



**CPA 2001-33
BoCC SPONSORED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Adoption Document

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585*

January 9, 2003

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2001-33**

✓	This Document Contains the Following Reviews:
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
✓	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
✓	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: April 15, 2002

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT:

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
REPRESENTED BY LEE COUNTY DIVISION OF PLANNING AND
DIVISION OF PUBLIC SAFETY

2. REQUEST:

Amend the Build Back Policy of the Procedures and Administration Element by replacing references to the term "cost" with the term "value."

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION: Staff recommends that the Board of County Commissioners transmit this proposed amendment. The specific language modifications that staff recommends is provided below:

F. Build-back Policy

Structures which have been damaged by fire or other natural forces to the extent that the cost of their reconstruction or repair exceeds 50% of the replacement ~~cost~~ value of the structure may be reconstructed at (but not to exceed).....

1. Structures damaged less than 50% of their replacement ~~cost~~ value at the time of damage can be rebuilt to their original condition, subject only to current building and life safety codes.

2. Structures damaged more than 50% of their replacement ~~cost~~ value at the time of damage can be rebuilt to their original square footage and density, provided that they comply with.....

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The proposed amendment will clear up language differences between the Lee Plan and what is contained in the Lee County Post Disaster Ordinance No. 95-14
- The proposed change will make the terminology in the Lee Plan consistent with that used in the ordinance.
- The term used should clearly reflect the intent of the Policy.

C. BACKGROUND INFORMATION

This amendment was initiated by the Board of County Commissioners on September 25, 2001. The proposed amendment will clear up language differences between the Lee Plan and what is contained in the Lee County Post Disaster Ordinance No. 95-14 as to how the terms replacement cost versus the term replacement value should be interpreted. The proposed change will make the terminology in the Lee Plan consistent with that used in the ordinance.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

Currently the Build Back Policy of the Procedures and Administration Element refers to the term replacement cost throughout the policy language. Staff proposes correcting the term by replacing "cost" with "value" which will correct the measurement used to determine a structure's damage in the provisions of the Build Back Policy through the definition of replacement value found in the Lee County Post Disaster Ordinance No. 95-14. Replacing the term will make the Lee Plan consistent with the intent of the policy. Both replacement cost and replacement value definitions, as provided in the Lee County Post Disaster Ordinance, are reproduced below:

"Replacement Cost" means the actual cost to repair, reconstruct, rebuild, or replace a damaged structure. It will not include the following parts of a structure or items not considered a permanent part of the structure: building plans, surveys, permits, sidewalks, pools, screens, sheds, gazebos, fences, furniture and carpeting. For purposes of this Ordinance, the replacement cost will be compared to the structure's replacement value to determine the percent of the structure damaged.

"Replacement Value" of a structure means the market building value contained in the Lee County Property Appraiser's File multiplied by one of the following factors:

1. 120% in a major disaster, or
2. 150% in a catastrophic disaster

The structure's owner may opt to establish replacement value by hiring a state certified property appraiser rather than use the formula stated in this definition.

The term used should clearly reflect the intent of the Policy. When developing the Post Disaster Ordinance, which implements the Build Back Policy, staff found they were working with a different

measure to determine if provisions of the Build Back Policy would go into effect under certain circumstances. Both of the terms "replacement cost" and "replacement value" are found in the Post Disaster Ordinance. By replacing the current term "replacement cost" with the term "replacement value," structure damage will be defined to account for variability in the market, such as labor and materials.

B. CONCLUSIONS

Making the noted changes to the Build Back Policy will allow language differences between the Lee Plan and the Lee County Post Disaster Ordinance to be clarified, reflecting the actual thought process and implementation of the policy. The correction will improve the consistency of the documents and will assist in avoiding misinterpretations of the policy itself.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit this proposed amendment. This recommendation is based upon the previously discussed issues and conclusions of this report. Staff recommends that the Build Back Policy, as provided in the Procedures and Administration Element be modified as follows:

F. Build-back Policy

Structures which have been damaged by fire or other natural forces to the extent that the cost of their reconstruction or repair exceeds 50% of the replacement ~~cost~~ value of the structure may be reconstructed at (but not to exceed).....

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**PART III - LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: April 22, 2002

A. LOCAL PLANNING AGENCY REVIEW

Planning staff provided a brief presentation concerning the proposed amendment. Staff stated that this amendment will clear up differences between the Lee Plan and the contents of the post disaster ordinance. One LPA member asked staff to elaborate on the difference between value and cost. Staff responded that value accounts for market factors, such as labor and materials. One member asked what was used to define the value. Staff responded that the Land Development Code defined replacement value, which is what the Lee County Property Appraiser's office has on file multiplied by 120% in major disasters or 150% in a catastrophic disaster.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The Local Planning Agency recommends that the Board of County Commissioners transmit this proposed amendment to the Florida Department of Community Affairs.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** As advanced by staff in the staff report.

C. VOTE:

NOEL ANDRESS	<u>AYE</u>
MATT BIXLER	<u>AYE</u>
SUSAN BROOKMAN	<u>AYE</u>
RONALD INGE	<u>AYE</u>
GORDON REIGELMAN	<u>AYE</u>
ROBERT SHELDON	<u>AYE</u>
GREG STUART	<u>AYE</u>

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF PUBLIC HEARING: September 4, 2002

A. BOARD REVIEW: The Board of County Commissioners provided no discussion concerning the proposed plan amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

- 1. BOARD ACTION:** The Board of County Commissioners voted to transmit the proposed plan amendment.
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by staff and the LPA.

C. VOTE:

JOHN ALBION

AYE

ANDREW COY

ABSENT

BOB JANES

AYE

RAY JUDAH

AYE

DOUG ST. CERNY

AYE

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: November 22, 2002

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

The DCA had no objections, recommendations, or comments concerning this amendment.

B. STAFF RECOMMENDATION

Adopt the amendment as transmitted.

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF PUBLIC HEARING: January 9, 2003

A. BOARD REVIEW: The Board provided no discussion on this amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION: The Board voted to adopt the amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT: The Board accepted the findings of fact as advanced by staff.

C. VOTE:

JOHN ALBION

AYE

ANDREW COY

AYE

BOB JANES

AYE

RAY JUDAH

AYE

DOUG ST. CERNY

AYE

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**BoCC Public Hearing Document
for the
January 9th Adoption Hearing**

*Lee County Planning Division
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November 22, 2002

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
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STAFF REPORT PREPARATION DATE: April 15, 2002

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- 1. 120% in a major disaster, or*
- 2. 150% in a catastrophic disaster*

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B. CONCLUSIONS

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C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit this proposed amendment. This recommendation is based upon the previously discussed issues and conclusions of this report. Staff recommends that the Build Back Policy, as provided in the Procedures and Administration Element be modified as follows:

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**PART III - LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: April 22, 2002

A. LOCAL PLANNING AGENCY REVIEW

Planning staff provided a brief presentation concerning the proposed amendment. Staff stated that this amendment will clear up differences between the Lee Plan and the contents of the post disaster ordinance. One LPA member asked staff to elaborate on the difference between value and cost. Staff responded that value accounts for market factors, such as labor and materials. One member asked what was used to define the value. Staff responded that the Land Development Code defined replacement value, which is what the Lee County Property Appraiser's office has on file multiplied by 120% in major disasters or 150% in a catastrophic disaster.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The Local Planning Agency recommends that the Board of County Commissioners transmit this proposed amendment to the Florida Department of Community Affairs.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** As advanced by staff in the staff report.

C. VOTE:

NOEL ANDRESS	<u>AYE</u>
MATT BIXLER	<u>AYE</u>
SUSAN BROOKMAN	<u>AYE</u>
RONALD INGE	<u>AYE</u>
GORDON REIGELMAN	<u>AYE</u>
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**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF PUBLIC HEARING: September 4, 2002

A. BOARD REVIEW: The Board of County Commissioners provided no discussion concerning the proposed plan amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

- 1. BOARD ACTION:** The Board of County Commissioners voted to transmit the proposed plan amendment.
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by staff and the LPA.

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JOHN ALBION

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DATE OF ORC REPORT: November 22, 2002

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

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Adopt the amendment as transmitted.

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF PUBLIC HEARING: January 9, 2003

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

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B. CONCLUSIONS

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REVIEW AND RECOMMENDATION**

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B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The Local Planning Agency recommends that the Board of County Commissioners transmit this proposed amendment to the Florida Department of Community Affairs.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** As advanced by staff in the staff report.

