



LAND DEVELOPMENT CODE ADVISORY COMMITTEE

**COMMUNITY DEVELOPMENT BUILDING
1500 MONROE STREET, FORT MYERS, FL 33901
FIRST FLOOR CONF. RM. 1B**

**FRIDAY, APRIL 14, 2023
8:30 A.M.**

AGENDA

1. Call to Order/Review of Affidavit of Publication
 2. Approval of Minutes – September 9, 2022
 3. LDC Amendment –Sec 30-55 (Nonconforming Signs)
 4. Adjournment
- Next Meeting date: May 12, 2023

To view a copy of the agenda, go to www.leegov.com/dcd/calendar.

For more information, contact Debbie Carpenter, (239) 533-8345 or DCarpenter@leegov.com.

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MINUTES REPORT
LAND DEVELOPMENT CODE ADVISORY COMMITTEE
(LDCAC)
Friday, September 9, 2022
8:30 a.m.

Committee Members Present:

Paula McMichael, Chair	Jack Morris
Tom Lehnert	Jay Johnson (arrived late)
Christopher Scott	Al Quattrone
Linda Stewart	Patrick Vanasse

Excused / Absent:

Randy Krise	Amy Thibaut, Vice Chair
Bill Prysi	Veronica Martin
Jennifer Saper	

Lee County Government Staff Present:

David Loveland, Director, DCD	Anthony Rodriguez, Zoning Manager
Amanda Swindle, Senior Assistant County Attorney	Dirk Danley, Jr., Principal Planner, Zoning
Cheryl Simpson, DCD Admin., Recorder	

Outside Consultants/Members of the Public Present:

None.

CALL TO ORDER AND AFFIDAVIT:

Ms. Paula McMichael called the meeting to order at 8:30 a.m. in the Large First Floor CR 1B, Community Development/Public Works Building, 1500 Monroe Street, Fort Myers, Florida.

Ms. Amanda Swindle, Assistant County Attorney, reviewed the Affidavit of Publication and found it legally sufficient as to form and content.

APPROVAL OF MINUTES – April 8, 2022, 2022

Mr. Chris Scott made a motion to approve the April 8, 2022 minutes. Mr. Tom Lehnert seconded. The motion was called and carried.

SEASONAL FARMERS' MARKETS AMENDMENTS

Mr. Anthony Rodriguez, Zoning Manager, said the amendments were prepared in response to industry input and are intended to broaden how the county treats and permits Farmers Markets. The amendment permits farmers markets year round, and clarifies the permitting requirements for public health and safety concerns for activities that may occur off-site, such as parking on one site and having the farmers market on another site. There are some changes to the types of goods and services that can be sold at farmers markets. This is intended to align the county regulations with other jurisdictions in the region.

Mr. Rodriguez confirmed that the amendment had gone to LPA and that it was found to be consistent with the Lee Plan and was approved unanimously.

Ms. McMichael opened the item for discussion. Ms. Linda Stewart asked about the duration of the permits and Mr. Rodriguez responded that a permit would be good for a maximum of four days each week, but issued on an annual basis, essentially working like a business license. It will still be permitted as a temporary use with the expectation that vendors will set up and break

down each day. There may be some exceptions where, when operating in the same location, there may be an opportunity to leave some stuff behind, but staff will need to look at that again and clarify.

Ms. McMichael asked about parking requirements. Mr. Rodriguez responded that there is no real requirement, typically once there is permission to have the farmers market on a certain property the parking is accounted for as well.

Mr. Chris Scott asked if the provision that *non-agricultural related goods may constitute a maximum of 20%* is the only enforcement mechanism. Mr. Rodriguez confirmed that is how enforcement is treated now, the only difference is that the amendment broadens the types of non-AG related goods and allows non-AG vendors to comprise 20% of the total number of vendors in the market.

There was a brief discussion about how vendors can change. The expectation is for the operator to provide the county with a list of vendors that show compliance. As long as the new vendor maintains compliance, the operator would not have to provide a new list each time that happens.

Motion to approve the amendment by Mr. Lehnert, seconded by Mr. Jack Morris. Motion passed unanimously.

The next meeting was tentatively scheduled for October 14, 2022. Mr. Loveland advised that there are some flood ordinance changes coming but he was not sure when that would happen; as well as a couple of other things that have to go to the board for approval before meeting again.

