- a. **Reporting:** Each team shall explain to each of their employees the preferred means of reporting emergencies, such as manual pull box alarms, public address systems, radio, telephones and/or a combination. Fires, explosions, serious accidents, and other emergencies should be reported immediately to:

Emergency Management Services (EMS) (Ambulance, Fire, Police)	9-911
Fire (non-emergency)	239-334-6222
Police (non-emergency)	239-334-4155
Sheriff (non-emergency)	239-477-1000
County Risk Management	Ofc. 239-335-2897 or Cell 850-7085

Each team shall post emergency telephone numbers near telephones, or employee notice boards and other conspicuous locations when telephones serve as a means of reporting emergencies.

- b. **Emergency Customer Contact:** In case your facility has an emergency evacuation, recommend telephones for your team's receptionist roll over to an alternate location outside of your facility. This will allow uninterrupted customer service.

4. **Means of Egress** from each of its facilities:

- a. **Emergency Evacuation Diagram:** The use of floor plans or workplace maps, which clearly show the person's current location ("You Are Here!") and the egress (emergency evacuation) routes are required. The emergency evacuation diagram will also show the locations of all fire extinguishers and manual pull stations (some facilities may not be equipped with pull alarms). These diagrams shall be posted at several locations on each floor throughout the building.

- b. Elevators:** During an emergency evacuation, use the stairs. ***DO NOT USE THE ELEVATORS.*** Many elevators are programmed to stop at designated floors and not answer calls when a fire alarm is activated. Also, if the electrical power is interrupted or there is structural failure, the elevator becomes a trap. The National Fire Protection Agency standard 810 requires a permanent sign be posted in elevator lobbies directing persons to not use elevators during fires. These signs shall state, "**IN FIRE EMERGENCY, DO NOT USE ELEVATOR. USE EXIT STAIRS.**"
 - c. Evacu-Trac:** In the event of emergency, which requires building evacuation, County owned facility with two or more stories is equipped with an emergency evacuation device (Evacu-Trac chair). Typically the Evacu-Trac chair is located in the top floor stairwell. You should become familiar with the specific location within your building. Evacu-Trac provides fast, safe transport for people with limited mobility. Trained authorized personnel will use Evacu-Trac only. Please contact County Risk Management for your training needs.
- 5. Emergency Team** for each department/facility: The key to successful evacuation is to create an effective emergency evacuation team. The responsibilities of this team are to be implemented whenever there is an alarm. There must be primary and alternate persons assigned to these positions so that the evacuation procedures are carried out in case of absences from the building. The duties of the Emergency Evacuation Team are outlined in the following sample job descriptions:
- a. Emergency Coordinator:** This person is responsible for implementing the emergency evacuation plan, training the team members, and all occupants on how to use the fire alarm and communications systems. With the assistance of County Facilities Management and Risk Management, this person or their designee will conduct regular inspections of the building's fire and life safety equipment, and initiates any actions/repairs needed to ensure a safe evacuation. The Accountability Monitor reports missing persons and Floor Wardens report any other problems to the Emergency Coordinator who then acts as the liaison with the First Responders. The Emergency Coordinator will relay any problems or situations such as the last known location and description of disabled, trapped or missing persons, blocked exits, etc to the First Responders.
 - b. Floor Wardens:** These designated employees conduct occupant searches in assigned areas of the building. They should be trained in the complete workplace layout so they may direct people to the nearest available exit. This requires knowledge of alternate escape routes. All Floor Wardens should be made aware of handicapped employees who may need extra assistance and of hazardous areas to be avoided during emergencies. Before leaving, wardens should check offices, rest rooms, storage rooms, etc. and instruct persons to evacuate the building. The Floor Wardens should be the last persons to leave their assigned areas closing the office and stairwell doors behind them to help prevent rapid spread of fire. Each Floor Warden will report the results of their search to the Accountability Monitor, the location of disabled persons, and any problems to the Emergency Coordinator. Additionally, once outside, designated Floor Wardens are to help prevent anyone except authorized First Responders personnel from entering until the all-clear signal is given. The Emergency Coordinator will assign a Floor Warden to any

building exit that is not secured. Once the "all-clear" is given, the Floor Wardens will remain at their assigned post and make every attempt to allow staff to re-enter the building first. At no time will Floor Warden place their life at risk in order to keep the building secure.

NOTE: An additional Floor Warden may be assigned to ensure that persons do not wait for or use elevators during an evacuation. He/she should direct people to the nearest available fire exit.

- c. **Accountability Monitors:** These persons are responsible for making sure all of the building occupants are accounted for at the assembly areas. After the evacuation is completed, these persons should be able to account for or otherwise verify that all employees and guests are in the assembly areas. If anyone is missing, ensure they are not in the other assigned assembly area. Persons who are not accounted for will be reported to the First Responders through the Emergency Coordinator. In most cases the First Responders Command Post will be establish at the main entrance of the facility.
 - d. Additional monitors may be designated as required. For example, your office may have vaults or highly confidential materials that require securing if the nature of the emergency and timely warning allows.
6. **Assembly Areas:** In an emergency evacuation, everyone inside should go to a predetermined point outside the building. This is the designated assembly area. Each department should have a specific location where roll call will be taken. All building occupants must know where the primary and alternate assembly areas are located and meet there immediately upon emergency evacuation.
 - a. Assembly areas may include parking lots, open fields, or streets, which are, located a minimum of 500-feet away from the emergency site and which provide sufficient space to accommodate the employees. This will allow unobstructed discharge from the building, and will avoid congregating close to the building. Otherwise, occupants may hamper access to the building by emergency vehicles and they could be in danger from falling debris.
 - b. Also, an alternate assembly area needs to be pre-designated if the primary area is not available or in case of inclement weather.
7. **Medical Duties:** Employees trained in First Aid / CPR are encouraged to provide assistance in emergency and rescue situations that may occur in the workplace. All First Aid/CPR-trained employees should know where their office First Aid Kit is located.
8. **Return to Work:** When First Responders give the "all-clear," the Building Manager/Emergency Coordinator will make the decision for employees to return to the building. If the building is damaged, the Manager/Emergency Coordinator will call Risk Management and Facilities Management for assistance in mitigating and assessing the damage. However, it is the Department Director's duty and responsibility, to protect their assigned property and/or building(s) from further damage. The extra expenses associated with emergency repairs may be considered part of the County's insurance claim, subject to the County's policy conditions and limits. The damaged area will become a "restricted area" and unauthorized employees will not be allowed to return to the damages area until the area is rendered safe.

FIRE PREVENTION PLAN

1. **General:** Fires, like all other types of accidents, are largely preventable. Team members shall explain to their peers of the potential fire hazards in their workplace specific to their tasks. This includes their proper handling and storage procedures, potential ignition sources (such as welding, smoking and others) and their control procedures, the type of fire protection equipment or systems possessed and the various types of fire they can control. (Material Safety Data Sheets (MSDS) are a good source that describes the hazards, required personal protective equipment, first aid, materials handling, control measures and spill cleanup procedures for hazardous chemicals. Following MSDS instructions will help prevent accidents.)
2. **Fire Prevention / Potential Ignition Sources:** there are 3-elements to a fire. They are oxygen (which is present in our environment), heat source, and a fuel source. Combine all three elements and add an ignition source, a fire is started. It is our intention to prevent all three elements from combining to produce a fire. The following procedures are used to control known ignition source and prevent fires.
 - a. No open flames (candles) are allowed in County buildings.
 - b. Smoking is prohibited in all County buildings.
 - c. No live Christmas tree No power and/or extension cords will allow. Exception will be made for emergency and or temporary needs of the departments allowed in County buildings.
 - d. Extension cords and power strips must be manufactured sufficiently to safely carry intended electrical loads.
 - e. The use of extension cords in County facility is prohibited. Exceptions are for UL approved power strips; emergency and or temporary needs of that department.
 - f. Any electrical appliance which overheats or whose cord overheats will be removed from service.
 - g. All flammable materials such as paint, oil, solvents, and gas safety cans shall not be left unattended in any buildings. All flammable materials shall be stored in approved flameproof cabinet and labeled as such.
 - h. Rags or cloths soaked with oil or other flammable liquid must be disposed of in a flameproof container and removed from the building.
3. **Fire:** When you discover a fire:
 - a. Call **9-911**.
 - b. Activate the nearest manual pull alarm (if equipped they are normally next to fire exits or communicate to employees of the hazards by other means).
4. **Evacuation:** Immediately get out of the building. Turn off electrical equipment, as time permits. Close doors behind you but don't lock them to allow emergency personnel access.

AC-7-2 (Continued)

5. Housekeeping: It is each department's responsibility to keep their offices, labs, and workshops orderly and clean. This means eliminating or controlling accumulations of flammable and combustible waste materials and residues so that they do not contribute to a fire or block access to emergency fire fighting equipment or emergency exits.

- a.** A two-foot buffer (clear area) is required between the ceiling and any stacked storage materials. This allows fire department access with their hoses and proper clearance for sprinkler spray patterns.
- b.** Air-conditioning closets, mechanical and electrical rooms shall not be used for storage of any materials.
- c.** Nothing is to be placed within 36-inches of any electrical panel or circuit box.

6. Fire Brigade: As a warning, it takes less than three minutes for a free-burning fire to reach over 1,000 degrees Fahrenheit. Employees are not trained **FIREFIGHTERS**. OSHA and NFPA require fire brigades to receive specific initial and frequent training, and be properly equipped. County employees should only attempt to fight small fires with the appropriate fire extinguishers. If you decide to fight a fire (see attachment), be ready to evacuate.

NOTE: Individual departments maintain portable fire extinguishers located in hallways of their respected buildings and are responsible for installed fire detection and alarm systems. Tenants may be required to add specific types of fire protection depending on the hazards they have in their areas, and the tenant is responsible for this fire fighting equipment.

7. False Alarm: If the alarm is discovered to be false, the Facilities Management will silence the alarm only after approval from the fire department.

8. Drills: In conjunction with the local Fire Department, Lee County will conduct fire evacuation drills at least biannually. It is recommended that each department practice emergency evacuation drill once a quarter. It is also that departments practice different scenarios. For example, simulate a blocked escape route or a missing person. However, do not conduct a fire drill without notifying Risk Management, Facility Management and the local Fire Department, so they may coordinate with other agencies, as necessary.

In most cases the local Fire Department will automatically respond if the fire alarm is activated in the most County Facilities. The Fire Department will not know the type of emergency that is designated by the alarm. The Emergency Coordinator will notify the responding fire department, via emergency 9-911, once the type of emergency determined.

BOMB THREATS NOTIFICATION AND ALARMS

TELEPHONE & PERSONAL CONTACT THREATS

Any employee who receives a Bomb Threat by telephone or personal contact must:

1. Keep calm and listen to gather as much information as possible from the caller; cooperate with anyone making a bomb threat and gather as much information as possible from the individual;
2. Use questions from the Bomb Data/Bomb Threat form that is located at each telephone. (Should you need Bomb Data Cards, contact the Risk Management Office);
3. Notify the **Emergency Coordinator of your respective building**.
4. You are to notify the Office of the County Manager, Donald Stillwell, Bill Hammond, or Holly Schwartz at 335-2221;
5. If directed by the Emergency Coordinator, dial 9-911 to give notification of a bomb threat unless directed otherwise by the Office of the County Manager.
6. Immediately after making notification to one of the above, write down any information not included on the bomb card. A detailed dialogue with the individual should be included. Do not engage in conversation with fellow employee until you have completed the above steps. This will keep your recollection of the conversation intact.

WRITTEN THREAT

Any employee finding a note that contains a Bomb Threat must:

1. Keep calm and read the note carefully for details regarding the bomb threat;
2. Limit the amount of hand contact to the note once you realize it is a bomb threat;
3. Notify your supervisor immediately;
4. Your supervisor will notify the **Emergency Coordinator of your building**.
5. The Emergency Coordinator will then notify the Office of the County Manager, Donald Stillwell, Bill Hammond, or Holly Schwartz at 335-2221;
6. Dial 9-911 to give notification of a bomb threat, unless directed otherwise by the County Manager's Office.
7. Seek the assistance of your supervisor in making the above calls.

IF POSSIBLE, DO NOT TOUCH THE NOTE; the supervisor should take charge of the note until law enforcement or the bomb squad has secured the area. Any employee receiving the original bomb threat (telephone call, verbal, or written) should be directed to the Command Post or Bomb Squad Chief.

DISCOVERY OF A SUSPICIOUS OBJECT

Any employee who finds a suspicious object/device must:

1. Do not touch the suspicious object/device;
2. Ask personnel in your area if they recognize this object/device. If the object or device remains unrecognizable, proceed with the following steps;
3. Notify your supervisor or the **Emergency Coordinator of your building**.
4. The Emergency Coordinator will then notify the Office of the County Manager, Donald Stillwell, Bill Hammond, or Holly Schwartz at 335-2221;
5. Dial 9-911 to give notification of a suspect object/device which is not recognized by you or your fellow employees, unless directed otherwise by the County Manager's Office;
6. The Emergency Coordinator should then sound the alarm for evacuation;
7. Proceed with evacuation protocol to designated area;
8. The Emergency Coordinator should coordinate with Bomb Squad Chief as to the specific location of the suspect object/device;
9. Entry into the facility/building shall not take place until the Bomb Squad has made a determination regarding the object and removal has taken place.

Since there is no audio system within County Facilities, it is not possible to differentiate the type of emergency. Therefore, it is necessary to survey the contents in your room for "suspect objects" before every evacuation of the building. Should you locate any suspect object before the evacuation, DO NOT TOUCH THE OBJECT! As you evacuate the building, be certain to tell your Floor Monitor (or any supervisor) of the location and description of the suspect object.

The local Fire Department will automatically respond if the fire alarm is activated in the on buildings. The Fire Department will not know the type of emergency that is designated by the alarm. Notify them immediately when a determination is made regarding the type of alarm via emergency 9-911.

AT THE SOUND OF THE ALARM:

ALL EMPLOYEES WILL PREPARE TO EVACUATE IMMEDIATELY

1. Scan your work area/office for any unusual packages/objects or devices that **do not** belong in the area; look for something not normally present in your area;
2. **DO NOT TOUCH** any unfamiliar/suspect packages/objects or devices;
3. Tell **ANY** Supervisor and/or Floor Wardens (wearing an orange vest) of the unfamiliar/suspect package, object or device. Give its location and brief description to one of the above mentioned;
4. Secure any money, keys and or purses within your area before evacuation of the building;

AC-7-2 (Continued)

5. Lights and electrical equipment should be left on when leaving the work area along with computer equipment. (ONLY if it is definitely known or confirmed that the emergency is a FIRE, TURN OFF the lights and other lights and electrical equipment.) **IF THE TYPE OF EMERGENCY IS NOT KNOWN, LEAVE ALL LIGHTS AND EQUIPMENT ON OR IN THE OPERATING CONDITION THAT THEY WERE IN AT THE TIME OF NOTIFICATION.** This means do not turn switches/control on or off when being notified of the evacuation alarm. Explosion devices can be triggered by switches and/or controls;
6. When evacuating the building, **DO NOT** take paperwork with you;
7. **DO NOT** use the elevators when exiting the building; use designated EXITS;
8. Assist all visitors/public within the area to building EXITS.

EMERGENCY EVACUATION PROCEDURES

1. Remain calm!
2. Quickly locate the nearest exit door and proceed to your Designated Evacuation Area. In the event a-bomb or device has been placed in a stairwell, monitors on your floor will direct you to an alternate exit door.
3. Employees or members of the public who have physical disabilities should be noted and placed at the exit door for emergency personnel to evacuate. Injury may result if you are not properly trained or physically capable of evacuating someone with a physical disability. Notify law enforcement/fire personnel who are at ground level of the person with a physical disability awaiting evacuation. In the event of emergency, which requires building evacuation, this building is equipped with an emergency evacuation device (Evacu-Trac chair) located on the top floor stairwells. Evacu-Trac provides fast, safe transport for people with limited mobility. Trained authorized personnel will use Evacu-Trac only. Please contact County Risk Management for your training needs.
4. Once you have reached ground level, move in a calm manner to your designated evacuation area. Note: **DO NOT STAND NEAR THE BUILDING. DO NOT PLACE YOURSELF BETWEEN THE BUILDING YOU ARE EVACUATING AND ANOTHER BUILDING WITHIN 500 FEET.**
5. Stay in your Designated Evacuation Area until notified by the Bomb Incident Coordinator to do otherwise. In case of bomb threats to other buildings in the area, you will be directed to an alternate assembly area.

POST INCIDENT/EVACUATION PROCEDURES

1. Enter the building/facility when a determination has been made by the Bomb Squad Chief;
2. Have employees enter building in an organized/ non-disruptive manner to avoid injury;
3. Arrangements can be made through the EAP Coordinator in the event employees need aftermath counseling;
4. The Emergency Coordinator or their alternate will organize a post-incident meeting with representatives from: County Manager's Office, Human Resources, Risk Management, and the Bomb Squad.

AC-7-2 (Continued)

EXPLOSION

Should an explosion occur in your facility, the immediate concern is to get those that are able away from the danger of fire and further injury from the damaged building. Activate the fire alarm and notify 9-911, your Emergency Coordinator and others, as required.

TRAPPED IN A COLLAPSED BUILDING

1. If you are trapped in debris, it may be extremely dusty so you can cover your mouth with a handkerchief or clothing.
2. Tap on a pipe or wall, or blow a whistle to let rescuers know where you are. Shouting should be a last resort as it forces you to inhale dangerous amounts of dust.
3. Untrained persons should not attempt to rescue someone from a collapsed building. Wait for emergency personnel to arrive.

TERRORIST ATTACKS

Terrorists usually make specific threats by selecting visible targets according to the potential public or psychological gain that might be achieved, and where they can avoid detection before and after the attack. Terrorist weapons include explosives, kidnapping, hijackings, arson and shootings. There may be little or no warning.