C. VOTE:

NOEL ANDRESS	_____ AYE
MATT BIXLER	_____ AYE
SUSAN BROOKMAN	_____ AYE
RONALD INGE	_____ AYE
GORDON REIGELMAN	_____ AYE
ROBERT SHELDON	_____ AYE
GREG STUART	_____ AYE

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: September 4, 2002

A. BOARD REVIEW: The Board of County Commissioners provided no discussion concerning the proposed plan amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board of County Commissioners voted to transmit the proposed plan amendment.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by staff and the LPA.

C. VOTE:

JOHN ALBION

 AYE

ANDREW COY

 ABSENT

BOB JANES

 AYE

RAY JUDAH

 AYE

DOUG ST. CERNY

 AYE

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: _____

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

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Making the noted changes to the Build Back Policy will allow language differences between the Lee Plan and the Lee County Post Disaster Ordinance to be clarified, reflecting the actual thought process and implementation of the policy. The correction will improve the consistency of the documents and will assist in avoiding misinterpretations of the policy itself.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit this proposed amendment. This recommendation is based upon the previously discussed issues and conclusions of this report. Staff recommends that the Build Back Policy, as provided in the Procedures and Administration Element be modified as follows:

F. Build-back Policy

Structures which have been damaged by fire or other natural forces to the extent that the cost of their reconstruction or repair exceeds 50% of the replacement ~~cost~~ value of the structure may be reconstructed at (but not to exceed).....

1. Structures damaged less than 50% of their replacement ~~cost~~ value at the time of damage can be rebuilt to their original condition, subject only to current building and life safety codes.
2. Structures damaged more than 50% of their replacement ~~cost~~ value at the time of damage can be rebuilt to their original square footage and density, provided that they comply with.....

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC HEARING: April 22, 2002

A. LOCAL PLANNING AGENCY REVIEW

Planning staff provided a brief presentation concerning the proposed amendment. Staff stated that this amendment will clear up differences between the Lee Plan and the contents of the post disaster ordinance. One LPA member asked staff to elaborate on the difference between value and cost. Staff responded that value accounts for market factors, such as labor and materials. One member asked what was used to define the value. Staff responded that the Land Development Code defined replacement value, which is what the Lee County Property Appraiser's office has on file multiplied by 120% in major disasters or 150% in a catastrophic disaster.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The Local Planning Agency recommends that the Board of County Commissioners transmit this proposed amendment to the Florida Department of Community Affairs.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** As advanced by staff in the staff report.

C. VOTE:

NOEL ANDRESS	<u>AYE</u>
MATT BIXLER	<u>AYE</u>
SUSAN BROOKMAN	<u>AYE</u>
RONALD INGE	<u>AYE</u>
GORDON REIGELMAN	<u>AYE</u>
ROBERT SHELDON	<u>AYE</u>
GREG STUART	<u>AYE</u>

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

ANDREW COY

BOB JANES

RAY JUDAH

DOUG ST. CERNY

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: _____

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

B. STAFF RECOMMENDATION

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

ANDREW COY

BOB JANES

RAY JUDAH

DOUG ST. CERNY

**CPA 2001-33
BoCC SPONSORED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

LPA Public Hearing Document
for the
April 22nd Public Hearing

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585*

April 15, 2002

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2001-33**

✓	This Document Contains the Following Reviews:
✓	Staff Review
	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: April 15, 2002

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT:

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
REPRESENTED BY LEE COUNTY DIVISION OF PLANNING AND
DIVISION OF PUBLIC SAFETY

2. REQUEST:

Amend the Build Back Policy of the Procedures and Administration Element by replacing references to the term "cost" with the term "value."

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION: Staff recommends that the Board of County Commissioners transmit this proposed amendment. The specific language modifications that staff recommends is provided below:

F. Build-back Policy

Structures which have been damaged by fire or other natural forces to the extent that the cost of their reconstruction or repair exceeds 50% of the replacement ~~cost~~ value of the structure may be reconstructed at (but not to exceed).....

1. Structures damaged less than 50% of their replacement ~~cost~~ value at the time of damage can be rebuilt to their original condition, subject only to current building and life safety codes.

2. Structures damaged more than 50% of their replacement ~~cost~~ value at the time of damage can be rebuilt to their original square footage and density, provided that they comply with.....

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The proposed amendment will clear up language differences between the Lee Plan and what is contained in the Lee County Post Disaster Ordinance No. 95-14
- The proposed change will make the terminology in the Lee Plan consistent with that used in the ordinance.
- The term used should clearly reflect the intent of the Policy.

C. BACKGROUND INFORMATION

This amendment was initiated by the Board of County Commissioners on September 25, 2001. The proposed amendment will clear up language differences between the Lee Plan and what is contained in the Lee County Post Disaster Ordinance No. 95-14 as to how the terms replacement cost versus the term replacement value should be interpreted. The proposed change will make the terminology in the Lee Plan consistent with that used in the ordinance.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

Currently the Build Back Policy of the Procedures and Administration Element refers to the term replacement cost throughout the policy language. Staff proposes correcting the term by replacing "cost" with "value" which will correct the measurement used to determine a structure's damage in the provisions of the Build Back Policy through the definition of replacement value found in the Lee County Post Disaster Ordinance No. 95-14. Replacing the term will make the Lee Plan consistent with the intent of the policy. Both replacement cost and replacement value definitions, as provided in the Lee County Post Disaster Ordinance, are reproduced below:

"Replacement Cost" means the actual cost to repair, reconstruct, rebuild, or replace a damaged structure. It will not include the following parts of a structure or items not considered a permanent part of the structure: building plans, surveys, permits, sidewalks, pools, screens, sheds, gazebos, fences, furniture and carpeting. For purposes of this Ordinance, the replacement cost will be compared to the structure's replacement value to determine the percent of the structure damaged.

"Replacement Value" of a structure means the market building value contained in the Lee County Property Appraiser's File multiplied by one of the following factors:

1. 120% in a major disaster, or
2. 150% in a catastrophic disaster

The structure's owner may opt to establish replacement value by hiring a state certified property appraiser rather than use the formula stated in this definition.

The term used should clearly reflect the intent of the Policy. When developing the Post Disaster Ordinance, which implements the Build Back Policy, staff found they were working with a different

measure to determine if provisions of the Build Back Policy would go into effect under certain circumstances. Both of the terms "replacement cost" and "replacement value" are found in the Post Disaster Ordinance. By replacing the current term "replacement cost" with the term "replacement value," structure damage will be defined to account for variability in the market, such as labor and materials.

B. CONCLUSIONS

Making the noted changes to the Build Back Policy will allow language differences between the Lee Plan and the Lee County Post Disaster Ordinance to be clarified, reflecting the actual thought process and implementation of the policy. The correction will improve the consistency of the documents and will assist in avoiding misinterpretations of the policy itself.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit this proposed amendment. This recommendation is based upon the previously discussed issues and conclusions of this report. Staff recommends that the Build Back Policy, as provided in the Procedures and Administration Element be modified as follows:

F. Build-back Policy

Structures which have been damaged by fire or other natural forces to the extent that the cost of their reconstruction or repair exceeds 50% of the replacement ~~cost~~ value of the structure may be reconstructed at (but not to exceed).....

1. Structures damaged less than 50% of their replacement ~~cost~~ value at the time of damage can be rebuilt to their original condition, subject only to current building and life safety codes.
2. Structures damaged more than 50% of their replacement ~~cost~~ value at the time of damage can be rebuilt to their original square footage and density, provided that they comply with.....