Mr. Patrick Vanasse asked about the technicality of the flood ordinance changes, asking that the Committee be given a heads up in order to get with their engineers to review. Mr. Loveland said that the changes are very specific and targeted affecting mobile homes.

There was no further discussion. Ms. McMichael adjourned the meeting at 8:39 a.m.

MEMORANDUM
FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

TO: Land Development Code
Advisory Committee

DATE: April 4, 2023

FROM: Adam Mendez
Senior Planner, Zoning

RE: Amendment to County Nonconforming Billboard Regulations

The attached Land Development Code (LDC) amendments pertain to modification of Section 30-55 (Nonconforming Signs) addressing nonconforming billboard structures. Staff seeks input and a recommendation as to whether the Board of County Commissioners should adopt the proposed amendments.

Background and Summary

Lee County sign regulations currently permit the replacement of one nonconforming billboard in exchange for the permanent removal of a second nonconforming billboard in unincorporated Lee County within certain parameters contained in Land Development Code Section 30-55 (a two-for-one replacement).

LDC Section 30-181 establishes regulations pertaining to billboard structures, including locational requirements tied to certain Future Land Use Categories, as designated by the Lee County Comprehensive Plan (Lee Plan), and certain roadways, including I-75.

Originally adopted in 1985 (Ordinance 85-26), the effect of billboard regulations created legally nonconforming billboards throughout the county, primarily by virtue of their locations outside of the required future land use categories or along designated roadways. At that time, the only remedy to replace a billboard in these areas was through a variance or deviation; therefore, the owner of a billboard would either seek the requisite variance/deviation approval or maintain the nonconforming billboard's structural integrity to prevent the loss of its nonconforming status. In 1991, Lee County Ordinance 91-09 amended the nonconforming sign regulations to incentivize the removal of nonconforming billboards by allowing the right to rebuild one nonconforming billboard in exchange for removing a second nonconforming billboard. Through this process, the replacement billboard is designated a conforming structure in perpetuity, which further guarantees the replacement billboard maintains build-back rights (LDC Section 30-55).

In 2000, Ordinance 00-14 eliminated the ability to obtain a variance or deviation from the locational requirements for billboards. Furthermore, previously nonconforming billboards

that were rebuilt and deemed conforming in exchange for the removal of a non-conforming billboard elsewhere cannot be relocated, except in full conformance with the LDC. In the event the property containing a rebuilt billboard becomes unsuitable, whether by private, public, or economic pressures, the billboard must be removed with no latitude for relocation in a nearby similar setting.

County staff was engaged by billboard-industry stakeholders to assist in development of provisions to allow a one-time relocation of a billboard rebuilt in accordance with the aforementioned regulation, subject to certain requirements. The draft amendments, if approved, will permit a one-time relocation of a billboard provided that (1) the proposed recipient location is located within the same Planning District (Lee Plan Map 1-B) as the billboard's current location; (2) the proposed recipient location abuts an arterial road that is not otherwise restricted from billboard structures (LDC Section 30-183(1)(b); and (3) the proposed recipient location is in the same or less restrictive future land use category as the billboard's current location.

The proposed language furthers the County's objective to incentivize removing nonconforming billboards as provided in the sign ordinance.

Attachment – Draft LDC Amendments

Attachment – Future Land Use Categories Supportive of New Billboards (Map)