CHEMICAL – BIOLOGICAL ATTACK

Terrorists may use toxic chemicals or biological agents to cause serious illness, injury or death to people, livestock or crops. Severity depends on the type and amount of the agent used, and the duration of the exposure. Emergency Management authorities would instruct citizens to either seek shelter where they are and seal the premises, or to evacuate immediately. There is no assistance that the untrained person can offer a victim of a chemical or biological attack other than to get them immediate and professional medical attention.

SECURITY

Be alert and aware of your surroundings, report unusual packages or behavior, and secure personal belongings in a locked desk or cabinet. Do not open any suspicious e-mails or attachments, especially those not directly related to official business, and report such incidents to MIS at 239-335-2221.

TRAINING

All County personnel are to review the fire prevention and emergency action plans annually. The team leader or a designated representative provides training on the basic plan through lecture and fire drills.

- Initially when the plan is developed.
- Upon employee assignment.
- Whenever the employee's responsibilities or designated actions under the plan change.
- Whenever the plan is changed.

EMERGENCY ACTIONS CHECKLIST

FIRE / EMERGENCY EVACUATION

1. **Alarm** (*if building is equipped*):
 - An evacuation alarm is sounded when a fire/smoke detection system is activated.
 - When an employee detects a fire/smoke, activate the alarm system with a manual pull.
2. **Notify**:
 - 9-911
 - Others, as required
3. **Evacuate** – Treat all evacuation alarms as real.
4. **Assemble** in assigned area and report to your Accountability Monitor
5. **Return to Work** when directed

BOMB THREATS

1. By Telephone:
 - Get as much information from the caller as possible (refer to attached bomb threat checklist).
 - Do not hang up your phone (a trace may be possible).
2. Other Bomb Threats: **DO NOT DISTURB/TOUCH, SMOKE OR USE A RADIO** near the suspect package.
3. Notify:
 - Supervisor or Emergency Coordinator
 - Police Department, 9-911.
 - Others, as required.
4. Evacuate the immediate area (minimum of 500 feet)
5. Follow instructions from First Responders

EXPLOSION

1. Activate the alarm
2. Notify:
 - 9-911
 - Others, as required
3. Evacuate (see above procedures)

BOMBS - WHAT MAKES LETTERS & PACKAGES SUSPICIOUS?

- No return address or questionable address
- Sender's address and postmark do not match
- Excessive amount of postage was used
- Distorted or foreign handwriting
- Cut and paste lettering
- Letter feels rigid, uneven, lopsided, and/or bulky
- Protruding wires, tin foil, strings
- There is an oil stain, a strange odor, or suspicious sound such as a buzzing, ticking or sloshing noise
- Unprofessionally wrapped - irregular shape, bulges, several types of tape used
- Specific instructions such as "Personal," "Private," or "To Be Opened Only by....," "Fragile - Handle With Care," or "Rush"
- Feel pressure or resistance when attempting to remove the contents

IN CASE OF FIRE...

DO:

- Treat every alarm as real**
- Keep calm**
- Report the fire by calling 9-911**
- Advise other employees**
- Use the nearest stairwell**
- Close doors and windows**
- Keep low, under the smoke, but above the toxic layers**
- Use a fire extinguisher on a *small* fire**
- Go to your assigned assembly area**
- Direct fire fighters to the emergency**
- Stop, drop and roll if you catch on fire**

DON'T:

- Ignore the alarm and continue working**
- Panic**
- Assume the fire has been reported**
- Try to quickly gather belongings**
- Use an elevator**
- Break windows**
- Run through smoke-filled areas**
- Use a fire extinguisher on a *large* fire**
- Become a spectator once outside**
- Go back into the building**
- Stand or run if you catch on fire**

WHAT TO DO WHEN A FIRE TRAPS YOU...

Get as far away from the fire as possible.

Before opening doors, test each one with the back of your hand. If the door is warm to the touch, don't open it.

Close all doors as you go and seal all cracks or vents with paper, cloth, tape or anything available.

Call the fire department and tell them exactly where you are located.

SHOULD YOU FIGHT THE FIRE?

Before you begin fighting a fire:

Call 9-911.

Make sure the building is being evacuated.

Determine the fire is limited to a small area and is not spreading.

Make sure you have a clear path to an exit that is not threatened by the fire.

Know the proper type and how to use the extinguisher.

TYPES OF PORTABLE FIRE EXTINGUISHERS

<u>TYPE</u>	<u>USED FOR FIRES INVOLVING:</u>
A	ORDINARY COMBUSTIBLES (Wood, Paper, Cloth, etc.)
B	FLAMMABLE LIQUIDS (Grease, Gas, Paints, Oils, etc.)
C	ELECTRICAL (Energized Motors, Switches, etc.)

HOW TO USE A PORTABLE FIRE EXTINGUISHER (P.A.S.S)

- P**-ULL THE PIN
- A**-IM AT BASE OF FIRE
- S**-QUEEZE THE TRIGGER
- S**-WEEP



COMMON (PREVENTABLE) CAUSES OF FIRE...

- Overloading electrical circuits, unsafe wiring, and defective extension cords - #1 Cause.
- Appliances, especially heating devices such as coffee pots and space heaters, left on when not in use or come in contact with combustibles - Improper Use.
- Overheated motors/equipment from improper maintenance.
- Improper disposal of smoking material and not using an ash tray/butt can.
- Improper use, handling, and storage of flammable materials such as paints, solvents, and gasoline.
- Poor housekeeping, which leads to an accumulation of combustible materials such as paper, boxes, and oil-soaked rags, can catch fire when they react with a spilled substance or in an area with a slow heat buildup.

QUESTIONS

If you have any questions or comments concerning emergency procedures please contact your supervisor and/or the County Risk Manager, 239-335-2897 or Cell 239-850-7085

Each department is to attach their Emergency Action Plan and evacuation diagram(s). Plans should be reviewed annually.

BOMB THREAT CHECKLIST

Exact time of call: _____

Exact words of caller: _____

QUESTIONS TO ASK (*ask questions to keep caller on the line*)

1. When is bomb going to explode? _____

2. Where is the bomb right now? _____

3. What does it look like? _____

1. What kind of bomb is it? _____

2. What will cause it to explode? _____

3. Did you place the bomb? _____

4. Why? _____

5. From where are you calling? _____

6. What is your address? _____

7. What is your name? _____

CALLER'S VOICE (*circle*)

Calm Angry Excited Disguised Slow Rapid

Soft Loud Laughter Crying Normal Distinct

Slurred Intoxicated Nasal Stutter Lisp Raspy

Deep Ragged Broken Squeaky Accent Clearing Throat

Deep Breathing Cracking Voice Familiar

If voice is familiar, whom did it sound like? _____

BOMB THREAT CHECKLIST
(Cont.)

BACKGROUND NOISES *(circle)*

Street Noises	Crockery	Voices	PA System	Music
House Noises	Motor	Office Machinery	Factory Machines	Animal Noises
Clear	Static	Local	Long Distance	Booth

Other: _____

THREAT LANGUAGE *(circle)*

Well Spoken	Educated	Foul	Irrational	Incoherent
Taped	Message Read by Threat Maker			

Remarks: _____

Person receiving call: _____

Telephone number call received at: _____

Date: _____

REPORT CALL IMMEDIATELY TO
9-911
or
335-2221



LEE COUNTY
S O U T H W E S T F L O R I D A

USE COUNTY PROPERTY

PERMIT APPLICATION

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

<u>CATEGORY</u> Permits/Certificates	<u>CODE NUMBER</u> AC-8-1
<u>TITLE</u> Procedures and Application for a Permit to Use County Property for a Limited Period of Time	<u>ADOPTED</u> 6/9/87
	<u>AMENDED</u> 7/5/92 11/9/94 4/17/96 12/18/96
	<u>ORIGINATING DEPARTMENT</u> Public Resources

PURPOSE/SCOPE

This Administrative Code establishes procedures to obtain a permit for use of County property for those activities, which are not political speech or public issue commentary or demonstrative in nature. The County does not require any permit prior to events related to freedom of speech and those freedoms guaranteed by the First Amendment to the United States Constitution. The County does request that organizers of such events schedule the events for coordination purposes only. These permit procedures are intended to apply to non-commercial, neighborhood, charitable or philanthropic events and activities requiring use of County-owned property.

POLICY/PROCEDURE

- A. Persons who want to use County property for a limited period of time for a specific event must submit an application at least 30 days prior to the proposed date of the event. The official application form may be obtained from the ~~Lee CARES Office~~ **Public Resources Office, P.O. Box 398, Fort Myers, FL 33902-0398 2115 Second St., County Administration Building – 1st Floor** or by calling (239) 335-2269. It is also available on-line at www.lee-county.com

- B. The Applicant shall submit the completed application to the Sheriff's Office, Fire Department, Lee County EMS, Lee County DOT and Lee County Parks & Recreation so that they may fill out and sign their page of the application. If the event involves the use of a State road, the Applicant must coordinate their activities with the Florida Department of Transportation. If the event involves the use of City property, the Applicant must coordinate their activities with the appropriate municipality.

AC-8-1 (Continued)

C. Use of Old Courthouse Steps and/or Adjacent Property:

1. No electrical wires, or other hazards as determined by County Risk Management, may be utilized on the property.
2. No permit is required; however, the County does request that organizers of such events schedule the events for coordination purposes only.
- ~~3. If County staff or equipment is used to assist in setting up the event, a \$50.00 fee shall be paid by the applicant prior to the event being held.~~
3. Fees may be charged for County staff assistance and/or equipment usage for government events.
4. County equipment may not be utilized for private events.
5. Proof of Insurance coverage as determined by Lee County Risk Management, must be provided.

D. The applicants shall comply with any additional requirements established by Lee County.

E. When the application is complete, the Public Resources Office shall present it to the County Manager for approval.

APPLICATION TO USE LEE COUNTY PROPERTY

NAME OF APPLICANT: _____

ADDRESS OF APPLICANT: _____

PHONE NUMBER: _____

ORGANIZATION SPONSORING THE EVENT:

A PERMIT IS HEREBY REQUESTED TO USE THE FOLLOWING PROPERTY:

(Please Attach a Map Identifying the Property)

DESCRIPTION OF EVENT: _____

DATE/DATES OF EVENT: _____

HOURS OF OPERATION: _____

SECTION I – SAFETY

The Applicant agrees to provide adequate traffic and crowd control, emergency medical services and any other items, at the Applicant's expense, required by Lee County to protect the health, safety and welfare of the public. Lee County shall have the power to review the proposal and require, as necessary, detailed plans, diagrams, and explanations to clearly outline to Lee County, exactly what the Applicant is proposing.

SECTION II – INSURANCE

The Applicant agrees to procure and maintain in force during the term of the use of aforesaid Lee County property, at Applicant's expense, public liability insurance in companies and through brokers approved by the Licensor, adequate to protect against liability for damage claims through public use of or arising out of accidents occurring in or around the aforesaid Lee County property, in a minimum amount of One Hundred Thousand Dollars (\$100,000) per person, Three Hundred Thousand Dollars (\$300,000) per occurrence for bodily injury liability, and Fifty Thousand Dollars (\$50,000) for property damage or whatever other limits may be established by Lee County. Such insurance policy shall provide coverage for Applicant's contingent liability on such claims or losses. **“Lee County Board of County Commissioners” shall be named as “additional insured”** on the Certificate of Insurance, and said Certificate shall be delivered to Lee County prior to Applicant's use of the property. Said Insurance cannot be canceled unless approved by Lee County.

SECTION III – IDEMNIFICATION

The Applicant agrees to indemnify, release and save harmless Lee County against any and all claims, costs, demands, damages, judgments or injuries of any nature arising from the conduct or management of, or from any work or thing whatsoever done in or about said Lee County property or any building or structure appurtenant thereto or equipment thereof during the term of this Permit, or arising during such term from any act of negligence of the Applicant, Applicant's agents, contractors, or employees, or arising from any accident, injury, or damage whatsoever, however caused, to any person or persons, or to any property of any person, persons, corporation or corporations, occurring during the term of this agreement on, in, or about said Lee County property, and from and against all costs, attorney's fees, expenses and liabilities occurring in connection with any such claim or any action or proceeding brought thereon.

SECTION IV – DELIVERY, ACCEPTANCE AND SURRENDER OF PREMISES

The Applicant agrees to accept said Lee County property on possession as being in a satisfactory state of repair and in sanitary condition.

The Applicant shall surrender the premises to Lee County in the same condition as when Applicant takes possession, allowing for reasonable use and wear, and damage by acts of God. Applicant agrees to remove all business signs or symbols placed on the premises by the Applicant before redelivery of the premises to Lee County, and shall restore the portion of the premises on which they were placed in the same condition as before their placement. Any signs and markings in connection with this event shall be temporary and removable; painting on roadways, trees or any other fixed object is strictly prohibited. Applicant agrees to clear the Lee County property of litter.

SECTION V

If the event applied for involves any of the following:

1. Fireworks Display
2. Tent or Air Supported Structure
3. Carnival, Fair, Circus or Amusement Device

The Applicant will need to obtain a Temporary Use Permit from:

Division of Codes and Building Services
 Department of Community Development
 1500 Monroe Street
 Fort Myers, FL 33901
 (239) 479-8329

SECTION VI

The Applicant agrees that Lee County can, at its sole discretion, terminate and cancel its permit to use Lee County property at any time without prejudice. Applicant further agrees to waive, release, save and hold harmless Lee County from any and all claims, demands or cause of actions based upon Lee County's cancellation or termination of said permit.

The Applicant agrees that the Lee County permit does not provide Applicant with any property rights in the County property in question or in the permit itself.

Print Name of Applicant and Title

Witness

Signature of Applicant

Date

**LEE COUNTY SHERIFF'S OFFICE
14750 SIX MILE CYPRESS PARKWAY
FORT MYERS, FL 33912**

(239) 477-1200

**AFTER REVIEWING THE APPLICATION, PLEASE INDICATE
BELOW WHAT ARRANGEMENTS YOUR OFFICE WILL REQUIRE
THE APPLICANT TO COMPLY WITH FOR THEIR EVENT**

Parking: _____

Deputies (How Many?): _____

Fee: _____

Special Arrangements: _____

Print Name of Person Signing

Signature

Title

Date

FIRE DEPARTMENT

(The Fire Department Serving The Area Where The Event Is To Be Held)

**AFTER REVIEWING THE APPLICATION, PLEASE INDICATE
BELOW WHAT ARRANGEMENTS YOUR OFFICE WILL REQUIRE
THE APPLICANT TO COMPLY WITH FOR THEIR EVENT**

Fire Guards (How Many?): _____

Fee: _____

Flammable Vegetation: _____

First Aid Equipment: _____

Special Arrangements: _____

Print Name of Person Signing

Signature

Title

Date

**EMERGENCY MEDICAL SERVICES
CITY/COUNTY ANNEX – 3RD FLOOR
1825 HENDRY STREET
FORT MYERS, FL 33912**

(239) 344-5400

**AFTER REVIEWING THE APPLICATION, PLEASE INDICATE
BELOW WHAT ARRANGEMENTS YOUR OFFICE WILL REQUIRE
THE APPLICANT TO COMPLY WITH FOR THEIR EVENT**

Treatment Facilities: _____

Medical Personnel: _____

Medical Supplies/Equipment: _____

Special Arrangements: _____

Fee for Services: _____

Print Name of Person Signing

Signature

Title

Date

**DEPARTMENT OF TRANSPORTATION
1500 MONROE STREET
FORT MYERS, FL 33901**

(239) 479-8580

**AFTER REVIEWING THE APPLICATION, PLEASE INDICATE
BELOW WHAT ARRANGEMENTS YOUR OFFICE WILL REQUIRE
THE APPLICANT TO COMPLY WITH FOR THEIR EVENT**

Parking: _____

Ingress and Egress: _____

Special Arrangements: _____

Print Name of Person Signing

Signature

Title

Date

**LEE COUNTY PARKS & RECREATION
3410 PALM BEACH BOULEVARD
FORT MYERS, FL 33916**

(239) 461-7400

**AFTER REVIEWING THE APPLICATION, PLEASE INDICATE
BELOW WHAT ARRANGEMENTS YOUR OFFICE WILL REQUIRE
THE APPLICANT TO COMPLY WITH FOR THEIR EVENT**

Illumination: _____

Parking Areas: _____

Other: _____

Print Name of Person Signing

Signature

Title

Date

LEE COUNTY RISK MANAGEMENT
COUNTY ADMINISTRATION BUILDING – 4th FLOOR
2115 SECOND STREET
FORT MYERS, FLORIDA 33901
(239) 335-2221

AFTER REVIEWING THE APPLICATION, PLEASE INDICATE
BELOW WHAT ARRANGEMENTS YOUR ORGANIZATION WILL
REQUIRE THE APPLICANT TO COMPLY WITH FOR THEIR EVENT.

Insurance Requirements: _____

Special Arrangements: _____

Print Name of Person Signing

Signature

Title

Date



LEE COUNTY
S O U T H W E S T F L O R I D A

USE COUNTY PROPERTY

PERMIT APPLICATION

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

<u>CATEGORY:</u> Permits/Certificates	<u>CODE NUMBER:</u> AC-8-1
<u>TITLE:</u> Procedures and Application for a Permit to Use County Property for a Limited Period of Time	<u>ADOPTED:</u> 6/9/87
	<u>AMENDED:</u> 7/5/92; 11/9/94; 4/17/96; 12/18/96
	<u>ORIGINATING DEPARTMENT:</u> Public Resources

PURPOSE/SCOPE:

This Administrative Code establishes procedures to obtain a permit for use of County property for those activities, which are not political speech or public issue commentary or demonstrative in nature. The County does not require any permit prior to events related to freedom of speech and those freedoms guaranteed by the First Amendment to the United States Constitution. The County does request that organizers of such events schedule the events for coordination purposes only. These permit procedures are intended to apply to non-commercial, neighborhood, charitable or philanthropic events and activities requiring use of County-owned property.