**PART III --LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: April 22, 2002

A. LOCAL PLANNING AGENCY REVIEW

**B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT
SUMMARY**

1. RECOMMENDATION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

NOEL ANDRESS	_____
MATT BIXLER	_____
SUSAN BROOKMAN	_____
RONALD INGE	_____
GORDON REIGELMAN	_____
ROBERT SHELDON	_____
GREG STUART	_____

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

ANDREW COY

BOB JANES

RAY JUDAH

DOUG ST. CERNY

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: _____

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

B. STAFF RECOMMENDATION

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

ANDREW COY

BOB JANES

RAY JUDAH

DOUG ST. CERNY

LEE COUNTY, FLORIDA
ORDINANCE NUMBER 95-14

AN ORDINANCE REPEALING AND REPLACING LEE COUNTY ORDINANCE NO 90-61 TO BETTER MANAGE RECOVERY, RECONSTRUCTION AND MITIGATION ACTIVITIES FOLLOWING A MAJOR OR CATASTROPHIC DISASTER WITHIN THE UNINCORPORATED AREAS OF LEE COUNTY, FLORIDA; PROVIDING FOR THE PURPOSE AND INTENT OF THE ORDINANCE; PROVIDING FOR JURISDICTION, PROVIDING DEFINITIONS; PROVIDING FOR THE CREATION, COMPOSITION, DUTIES AND RESPONSIBILITIES, DURATION, AND CHAIR OF A DISASTER ADVISORY COUNCIL, PROVIDING FOR THE CREATION, DURATION, DUTIES AND RESPONSIBILITIES OF A POST-DISASTER RECOVERY TASK FORCE AND CERTAIN MEMBERS THEREOF; PROVIDING FOR THE COMPOSITION AND DUTIES OF AN EMERGENCY REVIEW BOARD, PROVIDING PRIORITIES FOR POST-DISASTER REDEVELOPMENT, PROVIDING PRIORITIES FOR ESSENTIAL SERVICES AND FACILITIES RESTORATION, PROVIDING DEBRIS CLEARANCE, REMOVAL AND DISPOSAL STRATEGIES, PROVIDING FOR DETERMINATION OF DAMAGE, PROVIDING FOR IMPLEMENTATION OF A BUILDBACK POLICY, PROVIDING -- FOR A DECLARATION OF AN INITIAL BUILDING MORATORIUM AND ESTABLISHING RELATED MORATORIA PER TAINING TO BUILDING PERMIT INSPECTIONS, DEVELOPMENT ORDERS AND SITE PLANS PROVIDING PROVISIONS FOR MORATORIA; PROVIDING FOR EMERGENCY REPAIRS, PROVIDING FOR AN EMERGENCY PERMITTING SYSTEM, PROVIDING POLICIES FOR ECONOMIC REDEVELOPMENT, PROVIDING GUIDELINES FOR ACQUIRING DAMAGED PROPERTY; PROVIDING FOR AUTHORITY; PROVIDING PENALTIES; PROVIDING CONFLICT AND SEVERABILITY PROVISIONS, AND PROVIDING FOR AN EFFECTIVE DATE..

WHEREAS Southwest Florida and the Lee County area are vulnerable to a variety of hazards which may result in major or catastrophic disasters causing substantial injury or harm to the population and substantial damage to or loss of property, and

WHEREAS safeguarding the life and property of its citizens is an innate responsibility of the Lee County Board of County Commissioners, and

WHEREAS Chapter 252, Florida Statutes, confers upon the Board of County Commissioners of Lee County the authority to declare a state of local emergency and take all actions necessary to ensure the safety and well being of its residents, visitors and their property during disasters caused by these hazards, and

WHEREAS, Section 163 3177(6)(g), Florida Statutes, requires a comprehensive planning element for coastal management, and

WHEREAS, Section 163 3178(2)(h), Florida Statutes, affords discretion to the Board of County Commissioners to apply mitigation and redevelopment policies to designated high-hazard coastal areas; and

WHEREAS, Section 163 3178(8), Florida Statutes, requires that Lee County identify and prioritize coastal properties for acquisition according to criteria which include, amongst others, recognition of hazard mitigation, and

WHEREAS, the 1995 Florida Land Plan, the State Land Development Plan, proposes goals, objectives and policies in Priority Issue VI - Emergency Management - to reduce vulnerability and exposure of the public and public facilities to natural and technological disasters; and

WHEREAS, the Strategic Regional Policy Plan of the Southwest Florida Regional Planning Council proposes goals and policies, which would require local governments to have effective risk reduction and recovery components in their emergency management program; and

WHEREAS, the Board of County Commissioners of Lee County, Florida adopted the Lee Plan promulgated by Lee County Ordinance Number 89-02 on January 31, 1989, which became effective March 1, 1989, and

WHEREAS, the Lee Plan Goal 81. Post-Disaster Redevelopment, requires Lee County to provide for planning and decision-making to guide redevelopment during the response and recovery period following major emergencies, such as tropical storms and hurricanes; and

WHEREAS, the Lee Plan Objective 81.1 Post-Disaster Strategic Plan requires that the County establish and maintain post-disaster institutions and procedures to guide county actions following a natural or technological disaster, and

WHEREAS, the Lee Plan Policy 81.1.1, as amended, requires that the Post-Disaster Strategic Plan establish and maintain a Recovery Task Force to work with state and federal emergency officials, assess damage, review emergency actions, prepare a redevelopment plan, and recommend needed changes to the Strategic Plan and to the Lee County Comprehensive Plan, and

WHEREAS, the Lee Plan ~~Objective 812~~ Post-Disaster Ordinance, requires that the County adopt an ordinance to implement (where necessary) regulations that may be needed following a natural or technological disaster; and

WHEREAS, the Lee Plan Policy 81.2 1 requires that the Post-Disaster Ordinance will provide for enactment of a temporary moratorium on rebuilding not immediately needed for the public health, safety, and welfare (e.g., to allow repairs to water, power, fire, police, and medical facilities, debris removal, stabilization or removal of structures in danger of collapsing; and minimal repairs to make dwellings habitable); and

WHEREAS, the Lee Plan Policy 81 2.3 requires that the Post-Disaster Ordinance implement the county buildback policy, and

WHEREAS, the Post-Disaster Redevelopment Plan-Chapter 3 of the Lee County Post-Disaster Strategic Plan-is intended to guide redevelopment activities within unincorporated Lee County in the event of a major or catastrophic disaster; and

WHEREAS, experience in post-disaster situations has shown that provisions addressing rehabilitation of historic resources must be included in post-disaster recovery efforts in order to preserve their historic character, and

WHEREAS, Section 125 01 (t), Florida Statutes, provides the authority for the Board of County Commissioners of Lee County, Florida to adopt ordinances necessary for the exercise of its powers and prescribe fines and penalties; and

~~WHEREAS, it is the intent of Lee County to take reasonable action to guide~~
redevelopment during the response and recovery period following a major or catastrophic disaster, such as tropical storms and hurricanes

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

SECTION ONE PURPOSE AND INTENT OF ORDINANCE

Lee County Ordinance No 90-61 is hereby repealed and replaced with the text that follows

The provisions of this Ordinance may be cited as the "Post-Disaster Recovery Ordinance"

It is the intent of the County to establish, prior to a storm event or emergency constituting a major or catastrophic disaster, organizations that will oversee the recovery and reconstruction process and also serve to advise the Board of County Commissioners on recovery and reconstruction issues. These organizations will also identify

opportunities to mitigate future damages through the management of recovery and reconstruction. It is further the intent of the County to allow rebuilding and reconstruction in an orderly manner by controlling the issuance of building permits, development orders and site plans in order to manage the location, timing, and sequence of reconstruction and repair. Although usual preservation procedures cannot be followed in the aftermath of a disaster, generally accepted standards for historic preservation will be followed in the post-disaster response. To further this intent, the County will make every effort to develop its capacity to identify and coordinate various post-disaster recovery and reconstruction resources while at the same time ensuring maximum local control over the recovery and reconstruction process.

Following a major or catastrophic disaster, sufficient time must be provided to conduct damage assessment, classify and categorize individual structure damage, evaluate the effectiveness and enforcement of the existing building code.

SECTION TWO JURISDICTION

This Ordinance applies to all areas within Lee County, Florida under the jurisdiction of the Lee County Board of County Commissioners. Every Incorporated city within Lee County is encouraged to adopt provisions of this Ordinance, either through ordinance revisions or interlocal agreements.

SECTION THREE DEFINITIONS.

The following terms and definitions apply for the purposes of this Ordinance.