Attachment – Lee County Ordinance 91-09

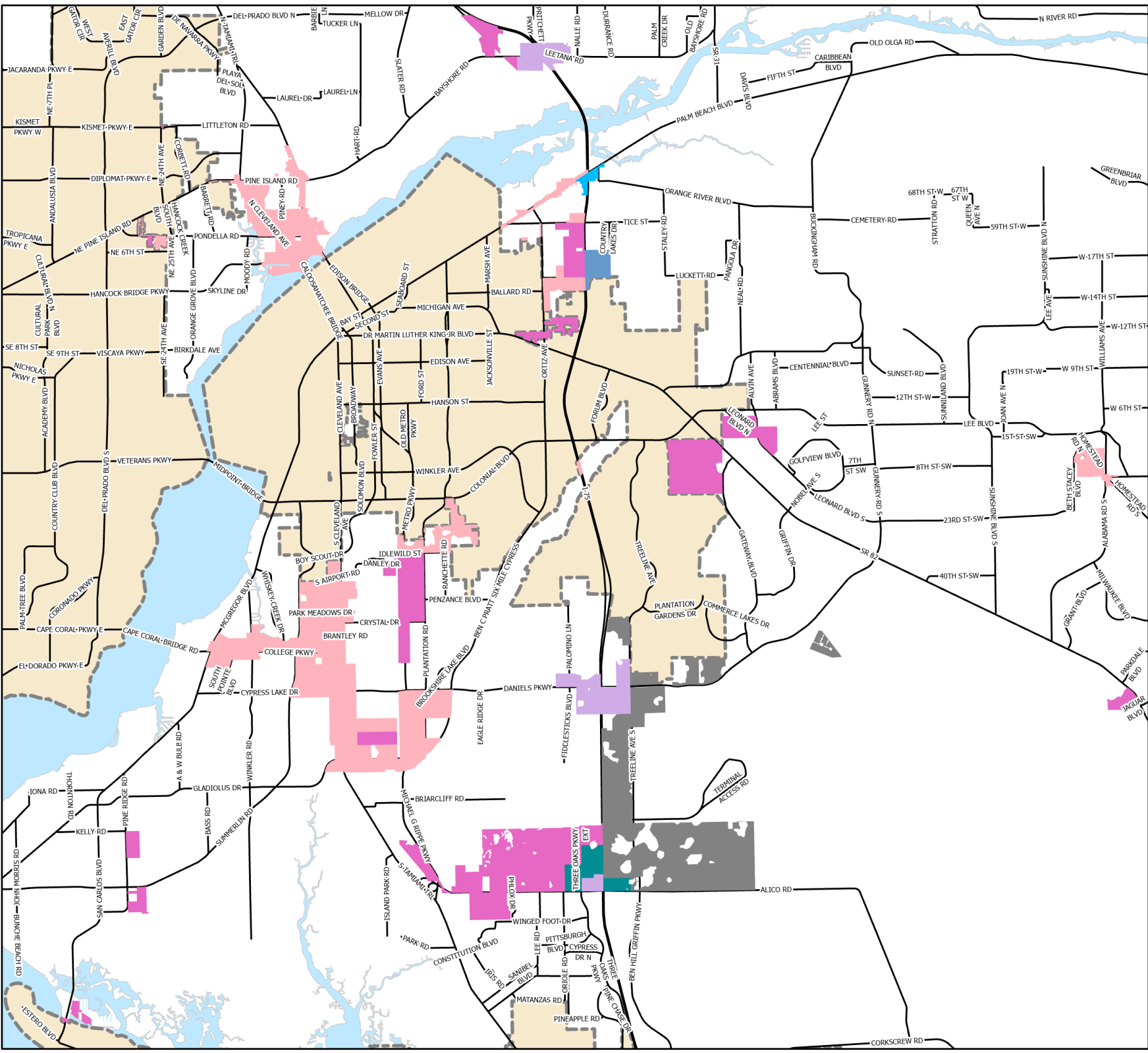
Sec. 30-55. - Nonconforming signs.

- (a) *Status.* Every sign, erected before August 21, 1985, which was a permitted ~~legally existing sign~~ is deemed a legal nonconforming sign. A permitted sign means a sign that was constructed or is in place with a valid permit from the county. All nonconforming signs are subject to the provisions of this section. All existing signs that are not legal nonconforming signs must comply with the terms of this chapter.
- (1) A nonconforming sign may not be enlarged or altered in a way which increases its nonconformity.
 - (2) Nothing in this section shall relieve the owner or user of a legal nonconforming sign or owner of the property on which the legal nonconforming sign is located from the provisions of this chapter regarding safety, maintenance and repair of signs. Any repair or refurbishing of a sign that exceeds 25 percent of the value of the sign in its preexisting state shall be considered as an act of placing a new sign and not an act of customary maintenance. It shall be the responsibility of the ~~permittee applicant~~ to provide the ~~division of community development~~ Department of Community Development with adequate proof of the cost of such work in the form of an itemized statement of the direct repair cost, whenever such information is requested by the ~~division~~ Department.
 - (3) If any nonconforming sign is destroyed to an extent of 50 percent or more of its assessed value at the time of destruction, the sign shall not be replaced or repaired, in part or in full, except upon full compliance with this chapter.
 - (4) A ~~replacement nonconforming~~ billboard structure may be ~~rebuilt~~ replaced in its ~~present~~ existing location provided that the structure is in compliance with the following conditions:
 - a. Pursuant to the application for replacement, two legal nonconforming billboard structures shall be removed in exchange for the right to reconstruct one replacement billboard structure.
 - b. One of the structures which is to be removed must be located on the same site as the replacement billboard structure. If only one structure is located on the site of the replacement ~~sign billboard structure~~, another nonconforming billboard structure must be removed from another location within the unincorporated area of the county.
 - c. The replacement billboard structure must meet all current county height, size and setback requirements.
 - d. The land use category in which the replacement ~~sign~~ billboard structure is to be erected must be the less restrictive of the two land use categories where the two removed nonconforming billboard structures were located. If the land use category is the same for both nonconforming billboard structures, the replacement structure may be located at either site. For purposes of this section, the following hierarchy of land use categories should be used to determine the least restrictive land use categories, with the most appropriate categories listed in descending order:
 1. Intensive ~~d~~Development, ~~i~~Industrial development, ~~t~~Tradeport and ~~i~~Interchange areas;
 2. Central ~~u~~Urban and ~~u~~Urban ~~e~~Community;
 3. Suburban and ~~e~~Outlying ~~s~~Suburban;
 4. Rural, ~~e~~Outer ~~i~~Islands and ~~d~~Density ~~r~~Reduction/~~g~~Groundwater ~~r~~Resources; and
 5. ~~Environmentally critical areas (resource protection area and transitional zones)~~ Wetlands, Conservation Lands Wetlands and Conservation Lands Upland.