POLICY/PROCEDURE:

- A. Persons who want to use County property for a limited period of time for a specific event must submit an application at least 30 days prior to the proposed date of the event. The official application form may be obtained from the Public Resources Office, 2115 Second St., County Administration Building – 1st Floor or by calling (239) 335-2269. It is also available on-line at www.lee-county.com.
- B. The Applicant shall submit the completed application to the Sheriff's Office, Fire Department, Lee County EMS, Lee County DOT, Lee County Parks & Recreation and Lee County Risk Management so they may fill out and sign their page of the application. If the event involves the use of a State road, the Applicant must coordinate their activities with the Florida Department of Transportation. If the event involves the use of City property, the Applicant must coordinate their activities with the appropriate municipality.

AC-8-1 (Continued)

C. Use of Old Courthouse Steps and/or Adjacent Property:

1. No electrical wires, or other hazards as determined by County Risk Management, may be utilized on the property.
2. No permit is required; however, the County does request that organizers of such events schedule the events for coordination purposes only.
3. Fees may be charged for County staff assistance and/or equipment usage for government events.
4. County equipment may not be utilized for private events.
5. Proof of Insurance coverage as determined by Lee County Risk Management, must be provided.

D. The applicants shall comply with any additional requirements established by Lee County.

E. When the application is complete, the Public Resources Office shall present it to the County Manager for approval.

APPLICATION TO USE LEE COUNTY PROPERTY

NAME OF APPLICANT: _____

ADDRESS OF APPLICANT: _____

PHONE NUMBER: _____

ORGANIZATION SPONSORING THE EVENT:

A PERMIT IS HEREBY REQUESTED TO USE THE FOLLOWING PROPERTY:

(Please Attach a Map Identifying the Property)

DESCRIPTION OF EVENT: _____

DATE/DATES OF EVENT: _____

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SECTION I – SAFETY

The Applicant agrees to provide adequate traffic and crowd control, emergency medical services and any other items, at the Applicant's expense, required by Lee County to protect the health, safety and welfare of the public. Lee County shall have the power to review the proposal and require, as necessary, detailed plans, diagrams, and explanations to clearly outline to Lee County, exactly what the Applicant is proposing.

SECTION II – INSURANCE

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The Applicant agrees to indemnify, release and save harmless Lee County against any and all claims, costs, demands, damages, judgments or injuries of any nature arising from the conduct or management of, or from any work or thing whatsoever done in or about said Lee County property or any building or structure appurtenant thereto or equipment thereof during the term of this Permit, or arising during such term from any act of negligence of the Applicant, Applicant's agents, contractors, or employees, or arising from any accident, injury, or damage whatsoever, however caused, to any person or persons, or to any property of any person, persons, corporation or corporations, occurring during the term of this agreement on, in, or about said Lee County property, and from and against all costs, attorney's fees, expenses and liabilities occurring in connection with any such claim or any action or proceeding brought thereon.

SECTION IV – DELIVERY, ACCEPTANCE AND SURRENDER OF PREMISES

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AC-8-1 (Continued)

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2. Tent or Air Supported Structure
3. Carnival, Fair, Circus or Amusement Device

The Applicant will need to obtain a Temporary Use Permit from:

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SECTION VI

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The Applicant agrees that the Lee County permit does not provide Applicant with any property rights in the County property in question or in the permit itself.

Print Name of Applicant and Title

Witness

Signature of Applicant

Date

LEE COUNTY SHERIFF'S OFFICE
14750 SIX MILE CYPRESS PARKWAY
FORT MYERS, FL 33912
(239) 477-1200

AFTER REVIEWING THE APPLICATION, PLEASE INDICATE
BELOW WHAT ARRANGEMENTS YOUR OFFICE WILL REQUIRE
THE APPLICANT TO COMPLY WITH FOR THEIR EVENT

Parking: _____

Deputies (How Many?): _____

Fee: _____

Special Arrangements: _____

Print Name of Person Signing

Signature

Title

Date

FIRE DEPARTMENT

(The Fire Department Serving The Area Where The Event Is To Be Held)

**AFTER REVIEWING THE APPLICATION, PLEASE INDICATE
BELOW WHAT ARRANGEMENTS YOUR OFFICE WILL REQUIRE
THE APPLICANT TO COMPLY WITH FOR THEIR EVENT**

Fire Guards (How Many?): _____

Fee: _____

Flammable Vegetation: _____

First Aid Equipment: _____

Special Arrangements: _____

Print Name of Person Signing

Signature

Title

Date

**EMERGENCY MEDICAL SERVICES
CITY/COUNTY ANNEX – 3RD FLOOR
1825 HENDRY STREET
FORT MYERS, FL 33912
(239) 344-5400**

**AFTER REVIEWING THE APPLICATION, PLEASE INDICATE
BELOW WHAT ARRANGEMENTS YOUR OFFICE WILL REQUIRE
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Treatment Facilities: _____

Medical Personnel: _____

Medical Supplies/Equipment: _____

Special Arrangements: _____

Fee for Services: _____

Print Name of Person Signing

Signature

Title

Date

DEPARTMENT OF TRANSPORTATION
1500 MONROE STREET
FORT MYERS, FL 33901
(239) 479-8580

AFTER REVIEWING THE APPLICATION, PLEASE INDICATE
BELOW WHAT ARRANGEMENTS YOUR OFFICE WILL REQUIRE
THE APPLICANT TO COMPLY WITH FOR THEIR EVENT

Parking: _____

Ingress and Egress: _____

Special Arrangements: _____

Print Name of Person Signing

Signature

Title

Date

LEE COUNTY PARKS & RECREATION
3410 PALM BEACH BOULEVARD
FORT MYERS, FL 33916
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AFTER REVIEWING THE APPLICATION, PLEASE INDICATE
BELOW WHAT ARRANGEMENTS YOUR OFFICE WILL REQUIRE
THE APPLICANT TO COMPLY WITH FOR THEIR EVENT

Illumination: _____

Parking Areas: _____

Other: _____

Print Name of Person Signing

Signature

Title

Date

**LEE COUNTY RISK MANAGEMENT
COUNTY ADMINISTRATION BUILDING – 4th FLOOR
2115 SECOND STREET
FORT MYERS, FLORIDA 33901
(239) 335-2221**

AFTER REVIEWING THE APPLICATION, PLEASE INDICATE BELOW WHAT ARRANGEMENTS YOUR ORGANIZATION WILL REQUIRE THE APPLICANT TO COMPLY WITH FOR THEIR EVENT.

Insurance Requirements: _____

Special Arrangements: _____

Print Name of Person Signing

Signature

Title

Date

ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS

CATEGORY:

CODE NUMBER:

Utilities/Refuse

AC-10-4

TITLE:

LEE COUNTY GOVERNMENT OFFICE
RECYCLING PROGRAM

ADOPTED:

3/27/91

AMENDED:

11/9/94 1/15/97

ORIGINATING DEPARTMENT:

SOLID WASTE

PURPOSE/SCOPE:

To provide County Recycling Policy for purchase of products made from recycled materials, provide minimum requirements for a County Government Office Recycling Program and Source Reduction Program.

POLICY/PROCEDURE

Lee County, by and through its Board of County commissioners, hereby adopts these administrative procedures for expanding the County's ongoing Paper Recycling Program to include providing a County Recycling Policy for the purchase of products made from recycled materials and provide minimum requirements for a County Government Office **Recycling Program** and Source Reduction Program.

POLICY OBJECTIVES

1. Ensure all departments are aware of availability of recycled products for purchase.
2. Provide convenient recycling at employee work stations for paper recycling and aluminum recycling containers at break rooms and vending machines.
3. Develop recycling education curriculum for new and existing employees.
4. Reduce waste disposed of 10% through source reduction and reuse.

The above specific policy objectives will be achieved as follows:

POLICY FOR PURCHASE OF PRODUCTS MADE FROM RECYCLED MATERIALS

1. Utilize the State's purchase list of products with recycled content. Expand this list when and where possible; Purchase recycle-d content when available. Request recycled content in bid specs and quotes.
2. Create a recycled paper product pool in Print Services from which smaller departments and divisions can purchase recycled products. This pool will allow smaller division/departments to use recycled products without buying large amounts of the vendor's products.

POLICY FOR PURCHASE OF PRODUCTS MADE FROM RECYCLED MATERIALS (CONT'D)

3. 75% of all paper products will be from recycled stock: for example business cards, paper stock, copy paper, letterhead, preprinted forms, legal pads, file folders and envelopes.,
4. Convert print plates, where applicable and as needed, to indicate that the paper is a recycled product.
5. Purchase recycled plastic products such as park benches, car stops, picnic tables, traffic control structures and lumber using County discount prices from the Lee County Intrusion Molding Plant/Better than Wood (C#940715) instead of pressure treated wood or other materials when the application is practical and the life cycle cost is equivalent: Calculate life cycle costs using 15 year average life for recycled plastic lumber products and five year average life for pressure treated wood. At a Minimum, 50% of these should be recycled plastic products.

POLICY FOR COUNTY GOVERNMENT OFFICE RECYCLING PROGRAM

1. Require all departments to recycle office paper, and limit the purchase of paper that cannot be recycled.
2. Require all departments or buildings to recycle aluminum and cardboard.
3. At expiration of existing janitorial contracts, or if possible, negotiate a no cost amendment to the existing contracts to enable the recycling of other materials such as glass, tin, plastics and cardboard. Also, on a replacement basis, require janitorial products such as toilet paper and hand towels to be of at least 50% recycled content and unbleached. In addition, future bid requirements for janitorial services should discourage the use of aerosol dispensers, to be replaced by pump spray applicator.
4. Recycle toner cartridges and ribbons where feasible.

POLICY/OR SOURCE REDUCTION PROGRAM

1. Copy on both sides of a page where feasible. When replacing copiers require models that automatically copy double sided and with a power saver feature.
2. When replacing or purchasing fax machines, include the additional cost of copier paper in the total cost for thermal fax machines to compare life cycle costs of thermal and plain paper faxes. Purchase plain paper faxes when the life cycle costs are equivalent. Use smaller cover sheets cover sheets - 1/2 page or fax transmission stickers.
3. Discourage the use of Styrofoam cups and plates. Encourage employees to use their own cups and utensils.- Exempt the food- service establishments in the Courthouse and Justice Center. As part of this program, create a series of posters educating employees on this recommendation.

ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS

<u>CATEGORY:</u>	<u>CODENUMBER:</u>
Transportation and Traffic Management	AC-11-6
<u>TITLE:</u> Adopt-A-Road Program for Litter Control	<u>ADOPTED:</u> 7/5/89
	<u>AMENDED:</u> 7/11/90 9/25/91 1/5/94 1/4/95 3/24/98 6/30/98
	<u>ORIGINATING DEPARTMENT</u>
	Department of Transportation

PURPOSE/SCOPE:

The purpose of this Administrative Code is to set forth guidelines for civic minded citizens to help keep, our community clean. This code repeals and replaces former Administrative Code 11-6, adopted 7/5/89, as amended.

POLICY/PROCEDURE:

Adopt-A-Road Program Guidelines:

1. A road or portion of road to be adopted is required to be a minimum of ½ mile in length.
2. Any road to be adopted must be a County maintained road, not a private road.
3. The road must be classified as either an arterial or a collector road. Local residential roads are excluded from adoption.
4. A minimum of six cleanups per volunteer group must be performed from January 1 - December 31 annually.
For new groups, the time frame for tracking six cleanups annually is prorated from the date the group was notified for acceptance for the first year and then from January 1 - December 31 annually thereafter.
5. Litter pickup volunteers may work anytime, sunrise to sunset, seven days a week.
6. Litter pickup volunteers must be older than age 13.

Applications for the Adopt-A-Road Program can be obtained from the Adopt-A-Road Coordinator at DOT-Operations.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY Transportation and Traffic Management	CODE NUMBER AC-11-6
TITLE Adopt-A-Road Program for Litter Control	ADOPTED 7/5/89
	AMENDED 7/11/90 9/25/91 1/5/94 1/4/95 3/24/98 6/30/98
	ORIGINATING DEPARTMENT Department of Transportation

PURPOSE/SCOPE:

The purpose of this Administrative Code is to set forth guidelines for civic minded citizens to help keep our community clean. This code repeals and replaces former Administrative Code 11-6, adopted 7/5/89, as amended.

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Applications for the Adopt-A-Road Program can be obtained from the Adopt-A-Road Coordinator at DOT Operations.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Codes and Building Services Department of Community Development/Building Department	CODE NUMBER: AC 12-5
TITLE: Citation Procedures for Code Enforcement Officers	ADOPTED: 11/28/90
	AMENDED: 7/3/91, 8/31/94, 10/11/95
	ORIGINATING DEPARTMENT: Codes & Building Services Department of Community Development/Building Department/Attorney

PURPOSE/SCOPE:

Providing for Rules of Procedure in the implementation of the Citation Process for the enforcement of codes and ordinances enacted by the County.

POLICY/PROCEDURE:

SECTION I: This Code will be known by its short title: "Citation Procedures".

SECTION II: RULES OF PROCEDURE

The following rules of procedure will govern all citations issued by any Lee County personnel, namely:

RULE 1.01 DESIGNATION OF CODE ENFORCEMENT OFFICERS

(a) As used in this section, "Code Enforcement Officer" means any designated employee or agent of Lee County whose duty it is to enforce codes and ordinances enacted by the County.

(b) Lee County may designate certain of its employees or agents as code enforcement officers. The training and qualifications of the employees or agents for such designation will be determined by the ~~Administrator~~ County Manager or Designee.

(c) Employees or agents who may be designated as code enforcement officers may include, but are not limited to, code inspectors, contractor licensing investigators, water resource officers, environmental inspectors, utility officers, or fire safety inspectors.

(d) Certification of code enforcement officers will be determined by the Director of ~~Human Resources~~ Community Development or her Designee.

(e) Designation as a code enforcement officer does not provide the code enforcement officer with the power of arrest or subject the code enforcement officer to the provisions of §943.085-943.255, Florida Statutes.

RULE 1.02 TRAINING PROCEDURES

(a) ~~Human Resources~~ Department Community Development/Code Enforcement will place in their file a written procedure as to the code enforcement officer training requirements necessary.

(b) Topics covered in the training shall include, but are not limited to, the following:

1. THE CITATION
 - a. Applicable laws & enabling legislation
 - b. Purpose of citation procedures
 - c. Powers & limitations of citation procedure
2. RESPONSIBILITIES OF THE CODE ENFORCEMENT OFFICER
 - a. Enforcement Policies
 1. When to use citation power
 2. Warnings
3. ISSUING CITATION
 - a. Form of citation
 - b. Applicable laws
 - c. Warning notice required
 - d. Court date
 - e. Practice writing citation
4. SIGNATURE OF CODE VIOLATOR and/or REFUSAL TO SIGN
 - a. What to do to obtain signature
 - b. Procedure for refusal to sign
 - c. How to obtain Sheriff's assistance
 - d. Emergency contact procedures
5. PUBLIC CONTACT
 - a. How to handle difficult situations
 - b. Angry people
6. SWORN STATEMENTS
7. KEEPING FILES
 - a. Documentation and building a case
 - b. What to do with files for court action
8. COURTROOM PROCEDURES
 - a. Appearance
 - b. Demeanor
 - c. Testimony
 - d. Courtroom Visit
 - e. Judges

RULE 1.03 WHEN ORDINANCE CITATION TO BE ISSUED

A code enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and that the county court will hear the charge.

RULE 1.04 NOTICE PRIOR TO ISSUANCE OF CITATION

(a) Prior to issuing a citation, a code enforcement officer must provide notice to the person that the person has committed a violation of a county code or ordinance has been committed and provide a reasonable time within which the violator must correct the violation. Such time period can be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, a citation may be issued to the violator.

(b) If the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible, or if a repeat violation is found, the code enforcement officer is not required to provide a reasonable time in which to correct the violation and may immediately issue a citation to the person who committed the violation.

SECTION III: FORM OF CITATION

A citation issued by a code enforcement officer must be in a form prescribed by the County and contain the following:

- (a) The date and time of issuance.
- (b) The name and address of the person to whom the citation is issued.
- (c) The date and time the civil infraction was committed.
- (d) The facts constituting reasonable cause.
- (e) The number or section of the code or ordinance violated.
- (f) The name and authority of the code enforcement officer.
- (g) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
- (h) The applicable civil penalty if the person elects to contest the citation.
- (i) The applicable civil penalty if the person elects not to contest the citation.
- (j) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he will be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

SECTION IV: COURT PROCEDURES

RULE 2.01 COUNTY COURT RECEIVES CITATION

After issuing a citation to an alleged violator, a code enforcement officer must deposit the original citation and one copy of the citation with the county court in the Office of the Clerk of Courts.

RULE 2.02 JURISDICTION

Any Lee County code or ordinance may be enforced using the citation procedure.

RULE 2.03 SCHEDULE OF VIOLATIONS AND PENALTIES ASSESSED BY CODE ENFORCEMENT OFFICERS

(a) The monetary amounts of the civil penalties listed on Attachment A, attached hereto and incorporated herein by reference, are hereby established for the disposition of non-criminal infractions in violation of the Code of Laws and Ordinances of Lee County, Florida.

(b) When charged under this section, all violations of Lee County codes and ordinances are civil infractions.

(c) A maximum civil penalty not to exceed \$500.00 per violation.

(d) A civil penalty of less than the maximum civil penalty will be assessed, as indicated on Attachment A, if the person who has committed the civil infraction does not contest the citation.

RULE 2.04 DELINQUENCY FEES AND FAILURE TO SIGN

(a) A delinquency fee of \$50.00 per civil infraction is hereby established for failure to pay the civil penalty within the time allowed.

(b) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer will be guilty of a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083, Florida Statutes.

RULE 2.05 CONTESTING THE CITATION IN COUNTY COURT

(a) To contest the violation, the violator must appear at the date, time and location shown on the citation for their arraignment and enter a plea of Not Guilty before the Judge.

(b) The Judge will schedule a hearing date.

(c) If a hearing is requested and the County Judge determines that the violator has committed the offense, the County Judge may impose a penalty not to exceed \$500.00 per civil infraction.

SECTION V. SUPPLEMENTAL PROVISIONS

The provisions of this section are additional and supplemental means of enforcing Lee County codes and ordinances and may be used for the enforcement of any code or ordinance or for the enforcement of all codes and ordinances. Nothing contained herein will prohibit Lee County from enforcing its codes or ordinances by any other means.