- A. "Building Value" means the latest total assessment of all improvements on a parcel of land recorded on the Lee County Property Appraiser's file before the structure was damaged.
- B. "Catastrophic Disaster" means a disaster that will require massive state and federal assistance including immediate military involvement.
- C. "Chief Building Official" means the Director of the Division of Codes and Building Services or his/her designee, who is hereby designated by the Board of County Commissioners of Lee County, Florida to implement, administer and enforce the building permit moratoria provisions of this Ordinance.
- D. ~~"Current regulatory standards for new construction"~~ means the following:
 - 1. federal requirements for elevation above the 100-year flood level,
 - 2. building code requirements for floodproofing;

3 repair work meets current building and -life safety codes,

- E. "Damage Assessment" means a systematic procedure for evaluating damage to ~~public and private property, based on~~ current replacement cost. The assessment may be used to determine if the damaged area can qualify for federal or state disaster assistance.
- F. "Destroyed Structure" means a structure that is a total loss or damaged to such an extent that repairs are not technically or economically feasible. The indicator for this category is if the cost to repair exceeds fifty percent (50%) of the replacement value at the time of damage or destruction.
- G. "Disaster Advisory Council" means a group of officials designated by this Ordinance for the effectuation of its purposes.
- H. "Emergency Review Board" means a committee of three members from the Post-Disaster Recovery Task Force established for the purposes of this Ordinance.
- I. "Historic resource" means any prehistoric or historic district, site, building, structure, object or ~~other real or personal property~~ ^{of} historical, architectural, archaeological value. Historic resources may include but are not limited to monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government or culture of the county, the state or the United States.
- J. "Local Damage Assessment Team" means a group of individuals designated by the local jurisdiction to perform damage assessment according to State and Federal requirements.
- K. "Major Damage Structure" means a structure that can be made habitable with extensive repairs. Damage may include foundation, roof structure, and major structural components. The indicator for this category is if the cost to repair is greater than twenty percent (20%) and up to and including fifty percent (50%) of the replacement value at the time of damage.
- L. "Major Disaster" means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance.
- M. "Minor Damage Structure" means a structure that can be made habitable in a short period of time with minimal repairs. Damages may include doors, windows, floors, roofs, central air conditioners, and other minor structural damage. The indicator for this category is if the cost to repair is twenty percent (20%) or less than the replacement value at the time of damage.

- N. "Minor Disaster" means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance
- O. "Post-Disaster Recovery Task Force" means a group of officials designated by and for the purposes of this Ordinance.
- P. "Replacement Cost" means the actual cost to repair, reconstruct, rebuild or replace a damaged structure. It will not include the following parts of a structure or items not considered a permanent part of the structure: building plans, surveys, permits, sidewalks, pools, screens, sheds, gazebos, fences, furniture and carpeting. For purposes of this Ordinance, the replacement cost will be compared to the structure's replacement value to determine the percent of the structure damaged.
- Q. "Replacement Value" of a structure means the market building value contained in the Lee County Property Appraiser's File multiplied by one of the following factors:
1. 120% in a major disaster, or
 2. 150% in a catastrophic disaster
- The structure's owner may opt to establish replacement value by hiring a state certified property appraiser rather than use the formula stated in this definition.
- R. "Structure" means that building or accessory building which is built or constructed.

SECTION FOUR DISASTER ADVISORY COUNCIL, RECOVERY TASK FORCE AND EMERGENCY REVIEW BOARD

- A. A Disaster Advisory Council is hereby established to replace the existing Recovery Task Force. The Council's functions will primarily be pre-disaster planning and post-disaster recommendations. It will consist of the same members currently serving on the "Recovery Task Force" with some additions at the Disaster Advisory Council's discretion, and as set forth below.
- B. The Disaster Advisory Council will meet on a continuing and regularly scheduled basis to discuss its specific roles and responsibilities in accordance with this Ordinance, and relative issues associated with recovery from a major or catastrophic disaster. The Council's duties and responsibilities include, but are not limited to:
1. overseeing the recovery and reconstruction process,
 2. advising the Board of County Commissioners on relevant recovery and reconstruction issues,

3. identifying opportunities to mitigate future loss of life and property damage through the management of recovery and reconstruction,
 4. maintaining a post-disaster redevelopment plan for the County, including recommending changes regarding the Lee County Post-Disaster Strategic Plan, the Lee County Comprehensive Plan and the Post-Disaster Ordinance to the Board of County Commissioners,
 5. developing procedures to carry out the County's buildback policy, as defined by the Lee Plan and the Post-Disaster Redevelopment Plan,
 6. maintaining established policies for redeveloping high hazard land areas that have sustained repeated damage from flooding or hurricanes,
 7. defining principles and establishing criteria for prioritizing acquisition of property damaged as the result of a major or catastrophic disaster,
 8. establishing special committees and subcommittees within the Disaster Advisory Council to deal with specific issues arising during the disaster recovery process,
 9. implementing a management system that allows for rebuilding and reconstruction to be conducted in an orderly and timely manner through control of the issuance of building permits, development orders and site plans considering the location, timing, and sequence of reconstruction and repair,
-
10. developing procedures that promote the mitigation of future disaster damage through activities carried out during recovery and reconstruction,
 11. setting priorities to guide community redevelopment following a major or catastrophic disaster, including, but not limited to
 - a. priorities in restoring essential community services (electrical power, communications, water, and waste water service),
 - b. predetermined strategies for clearing, removing and disposing of disaster-caused debris, and
 12. establishing an education program to advise the public of the County's Post-Disaster Redevelopment Plan
 13. developing and recommending procedures to document actual uses, densities and intensities, and compliance with regulations in effect at the time of construction, through such means as photographs, diagrams, plans,

affidavits, permits, appraisals, tax records, etc

- 14 if considered necessary, recommending changes in approved land uses in land areas with sustained, repeated damage from flooding or hurricanes in accordance with the criteria set forth in Section Ten of this Ordinance
15. making recommendations for participation in federal and state post-disaster hazard mitigation planning
- 16 evaluating damaged public facilities and formulating alternative mitigation options (i.e., repair, replace, modify or relocate).
17. making recommendations for revision of the County's redevelopment plan in conjunction with federal, state, and local emergency officials
- 18 recommending any changes in the Comprehensive Plan, development standards, zoning regulations, setback, density, open space, buffering and elevation requirements, building codes, or any other ordinances necessary or advisable to prevent a recurrence of damage.
- 19 developing procedures to address the rehabilitation of historic resources in a manner that preserves their historic integrity

C. Composition of Disaster Advisory Council. The Disaster Advisory Council will consist of the following officials and such other officials as may be approved annually by the Board of County Commissioners:

- 1 County Manager
- 2 County Public Information Officer
- 3 County Attorney
4. County Administrative Services Director
3. County Public Safety Director
- 6 County Parks and Recreation Director
- 7 County Community Development Director
- 8 County Transportation Director
9. County Transit Director

10. County Human Services Director
11. County Public Works Director
12. County Budget Services Director
13. County Finance Director
14. County Visitor & Convention Bureau Director
15. County Port Authority Director
16. County Equal Opportunity Director
17. County Health Department
18. County Medical Examiner
19. County Economic Development Director
20. County Utilities Director
21. County Solid Waste Director
22. Local Planning Agency Member
23. Representatives of the Community such as representatives from Chamber of Commerce, hospital, religious community, private water or wastewater utilities and power companies, and any Lee County contract operations and maintenance providers
24. Representative from the Lee County Fire Chiefs Association
25. City of Cape Coral Liaison
26. City of Fort Myers Liaison
27. City of Sanibel Liaison
28. County Sheriff Liaison
29. County School District Liaison
30. SW Florida Regional Planning Council Liaison

31. Member of the Lee County Historic Preservation Board
- 32 Other representatives as appointed by the Board of County Commissioners

The officials set forth above may be represented by a designee chosen to serve in their place providing the appointment is made in writing to the Disaster Advisory Council chair

- D Chair of the Disaster Advisory Council The County Manager (or designee) will serve as the Chair of the Disaster Advisory Committee County Public Safety and Emergency Management personnel will serve as staff for the Disaster Advisory Council.
- E Post-Disaster Recovery Task Force A Post-Disaster Recovery Task Force is established that will be comprised of the following nine officials.
- 1 County Manager,
 2. Public Safety Director,
 - 3 Community Development Director,
 4. Chief Building Official,
 5. Public Works Director,
 - 6 Disaster Recovery Coordinator (County Budget Services Director or designee),
 - 7 Economic Recovery Coordinator, (County Economic Development Director or designee),
 - 8 Hazard Mitigation Coordinator (County Planning Director or designee), and
 - 9 Tourism Recovery Coordinator (County Visitor and Convention Bureau Director or designee),

Additionally, all Disaster Advisory Council members will be ex-officio members of the Post-Disaster Recovery Task Force

- F. Activation of Post-Disaster Recovery Task Force For post-disaster responsibilities, the post-disaster recovery task force will be activated and mobilized by a disaster declaration made either by the Board of County Commissioners under the procedures set forth in Lee County Ordinance 87-1 or the Office of the Governor of the State of Florida