- e. Upon approval of the application for replacement and completion of the conditions specified in this subsection, the replacement billboard structure shall ~~be deemed in conformance with this chapter~~ afforded the same privileges as a conforming billboard structure and may be replaced in its present location.
- f. No replacement billboard structure may be located in the locations designated in section 30-183(1)b.
- g. Subsequent Relocation. A replacement billboard structure permitted by this subsection may be relocated once provided the proposed location is:
 - 1. On non-residentially-zoned property and outside of the barrier islands and Pine Island unless the replacement billboard structure originates from the respective island;
 - 2. In the same or a less restrictive land use category according to the hierarchy established in section 30-55(a)(4)d;
 - 3. Located along an arterial street where billboards are permitted in accordance with section 30-183(1)b;
 - 4. Meeting the billboard structure separation requirements established in section 30-183(2). Where no distance separation is specified, the minimum required separation will be 1,000 feet from any other billboard on the same side of the street. The minimum required separation will be 2,640 feet from another billboard relocated in accordance with this subsection.
 - 5. Mapped on the County's Geographic Information System (GIS); and
 - 6. The property owner or lessee must provide a statement to the Director that the current billboard location has become unsuitable for a disclosed purpose and state that the proposed location meets the requirements of this subsection and will not encroach upon the conforming status of other billboards in proximity.

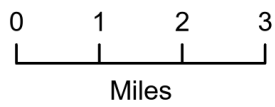
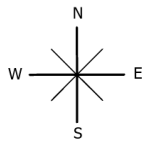
(b) *Loss of legal nonconformity.*

(1) through (4) unchanged.



Future Land Use

- Intensive Development
- Industrial
- General Interchange
- Industrial Commercial Interchange
- Industrial Interchange
- General Commercial Interchange
- Tradeport



ORDINANCE NO. 91-09

AN ORDINANCE AMENDING LEE COUNTY SIGN ORDINANCE NO. 85-26, AS AMENDED, SO AS TO PROVIDE A MAP FOR DETERMINING LOCATION CRITERIA, SO AS TO PROVIDE FOR REPLACEMENT BILLBOARD STRUCTURES IN EXCHANGE FOR REMOVING NONCONFORMING BILLBOARD STRUCTURES, PROVIDING FOR AMENDMENTS TO SECTION VIII.B.4., LOSS OF LEGAL NON-CONFORMITY; PROVIDING FOR SEVERABILITY, INCLUSION IN CODE, CODIFICATION, SCRIVENERS ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 125.0102, Florida Statutes, authorizes the Board of County Commissioners to adopt a Sign Ordinance; and

WHEREAS, the Board of County Commissioners has adopted a Sign Ordinance in the interest of the public health, safety and welfare of the citizens of Lee County; and

WHEREAS, the Board of County Commissioners believes that specific reference to the applicable map for determining the functional classification of roads will aid in the interpretation, enforcement and administration of these regulations.

WHEREAS, the Board of County Commissioners finds it could reduce the nonconforming billboards in the County by allowing a replacement billboard structure in exchange for removing two nonconforming billboard structures.