ATTACHMENT "A"

ADMINISTRATIVE CODE 12-05, CITATION PROCEDURES
SCHEDULE OF VIOLATIONS AND PENALTIES

Pursuant to Administrative Code 12-05, Section III(i), the following civil penalties are applicable if a person elects not to contest the code enforcement citation. (Listed by increasing ordinance (LCO) number and Land Development Code (LDC) chapter, article or section.)

LCO 85-07 (As Amended)

TRANSIENT MERCHANTS

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LCO 88-11 (As Amended)

COMMERCIAL USE OF THE RIGHT-OF-WAY

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LCO 88-40 (As Amended)

CONSTRUCTION SITE CLEAN-UP
AND CONSTRUCTION DEBRIS DISPOSAL

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$400.00

LCO 90-03 (As Amended)

WATERING SHORTAGE VIOLATION

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$ 25.00	\$100.00	\$500.00

LCO 90-32

DISPOSAL OF DOMESTIC SLUDGES

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LCO 91-07 (As Amended)

TRANSPORTATION OF SOLID WASTE IN LEE COUNTY

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	2nd Degree Misdemeanor

(Only Law Enforcement Officers Can Enforce.)

LCO 91-29

PARKING IN FIRE LANE

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$ 15.00	\$ 15.00	\$ 15.00

(If a person elects to have a hearing, the judge may impose a fine not to exceed \$100.00 plus court costs.)

LCO 93-10 SECTION 3.2a

REMOVAL OF RECYCLABLE MATERIALS WITH VEHICLE
(ANTI-SCAVENGING ORDINANCE)

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00 and 60 days imprisonment

LCO 93-10 SECTION 3.2b

REMOVAL OF RECYCLABLE MATERIALS WITHOUT VEHICLE
(ANTI-SCAVENGING ORDINANCE)

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$ 50.00	\$ 75.00	\$100.00

LCO 93-39

DISPOSAL OF GARBAGE - NUISANCE ACCUMULATION

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LCO 95-08 - SECTION 8

MANDATORY GARBAGE COLLECTION ORDINANCE
(RELATED TO UNSANITARY NUISANCES & COMMERCIAL
CUSTOMERS WITHOUT SERVICE)

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LCO 95-08 - SECTION 16A

MANDATORY GARBAGE COLLECTION ORDINANCE
24 HOUR SET-OUT RULE - RESIDENTIAL VIOLATIONS

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$ 50.00	\$100.00	\$150.00

LCO 95-08 - SECTIONS 19 & 20

MANDATORY GARBAGE COLLECTION ORDINANCE
CREATION OF A PUBLIC NUISANCE

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$ 50.00	\$100.00	\$150.00

LDC §6-111

NO OCCUPANCY PERMIT

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LDC CH. 14 ART. II

SEA TURTLE PROTECTION ORDINANCE

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LDC CH. 14 ART. V

TREE CUTTING WITHOUT PERMIT

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LDC CH. 14 ART. VI (As Amended)

MANGROVE TRIMMING WITHOUT PERMIT

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LDC CH. 30

SIGN ORDINANCE

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LDC CH. 34

ZONING ORDINANCE

1ST OFFENSE

\$100.00

2ND OFFENSE

\$250.00

3RD OFFENSE

\$500.00

VIOLATION OF A POSTED STOP WORK ORDER, VARIOUS ORDINANCES

1ST OFFENSE

\$100.00

2ND OFFENSE

\$250.00

3RD OFFENSE

\$500.00

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

<p>CATEGORY: Codes and Building Services Department of Community Development/Building Department</p>	<p>CODE NUMBER: AC 12-4</p>
<p>TITLE: Single Family and Duplex Permitting Procedures.</p>	<p>ADOPTED: 1-27-82</p>
	<p>AMENDED: 8-31-94</p>
	<p>ORIGINATING DEPARTMENT: Codes and Building Services/ Department of Community Development/Building Department & County Attorney</p>

PURPOSE/SCOPE:

This Administrative Code sets out the minimum submission requirements necessary to successfully complete the permitting process for single family and duplex dwellings. It also sets out some of the basic requirements concerning the job site.

POLICY/PROCEDURE:

1. Three (3) copies of a plot plan will be required with the building permit application showing roof overhang as well as the basic structure outline, showing setbacks from the lot lines to the building(s), showing all easements (utility, drainage, access, etc.), also showing placement of driveways, and (where applicable) septic tank; and drainfield; will be required with building permit application.
2. For construction in flood zones or seaward of the coastal construction control line, a certified survey indicating the flood zone(s), coastal construction control line and elevation of existing land will be necessary. If the construction is seaward of the coastal construction control line and a state permit is required, a copy of the Department of Environmental Protection permit will be needed prior to issuance of the permit.
3. One (1) copy of an application variance or other special approvals must be provided.
4. Application for septic tank may be applied for at the time of building application. A well affidavit, ensuring that potable water is available to the construction site prior to construction, must be signed and notarized. A well permit and well inspection will be necessary before a certificate of occupancy will be issued. Should an existing well be present on the site, an Existing Well Inspection will be required to ensure the well meets Health Department and Lee County Well Requirements for Domestic Use. If construction is located on private water and/or sewer, a letter must be submitted from the private utility company verifying availability for site submitted.

5. Plans must be signed and sealed by a Florida Registered Architect or Engineer or in compliance with SSTD 10-~~9399~~ and a 10-~~9399~~ checklist submitted for each set. Plans must be submitted on standardized sheets drawn to scale. The plans must bear the following specific information:
 - (a) Elevation for front, rear, right and left sides
 - (b) Foundation plan
 - (c) Floor plan
 - (d) Lateral breakdown (typical wall section from roofing through to foundation and NGVD Elevation)
 - (e) Duplex must have a tenant separation wall of UL Design or equal rating
 - (f) Location of electric and plumbing
 - (g) Conventional roof framing layout
 - (h) Windows and garage doors installation
 - (i) Energy calculations and cover sheet
6. Any dwelling located in a Coastal Zone must have plans designed in accordance with the Lee County Coastal Construction Code and be certified by ~~an architect or engineer registered in the State of Florida~~ a Florida Registered Architect or Engineer.
7. Building permit application completed in its entirety. ~~Contractor must show either State Certification or Lee County Certificate of Competency.~~ Prior to a permit being issued, a State licensed contractor must be registered with Lee County Contractor Licensing and have provided evidence of current Workers Compensation Insurance and General Liability Insurance coverage. A locally licensed contractor must possess a current Lee County Certificate of Competency in good standing.
8. An owner/builder must sign an affidavit of self-use to be submitted at the time of requesting a building permit. He must be able to do all the work himself or use a ~~Lee County licensed contractor~~ State licensed contractor, registered with Lee County Contractor Licensing (with current Workers Compensation Insurance and General Liability Insurance coverage), or an appropriate, locally licensed contractor with a current Lee County Certificate of Competency in good standing.
9. Additional permits will be required for LP gas, well, septic tank, lawn sprinkler system, pool, pool enclosure, fence, solar heating and interior fire sprinkler systems, if applicable.
10. After issuance of building permit and before footing inspection is requested, the job site must have sanitary facilities for ~~workmen~~ workers and a trash container.
11. Permits must be posted in plain view at the job site and protected from the weather.
12. All changes to the approved drawings must be submitted and approved prior to commencement of work.
13. Reinspection fees will be charged for all ~~recalls and turndowns~~ failed inspections. A reinspection fee is due and payable within 30 calendar days from the date of the failed inspection.
14. Buildings may not be occupied until the final inspection has been completed and a certificate of occupancy issued, at which time the power company will be notified to connect permanent power.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Department of Community Development/Building Department	CODE NUMBER: AC 12-4
TITLE: Single Family and Duplex Permitting Procedures.	ADOPTED: 1-27-82
	AMENDED: 8-31-94
	ORIGINATING DEPARTMENT: Department of Community Development/Building Department & County Attorney

PURPOSE/SCOPE:

This Administrative Code sets out the minimum submission requirements necessary to successfully complete the permitting process for single family and duplex dwellings. It also sets out some of the basic requirements concerning the job site.

POLICY/PROCEDURE:

1. Three (3) copies of a plot plan will be required with the building permit application showing roof overhang as well as the basic structure outline, showing setbacks from the lot lines to the building(s), showing all easements (utility, drainage, access, etc.), also showing placement of driveways, and (where applicable) septic tank and drainfield.
2. For construction in flood zones or seaward of the coastal construction control line, a certified survey indicating the flood zone(s), coastal construction control line and elevation of existing land will be necessary. If the construction is seaward of the coastal construction control line and a state permit is required, a copy of the Department of Environmental Protection permit will be needed prior to issuance of the permit.
3. One (1) copy of an application variance or other special approvals must be provided.
4. Application for septic tank may be applied for at the time of building application. A well affidavit, ensuring that potable water is available to the construction site prior to construction, must be signed and notarized. A well permit and well inspection will be necessary before a certificate of occupancy will be issued. Should an existing well be present on the site, an Existing Well Inspection will be required to ensure the well meets Health Department and Lee County Well Requirements for Domestic Use. If construction is located on private water and/or sewer, a letter must be submitted from the private utility company verifying availability for site submitted.

AC-12-4 (Continued)

5. Plans must be signed and sealed by a Florida Registered Architect or Engineer or in compliance with SSTD 10-99 and a 10-99 checklist submitted for each set. Plans must be submitted on standardized sheets drawn to scale. The plans must bear the following specific information:
 - (a) Elevation for front, rear, right and left sides
 - (b) Foundation plan
 - (c) Floor plan
 - (d) Lateral breakdown (typical wall section from roofing through to foundation and NGVD Elevation)
 - (e) Duplex must have a tenant separation wall of UL Design or equal rating
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 - (g) Conventional roof framing layout
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7. Building permit application completed in its entirety. Prior to a permit being issued, a State licensed contractor must be registered with Lee County Contractor Licensing and have provided evidence of current Workers Compensation Insurance and General Liability Insurance coverage. A locally licensed contractor must possess a current Lee County Certificate of Competency in good standing.
8. An owner/builder must sign an affidavit of self-use to be submitted at the time of requesting a building permit. He must be able to do all the work himself or use a State licensed contractor, registered with Lee County Contractor Licensing (with current Workers Compensation Insurance and General Liability Insurance coverage), or an appropriate, locally licensed contractor with a current Lee County Certificate of Competency in good standing.
9. Additional permits will be required for LP gas, well, septic tank, lawn sprinkler system, pool, pool enclosure, fence, solar heating and interior fire sprinkler systems, if applicable.
10. After issuance of building permit and before footing inspection is requested, the job site must have sanitary facilities for workers and a trash container.
11. Permits must be posted in plain view at the job site and protected from the weather.
12. All changes to the approved drawings must be submitted and approved prior to commencement of work.
13. Reinspection fees will be charged for all failed inspections. A reinspection fee is due and payable within 30 calendar days from the date of the failed inspection.
14. Buildings may not be occupied until the final inspection has been completed and a certificate or occupancy issued, at which time the power company will be notified to connect permanent power.

ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS

CATEGORY: Department of Community Development/
Building Department

CODE NUMBER: AC 12-5

TITLE: Citation Procedures for Code Enforcement Officers

ADOPTED: 11/28/90

AMENDED: 7/3/91; 8/31/94; 10/11/95

ORIGINATING DEPARTMENT:
Department of Community Development/Building Department/ Attorney

PURPOSE/SCOPE:

Providing for Rules of Procedure in the implementation of the Citation Process for the enforcement of codes and ordinances enacted by the County.

POLICY/PROCEDURE:

SECTION I: This Code will be known by its short title: "Citation Procedures".

SECTION II: RULES OF PROCEDURE

The following rules of procedure will govern all citations issued by any Lee County personnel, namely:

RULE 1.01 DESIGNATION OF CODE ENFORCEMENT OFFICERS

(a) As used in this section, "Code Enforcement Officer" means any designated employee or agent of Lee County whose duty it is to enforce codes and ordinances enacted by the County.

(b) Lee County may designate certain of its employees or agents as code enforcement officers. The training and qualifications of the employees or agents for such designation will be determined by the County Manager or Designee.

© Employees or agents who may be designated as code enforcement officers may include, but are not limited to, code inspectors, contractor licensing investigators, water resource officers, environmental inspectors, utility officers, or fire safety inspectors.

(d) Certification of code enforcement officers will be determined by the Director of Community Development or her/his Designee.

(e) Designation as a code enforcement officer does not provide the code enforcement officer with the power of arrest or subject the code enforcement officer to the provisions of §943.085-943.255, Florida Statutes.

RULE 1.02 TRAINING PROCEDURES

(a) Department Community Development/Code Enforcement will place in their file a written procedure as to the code enforcement officer training requirements necessary.

(b) Topics covered in the training shall include, but are not limited to, the following:

1. THE CITATION
 - a. Applicable laws & enabling legislation
 - b. Purpose of citation procedures
 - c. Powers & limitations of citation procedure
2. RESPONSIBILITIES OF THE CODE ENFORCEMENT OFFICER
 - a. Enforcement Policies
 1. When to use citation power
 2. Warnings
3. ISSUING CITATION
 - a. Form of citation
 - b. Applicable laws
 - c. Warning notice required
 - d. Court date
 - e. Practice writing citation
4. SIGNATURE OF CODE VIOLATOR and/or REFUSAL TO SIGN
 - a. What to do to obtain signature
 - b. Procedure for refusal to sign
 - c. How to obtain Sheriff's assistance
 - d. Emergency contact procedures
5. PUBLIC CONTACT
 - a. How to handle difficult situations
 - b. Angry people
6. SWORN STATEMENTS
7. KEEPING FILES
 - a. Documentation and building a case
 - b. What to do with files for court action
8. COURTROOM PROCEDURES
 - a. Appearance
 - b. Demeanor
 - c. Testimony
 - d. Courtroom Visit
 - e. Judges

RULE 1.03 WHEN ORDINANCE CITATION TO BE ISSUED

A code enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and that the county court will hear the charge.

RULE 1.04 NOTICE PRIOR TO ISSUANCE OF CITATION

(a) Prior to issuing a citation, a code enforcement officer must provide notice to the person that the person has committed a violation of a county code or ordinance has been committed and provide a reasonable time within which the violator must correct the violation. Such time period can be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, a citation may be issued to the violator.

(b) If the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible, or if a repeat violation is found, the code enforcement officer is not required to provide a reasonable time in which to correct the violation and may immediately issue a citation to the person who committed the violation.

SECTION III: FORM OF CITATION

A citation issued by a code enforcement officer must be in a form prescribed by the County and contain the following:

- (a) The date and time of issuance.
- (b) The name and address of the person to whom the citation is issued.
- © The date and time the civil infraction was committed.
- (d) The facts constituting reasonable cause.
- (e) The number or section of the code or ordinance violated.
- (f) The name and authority of the code enforcement officer.
- (g) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
- (h) The applicable civil penalty if the person elects to contest the citation.
- (i) The applicable civil penalty if the person elects not to contest the citation.
- (j) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he will be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

SECTION IV: COURT PROCEDURES

RULE 2.01 COUNTY COURT RECEIVES CITATION

After issuing a citation to an alleged violator, a code enforcement officer must deposit the original citation and one copy of the citation with the county court in the Office of the Clerk of Courts.

RULE 2.02 JURISDICTION

Any Lee County code or ordinance may be enforced using the citation procedure.

RULE 2.03 SCHEDULE OF VIOLATIONS AND PENALTIES ASSESSED BY CODE ENFORCEMENT OFFICERS

(a) The monetary amounts of the civil penalties listed on Attachment A, attached hereto and incorporated herein by reference, are hereby established for the disposition of non-criminal infractions in violation of the Code of Laws and Ordinances of Lee County, Florida.

(b) When charged under this section, all violations of Lee County codes and ordinances are civil infractions.

© A maximum civil penalty not to exceed \$500.00 per violation.

(d) A civil penalty of less than the maximum civil penalty will be assessed, as indicated on Attachment A, if the person who has committed the civil infraction does not contest the citation.

RULE 2.04 DELINQUENCY FEES AND FAILURE TO SIGN

(a) A delinquency fee of \$50.00 per civil infraction is hereby established for failure to pay the civil penalty within the time allowed.

(b) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer will be guilty of a misdemeanor of the second degree, punishable as provided in §775.082 or §775.083, Florida Statutes.

RULE 2.05 CONTESTING THE CITATION IN COUNTY COURT

(a) To contest the violation, the violator must appear at the date, time and location shown on the citation for their arraignment and enter a plea of Not Guilty before the Judge.

(b) The Judge will schedule a hearing date.

© If a hearing is requested and the County Judge determines that the violator has committed the offense, the County Judge may impose a penalty not to exceed \$500.00 per civil infraction.

SECTION V. SUPPLEMENTAL PROVISIONS

The provisions of this section are additional and supplemental means of enforcing Lee County codes and ordinances and may be used for the enforcement of any code or ordinance or for the enforcement of all codes and ordinances. Nothing contained herein will prohibit Lee County from enforcing its codes or ordinances by any other means.

ATTACHMENT "A"

ADMINISTRATIVE CODE 12-05, CITATION PROCEDURES
SCHEDULE OF VIOLATIONS AND PENALTIES

Pursuant to Administrative Code 12-05, Section III(I), the following civil penalties are applicable if a person elects not to contest the code enforcement citation. (Listed by increasing ordinance (LCO) number and Land Development Code (LDC) chapter, article or section.)

LCO 85-07 (As Amended)

TRANSIENT MERCHANTS

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LCO 88-11 (As Amended)

COMMERCIAL USE OF THE RIGHT-OF-WAY

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LCO 88-40 (As Amended)

CONSTRUCTION SITE CLEAN-UP
AND CONSTRUCTION DEBRIS DISPOSAL

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$400.00

LCO 90-03 (As Amended)

WATERING SHORTAGE VIOLATION

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$ 25.00	\$100.00	\$500.00

LCO 90-32

DISPOSAL OF DOMESTIC SLUDGES

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LCO 91-07 (As Amended)

TRANSPORTATION OF SOLID WASTE IN LEE COUNTY

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	2nd Degree Misdemeanor

(Only Law Enforcement Officers Can Enforce.)