- G. Duration of Post-Disaster Recovery Task Force. In the event of a disaster declaration, the Post-Disaster Recovery Task Force will activate and mobilize for a minimum period of sixty (60) days. Unless the Board of County Commissioners extend its tenure, the Post-Disaster Recovery Task Force's post-disaster function, will de-activate after 60 days
- H. Repealing or Extending of Post-Disaster Recovery Task Force. The Board of County Commissioners may, by resolution, extend or repeal the activation of the Post-Disaster Recovery Task Force
- I. Responsibilities of the Post-Disaster Recovery Task Force. The Post-Disaster Recovery Task Force will be responsible for advising the Disaster Advisory Council or the Board of County Commissioners on a wide range of post-disaster recovery, reconstruction; and mitigation issues. The Post-Disaster Recovery Task Force will have the following responsibilities.
- 1 To receive and review damage reports and other analyses of post-disaster circumstances and to compare these circumstances with mitigation opportunities identified prior to the disaster in order to identify areas for post-disaster change and innovation. Where needed, the Post Disaster Recovery Task Force may review alternative mechanisms for achieving these changes and recommend the coordination of internal and external resources for achieving these ends
 - 2 In addition to the responsibilities above, the Post-Disaster Recovery Task Force may
 - a Inmate recommendations for the enactment, repeal or extension of emergency ordinances and resolutions
 - b Review the nature of damages, identify and evaluate alternate program objectives for repairs and reconstruction, and formulate recommendations to guide community recovery, and assist local municipalities with their programs
 - c Formulate special committees and sub-committees as conditions may warrant
 - d Recommend and implement an economic recovery program focusing on rapid recovery of the tourism industry, utilizing funds set aside for recession periods as per Lee County Resolution 90-07-27
 - e Recommend rezoning changes in areas of damage, when deemed appropriate.

- f. Set a calendar of milestones for recovery tasks.
- g. Recommend repealing or extending any moratorium
- h. Recommend land areas and land use types that will receive priority in recovery operations
- i. As conditions may warrant, appoint an Historic Rehabilitation Coordinator responsible for evaluating the extent and type of historic rehabilitation activities needed based upon assessments of damage; assisting the Chief Building Official and staff in related historic resource rehabilitation activities, providing information on historic resource rehabilitation and redevelopment in historic districts to interested parties to coordinate and maximize such efforts; and fulfill other duties assigned by the Disaster Advisory Council or the Board of County Commissioners
- j. Recommend changes to procedures to document actual uses, densities and Intensities, and compliance with regulations in effect at the time of construction, through which means as photographs, diagrams, plans, affidavits, permits, appraisals, tax records, etc
- k. Evaluate hazards and the effectiveness of mitigation policies and recommend appropriate amendments, if considered advisable
- ~~l. If considered necessary, recommend changes in approved land uses in land areas which sustained repeated damage from flooding or hurricanes in accordance with the criteria set forth in Section Ten of this Ordinance~~
- m. Initiate recommendations for acquisition of damaged property.
- n. Make recommendations for participation in federal and state post-disaster hazard mitigation planning
- o. Recommend hazard mitigation projects or programs for consideration of post-disaster state or federal funding.
- p. Evaluate damaged public facilities and formulate alternative mitigation options (i.e., repair, replace, modify or relocate).
- q. Make recommendations for revision of the County's redevelopment plan in conjunction with federal, state, and local emergency officials
- r. Review emergency actions and recommend amendments to Lee

- County's 1) Post-Disaster Ordinance, 2) Post-Disaster Strategic Plan, 3) Comprehensive Emergency Management Plan, 4) Emergency Operations Center's Standard Operating Procedures, and
- - 5) ~~Local Administrative Codes.~~

- 3 The Post-Disaster Recovery Task Force may recommend any changes in the Comprehensive Plan, Land Development Code, or any other ordinances which it deems necessary or advisable to prevent recurring damage or mitigate hazards.
4. The Post-Disaster Recovery Task Force may also recommend that the Disaster Advisory Council or the Board of County Commissioners consider objectives-such as the following.
 - a enhancing local recreational and open space opportunity
 - b enhancing public access to esruanne, nvenne and gulf beaches.
 - C. enhancing and restoring local naiurai ecosystems
 - d reducing traffic congestron, noise, and other transportation-related problems.
 - e enhancing long-term economic vitality of the local commercial and industrial base.
 - f enhancing and rehabilitating historic resources.

J Function and Duties of Certain Post-Disaster Recovery Task Force Members.

1 Disaster Recovery Coordinator.

- a Purpose To coordinate disaster assistance available from the federal government and state agencies to Lee County following a major or catastrophic disaster.
- b. Duties Will consist of, but not be limited to, the following
 - (1) Determine the types of assistance available to the County and the types of assistance most needed.
 - (2) Assist in the local coordination of federal and state disaster recovery efforts

- (3) Provide local assistance to facilitate federal and state disaster assistance programs.
- (4) Act as facilitator in securing federal or state disaster assistance
- (5) Inform the community of types of disaster assistance available.
- (6) Fulfill other duties as directed by the Disaster Advisory Council or the Board of County Commissioners

2. Economic Recovery Coordinator

a. Purpose. To coordinate economic recovery with the business community following a major or catastrophic disaster.

b. Duties. Will consist of, but not be limited to, the following:

- (1) Determine the potential or actual impacts to the local economy and determine short and long term strategies to be considered by the Post-Disaster Recovery Task Force
- (2) Assist in the local coordination of federal and state economic recovery efforts
- (3) Disseminate accurate information to and from the business community.
- (4) Inform the business community of types of disaster assistance available
- (5) Fulfill other duties as directed by the Disaster Advisory Council or the Board of County Commissioners

3. Hazard Mitigation Coordinator

a. Purpose. To coordinate hazard mitigation assistance available from the federal Government and state agencies to Lee County following a major or catastrophic disaster.

b. Duties. Will consist of, but not be limited to, the following.

- (1) Determine the types of hazard mitigation assistance or funding available to the County and the types of assistance most

needed.

- (2) Assist in the local coordination of federal and state hazard mitigation efforts.
- (3) Provide local assistance to facilitate federal and state hazard mitigation assistance programs
- (4) Act as facilitator in securing federal or state hazard mitigation funding for hazard mitigation projects to local entities
- (5) Fulfill other duties as directed by the Disaster Advisory Council or the Board of County Commissioners

4 Tourism Recovery Coordinator.

- a. Purpose To coordinate tourism recovery with the visitor and convention community following a major or catastrophic disaster.
- b. Duties. Will consist of, but not be limited to, the following:
 - (1) Determine the potential and actual impacts to the local tourism industry and its economy and determine short and long term strategies for expedient recovery.
 - (2) Acquire and disseminate accurate information from and to the tourism industry and to and from the local, state, national and international media
 - (3) Inform the tourism industry of types of disaster assistance available.
 - (4) Fulfill all other duties as directed by the Disaster Advisory Council or the Board of County Commissioners

K Quorum meetings of the Post-Disaster Recovery Task Force or Disaster Advisory Council those members present will constitute a quorum.

L Emergency Review Board

- 1 An Emergency Review Board is established in major or catastrophic disasters to review disputes arising from the implementation of the county's buildback policy. The Emergency Review Board will consist of three representatives from the Post-Disaster Recovery Task Force appointed by

the Director of Community Development Decisions rendered by the Emergency Review Board may be appealed to the Lee County Hearing Examiner through the administrative appeals process

- 2 The Emergency Review Board may refer and make recommendations to the appropriate County department for any requests for modifications that are beyond those authorized in this Ordinance.

SECTION FIVE POST-DISASTER REDEVELOPMENT PRIORITIES

The following priority sequence will govern community rebuilding and redevelopment efforts

- A Reestablishing services that meet the physical and safety needs of the community to include water, food, ice, medical care; emergency access, continuity of governmental operations; emergency communications; security of residents and possessions from harm, health, and temporary housing
- B. Reestablishing Infrastructure necessary for community reconstruction (i.e., electrical distribution systems; potable water and sanitary sewer service; restoring medical and health care, rebuilding damaged transportation facilities; and housing facilities).
- C. Restoring the community's economic base, as defined by the Lee Plan or accepted econometric principles and practices
- ~~D. Improving the community's ability to withstand the effects of future major or catastrophic disasters.~~

SECTION SIX ESSENTIAL SERVICE AND FACILITY RESTORATION PRIORITIES

- A The following priorities will govern power and communication service restoration once damaged electrical transmission systems, substations and distribution systems are restored:
 1. Priority # 1 - Emergency response and recovery facilities having no emergency power or telephone service (community emergency operations or command centers, response/ recovery centers), medical facilities having ~~no emergency power, repairing emergency~~ communication centers and facilities, and designated facilities providing emergency food, water and ice
 2. Priority # 2 - Water treatment and pumping facilities, special care centers, nursing home facilities having no emergency power, law enforcement and fire stations having no emergency power, the Southwest Florida International Airport, Page Field, staging areas and distribution centers requiring

emergency power, and county/state detention centers (the jail, stockade).