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

SECTION ONE:

Lee County Sign Ordinance No. 85-26, as amended, is hereby further amended by showing additions to existing language with underlines and deletions with virgules.

SECTION TWO:

Section IV.C.5., ELECTRONIC CHANGING MESSAGE CENTERS, is hereby amended by a creating new subsection IV.C.5.d., as follows:

IV.C.5.d. Arterial streets shall be designated as shown on the existing Functional Classification Map, as in effect on March 20, 1991.

SECTION THREE:

Section V.C.1., BILLBOARDS, is hereby amended, as follows:

V.C.1. Location: Except as provided herein, Billboards shall be permitted in any zoning district provided the area to be used is shown on the Lee County Comprehensive Plan as Intensive Development, Industrial Development, Interchange Areas or Airport Commerce. Arterial Streets shall be designated as shown on the existing Functional Classification Map, as in effect on March 20, 1991.

SECTION FOUR:

Section VIII.A., NON-CONFORMING SIGNS STATUS, is hereby amended by creating a new subsection VIII. A.4., as follows:

VIII.A.4. A replacement billboard structure may be rebuilt in its present location provided that the structure is in compliance with the following conditions:

- a. Pursuant to the Application for Replacement, two legal nonconforming billboard structures shall be removed in exchange for the right to reconstruct one replacement billboard structure.
- b. One of the structures which is to be removed must be located on the same site as the replacement billboard structure. In the event that only one structure is located on the site of the replacement sign, another nonconforming billboard structure must be removed from another location within unincorporated Lee County.
- c. The replacement billboard structure must meet all current Lee County height, size and setback requirements.

d. The land use category in which the replacement sign is to be erected shall be the less restrictive of the two land use categories where the two removed nonconforming billboard structures were located. If the land use category is the same for both nonconforming billboard structures, the replacement structure may be located at either site. For purposes of this section, the following hierarchy of land use categories should be used to determine the least restrictive land use categories with the most appropriate categories listed in descending order:

1. Intensive Development, Industrial Development, Airport Commerce and Interchange Areas;
2. Central Urban and Urban Community;
3. Suburban and Outlying Suburban;
4. Rural, Outer Islands and Density Reduction/Groundwater Resources; and,
5. Environmentally Critical Areas (Resource Protection Area and Transitional Zones).

e. Upon approval of the Application for Replacement and completion of the above conditions, the replacement billboard structure shall be deemed in conformance with this ordinance.

f. No replacement billboard structure may be located in the locations designated in Section V.C.1., Exceptions.

SECTION FIVE:

Section VIII.B.4. NON-CONFORMING SIGNS - LOSS OF LEGAL NON-CONFORMITY, is hereby amended as follows:

A legal non-conforming sign shall become an illegal sign which must comply with these regulations if:

4. The sign is replaced except as provided in Section VIII.A.4.

SECTION SIX: - SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, said portion shall be deemed a separate, distinct, and independent provision and such holdings shall not affect the validity of the remaining portion thereof.

SECTION SEVEN: - INCLUSION IN CODE, CODIFICATION, AND
SCRIVENERS ERRORS

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lee County Code; and that sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, Sections of this Ordinance may be renumbered or relettered and typographical errors which do not affect the intent, may be authorized by the County Administrator, or his designee, without need of Public Hearing, by filing a corrected or recodified copy of same with the Clerk of Circuit Court.

SECTION EIGHT: - EFFECTIVE DATE

This Ordinance shall become effective immediately upon receipt of official acknowledgement of the Office of Secretary of State of Florida that this Ordinance has been filed with said office.

THE FOREGOING ORDINANCE was offered by Commissioner JUDAH who moved its adoption. The motion was seconded by Commissioner MANNING and, upon being put to a vote, the vote was as follows:

JOHN MANNING	<u>AYE</u>
DOUGLAS R. ST. CERNY	<u>AYE</u>
VICKI LOPEZ WOLFE	<u>AYE</u>
DONALD SLISHER	<u>ABSENT</u>
RAY JUDAH	<u>AYE</u>

DONE AND ADOPTED this 20th day of March, 1991

ATTEST:
CHARLIE GREEN, CLERK

BY: Shirley E. Rost
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Ray Judah
Vice - Chairman

APPROVED AS TO FORM:

BY: Ady E. Kaplan
County Attorney's Office