LCO 91-29

PARKING IN FIRE LANE

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$ 15.00	\$ 15.00	\$ 15.00

(If a person elects to have a hearing, the judge may impose a fine not to exceed \$100.00 plus court costs.)

LCO 93-10 SECTION 3.2a

REMOVAL OF RECYCLABLE MATERIALS WITH VEHICLE
(ANTI-SCAVENGING ORDINANCE)

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00 and 60 days imprisonment

LCO 93-10 SECTION 3.2b

REMOVAL OF RECYCLABLE MATERIALS WITHOUT VEHICLE
(ANTI-SCAVENGING ORDINANCE)

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$ 50.00	\$ 75.00	\$100.00

LCO 93-39

DISPOSAL OF GARBAGE - NUISANCE ACCUMULATION

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LCO 95-08 - SECTION 8

MANDATORY GARBAGE COLLECTION ORDINANCE
(RELATED TO UNSANITARY NUISANCES & COMMERCIAL
CUSTOMERS WITHOUT SERVICE)

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LCO 95-08 - SECTION 16A

MANDATORY GARBAGE COLLECTION ORDINANCE
24 HOUR SET-OUT RULE - RESIDENTIAL VIOLATIONS

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$ 50.00	\$100.00	\$150.00

LCO 95-08 - SECTIONS 19 & 20

MANDATORY GARBAGE COLLECTION ORDINANCE
CREATION OF A PUBLIC NUISANCE

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$ 50.00	\$100.00	\$150.00

LDC §6-111

NO OCCUPANCY PERMIT

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LDC CH. 14 ART. II

SEA TURTLE PROTECTION ORDINANCE

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LDC CH. 14 ART. V

TREE CUTTING WITHOUT PERMIT

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LDC CH. 14 ART. VI (As Amended)

MANGROVE TRIMMING WITHOUT PERMIT

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LDC CH. 30

SIGN ORDINANCE

<u>1ST OFFENSE</u>	<u>2ND OFFENSE</u>	<u>3RD OFFENSE</u>
\$100.00	\$250.00	\$500.00

LDC CH. 34

ZONING ORDINANCE

1ST OFFENSE

\$100.00

2ND OFFENSE

\$250.00

3RD OFFENSE

\$500.00

VIOLATION OF A POSTED STOP WORK ORDER, VARIOUS ORDINANCES

1ST OFFENSE

\$100.00

2ND OFFENSE

\$250.00

3RD OFFENSE

\$500.00

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

**CATEGORY:
DEVELOPMENT/PLANNING/ZONING**

**CODE NUMBER:
AC-13-14**

**TITLE:
Bonding Requirements for the Lee County
Wellfield Protection Ordinance**

**ADOPTED:
5/15/91**

**AMENDED:
2/10/93; 1/4/95**

**ORIGINATING DEPARTMENT
~~Community Development~~ Public
Works/Natural Resources**

PURPOSE/SCOPE:

The purpose of this Administrative code is to supplement the Lee County Wellfield Protection component of the Land Development code, chapter 14, Article III, as amended, by providing the bonding requirements necessary for the issuance of a permit.

POLICY/PROCEDURE:

I. BONDING REQUIREMENTS

Chapter 14, Article III of the Lee County Land Development Code requires that the owners of certain land uses lying adjacent to the County's potable water wellfields post a bond in the amount specified in Section II of this administrative code. In addition to the requirements found within the Ordinance, the following provisions shall apply to the posting of the bond:

- A. Surety or Cash Performance Bond. Security in the form of a surety or cash performance bond shall be posted with the Board made payable to the county in an amount specified in Section II of this administrative code. The amounts reflected in Section II are for each operating and closure permit issued and may be adjusted by the Division of Natural Resources Management (DNRM).
- B. The surety or cash performance bond required by the section shall be kept in full force and effect for the term of the permit and for one year after voluntary cessation of activities permitted hereunder, expiration, or revocation of the permit. The Bond shall be reviewed by the Wellfield Protection Officer who will determine whether the bond complies with the geological requirements and conditions of the Ordinance. Upon acceptance by the Wellfield Protection

Officer, the bond shall be submitted to the County Attorney's Office.

AC-13-14 (Continued)

- C. Bonds shall be reviewed and approved as to form by the County Attorney's Office prior to acceptance by the County ~~Administrator~~ **Manager** on behalf of the Board.
- D. Other Types of Security. The County ~~Administrator~~ **Manager** may accept letters of credit, escrow account agreements or other forms of security provided that the reasons for not obtaining a bond are stated and the County Attorney approved the document.

II. OPERATING AND CLOSURE PERMIT BONDS

- A. Zone 1. A cash bond, permit bond with corporate surety or letter of credit shall be required in the amount of \$20,000 for each operating and closure permit issued, unless adjusted by DNRM.
- B. Zone 2. A cash bond, permit bond with corporate surety or letter of credit in the amount of \$15,000 shall be required for each operating and closure permit, unless adjusted by DNRM.
- C. Zone 3. A cash bond, permit bond with corporate surety or letter of credit in the amount of \$10,000 shall be required for each operating and closure permit, unless adjusted by DNRM.
- D. Zone 4. A cash bond, permit bond with corporate surety or letter of credit in the amount of \$5,000 shall be required for each operating and closure permit, unless adjusted by DNRM.

III. EXTERNAL FEE SCHEDULE

The Lee County Wellfield Protection Ordinance external fees and charges are established in the External Fees and Charges Manual, Lee County Administrative Code 3-10, as amended.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

**CATEGORY:
DEVELOPMENT/PLANNING/ZONING**

**CODE NUMBER:
AC-13-14**

**TITLE:
Bonding Requirements for the Lee County
Wellfield Protection Ordinance**

**ADOPTED:
5/15/91**

**AMENDED:
2/10/93; 1/4/95**

**ORIGINATING DEPARTMENT
Public Works/Natural Resources**

PURPOSE/SCOPE:

The purpose of this Administrative Code is to supplement the Lee County Wellfield Protection component of the Land Development Code, Chapter 14, Article III, as amended, by providing the bonding requirements necessary for the issuance of a permit.

POLICY/PROCEDURE:

I. BONDING REQUIREMENTS

Chapter 14, Article III of the Lee County Land Development Code requires that the owners of certain land uses lying adjacent to the County's potable water wellfields post a bond in the amount specified in Section II of this administrative code. In addition to the requirements found within the Ordinance, the following provisions shall apply to the posting of the bond:

- A. Surety or Cash Performance Bond. Security in the form of a surety or cash performance bond shall be posted with the Board made payable to the county in an amount specified in Section II of this administrative code. The amounts reflected in Section II are for each operating and closure permit issued and may be adjusted by the Division of Natural Resources Management (DNRM).
- B. The surety or cash performance bond required by the section shall be kept in full force and effect for the term of the permit and for one year after voluntary cessation of activities permitted hereunder, expiration, or revocation of the permit. The Bond shall be reviewed by the Wellfield Protection Officer who will determine whether the bond complies with the geological requirements and conditions of the Ordinance. Upon acceptance by the Wellfield Protection Officer, the bond shall be submitted to the County Attorney's Office.

AC-13-14 (Continued)

- C. Bonds shall be reviewed and approved as to form by the County Attorney's Office prior to acceptance by the County Manager on behalf of the Board.
- D. Other Types of Security. The County Manager may accept letters of credit, escrow account agreements or other forms of security provided that the reasons for not obtaining a bond are stated and the County Attorney approved the document.

II. OPERATING AND CLOSURE PERMIT BONDS

- A. Zone 1. A cash bond, permit bond with corporate surety or letter of credit shall be required in the amount of \$20,000 for each operating and closure permit issued, unless adjusted by DNRM.
- B. Zone 2. A cash bond, permit bond with corporate surety or letter of credit in the amount of \$15,000 shall be required for each operating and closure permit, unless adjusted by DNRM.
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**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Development/Planning/Zoning	CODE NUMBER: AC-13-18
TITLE: Fire & EMS Impact Fee Ordinance Administrative Code	ADOPTED: 6/24/92
	AMENDED: 1/4/95 7/1/97
	ORIGINATING DEPARTMENT: County Attorney

PURPOSE/SCOPE:

The purpose of this administrative code is to guide staff in the administration of the Lee County Land Development Code (LDC) Chapter 2, Article VI, Division 5, (Fire/EMS Impact Fee Regulations). The Code is intended to supplement the provisions of the LDC. If any of the provisions of this Code conflict with the provisions of the LDC, the provisions of the LDC will control.

POLICY/PROCEDURE:

I. ADMINISTRATIVE ORGANIZATION & RESPONSIBILITY

A. Impact Fee Administrator/Building Officials

The County ~~Administrator~~ Manager or his designee, ~~shall~~ will carry out the general administration of the Ordinance. The County ~~Administrator~~ Manager is hereinafter referred to in this Code as the "Impact Fee Administrator".

B. Director of Lee County Department of Public Safety

The Director of the Lee County Division of Public Safety, or his designee (as used herein the term "Division of Public Safety" ~~shall~~ will include any successor agency serving the same function and the Director of the Department or any successor agency ~~shall~~ will be referred to in this Code as the "Public Safety Director") ~~shall~~ will assist the Impact Fee Administrator in the following areas:

1. Land Use Determination - When a land use is not listed in the fee schedule, or in the list of previously determined miscellaneous land uses, the Public Safety Director ~~shall~~ will assist the Impact Fee Administrator in determining a fee applicable to the most nearly comparable type of land use on the fee schedule.
2. Independent Fee Calculations - Upon submission of an independent fee calculation, the Public Safety Director will attend pre-application meetings; review the independent fee calculation study for sufficiency, methodology, technical accuracy and findings; and make recommendations to the Impact Fee Administrator concerning the appropriate amount of the impact fee based on the procedures described in the Ordinance and in this Code.
3. Exemptions, Refunds and Recalculations - The Public Safety Director will assist the

Impact Fee Administrator in determining whether exemptions from Fire/EMS impact fees are appropriate, refunds are justified or recalculation of the fees necessary in the event of a change of use, redevelopment, or modification of an existing land use.

4. Fee Adjustments - The Public Safety Director will recommend to the Impact Fee Administrator an appropriate Fire/EMS impact fee in response to any claim to a fee adjustment under Section 2-386 of the Ordinance.
5. Fire/EMS Impact Fee Credits - The Public Safety Director ~~shall~~ will recommend whether Fire/EMS Impact Fee credits should be issued for land dedication or construction of facilities and the amount of the credits.

C. The Department of Community Development

The Department of Community Development (as used herein the "Department of Community Development" ~~shall~~ will include any successor agency serving the same function) will provide advice, information, or other such service upon the request of the Impact Fee Administrator or the Public Safety Director.

D. Participating Municipalities and Fire Districts

The County ~~Administrator shall~~ Manager will consult the affected participating municipality or fire district concerning the need for proposed land dedication or facility construction which will serve as the basis for the issuance of Fire/EMS Impact Fee Credits before authorizing the issuance of those credits.

II. IMPOSITION OF IMPACT FEES

A. Fire Impact Fee

Any person who, after October 1, 1989, seeks to develop land by applying to Lee County or any participating municipality for:

1. the issuance of a building permit, or
2. mobile home move-on permit, or
3. recreational vehicle development order

in order to make an improvement to land for one of the uses which is specified in Section 2-385 and 2-386 of the Ordinance ~~shall~~ will be required to pay fire impact fees in the manner and amount set forth in the Ordinance and in this Code. However, no fire impact fee ~~shall~~ will be imposed in regard to the development of land located within a municipality which has not entered into an interlocal agreement with Lee County to collect such impact fees; nor ~~shall~~ will a fire impact fee be imposed in regard to the development of land located within the area of jurisdiction of a fire district which has not entered into an interlocal agreement with Lee County for the County to collect fire impact fees.

B. EMS Impact Fee

Any person who, after October 1, 1989, seeks to develop land by applying to Lee County or any participating municipality for:

1. the issuance of a building permit, or
2. mobile home move-on permit, or
3. recreational vehicle development order

in order to make an improvement to land for one of the uses which is specified in Section 2-385 and 2-386 of the Ordinance ~~shall~~ will be required to pay EMS impact fees in the manner and amount set forth in the Ordinance and in this Code. Except for those areas which comprise the Lehigh Acres Fire Control and Rescue District and the Fort Myers Beach Fire Control District, EMS impact fees ~~shall~~ will be collected by Lee County throughout the unincorporated areas of the County even in those fire districts which have elected not to participate in the fire impact fee program. However, no EMS impact fee ~~shall~~ will be imposed in regard to the development of land located within a municipality which has not entered into an interlocal agreement with Lee County to collect such impact fees.

III. DETERMINATION OF FIRE/EMS IMPACT FEE

- A. Unincorporated Lee County The amount of the Fire/EMS impact fee will be determined by the Impact Fee Administrator, with assistance from the Public Safety Director when necessary and appropriate. The Impact Fee Administrator will determine the amount of the fee, based on the LDC fee schedule, a fee adjustment, or an independent fee calculation study. Entitlement to exemptions and the calculation of refunds and Fire/EMS impact fee credits will also be the responsibility of the Impact Fee Administrator.
- B. Participating Municipalities Participating municipalities will have the authority to assess and collect Fire/EMS impact fees based on the Impact Fee Schedules in the LDC and the list of Miscellaneous Land Uses described in this Code, and to determine exemptions from the Fire/EMS impact fees as provided in the LDC. Participating municipalities have the authority to undertake any other action regarding fee determinations that is granted to the municipality pursuant to interlocal agreement and not in conflict with the LDC.
- C. Determination of Fees Based on Fee Schedules
At the option of the feepayer, the amount of the Fire/EMS impact fee may be determined by the fee schedule contained in LDC Section 2-386.

The feepayer may, at his option, submit a request for a fee adjustment as provided in LDC Section 2-386(d) by submitting evidence to the Impact Fee Administrator indicating that the Fire/EMS impact fee set out in the fee schedules is not applicable to the particular development.

The Impact Fee Administrator will determine whether a claim may be adequately assessed through an administrative review of the evidence submitted by the feepayer or if the submission of an independent fee calculation study is necessary. The Impact Fee Administrator may administratively approve a fee adjustment based on the information submitted or require an independent fee calculation study at his sole discretion. After appropriate review, the Impact Fee Administrator may adjust the Fire/EMS impact fee to that appropriate for the particular development.

The Impact Fee Administrator will be guided in his decision by a recommendation from the Public Safety Director who will recommend a Fire/EMS impact fee by considering demographic or other information available from the Department's studies and plans, the

Lee County Department of Community Development, the Bureau of Economic and Business Research of the University of Florida, or other applicable agencies or sources.

It is the feepayer's responsibility to furnish as required by the Impact Fee Administrator, all materials and information necessary to validate a claim to a fee adjustment up to and including deed covenants. Any claim to a fee adjustment must be submitted prior to the payment of the Fire/EMS impact fee at issue. Otherwise the claimed fee adjustment is waived.

If the feepayer disagrees with the amount of the administratively determined Fire/EMS impact fee, the feepayer may prepare and submit an independent fee calculation study in accordance with this Administrative Code and LDC Section 2-386(d).

D. Independent Fee Calculation Studies

1. General

The feepayer must prepare and submit an independent fee calculation study in accordance with this Administrative Code and LDC Section 2-386(d) if:

- a. The feepayer opts not to follow the fee schedules in the LDC;
- b. The Impact Fee Administrator determines that a feepayer's claim for a fee adjustment cannot be assessed administratively;
- c. The feepayer disagrees with the administrative determination of the Fire/EMS impact fee.

Submission of an independent fee calculation study by the feepayer will not exempt the feepayer from paying the Fire/EMS impact fee prior to the issuance of any building permit, mobile home move-on permit, or recreational vehicle development order as those terms are defined in the LDC.

2. Notice of Intent by Feepayer

Prior to the issuance of any building permit, mobile home move-on permit or recreational vehicle development order, the feepayer must inform the Impact Fee Administrator of his intent to submit an independent fee calculation study before the issuance of the permits described in subsection III.D.1. The Public Safety Director will then schedule a pre-application meeting with the feepayer.

3. Pre-Application Meeting

Before beginning the independent fee calculation study, the feepayer or his representative will attend a pre-application meeting with the Public Safety Director. The purpose of the pre-application meeting is to discuss the procedures for preparation of the independent fee calculation study, the methodology to be employed, and the standards to be met.

The Public Safety Director will prepare a written summary of the results of the pre-

application meeting regarding methodology, required forms, documentation or procedures (which may not constitute a waiver of the provisions of the Ordinance). The Public Safety Director will send a copy of this summary to the feepayer and the Impact Fee Administrator. The feepayer must provide written confirmation as to receipt and acceptance of this summary to the Impact Fee Administrator.

If the feepayer wishes to waive the pre-application meeting he must do so in writing. Feepayers who waive the pre-application meeting waive the right to raise methodological or procedural issues regarding the study at a subsequent time.

4. Methodology

- a. The purpose of the independent fee calculation study is to measure the impact of the development on the provision of Fire Protection and Emergency Medical Services in Lee County.
- b. The independent fee calculation study must follow the methodologies and formats agreed upon during the pre-application meeting and be in accord with the documentation or methodology required by this Code and the LDC.
- c. The independent fee calculation study must be prepared and presented by a qualified professional. The methodology must be consistent with best professional practice and support the central claim of the study. The study must provide all necessary supporting documentation and information. Failure to adhere to best professional practice standards is a basis for rejection of the study. The applicant's submission must certify that the study complies with best professional practices.
- d. The applicant must submit the study to the Impact Fee Administrator who will forward the study to the Public Safety Director.