- 3 Priority # 3 - Wastewater treatment plants and lift stations, general telephone service, solid waste facilities, medical facilities having emergency power, nursing homes having emergency power, law enforcement and fire stations having emergency power, public shelters still housing evacuees and the homeless, adult congregate living facilities, facilities serving as disaster application, not for federal disaster relief, and public and private facilities necessary for resource management and distribution activities (government facilities handling emergency purchasing, designated grocery store/restaurant outlets)
4. Priority # 4 - Community areas receiving minor damage, and other government facilities.
- 5 Priority # 5 - Community areas receiving major damage
6. Priority # 6 - Community areas receiving catastrophic damage.

B The following procedures will govern restoration of water service-

- 1 Valve off major leak areas.
2. Work with private franchises providing service to determine extent of damaged facilities and reestablish service.
- 3 Identify highly damaged areas.
- 4 Assess and provide service to meet critical customer needs i.e., emergency response and recovery facilities, Southwest Florida International Airport, hospitals, nursing homes, emergency public shelters, kidney dialysis patient facilities, and other identified emergency response facilities).
- 5 Establish emergency water sites as necessary
- 6 Establish priorities and repair damaged facilities in the following order: treatment plants, trunk mains, distribution mains, service connections
- 7 ~~Repressurize area water systems as necessary~~
8. Establish area water potability.

C The following procedures will govern wastewater service restoration:

1. Assess damages to system (wastewater treatment plants, lift stations, electrical support systems, to include evaluating the need to take lift stations off line in flooded evacuated areas to avoid damage to property when power is restored)
2. Work with private franchises providing service to determine extent of damaged facilities and reestablish service
3. Coordinate recovery operations in determining and repairing any damages to wastewater treatment plants within Lee County.
4. Determine need and provide emergency service to emergency response and recovery facilities, Southwest Florida International Airport and Page Field, and hospitals.-
5. Repair damaged facilities in the following sequence treatment plants first, then lift stations starting with those closest to the treatment plants
6. Reestablish wastewater service to franchise areas as power and water service are restored.

SECTION SEVEN POST-DISASTER DEBRIS CLEARANCE AND DISPOSAL STRATEGIES

- A. The following policies will govern emergency debris clearance, removal and disposal strategies.
1. Emergency access to aid search and rescue operations,
 2. Major arterial roadways linking Lee County to intercounty traffic,
 3. Major arterial roadways providing access to designated response/recovery centers, (Lee Civic Center, Lee County Sports Complex), the Southwest Florida International Airport, public/private utility companies providing water service, and entry roads to the County's designated solid waste disposal facilities
 4. Major arterial roadways providing access to roadways carrying intercounty traffic
 5. Roadways providing access to designated staging areas and distribution centers supporting disaster relief efforts,
 6. Roadways providing access to major commercial activity centers,

- 7 Minor arterial roadways coming under county maintenance responsibility,
- 8 Collector roadways under county maintenance responsibility, and
9. Other roadways under county maintenance responsibility

B. Once road clearing operations supporting search and rescue operations, clearing intercounty roadways, ~~and providing access to designated response/recovery~~ centers are completed, debris clearance will be guided by the following priority sequence:

1. Area medical facilities with emergency rooms, areas designated for field medical sites, areas designated for staging and distributing disaster relief aid,
2. Facilities designated as centers for emergency response operations, fire district and law enforcement stations,
- 3 Areas wrth minor damage,
- 4 Areas with major damage, and
5. Areas with catastrophic damage.

~~C. Debris will be separated to avoid mixing hazardous materials and hazardous waste with other types of debris~~

D Agencies or organizations contracted to clear, remove and dispose of debris will follow the following principles:

- 1 Debris collection and removal procedures from residential and commercial properties will adhere to the following collection sequence priority 1 - raw garbage, priority 2 - rubbish; priority 3 - yard waste; and priority 4 - construction/demolition debris. Debris will be separated into these four general priority classes. Instructrions will be provided by contract provrders to separate debris in this fashion and also provide notification of the established schedule for picking up the four general debris classes
- ~~- 2 - Storage areas will be operational within seven to ten days after the disaster to separate debris that does not fall under the residential and commercial property programs.~~
3. Open pit burning, burning by incineration, mulching or chipping horticultural debris, hauling mulched or chipped debris out of the county, disposal at approved solid waste sites and debris reuse and recycling will be acceptable

methods of debris disposal, provided these methods meet all applicable rules and regulations established for such operations.

SECTION EIGHT DETERMINATION OF DAMAGE BUILDBACK POLICY. MORATORIA, EMERGENCY REPAIRS AND EMERGENCY PERMITTING SYSTEM

- A Determination of Damage. The primary task of the local damage assessment team is to identify structures damaged as a result of the disaster. The County damage assessment team will catalogue and report to the Chief Building Official those structures which have (1) been destroyed, (2) received major damage; and (3) received minor damage. The Chief Building Official will then inspect the damaged structures and place each structure in one of the damaged categories. The assessment will also serve as a basis for determining if a disaster declaration is warranted.
- B County Buildback Policy. Structures which have been damaged by fire or other natural forces to the extent that the cost of their reconstruction or repair exceeds fifty percent (50%) may be reconstructed at (but not to exceed) the legally documented actual use, density, and intensity existing at the time of destruction, thereby allowing those structures to be rebuilt or replaced to the size, style, and type of their original construction, including original square footage; provided, however, that the affected structure, as rebuilt or replaced, complies with all federal and state regulations, local building and life safety regulations, and other local regulations, which do not preclude reconstruction otherwise intended by this policy.

In accordance with this policy, this Ordinance provides

1. Structures damaged up to and including fifty percent (50%) may be rebuilt to their original conditions, with repair work subject to current building and life safety codes, except that structures damaged by flood waters in a disaster by more than twenty percent (20%) which have recorded one or more national flood insurance losses of one thousand dollars (\$1,000.00) or more since 1978, must be brought into compliance with current regulatory standards for new construction.
2. Structures damaged more than fifty percent (50%) may be rebuilt to their original square footage and density, provided they comply with
 - a federal requirements for elevation above the 100-year flood level,
 - b building code requirements for floodproofing,
 - c repair work meets current building and life safety codes,

- d. Coastal Construction Control Lines regulations (if applicable);
 - e. disability access regulations; and
 - f. any required zoning or other development regulations (other than density or intensity), unless compliance with those regulations would preclude reconstruction otherwise intended by the buildback policy as may be determined by the Emergency Review Board set forth below
- 3 To minimize the need for individual variances or compliance determinations before reconstruction or redevelopment of structures damaged more than fifty percent (50%), and in order to expedite the processing of the large number of anticipated applications for reconstruction, the development regulations affecting setbacks, parking, buffering and open space in any area declared a disaster may be modified by majority action of the Emergency Review Board as set forth below. Additionally, the listed development regulations will be evaluated for their applicability to allow reconstruction or redevelopment that will most closely comply with current regulations. These regulations will be prioritized as to their relative importance based upon, among other factors, the structure's use, location, size, and the condition of any remaining pre-existing structures. More specific guidelines will be established by administrative code.
- a. for single family, two family and duplexes and their accessory structures-the Emergency Review Board is authorized to apply and modify development regulations for lot area and dimension, setbacks, lot coverage, height, handicapped access and open space.
 - b. for multiple family, commercial and industrial buildings-the Emergency Review Board is authorized to modify development regulations for lot area and dimensions, setbacks, lot coverage, height, handicapped access, buffering, open space, loading space and parking
 - c. any modifications granted will be the minimum necessary. No modifications will be granted that will totally eliminate buffering or open space, or that will allow buildings to exceed the special height limitations specified in LDC Chapter 34, Zoning, Division 30, Property Development Regulations, Subdivision II, Height
 - d. the Emergency Review Board is specifically authorized to modify street, rear side or waterbody setback requirements under the following circumstances.
 - (1) Street, rear, side, or waterbody setbacks may be modified to

permit the reconstruction of, or additions to, pre-existing structures that are nonconforming with regard to a specific setback so long as.