5. Sufficiency Determination

The Public Safety Director will review the independent fee calculation study for sufficiency, methodology, technical accuracy, and findings. Thereafter, the Public Safety Director will make recommendations concerning the appropriate amount of the Fire/EMS impact fees to the Impact Fee Administrator. The Impact Fee Administrator will have 30 days from the date the study is received to provide written notice to the applicant of any deficiencies or defects in the study, to approve the study and authorize an appropriate fee adjustment or to reject the conclusions of the study and deny the fee adjustment. This notice must be sent certified mail, return receipt requested. In the event that this notice is not given within 30 days, the study will be considered sufficient and the fee adjusted as if the study had been approved. If the study is found defective or deficient the 30 day review period will begin again with the submission of a new or modified study. If the applicant does not respond to the Impact Fee Administrator regarding a finding of deficiency within 30 days of the date notice of a deficiency is sent, the Impact Fee Administrator will consider the independent fee calculation study withdrawn and all claims to a fee adjustment waived. Any building permit, mobile home move-on permit or recreational vehicle development order subsequently applied for must be

accompanied by the Fire/EMS impact fees established by the fee schedules.

The 30 day sufficiency review will begin when the Impact Fee Administrator receives and date stamps the independent fee calculation study.

6. Effective Date

Once the Impact Fee Administrator approves the independent fee calculation study and establishes the amount of the impact fee adjustment, the adjusted Fire/EMS impact fee will relate back to the date of the pre-application meeting. Fees paid after the pre-application meeting according to the LDC fee schedule will be adjusted to reflect the fee established by the study. The applicant will receive a refund for the difference between the LDC fee schedule and the approved fee established by the study. Refunds will be in the form of cash or Fire/EMS impact fee credits, depending on the original method of payment. There will be no refund of fees paid prior to the pre-application meeting.

If the applicant waives the pre-application meeting, the adjusted Fire/EMS impact fee will relate back to the date the study is found sufficient for review by the Director.

7. Application for Permit or Development Order

It is the feepayer's responsibility to claim a reduction in Fire/EMS impact fee on the basis of an approved independent fee calculation study, at the time of application for a building permit, mobile home move-on permit or recreational vehicle development order. No claim to a reduced fee will be accepted in advance of the approval of an independent fee study where one is required. In order to assert a claim for a fee reduction, a feepayer must attend a pre-application meeting with the Impact Fee Administrator to discuss the independent fee calculation study prior to paying the Fire/EMS impact fees or obtaining a building permit, mobile home move-on permit or recreational vehicle development order. The feepayer must present documentation enabling the staff of the Division of Codes and Building Services or the Building Official of a participating municipality to verify this claim.

Where the applicant waived the pre-application meeting, fees paid according to the Fire/EMS Impact Fee schedule after the study is found sufficient for review will be adjusted to reflect the fee established by the study.

8. Development of Regional Impact (DRI)

Applicants may use data, studies, or information prepared as part of a DRI submission for the purposes of an independent fee calculation study.

IV. METHOD OF PAYMENT

A. Payment Due

1. General. All payments ~~shall~~ will be made in the following manner:

- a. Unincorporated Lee County. Payment ~~shall~~ will be made in cash or by personal check, cashier's check, or money order made payable to the Lee County Board of County Commissioners. All payments ~~shall~~ will be made at the Offices of the Division of Codes and Building Services.

At the sole discretion of the Impact Fee Administrator the County may accept payment in escrow of the full amount of Fire/EMS impact fees attributable to a particular land development activity, or mix of land development activities on a single parcel, by the Fire/EMS impact fee schedule, in order to allow the issuance of building or other development permits while the County makes a determination on a feepayer's claim to a fee adjustment. The escrow payment ~~shall~~ will be made as set out above and ~~shall~~ will be earmarked as escrowed funds and ~~shall~~ will be deposited in the appropriate trust fund. No escrowed funds will be accepted which are not accompanied by a signed letter agreement, acceptable to the County Attorney's Office, stating the purpose of the escrow and releasing the County from any claim to the escrowed funds by the feepayer or his successors if the County ultimately denies the feepayer's request for a fee adjustment. The agreement ~~shall~~ will also set forth the feepayer's understanding that the escrowed payment will support issuance of building or other development permits only if all other requirements of the Lee County regulations have been met. If the County subsequently approves the requested fee adjustment the difference between the amount paid into escrow and the adjusted fee ~~shall~~ will be returned to the feepayer. If the fee adjustment is denied, the escrowed funds ~~shall~~ will be released to the County and the feepayer may pursue an appeal of the determination as set out in the Ordinance.

- b. Participating Municipality. The feepayer ~~shall~~ will pay the Fire/EMS impact fees in a manner acceptable to the governmental agency responsible for the issuance of the permit unless an interlocal agreement provides for payment to Lee County. If so, payment ~~shall~~ will be made as in (a) above.
- c. Use of Fire/EMS Impact Fee Credits. In lieu of cash, up to 97% of the Fire/EMS impact fee may be paid by the use of credits.

B. Invalid Payment.

1. Deficient Payment.

In the event the payment of required Fire/EMS impact fees subsequently proves to be invalid due to insufficient funds, improper execution, or for any other reason, then the following action ~~shall~~ will be taken:

- a. No building permit, mobile home move-on permit, or recreational vehicle development order ~~shall~~ will be issued until the required Fire/EMS impact fee is paid.
- b. The Impact Fee Administrator or the Building Official in a participating municipality (if the fees were collected by the participating municipality) ~~shall~~

will, within 30 days of detecting such a deficiency, notify the feepayer, the contractor, and the property owner by certified mail, return receipt requested, that:

- (1) the Fire/EMS impact fee is due by valid payment immediately upon receipt of said letter.
 - (2) no permit or Certificate of Occupancy will be issued until the fee is paid in full. If not paid within 15 days of the date the letter is sent, the County/City building department ~~shall~~ will have authority to stop all construction on the site until payment in full is received.
- c. The amount due ~~shall~~ will be the amount of the Fire/EMS impact fee due plus the amount charged by the bank for the dishonored payment plus, pursuant to Section 68.065, Florida Statutes, a service charge of \$20.00, or five percent (5%) of the face amount of the check, whichever is greater.
2. Payment of Fee Based on Error or Misrepresentation. If the Fire/EMS impact fee has been calculated and paid based on error or misrepresentation, it ~~shall~~ will be recalculated and any difference refunded to the original feepayer or paid to the County or municipality, if appropriate, by the original feepayer, whichever is applicable. If Fire/EMS impact fees are owed to the County, no participating municipality or County permits of any type may be issued for the building or structure in question, or for any other part of a development of which the building or structure in question is a part, while the fees remain unpaid, and the Impact Fee Administrator may bring any action permitted by law or equity to collect the unpaid fees.

If a higher Fire/EMS impact fee should be collected, then the following action ~~shall~~ will be taken:

- a. No building or construction permits or Certificate of Occupancy (C.O.) ~~shall~~ will be issued until the required Fire/EMS impact fee is paid.
- b. The Impact Fee Administrator or the designated Administrator in a participating municipality, ~~shall~~ will, within 30 days of detection of such a deficiency, notify the feepayer, the contractor, and the property owner by certified mail, return receipt requested, that:
 - (1) an additional Fire/EMS impact fee amount is due immediately upon receipt of said letter;
 - (2) a permit or C.O. will not be issued until the amount is paid and if not paid within 15 days, the County/City building department ~~shall~~ will have authority to stop all construction on the site until the payment is received.
- c. Prior to the expiration of one year from the date a final Certificate of Occupancy is issued for which the required Fire/EMS impact fee has not been paid, or has not been paid in full, the County ~~shall~~ will where

authorized by the applicable County ordinances, have authority to file a lien against the real property encumbered by said building permit until the required Fire/EMS impact fee, together with additional charges allowed by such applicable County ordinances, has been paid.

If the amount of Fire/EMS impact fee paid exceeded the amount which should have been paid, then the following action shall will be taken:

- (1) The Impact Fee Administrator or the Building Official in a participating municipality shall will within 30 days of detection of such an overpayment, notify the original feepayer by certified mail, return receipt requested, that the feepayer is owed a refund. The appropriate refund forms shall will be included with this notice.
- (2) The feepayer shall will then submit a written request for refund to the Impact Fee Administrator or Building Official. Upon receipt of the written request, the refund shall will be issued.

V. CREDITS

A. Administrative Responsibility

In all cases, the Impact Fee Administrator shall will make the final determination concerning the issuance of Fire/EMS impact fee credits based upon the recommendations of the Public Safety Director.

B. General Conditions

Generally, a feepayer may obtain Fire/EMS impact fee credits by offering to dedicate land and/or construct improvements for approved facilities. The value of the credits shall be determined by the procedures set out in the Ordinance. Any claim for credit must be made no later than the time of application for a building permit, mobile home move-on permit, or recreational vehicle development order.

The right to determine whether the value of the capital improvement will be approved for credit purposes lies exclusively with Lee County, unless otherwise provided in an appropriate interlocal agreement, or unless the improvement is required under a participating municipal, state, or County development or zoning approval. In the latter case, credits shall will be given to the extent required by law. In every case, Fire/EMS impact fee credits shall will be calculated so as to be consistent with Section 380.06 (16) (1987), Florida Statutes.

C. General Documentation and Procedures

The offer to make capital improvements or dedicate land in exchange for the issuance of Fire/EMS impact fee credits shall will be made in an application to the Impact Fee Administrator identifying the capital improvements and/or land dedications for which credits are requested. The Impact Fee Administrator shall will forward this application to the Public Safety Director.

1. Documentation. A feepayer requesting the issuance of Fire/EMS impact fee credits for eligible capital improvements and/or land dedication ~~shall~~ will provide the following information to the Impact Fee Administrator during development review or prior to application for the issuance of building permits:

- a. Construction of Capital Improvements.

The feepayer ~~shall~~ will submit a project description in sufficient detail and with complete engineering and construction cost estimates, prepared by qualified professionals, to allow the Public Safety Director to verify these cost estimates.

- b. Land Dedication. When a person requests credit for land dedication for approved Fire/EMS facilities, he ~~shall~~ will present:

- (1) a specimen of the deed which he proposes to use to convey title to the appropriate governmental body;

- (2) a survey of the land to be dedicated certified by a Professional Land Surveyor or Registered Land Surveyor, licensed in the State of Florida;

- (3) An ALTA Form B title insurance policy, in an amount equal to the approved value of the credits to be issued, from a company satisfactory to the County Attorney and verifying that the proffered deed will convey unencumbered fee simple title to the appropriate governmental body;

- (4) a certified copy of the most recent assessment of the property for tax purposes;

- (5) property appraisals prepared by qualified professionals. In preparing their reports, appraisers ~~shall~~ will value the land in the following manner: (a) if the land in question is subject to a valid agreement, zoning approval, or development order which prescribes a valuation, the agreement, zoning approval or development order ~~shall~~ will control; (b) if the dedication is made pursuant to a condition of zoning approval, is not a site-related improvement, and the zoning condition does not specifically prescribe otherwise, the land ~~shall~~ will be valued based upon the zoning of the land as it existed prior to the zoning approval which contains the condition of dedication; (c) otherwise, appraisers ~~shall~~ will value the land at its then current zoning and without any enhanced value which could be attributed to improvements on adjacent lands; and

- (6) proof that property taxes due on the property to be dedicated have been paid.

2. Sufficiency. The Public Safety Director ~~shall~~ will review the engineering and cost estimates and make a determination of sufficiency.

The survey and property appraisals ~~shall~~ will be submitted by the Public Safety Director to the Office of County Lands for review and approval by the County's Review Appraisers. In order to be eligible for credits, improvements or land dedications must meet the following standards in addition to those enumerated in the Ordinance:

- a. the proposed dedication or construction must be related to the mitigation of impacts from the development.
 - b. The same guidelines which apply to the use of Fire/EMS impact fee funds limit those improvements which are eligible for credits.
3. Determination of Credit. The Public Safety Director ~~shall~~ will prepare a recommendation of the amount of the Fire/EMS impact fee credits appropriate for construction and land dedication to the Impact Fee Administrator. This recommendation ~~shall~~ will be based upon either the cost estimates provided by the applicant or upon alternative engineering criteria, construction cost estimates, or property appraisals through the use of the methodology described in Section 3-392 of the Ordinance, if the Public Safety Director determines that such estimates submitted by the applicant are either unreliable or inaccurate. The Public Safety Director ~~shall~~ will provide a written recommendation as to which capital improvements or land dedications are eligible for credits and what the amount of the credit ~~shall~~ will be for each.

The determination of the amount of credit ~~shall~~ will be made by the Impact Fee Administrator, based on the recommendations of the Public Safety Director who conducted the sufficiency determination, consultation with any participating municipality or fire district concerning the need for the proposed construction or land dedication and on his own review of the documentation presented. Copies of the written determination ~~shall~~ will be sent to the feepayer and the Public Safety Director.

The written determination ~~shall~~ will include the following: (i) the name of the applicant receiving the credit; (ii) the dollar amount of the credit; (iii) the reason for the credit; and (iv) the Fire or EMS Impact Fee Benefit District in which the credit may be used. The applicant must sign and date a duplicate copy of such letter or certificate indicating his agreement to the terms of the letter or certificate and return such signed document to the Impact Fee Administrator before credit will be given. If the applicant fails to sign, date, and return such document within 30 days, the Impact Fee Administrator will consider the credit application to be inactive. No increase in the amount of approved credit will be authorized unless it is determined during actual construction of the agreed-to Fire/EMS facility improvements that change orders are to be made incurring additional expense for items that are necessary and are not shown on the approved plans and estimates previously furnished to the Public Safety Director. It ~~shall~~ will be the feepayer's responsibility to obtain prior approval from the Public Safety Director before all such change orders are made. All claims for an increase of the approved credit ~~shall~~ will include all documentation required by the Public Safety Director. The Public Safety Director ~~shall~~ will immediately forward all approved requests for a change in the amount of credit to the Impact Fee Administrator.

4. Credit for Construction. Except as provided in subsection 4.c below, Fire/EMS impact fee credits may be issued only after:
 - a. the construction is completed and accepted by the County, or a participating municipality, whichever is applicable;
 - b. a suitable maintenance and warranty bond as may be required by the Public Safety Director is submitted to and approved by the County Attorney; or in the case of 4.c below, upon completion of the agreed-to construction improvements and upon acceptance by the appropriate governmental authority pursuant to 4.a above, the Bond may, as required by the Public Safety Director, be reduced to a suitable amount and time period to cover a maintenance period for the improvements.
 - c. Credit may be provided before completion of specified improvements if the feepayer posts security as provided above for the costs of such construction. In the event that: (1) the County receives notification from the principal (grantor) that the bond is being canceled before all agreed-to improvements have been completed and accepted by the appropriate governmental body; or (2) the County determines that terms of the agreement for the construction as set forth in the Bond agreement are not being complied with, then the County ~~shall~~ will in accordance with the Bond agreement, default the Bond and collect the full amount of the Bond to be used for completion of the agreed-to improvements and other expenses. If the cost incurred by the County to complete said improvements exceeds the amount received from the defaulted Bond, the County ~~shall~~ will seek to recover its loss under the provisions of this Code.
 5. Credits for Land Dedication. Fire/EMS impact fee credits for land dedication may be created when the following procedures have been completed and the title to said land has been accepted by the appropriate governmental body and recorded in the Official Records of the Clerk of Circuit Court in Lee County:
 - a. The delivery to the appropriate governmental body of a deed, with sufficient funds to pay all costs of transferring title including recording.
 - b. The escrow of taxes for the current year, or the payment of said taxes for the year.
 - c. The issuance of a title insurance policy subsequent to recording of the deed and escrow of taxes.
 6. Transferability. Fire/EMS Impact Fee Credits created after October 1, 1989 are transferable in form and may be sold, assigned or otherwise conveyed. Acceptable proof of transfer must be submitted to the Division of Codes and Building Services when the credits are used.
- D. Performance Bonds, Letters of Credit, etc. In the event the feepayer has received approval from the Impact Fee Administrator for Fire/EMS impact fee credits for construction and the credits are provided before completion of the improvements in accordance with this Code,

the following requirements ~~shall~~ will be met:

1. The feepayer ~~shall~~ will submit to the Impact Fee Administrator, on appropriate forms, a Surety Performance Bond or an automatically renewable, irrevocable Letter of Credit (Cash Performance Bond) (both hereinafter referred to as a Bond), in an amount equal to 110% of the full cost of the agreed-to improvements (excluding right-of-way dedications), and payable to the Lee County Board of County Commissioners.
2. The bond ~~shall~~ will be reviewed and approved by the Lee County Attorney's Office prior to acceptance of the bond by the Impact Fee Administrator.
3. If the facility is to be owned by a participating municipality, the County may assign its right in such security to the municipality if the municipality requests it and the law permits it.
4. Letter of Credit, pursuant to subparagraph a. above, ~~shall~~ will be automatically renewable unless notice of intent to cancel or not to renew is given to the Impact Fee Administrator not later than 60 days prior to the renewal date. In the event a notice to cancel or of intent not to renew is received, the Impact Fee Administrator ~~shall~~ will be entitled to declare a default and collect the full amount of the Bond. In the event the County has assigned its rights in such security to a municipality, then the appropriate Building Official ~~shall~~ will be responsible for this action.
5. Upon posting with, and acceptance of such Bond by the Impact Fee Administrator, the appropriate County or municipal entity may issue building permits for that part of the proposed development determined by the County to be satisfied by the credit.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY: Development/Planning/Zoning	CODE NUMBER: AC-13-18
TITLE: Fire & EMS Impact Fee Ordinance Administrative Code	ADOPTED: 6/24/92
	AMENDED: 1/4/95; 7/1/97
	ORIGINATING DEPARTMENT: County Attorney

PURPOSE/SCOPE:

The purpose of this administrative code is to guide staff in the administration of the Lee County Land Development Code (LDC) Chapter 2, Article VI, Division 5, (Fire/EMS Impact Fee Regulations). The Code is intended to supplement the provisions of the LDC. If any of the provisions of this Code conflict with the provisions of the LDC, the provisions of the LDC will control.

POLICY/PROCEDURE:

I. ADMINISTRATIVE ORGANIZATION & RESPONSIBILITY

A. Impact Fee Administrator/Building Officials

The County Manager or his designee, will carry out the general administration of the Ordinance. The County Manager is hereinafter referred to in this Code as the "Impact Fee Administrator".

B. Director of Lee County Department of Public Safety

The Director of the Lee County Division of Public Safety, or his designee (as used herein the term "Division of Public Safety" will include any successor agency serving the same function and the Director of the Department or any successor agency will be referred to in this Code as the "Public Safety Director") will assist the Impact Fee Administrator in the following areas:

1. Land Use Determination - When a land use is not listed in the fee schedule, or in the list of previously determined miscellaneous land uses, the Public Safety Director will assist the Impact Fee Administrator in determining a fee applicable to the most nearly comparable type of land use on the fee schedule.
2. Independent Fee Calculations - Upon submission of an independent fee calculation, the Public Safety Director will attend pre-application meetings; review the independent fee calculation study for sufficiency, methodology, technical accuracy and findings; and make recommendations to the Impact Fee Administrator concerning the appropriate amount of the impact fee based on the procedures described in the Ordinance and in this Code.

3. Exemptions, Refunds and Recalculations - The Public Safety Director will assist the Impact Fee Administrator in determining whether exemptions from Fire/EMS impact fees are appropriate, refunds are justified or recalculation of the fees necessary in the event of a change of use, redevelopment, or modification of an existing land use.
4. Fee Adjustments - The Public Safety Director will recommend to the Impact Fee Administrator an appropriate Fire/EMS impact fee in response to any claim to a fee adjustment under Section 2-386 of the Ordinance.
5. Fire/EMS Impact Fee Credits - The Public Safety Director will recommend whether Fire/EMS Impact Fee credits should be issued for land dedication or construction of facilities and the amount of the credits.

C. The Department of Community Development

The Department of Community Development (as used herein the "Department of Community Development" will include any successor agency serving the same function) will provide advice, information, or other such service upon the request of the Impact Fee Administrator or the Public Safety Director.

D. Participating Municipalities and Fire Districts

The County Manager will consult the affected participating municipality or fire district concerning the need for proposed land dedication or facility construction which will serve as the basis for the issuance of Fire/EMS Impact Fee Credits before authorizing the issuance of those credits.

II. IMPOSITION OF IMPACT FEES

A. Fire Impact Fee

Any person who, after October 1, 1989, seeks to develop land by applying to Lee County or any participating municipality for:

1. the issuance of a building permit, or
2. mobile home move-on permit, or
3. recreational vehicle development order

in order to make an improvement to land for one of the uses which is specified in Section 2-385 and 2-386 of the Ordinance will be required to pay fire impact fees in the manner and amount set forth in the Ordinance and in this Code. However, no fire impact fee will be imposed in regard to the development of land located within a municipality which has not entered into an interlocal agreement with Lee County to collect such impact fees; nor will a fire impact fee be imposed in regard to the development of land located within the area of jurisdiction of a fire district which has not entered into an interlocal agreement with Lee County for the County to collect fire impact fees.

B. EMS Impact Fee

Any person who, after October 1, 1989, seeks to develop land by applying to Lee County or any participating municipality for:

1. the issuance of a building permit, or
2. mobile home move-on permit, or
3. recreational vehicle development order

in order to make an improvement to land for one of the uses which is specified in Section 2-385 and 2-386 of the Ordinance will be required to pay EMS impact fees in the manner and amount set forth in the Ordinance and in this Code. Except for those areas which comprise the Lehigh Acres Fire Control and Rescue District and the Fort Myers Beach Fire Control District, EMS impact fees will be collected by Lee County throughout the unincorporated areas of the County even in those fire districts which have elected not to participate in the fire impact fee program. However, no EMS impact fee will be imposed in regard to the development of land located within a municipality which has not entered into an interlocal agreement with Lee County to collect such impact fees.

III. DETERMINATION OF FIRE/EMS IMPACT FEE

- A. Unincorporated Lee County The amount of the Fire/EMS impact fee will be determined by the Impact Fee Administrator, with assistance from the Public Safety Director when necessary and appropriate. The Impact Fee Administrator will determine the amount of the fee, based on the LDC fee schedule, a fee adjustment, or an independent fee calculation study. Entitlement to exemptions and the calculation of refunds and Fire/EMS impact fee credits will also be the responsibility of the Impact Fee Administrator.
- B. Participating Municipalities Participating municipalities will have the authority to assess and collect Fire/EMS impact fees based on the Impact Fee Schedules in the LDC and the list of Miscellaneous Land Uses described in this Code, and to determine exemptions from the Fire/EMS impact fees as provided in the LDC. Participating municipalities have the authority to undertake any other action regarding fee determinations that is granted to the municipality pursuant to interlocal agreement and not in conflict with the LDC.
- C. Determination of Fees Based on Fee Schedules
At the option of the feepayer, the amount of the Fire/EMS impact fee may be determined by the fee schedule contained in LDC Section 2-386.

The feepayer may, at his option, submit a request for a fee adjustment as provided in LDC Section 2-386(d) by submitting evidence to the Impact Fee Administrator indicating that the Fire/EMS impact fee set out in the fee schedules is not applicable to the particular development.

The Impact Fee Administrator will determine whether a claim may be adequately assessed through an administrative review of the evidence submitted by the feepayer or if the submission of an independent fee calculation study is necessary. The Impact Fee Administrator may administratively approve a fee adjustment based on the information submitted or require an independent fee calculation study at his sole discretion. After appropriate review, the Impact Fee Administrator may adjust the Fire/EMS impact fee to that appropriate for the particular development.

The Impact Fee Administrator will be guided in his decision by a recommendation from the Public Safety Director who will recommend a Fire/EMS impact fee by considering demographic or other information available from the Department's studies and plans, the Lee County Department of Community Development, the Bureau of Economic and Business Research of the University of Florida, or other applicable agencies or sources.

It is the feepayer's responsibility to furnish as required by the Impact Fee Administrator, all materials and information necessary to validate a claim to a fee adjustment up to and including deed covenants. Any claim to a fee adjustment must be submitted prior to the payment of the Fire/EMS impact fee at issue. Otherwise the claimed fee adjustment is waived.

If the feepayer disagrees with the amount of the administratively determined Fire/EMS impact fee, the feepayer may prepare and submit an independent fee calculation study in accordance with this Administrative Code and LDC Section 2-386(d).

D. Independent Fee Calculation Studies

1. General

The feepayer must prepare and submit an independent fee calculation study in accordance with this Administrative Code and LDC Section 2-386(d) if:

- a. The feepayer opts not to follow the fee schedules in the LDC;
- b. The Impact Fee Administrator determines that a feepayer's claim for a fee adjustment cannot be assessed administratively;
- c. The feepayer disagrees with the administrative determination of the Fire/EMS impact fee.

Submission of an independent fee calculation study by the feepayer will not exempt the feepayer from paying the Fire/EMS impact fee prior to the issuance of any building permit, mobile home move-on permit, or recreational vehicle development order as those terms are defined in the LDC.

2. Notice of Intent by Feepayer

Prior to the issuance of any building permit, mobile home move-on permit or recreational vehicle development order, the feepayer must inform the Impact Fee Administrator of his intent to submit an independent fee calculation study before the issuance of the permits described in subsection III.D.1. The Public Safety Director will then schedule a pre-application meeting with the feepayer.

3. Pre-Application Meeting

Before beginning the independent fee calculation study, the feepayer or his representative will attend a pre-application meeting with the Public Safety Director. The purpose of the pre-application meeting is to discuss the procedures for preparation of the independent fee calculation study, the methodology to be employed, and the standards to be met.

The Public Safety Director will prepare a written summary of the results of the pre-application meeting regarding methodology, required forms, documentation or procedures (which may not constitute a waiver of the provisions of the Ordinance). The Public Safety Director will send a copy of this summary to the feepayer and the Impact Fee Administrator. The feepayer must provide written confirmation as to receipt and acceptance of this summary to the Impact Fee Administrator.

If the feepayer wishes to waive the pre-application meeting he must do so in writing. Feepayers who waive the pre-application meeting waive the right to raise methodological or procedural issues regarding the study at a subsequent time.

4. Methodology

- a. The purpose of the independent fee calculation study is to measure the impact of the development on the provision of Fire Protection and Emergency Medical Services in Lee County.
- b. The independent fee calculation study must follow the methodologies and formats agreed upon during the pre-application meeting and be in accord with the documentation or methodology required by this Code and the LDC.
- c. The independent fee calculation study must be prepared and presented by a qualified professional. The methodology must be consistent with best professional practice and support the central claim of the study. The study must provide all necessary supporting documentation and information. Failure to adhere to best professional practice standards is a basis for rejection of the study. The applicant's submission must certify that the study complies with best professional practices.
- d. The applicant must submit the study to the Impact Fee Administrator who will forward the study to the Public Safety Director.

5. Sufficiency Determination

The Public Safety Director will review the independent fee calculation study for sufficiency, methodology, technical accuracy, and findings. Thereafter, the Public Safety Director will make recommendations concerning the appropriate amount of the Fire/EMS impact fees to the Impact Fee Administrator. The Impact Fee Administrator will have 30 days from the date the study is received to provide written notice to the applicant of any deficiencies or defects in the study, to approve the study and authorize an appropriate fee adjustment or to reject the conclusions of the study and deny the fee adjustment. This notice must be sent certified mail, return receipt requested. In the event that this notice is not given within 30 days, the study will be considered sufficient and the fee adjusted as if the study had been approved. If the study is found defective or deficient the 30 day review period will begin again with the submission of a new or modified study. If the applicant does not respond to the Impact Fee Administrator regarding a finding of deficiency within 30 days of the date notice of a deficiency is sent, the Impact Fee Administrator will consider the independent fee calculation study withdrawn and all claims to a fee adjustment waived. Any building permit, mobile home move-on permit or recreational vehicle development order subsequently applied for must be accompanied by the Fire/EMS impact fees established by the fee schedules.

The 30 day sufficiency review will begin when the Impact Fee Administrator receives and date stamps the independent fee calculation study.

6. Effective Date

Once the Impact Fee Administrator approves the independent fee calculation study and establishes the amount of the impact fee adjustment, the adjusted Fire/EMS impact fee will relate back to the date of the pre-application meeting. Fees paid after the pre-application meeting according to the LDC fee schedule will be adjusted to reflect the fee established by the study. The applicant will receive a refund for the difference between the LDC fee schedule and the approved fee established by the study. Refunds will be in the form of cash or Fire/EMS impact fee credits, depending on the original method of payment. There will be no refund of fees paid prior to the pre-application meeting.

If the applicant waives the pre-application meeting, the adjusted Fire/EMS impact fee will relate back to the date the study is found sufficient for review by the Director.

7. Application for Permit or Development Order

It is the feepayer's responsibility to claim a reduction in Fire/EMS impact fee on the basis of an approved independent fee calculation study, at the time of application for a building permit, mobile home move-on permit or recreational vehicle development order. No claim to a reduced fee will be accepted in advance of the approval of an independent fee study where one is required. In order to assert a claim for a fee reduction, a feepayer must attend a pre-application meeting with the Impact Fee Administrator to discuss the independent fee calculation study prior to paying the Fire/EMS impact fees or obtaining a building permit, mobile home move-on permit or recreational vehicle development order. The feepayer must present documentation enabling the staff of the Division of Codes and Building Services or the Building Official of a participating municipality to verify this claim.

Where the applicant waived the pre-application meeting, fees paid according to the Fire/EMS Impact Fee schedule after the study is found sufficient for review will be adjusted to reflect the fee established by the study.

8. Development of Regional Impact (DRI)

Applicants may use data, studies, or information prepared as part of a DRI submission for the purposes of an independent fee calculation study.

IV. METHOD OF PAYMENT

A. Payment Due

1. General. All payments will be made in the following manner:

- a. Unincorporated Lee County. Payment will be made in cash or by personal check, cashier's check, or money order made payable to the Lee County Board of County Commissioners. All payments will be made at the Offices of the Division of Codes and Building Services.

At the sole discretion of the Impact Fee Administrator the County may accept payment in escrow of the full amount of Fire/EMS impact fees attributable to a particular land development activity, or mix of land development activities

on a single parcel, by the Fire/EMS impact fee schedule, in order to allow the issuance of building or other development permits while the County makes a determination on a feepayer's claim to a fee adjustment. The escrow payment will be made as set out above and will be earmarked as escrowed funds and will be deposited in the appropriate trust fund. No escrowed funds will be accepted which are not accompanied by a signed letter agreement, acceptable to the County Attorney's Office, stating the purpose of the escrow and releasing the County from any claim to the escrowed funds by the feepayer or his successors if the County ultimately denies the feepayer's request for a fee adjustment. The agreement will also set forth the feepayer's understanding that the escrowed payment will support issuance of building or other development permits only if all other requirements of the Lee County regulations have been met. If the County subsequently approves the requested fee adjustment the difference between the amount paid into escrow and the adjusted fee will be returned to the feepayer. If the fee adjustment is denied, the escrowed funds will be released to the County and the feepayer may pursue an appeal of the determination as set out in the Ordinance.

- b. Participating Municipality. The feepayer will pay the Fire/EMS impact fees in a manner acceptable to the governmental agency responsible for the issuance of the permit unless an interlocal agreement provides for payment to Lee County. If so, payment will be made as in (a) above.
- c. Use of Fire/EMS Impact Fee Credits. In lieu of cash, up to 97% of the Fire/EMS impact fee may be paid by the use of credits.

B. Invalid Payment.

1. Deficient Payment.

In the event the payment of required Fire/EMS impact fees subsequently proves to be invalid due to insufficient funds, improper execution, or for any other reason, then the following action will be taken:

- a. No building permit, mobile home move-on permit, or recreational vehicle development order will be issued until the required Fire/EMS impact fee is paid.
- b. The Impact Fee Administrator or the Building Official in a participating municipality (if the fees were collected by the participating municipality) will, within 30 days of detecting such a deficiency, notify the feepayer, the contractor, and the property owner by certified mail, return receipt requested, that:
 - (1) the Fire/EMS impact fee is due by valid payment immediately upon receipt of said letter.
 - (2) no permit or Certificate of Occupancy will be issued until the fee is paid in full. If not paid within 15 days of the date the letter is sent, the County/City building department will have authority to stop all construction on the site until payment in full is received.

- c. The amount due will be the amount of the Fire/EMS impact fee due plus the amount charged by the bank for the dishonored payment plus, pursuant to Section 68.065, Florida Statutes, a service charge of \$20.00, or five percent (5%) of the face amount of the check, whichever is greater.
2. Payment of Fee Based on Error or Misrepresentation. If the Fire/EMS impact fee has been calculated and paid based on error or misrepresentation, it will be recalculated and any difference refunded to the original feepayer or paid to the County or municipality, if appropriate, by the original feepayer, whichever is applicable. If Fire/EMS impact fees are owed to the County, no participating municipality or County permits of any type may be issued for the building or structure in question, or for any other part of a development of which the building or structure in question is a part, while the fees remain unpaid, and the Impact Fee Administrator may bring any action permitted by law or equity to collect the unpaid fees.

If a higher Fire/EMS impact fee should be collected, then the following action will be taken:

- a. No building or construction permits or Certificate of Occupancy (C.O.) will be issued until the required Fire/EMS impact fee is paid.
- b. The Impact Fee Administrator or the designated Administrator in a participating municipality, will, within 30 days of detection of such a deficiency, notify the feepayer, the contractor, and the property owner by certified mail, return receipt requested, that:
 - (1) an additional Fire/EMS impact fee amount is due immediately upon receipt of said letter;
 - (2) a permit or C.O. will not be issued until the amount is paid and if not paid within 15 days, the County/City building department will have authority to stop all construction on the site until the payment is received.
- c. Prior to the expiration of one year from the date a final Certificate of Occupancy is issued for which the required Fire/EMS impact fee has not been paid, or has not been paid in full, the County will where authorized by the applicable County ordinances, have authority to file a lien against the real property encumbered by said building permit until the required Fire/EMS impact fee, together with additional charges allowed by such applicable County ordinances, has been paid.

If the amount of Fire/EMS impact fee paid exceeded the amount which should have been paid, then the following action will be taken:

- (1) The Impact Fee Administrator or the Building Official in a participating municipality will within 30 days of detection of such an overpayment, notify the original feepayer by certified mail, return receipt requested, that the feepayer is owed a refund. The appropriate refund forms will be included with this notice.

- (2) The feepayer will then submit a written request for refund to the Impact Fee Administrator or Building Official. Upon receipt of the written request, the refund will be issued.

V. CREDITS

A. Administrative Responsibility

In all cases, the Impact Fee Administrator will make the final determination concerning the issuance of Fire/EMS impact fee credits based upon the recommendations of the Public Safety Director.

B. General Conditions

Generally, a feepayer may obtain Fire/EMS impact fee credits by offering to dedicate land and/or construct improvements for approved facilities. The value of the credits will be determined by the procedures set out in the Ordinance. Any claim for credit must be made no later than the time of application for a building permit, mobile home move-on permit, or recreational vehicle development order.

The right to determine whether the value of the capital improvement will be approved for credit purposes lies exclusively with Lee County, unless otherwise provided in an appropriate interlocal agreement, or unless the improvement is required under a participating municipal, state, or County development or zoning approval. In the latter case, credits will be given to the extent required by law. In every case, Fire/EMS impact fee credits will be calculated so as to be consistent with Section 380.06 (16) (1987), Florida Statutes.

C. General Documentation and Procedures

The offer to make capital improvements or dedicate land in exchange for the issuance of Fire/EMS impact fee credits will be made in an application to the Impact Fee Administrator identifying the capital improvements and/or land dedications for which credits are requested. The Impact Fee Administrator will forward this application to the Public Safety Director.