- (a) the reconstruction will not result in a further diminution of the setback, however, the Emergency Review Board may approve bay windows, chimneys and similar architectural features that encroach further into a setback provided the encroachment does not protrude beyond the pre-existing overhang of the building; and
 - (b) setbacks may be modified to allow the replacement of stairs or decking that will provide access into a reconstructed dwelling unit
- (2) prior to approving any modification of street or street easement setbacks a determination will be made through consultation with Lee County Department of Transportation regarding future road widening requirements
- e the Emergency Review Board is specifically authorized to modify the parking requirements under the following circumstances
 - (1) to improve ingress and egress to the site.
 - (2) to eliminate or reduce the instances where parked vehicles were required to back out onto thoroughfares to gain access to the roadway system.
 - (3) to provide on-site handicapped parking
- f. the Emergency Review Board is specifically authorized to modify buffering requirements to accommodate modifications to parking or additional proposed parking.
- g. The Emergency Review Board may also consider other modifications, conditions or variances necessary to reconstruct a pre-existing structure in a timely and expeditious manner, including ~~requests for reconstruction not specifically set forth above~~
- h The Emergency Review Board may require documentation as to the actual uses, densities, and intensities in existence at the time of earlier construction through such means as photographs, diagrams, plans, affidavits, permits, etc before authorizing modifications to the requirements referenced above.

5. No provision is made to redevelop property containing damaged structures for a more Intense use or at a density higher than that which existed prior to a major or catastrophic disaster. No redevelopment at a higher density or more intense use will be permitted unless appropriate Zoning, Development Review, Building Permit and other applicable land development approvals are granted

C Moratoria The following moratoria will apply for the purpose of prioritizing repair and reconstruction immediately needed for public health, safety and welfare purposes

1 Initial building moratorium.

a. Effective date of an Initial Building Moratorium An initial building moratorium will become effective when one or more of the following actions or findings occur

- (1) The Governor of the State of Florida or the President of the United States declares the County a disaster area
- (2) The Chief Building Official determines that one hundred (100) or more structures have received major damage or have been destroyed
- (3) Upon a finding by the Board of County Commissioners of the existence of a state or local emergency in accordance with Chapter 252 of the Florida Statutes
- (4) The County is unable to maintain acceptable levels of public service expected during non-emergency situations.

b. Duration. The initial building moratorium will remain in effect for up to seventy-two (72) hours. No building permits may be issued during this time period. After expiration of this initial building moratorium, the following moratoria will become immediately effective unless modified by the Board.

- 2 Destroyed structure moratorium No building permit may be issued within thirty (30) days following the expiration of the initial building moratorium for the replacement of any structure which has been destroyed
- 3 Major damaged structure moratorium No building permit for repairs of a major damaged structure may be issued for at least ten (10) days following the expiration of the initial building moratorium

4. Minor damaged structure moratorium No building permits for the repair of minor damaged structures may be issued for at least four (4) days following the expiration of the initial building moratorium.
5. New development moratorium No building permit for new construction or reconstruction unrelated to rebuilding or repairing disaster damaged structures may be issued for at least thirty (30) days following the expiration of the initial building moratorium in order to allow an examination of existing building and life safety codes. The Disaster Advisory Committee or Post-Disaster Recovery Task Force will determine and advise the Board of County Commissioners whether a new development moratorium is necessary based upon the results of damage assessment and recommendations from the Chief Building Official and the Recovery Task Force.
6. Outstanding building permit inspection moratorium
 - a. With the exception of inspections for certificates of occupancy, inspections for all building permits issued prior to the disaster will be suspended for a minimum period of thirty (30) days following the expiration of the initial building moratorium, unless the Chief Building Official determines on an area wide or case-by-case basis that sufficient inspection staff will be available to inspect the structures. Suspension of inspections of building permits process means that except as allowed by the Chief Building Official no building permit inspections by the Lee County Division of Codes and Building Services will be performed during the moratorium period, and that no further building permit work is authorized beyond the point at which any inspection is otherwise required.
 - b. The County may reinspect all building permit work in place prior to the disaster to verify that the work was not damaged during the disaster. If the County determines the building permit work was damaged during the disaster or suspects damage occurred, the developer will be responsible for rework, removal, retesting, and uncovering work to facilitate inspection to ensure compliance with the building permit documents and the building code.
 - c. ~~Scheduled inspections and requests for building permit inspections~~ suspended under this section will be adjusted to reflect the thirty (30) day moratorium.
7. Outstanding development order moratorium
 - a. All applications for development orders, inspections of development

order work, and all development orders issued prior to a major or catastrophic disaster will be suspended for a minimum period of thirty (30) days following the expiration of the initial building moratorium. Suspension of outstanding development order process means that no development order work is authorized beyond the point at which a development order inspection is required and that no development order inspections will be performed by the Lee County Division of Zoning and Development Services during this moratorium except as may be authorized by the Department of Community Development Director on an area wide or case-by-case basis.

- b. The County may reinspect all development order work in place prior to the disaster to verify that the work was not damaged during the disaster. If the County determines that such work was damaged during the disaster or suspects that damage occurred, the developer will be responsible for rework, removal, retesting, and uncovering work to facilitate inspection to ensure compliance with the development order documents and Chapter 10 of the Land Development Code.
- c. All applications for development orders, inspections required for approval of development orders, and development orders that would otherwise expire, are suspended under this section and their corresponding dates will be adjusted to account for the effect of this moratorium period.

8 Moratorium on review of site plans, zoning requests and subdivision plats.

- a. Site plans, zoning requests and subdivision plats submitted to the County prior to the disaster will not be reviewed by the County staff or considered by the Board of County Commissioners for a period of thirty (30) days following the expiration of the initial building moratorium.
- b. No new site plans, zoning requests or subdivision plats will be accepted by the County for a period of thirty (30) days following the expiration of the initial building moratorium.
- c. ~~All submittal dates and review periods will be adjusted to reflect the thirty (30) day moratorium.~~
- d. Notwithstanding these restrictions, the Director of Community Development may authorize review otherwise precluded by this moratorium, on a case-by-case basis.

9. Duration of moratoria. All moratoria other than the initial building moratorium will be in effect for the duration described above and may be repealed or extended upon resolution by the Board of County Commissioners

E. Emergency Repairs.

1. No construction or reconstruction activity may be undertaken without a building permit while a building moratorium is in effect. **Emergency** repairs necessary to prevent injury, loss of life, imminent collapse or additional damage to the structure *or its* contents will not be subject to temporary moratoria. Examples of activities considered acceptable emergency repairs include.
 - a. Temporary roof repairs with plywood or plastic sheeting to make structures habitable or to prevent continuing damage due to rain and wind to building interiors and exteriors,
 - b. Covering exterior wall openings with plywood or plastic sheeting,
 - c. Repairs to interior ceilings to make buildings habitable or to drain accumulated water,
 - d. Repairs to steps, and
 - e. Temporary shoring measures to avoid imminent building or structure collapse.
2. Emergency repairs to buildings or infrastructure that house the following organizations or activities will not be subject to temporary moratoria because of their necessity to protect the public health and safety electrical power, potable water, wastewater, power and communications facilities, emergency stabilization of roadways; police, fire and medical facilities, essential governmental facilities, response/recovery centers and distribution centers, debris removal; and stabilization or removal of structures about to collapse.
3. Nothing in this Ordinance will be construed to exempt development from compliance with State and Federal permit regulations

F. Emergency Permitting System.

An Emergency Permitting System will be established by administrative code to assure the quality of rebuilt or reconstructed buildings or structures and to implement the provisions of the county's buildback policy. The provisions contained in the administrative code will take effect when a disaster designated as major or catastrophic has affected Lee County, or when the Board of County Commissioners

requests the Governor to declare Lee County a Disaster Area.