1. Documentation. A feepayer requesting the issuance of Fire/EMS impact fee credits for eligible capital improvements and/or land dedication will provide the following information to the Impact Fee Administrator during development review or prior to application for the issuance of building permits:
 - a. Construction of Capital Improvements.
The feepayer will submit a project description in sufficient detail and with complete engineering and construction cost estimates, prepared by qualified professionals, to allow the Public Safety Director to verify these cost estimates.
 - b. Land Dedication. When a person requests credit for land dedication for approved Fire/EMS facilities, he will present:
 - (1) a specimen of the deed which he proposes to use to convey title to the appropriate governmental body;
 - (2) a survey of the land to be dedicated certified by a Professional Land

Surveyor or Registered Land Surveyor, licensed in the State of Florida;

- (3) An ALTA Form B title insurance policy, in an amount equal to the approved value of the credits to be issued, from a company satisfactory to the County Attorney and verifying that the proffered deed will convey unencumbered fee simple title to the appropriate governmental body;
- (4) a certified copy of the most recent assessment of the property for tax purposes;
- (5) property appraisals prepared by qualified professionals. In preparing their reports, appraisers will value the land in the following manner: (a) if the land in question is subject to a valid agreement, zoning approval, or development order which prescribes a valuation, the agreement, zoning approval or development order will control; (b) if the dedication is made pursuant to a condition of zoning approval, is not a site-related improvement, and the zoning condition does not specifically prescribe otherwise, the land will be valued based upon the zoning of the land as it existed prior to the zoning approval which contains the condition of dedication; © otherwise, appraisers will value the land at its then current zoning and without any enhanced value which could be attributed to improvements on adjacent lands; and
- (6) proof that property taxes due on the property to be dedicated have been paid.

2. Sufficiency. The Public Safety Director will review the engineering and cost estimates and make a determination of sufficiency.

The survey and property appraisals will be submitted by the Public Safety Director to the Office of County Lands for review and approval by the County's Review Appraisers. In order to be eligible for credits, improvements or land dedications must meet the following standards in addition to those enumerated in the Ordinance:

- a. the proposed dedication or construction must be related to the mitigation of impacts from the development.
- b. The same guidelines which apply to the use of Fire/EMS impact fee funds limit those improvements which are eligible for credits.

3. Determination of Credit. The Public Safety Director will prepare a recommendation of the amount of the Fire/EMS impact fee credits appropriate for construction and land dedication to the Impact Fee Administrator. This recommendation will be based upon either the cost estimates provided by the applicant or upon alternative engineering criteria, construction cost estimates, or property appraisals through the use of the methodology described in Section 3-392 of the Ordinance, if the Public Safety Director determines that such estimates submitted by the applicant are either unreliable or inaccurate. The Public Safety Director will provide a written recommendation as to which capital improvements or land dedications are eligible

for credits and what the amount of the credit will be for each.

The determination of the amount of credit will be made by the Impact Fee Administrator, based on the recommendations of the Public Safety Director who conducted the sufficiency determination, consultation with any participating municipality or fire district concerning the need for the proposed construction or land dedication and on his own review of the documentation presented. Copies of the written determination will be sent to the feepayer and the Public Safety Director.

The written determination will include the following: (i) the name of the applicant receiving the credit; (ii) the dollar amount of the credit; (iii) the reason for the credit; and (iv) the Fire or EMS Impact Fee Benefit District in which the credit may be used. The applicant must sign and date a duplicate copy of such letter or certificate indicating his agreement to the terms of the letter or certificate and return such signed document to the Impact Fee Administrator before credit will be given. If the applicant fails to sign, date, and return such document within 30 days, the Impact Fee Administrator will consider the credit application to be inactive. No increase in the amount of approved credit will be authorized unless it is determined during actual construction of the agreed-to Fire/EMS facility improvements that change orders are to be made incurring additional expense for items that are necessary and are not shown on the approved plans and estimates previously furnished to the Public Safety Director. It will be the feepayer's responsibility to obtain prior approval from the Public Safety Director before all such change orders are made. All claims for an increase of the approved credit will include all documentation required by the Public Safety Director. The Public Safety Director will immediately forward all approved requests for a change in the amount of credit to the Impact Fee Administrator.

4. Credit for Construction. Except as provided in subsection 4.c below, Fire/EMS impact fee credits may be issued only after:
 - a. the construction is completed and accepted by the County, or a participating municipality, whichever is applicable;
 - b. a suitable maintenance and warranty bond as may be required by the Public Safety Director is submitted to and approved by the County Attorney; or in the case of 4.c below, upon completion of the agreed-to construction improvements and upon acceptance by the appropriate governmental authority pursuant to 4.a above, the Bond may, as required by the Public Safety Director, be reduced to a suitable amount and time period to cover a maintenance period for the improvements.
 - c. Credit may be provided before completion of specified improvements if the feepayer posts security as provided above for the costs of such construction. In the event that: (1) the County receives notification from the principal (grantor) that the bond is being canceled before all agreed-to improvements have been completed and accepted by the appropriate governmental body; or (2) the County determines that terms of the agreement for the construction as set forth in the Bond agreement are not being complied with, then the County will in accordance with the Bond agreement, default the Bond and collect the full amount of the Bond to be used for completion of the agreed-to improvements and other expenses. If the cost incurred by the County to complete said improvements exceeds the amount received from the

defaulted Bond, the County will seek to recover its loss under the provisions of this Code.

5. Credits for Land Dedication. Fire/EMS impact fee credits for land dedication may be created when the following procedures have been completed and the title to said land has been accepted by the appropriate governmental body and recorded in the Official Records of the Clerk of Circuit Court in Lee County:
 - a. The delivery to the appropriate governmental body of a deed, with sufficient funds to pay all costs of transferring title including recording.
 - b. The escrow of taxes for the current year, or the payment of said taxes for the year.
 - c. The issuance of a title insurance policy subsequent to recording of the deed and escrow of taxes.
 6. Transferability. Fire/EMS Impact Fee Credits created after October 1, 1989 are transferable in form and may be sold, assigned or otherwise conveyed. Acceptable proof of transfer must be submitted to the Division of Codes and Building Services when the credits are used.
- D. Performance Bonds, Letters of Credit, etc. In the event the feepayer has received approval from the Impact Fee Administrator for Fire/EMS impact fee credits for construction and the credits are provided before completion of the improvements in accordance with this Code, the following requirements will be met:
1. The feepayer will submit to the Impact Fee Administrator, on appropriate forms, a Surety Performance Bond or an automatically renewable, irrevocable Letter of Credit (Cash Performance Bond) (both hereinafter referred to as a Bond), in an amount equal to 110% of the full cost of the agreed-to improvements (excluding right-of-way dedications), and payable to the Lee County Board of County Commissioners.
 2. The bond will be reviewed and approved by the Lee County Attorney's Office prior to acceptance of the bond by the Impact Fee Administrator.
 3. If the facility is to be owned by a participating municipality, the County may assign its right in such security to the municipality if the municipality requests it and the law permits it.
 4. Letter of Credit, pursuant to subparagraph a. above, will be automatically renewable unless notice of intent to cancel or not to renew is given to the Impact Fee Administrator not later than 60 days prior to the renewal date. In the event a notice to cancel or of intent not to renew is received, the Impact Fee Administrator will be entitled to declare a default and collect the full amount of the Bond. In the event the County has assigned its rights in such security to a municipality, then the appropriate Building Official will be responsible for this action.
 5. Upon posting with, and acceptance of such Bond by the Impact Fee Administrator, the appropriate County or municipal entity may issue building permits for that part of the proposed development determined by the County to be satisfied by the credit.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY Independent	CODE NUMBER AC-14-10
TITLE Library System Material Selection Policy	ADOPTED 9/28/77
	AMENDED 8/9/89 6/23/98
	ORIGINATING DEPARTMENT Library Administration

PURPOSE/SCOPE: This code sets the guidelines for the Library to purchase, organize and maintain a quality collection of library materials to meet the needs for information, recreation, education, rehabilitation and historical preservation of the entire community. ~~materials that will meet the informational, recreational, educational and rehabilitative needs of the entire community. This code also sets the guidelines for public Internet access.~~

POLICY/PROCEDURE:

~~Library Mission, Goals and Objectives:~~ Lee County Library System Vision and Mission:

~~The Lee County Library system is committed to building and maintaining collections of materials that will meet the informational, recreational, educational and rehabilitative needs of the entire county/u community.~~

LCLS Vision: "Our priority @ the Lee County Library System is to meet growing community needs through accessible library services."

LCLS Mission:

To provide residents and visitors with:

- Popular materials and current interest activities
- Reference services
- Information services
- Virtual and physical access services
- Cultural awareness forums
- Programs and activities

Intellectual Freedom Access:

The Lee County Library System adheres to the Library Bill of Rights, adopted by the American Library Association, which affirms "that all libraries are forums for information and ideas, and that the following basic principles should guide their services:

1. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community it serves. Materials should not be excluded, because of the origin, background, or views of those contributing to their creation.
2. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.
3. Libraries should challenge censorship in fulfillment of their responsibility to provide information and enlightenment.
4. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.
5. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.

Adopted June 18, 1948. Amended February 2, 1961, June 27, 1967 and January 23, 1980; inclusion of "age" reaffirmed January 23, 1996, by the ALA Council.

Selection Criteria

Public access to information is the cornerstone of library services. Material selection, collection development and other library services have a single common goal: to provide the right book/information/service to the right person at the right time. The LCLS achieves this by building strong, dynamic local collections, cooperative resource sharing, and accessing worldwide resources through the Internet.

The materials in the Lee County Library System can be described as one collection located in multiple branches and service outlets. Material selection is driven by the following considerations: user satisfaction and good customer service, as reflected in circulation patterns, usage, and community interests, and the importance of providing access to balanced, broad-based collections. patron satisfaction and usage as reflected in circulation patterns, current and anticipated community interests, and changing technology. The materials selection policy emphasizes the importance of providing access to a balanced, broad-based collection fro a multicultural audience of all ages.

~~Public access to information is the cornerstone of library services. Material selection, collection development and other library services have a single common goal: to provide the right book/information/service to the right person at the right time. This is achieved by building strong, dynamic local collections, cooperative resource sharing, and accessing worldwide resources through the Internet.~~

Professional reviews when available are used in part to evaluate materials, In addition, librarians exercise professional judgment and knowledge.

Major selection factors include:

- Contemporary significance or permanent value

- Significance of total work vs. segments
- Accuracy ~~(non-fiction)~~ and quality of content
- Reputation and/or authority of an author, editor, illustrator, publisher
- Response to popular demand
- Availability of material elsewhere in community
- Relative value of material in relation to existing collection/subject material
- Availability of information in the subject area
- Format, physical quality and ease of use

~~Format/physical quality. Formats include, but are not restricted to, print, microforms, audio/video cassettes and compact discs, and electronic sources.~~

- Price

Responsibility for Material Selection

~~Material selection is the responsibility of the Library Director and designated professional staff. The centralized collection development officer team coordinates material selection with librarians system-wide. the input of librarians system-wide.~~

Youth Services

~~Book selection for children reflects the concept of the child as an individual with greatly varying needs at any given time during development. The library is committed to the principle that all public libraries should provide children the freedom to choose books and materials. The library staff cannot accept responsibility for limiting access to library materials because of age. Parents are encouraged to accompany their children to the library. The purpose of the collection is to encourage library use and the development of lifelong readers. Book selection for children and young adults reflects the concept of the child or teen as an individual with greatly varying needs at any given time during development. The library is committed to the principle that all public libraries should provide children and young adults the freedom to choose books and materials. The Library maintains that parents and legal guardians have the ultimate responsibility for their own children's selection choices. The library staff cannot accept responsibility for limiting access to library materials because of age. Parents are encouraged to accompany their children and teens to the library and provide active participation in the selection of material for their child.~~

Periodicals and Non-Print Resources-Periodicals

~~The Lee County Library System provides a well-balanced periodical collection of newspapers and magazines in print and electronic form that is both current and retrospective. Cost and usage are measured to balance print and electronic formats of periodicals. provides a current and retrospective supplement to the book collections. Selection is based on popular appeal and usage, with priority given to titles analyzed in library-owned indexes and abstracts. Electronic access to information on diverse subjects is also available.~~

Visual Materials

~~Material selection for the Lee County Library System strives to coordinate a reasonable balance between nonfiction/informational programs and quality feature films to supplement local rental and retail outlets.~~

In addition to criteria used for the overall material selection policy, special selection criteria for visual materials include:

1. Films receiving awards and nominations, such as awards from the Academy of Motion Picture Arts and Sciences, Cannes Film Festival, Golden Globe, etc.
2. Historical, biographical or scientific programs
3. Movie classics
4. Adaptations of books and other literary works
5. Informational and instructional programs (i.e. computers, health, current events, exercise, etc.)
6. High quality television programming (i.e. Hallmark Presentations, American Experience, Masterpiece Theater, PBS, BBC, etc.)
7. Artistic programs (i.e. opera, musicals, performing artists, dance, etc.)
8. Multicultural or Foreign Films that are well-acclaimed
9. Films are selected on overall artistic merit and may contain graphic language or violent or sexual content.

Audio Materials

Selection of audio book materials follows the general selection policy, with a preference for unabridged versions. Selection philosophy for the audio music collection strives to represent a variety of genres to meet the needs of a diverse community. International/multicultural music, country, pop/rock, soul, hip-hop, classical, jazz, gospel, etc. shall be represented.

In addition to criteria used for the overall material selection policy, special selection criteria for audio materials include:

1. Works receiving awards and nominations, such as Grammy and music television awards.
2. Multicultural and world language music that is well-acclaimed
3. Award-winning soundtracks and scores
4. Audio music is selected on overall artistic merit and may contain graphic language

Electronic Resources

The Lee County Library System strives to meet and anticipate the needs of the community for this growing and changing collection of electronic resources by proactively evaluating and comparing new products as they become available. Current electronic resources include recommended Internet links, e-books, electronic documents, subscription databases, and the library web site, circulating software and software used on library computers.

While electronic resources are selected within the context of the overall material selection policy, due to the uniqueness of the format the following selection criteria are also considered:

1. Comprehensiveness
2. Authority, accuracy and recency of the database
3. Frequency of updates
4. User friendliness
5. Platform

6. Access to technologies by the general public
7. Remote access and licensing restrictions
8. Comparison with other print and electronic sources
9. Usage

Special Collections

The Lee County Library System maintains a few special collections throughout the library system. The regional libraries each have a selection focus, all libraries have a portion of the Florida collection, and the Genealogy collection is housed at the Fort Myers Library. Though the focuses of these collections are unique, qualifications for selection are consistent with other areas of the Library System.

Regional Library Focus

Selection philosophy for the five regional libraries is to maintain a general collection, with a special focus for each regional library:

Cape Coral – Arts and Humanities

East County – Agriculture, Animal Husbandry and Child Development

Fort Myers – Business, Social Sciences and Genealogy

Lakes – Popular materials

Northwest -- Education

South County – Science and Technology

Florida Collection

The purpose of the collection is to provide materials about Florida, with an emphasis on Southwest Florida, to provide current and historical information. Selection of Florida fiction books focuses on predominant themes involving Florida, its culture, history and character. The collection is limited in size and is not intended to be all-inclusive.

Genealogy Collection

The Genealogy Collection is housed at the Fort Myers library and offers a variety of non-circulating resources, such as census and immigration information, birth and death records, heraldry materials, family histories, periodicals and their indexes. The collection also offers Federal census on microfilm, and other miscellaneous microfilm reels.

World Language Collection

The purpose of the collection is to provide a collection of all formats, in commonly spoken world languages of the community. Languages featured in the collection include Spanish, Haitian Creole, Portuguese, German, French and others.

Textbooks

Providing textbooks and curriculum materials is the responsibility of the schools. Textbooks will be purchased for the collection when they supply information in areas in which they may be the best, or the only, source of information on the subject. The library shall not assume the responsibility for purchasing textbooks for wide and general distribution

Gifts

~~Gifts of books and related materials are subject to the same selection and weeding criteria as purchased materials.~~ A gift for the library collection may consist of materials or funds for the purchase of materials with the guidance of collection development staff. Gifts of materials are subject to the same selection and weeding criteria as purchased materials. Gifts are accepted with the understanding that they may be added to the collection, sold, exchanged, given to other libraries, or discarded at the library's discretion.

Weeding

Materials ~~which~~ that no longer meet the stated objectives of the library will be discarded according to accepted professional practices and in accordance with County guidelines re-disposal of County property.

Replacement

It is the library's policy not to automatically replace all books withdrawn because of loss, damage, or wear. Need for replacement in each case is judged by the existence of adequate coverage in the collection by similar material, and by demand for the specific title.

Material Review Requests

In cases where an individual or organization questions the inclusion or exclusion of a specific book or non-print item in the library collections, a Request for Review of Materials form may be submitted to the Library Director. The completed signed request will be presented to a review committee. The Lee County Library Director will appoint a committee of six; three Lee County librarians, one member of the Lee County Library Advisory Board, one member of the support group from the library where the complaint was filed, and one member of the community at large.

After the complainant has read the material under question and completed and signed the Request for Review of Material & form, the committee will consider the request. Professional reviews and/or outside professional council, expert m-the subject matter under consideration may be utilized. The Review Committee will report its findings and recommendations to the Library Director, who will respond to the complainant. The ultimate authority for the library policy rests with the Lee County Board of Commissioners.

**ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS**

CATEGORY

Independent

CODE NUMBER

AC-14-10

TITLE

Library System
Material Selection Policy

ADOPTED

9/28/77

AMENDED

8/9/89 6/23/98 1/ /05

ORIGINATING DEPARTMENT

Library Division

PURPOSE/SCOPE: This code sets the guidelines for the Library to purchase, organize and maintain a quality collection of library materials to meet the needs for information, recreation, education, rehabilitation and historical preservation of the entire community.

POLICY/PROCEDURE:

Lee County Library System Vision and Mission:

LCLS Vision: "Our priority @ the Lee County Library System is to meet growing community needs through accessible library services."

LCLS Mission:

- To provide residents and visitors with:
- Popular materials and current interest activities
 - Reference services
 - Information services
 - Virtual and physical access services
 - Cultural awareness forums
 - Programs and activities

Intellectual Freedom and Access:

The Lee County Library System subscribes to the *Library Bill of Rights*, the *Freedom to Read Statement*, and the *Freedom to View Statement* as adopted by the American Library Association. The *Library Bill of Rights* affirms "that all libraries are forums for information and ideas, and that the following basic principles should guide their services:

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