SECTION NINE ECONOMIC REDEVELOPMENT POLICIES

- A The following general policies will guide the use of resources employed toward rebuilding the community's economic base
- 1 Reestablish the tourist industry,
 - 2 Reestablish banking and financial institutions,
 - 3 Reopen the business community,
 - 4 Restore agriculture and Industry
- B Damaged businesses and other economic enterprises necessary for the public health and safety and for restoring the community's economic base may use temporary structures (such as modular buildings, mobile homes or similar type structures) to carry out their activities until their damaged structure is rebuilt or replaced according to applicable development and redevelopment regulations

SECTION TEN GUIDELINES FOR ACQUIRING DAMAGED PROPERTY

- AI When in the public interest, the Board of County Commissioners may enter into negotiations with a property owner or owners whose improved real property has been damaged by the disaster for the purpose of acquiring such buildings and associated land or lot for transfer by sale, lease or donation to Lee County when the following acquisition conditions are met:
- 1 the property is located in an area damaged by the disaster, and
 - 2 the property is free of encumbrances (i.e., taxes, liens and judgments) unless the extent of the encumbrances is determined to be acceptable given the property's location and value, and
 - 3 the property meets at least one of the following conditions.
 - a there are buildings or structures damaged substantially beyond repair or damaged to the extent that the cost of reconstruction or repair exceeds fifty percent (50%) of the replacement value of the building or structure at the time of the disaster.
 - b. there are buildings or structures determined to be repetitive loss

properties under Lee Plan Policy 80.17

- C. there are buildings or structures damaged by a single event that are not repairable because of building policy provisions or significantly increased building costs
- d. the property is abandoned by the owner and may create a blighted area as defined by Section 163.340 (8), Florida Statutes

B Property acquired pursuant to Sub-section A must be dedicated for such purposes as the Board of County Commissioners may agree are consistent with

- 1 open space uses, or
- 2. managing the land for its dedicated purposes.

Future uses which would likely result in a threat to human life or property damage of the same type that occurred during previous disasters is prohibited.

- c. Allowable open space uses will include parks for outdoor recreational activities, nature preserves or trails, beach access, unimproved parking lots, and structures functionally related to these uses such as open-sided picnic facilities, refreshment stands, or other non-habitable structures primarily supporting the recreational activities.

SECTION ELEVEN AUTHORITY

Nothing in this Ordinance limits the authority of the Board of County Commissioners to declare, repeal or extend a state of local emergency

SECTION TWELVE PENALTIES

A Any person, firm, company or corporation who fails to comply with this Ordinance, or the emergency measures made effective pursuant to this Ordinance, is guilty of a misdemeanor of the second degree, and upon conviction for such offense, may be punished by a fine not to exceed five-hundred dollars (\$500.00) or by imprisonment not to exceed sixty (60) days in the Lee County Jail, or both, in the discretion of the Court hearing the case. Each day of continued non-compliance or violation will constitute a separate offense

B In addition, any construction licensee of Lee County or the State of Florida who violates any provision of this Ordinance or the emergency measures which are effective as a result of this Ordinance may be charged with a violation and the matter will be heard before the appropriate Lee County Board, in a state administrative proceeding or a court of law

- C. Nothing contained in this Section prevents the County from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any failure to comply with, or violation of, this Ordinance or the emergency measures which may be made effective according to this Ordinance. Other lawful action will include, but is not limited to, an equitable action for injunctive relief or an action at law for damages.

SECTION THIRTEEN. CONFLICT AND PREVALENCE

- A. In the event of conflict between provisions of this Ordinance, the more restrictive provisions will control. In the event of conflict with other regulations, the provisions of this Ordinance will supersede any other land development regulations, regardless of when they were adopted, to the extent of such conflict.
- B. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion will be deemed a separate, distinct and independent provision and such holding will not affect the validity of the remaining portion.

SECTION FOURTEEN. EFFECTIVE DATE.

This Ordinance will take effect immediately upon receipt of official acknowledgment from the Office of Secretary of the State of Florida that this Ordinance has been duly filed with said office.

DULY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THIS 2ND DAY OF AUGUST, 1995.

THE FOREGOING ORDINANCE was offered by Commissioner John E. Manning who moved its adoption. The motion was seconded by Commissioner Ray Judah and, upon being put to a vote, the vote was as follows.

JOHN MANNING	AYE
ANDREW COY	AYE
RAY JUDAH	AYE
DOUGLAS ST CERNY	AYE
JOHN ALBION	AYE

ATTEST:
CHARLIE GREEN, CLERK

By: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

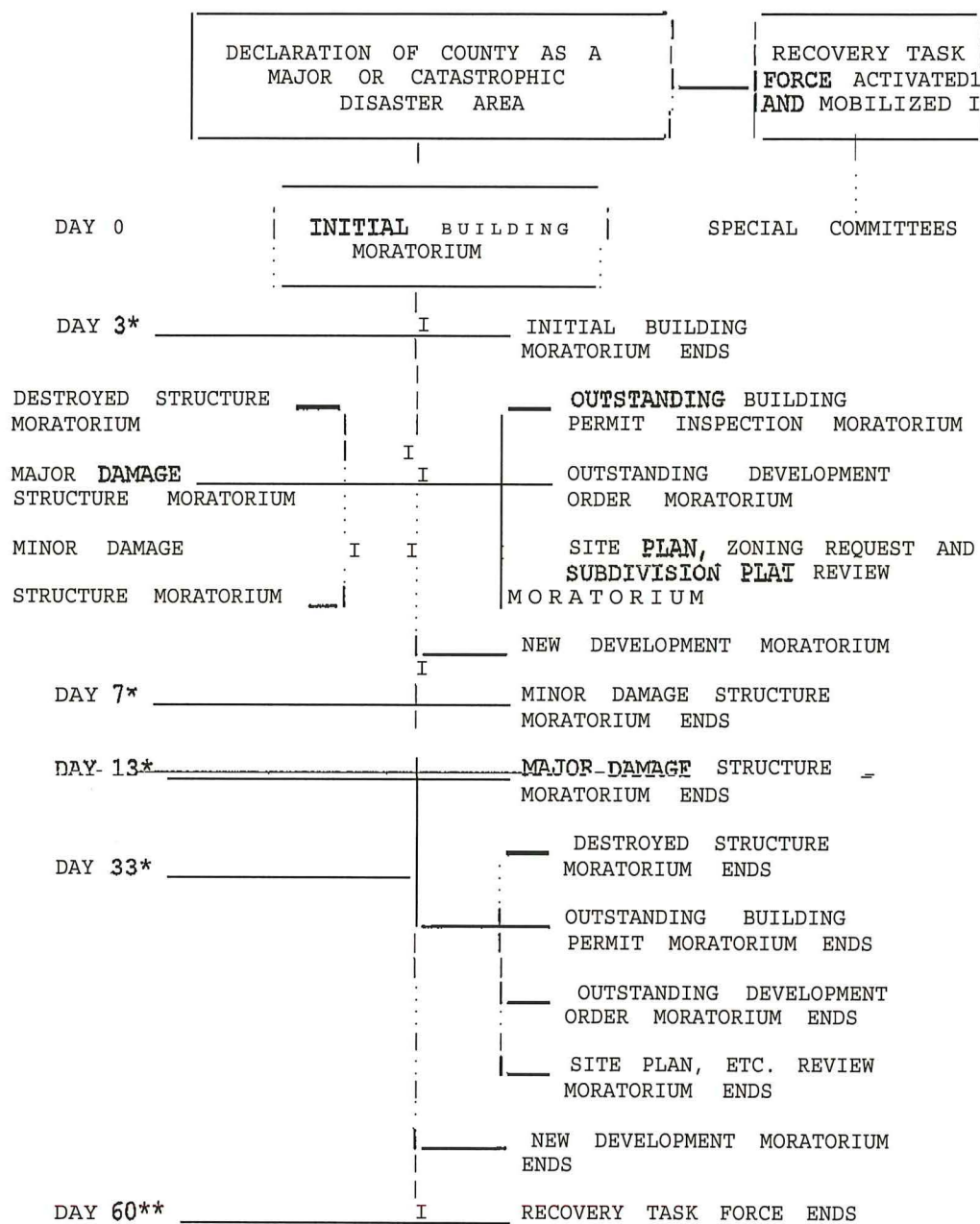
By: 
Chairman

APPROVED AS TO FORM

By: 
Office of the County Attorney

disasts3 ord

MAJOR DISASTER OR
CATASTROPHIC DISASTER



*DURATION OF MORATORIA. MAY BE REPEALED OR EXTENDED UPON RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS.

**DURATION OF RECOVERY TASK FORCE. MAY BE REPEALED OR EXTENDED UPON RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS.