

**LEE COUNTY ORDINANCE NO. 19-08**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA ESTABLISHING THE LEE COUNTY COMMERCIAL TRUCK PARKING ORDINANCE; PROVIDING FOR THE PROHIBITION OF PARKING COMMERCIAL TRUCKS ON RESIDENTIALLY ZONED PRIVATE PROPERTY; PROVIDING FOR THE PROHIBITION OF PARKING COMMERCIAL TRUCKS ON PUBLIC RIGHT-OF-WAYS; PROVIDING FOR THE ESTABLISHMENT OF PROCEDURES FOR THE ISSUANCE OF PARKING CITATIONS AND TICKETS AND TOWING WHEN THE TERMS OF THIS ORDINANCE ARE VIOLATED; PROVIDING FOR SUPPLEMENTAL; CONFLICTS OF LAW; SEVERABILITY; SCRIVENER'S ERRORS; MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND AN EFFECTIVE DATE.**

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

WHEREAS, the Board of County Commissioners of Lee County, Florida, finds that many residential areas in unincorporated Lee County have been blighted by the parking of commercial trucks including, but not limited to, semi-trailer trucks and tractor-trailers; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, finds that many public right-of-ways in unincorporated Lee County have been blighted by the parking of commercial trucks including, but not limited to, semi-trailer trucks and tractor-trailers; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, finds that the parking of commercial trucks in residential areas and on public right-of-ways is detrimental to the health, safety and welfare of the citizens of Lee County; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, further finds that the parking of commercial trucks on such property creates a public nuisance which cannot be satisfactorily abated by the enforcement of existing codes and ordinances; and,

WHEREAS, Chapter 125, Florida Statutes, authorizes the Board of County Commissioners of Lee County, Florida, to adopt and enforce laws for the protection of the public health, safety and welfare; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, pursuant to Section 125.01, Florida Statutes, has the power to establish, coordinate, and enforce zoning regulations on private property; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, pursuant to Section 125.01, 316.006, and 316.008, Florida Statutes, retains jurisdiction over the public right-of-ways in the unincorporated areas of Lee County; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida pursuant to Chapter 162 Part II, and Chapter 316, Florida Statutes, is authorized to establish procedures for the issuance of parking citations/tickets when the terms of this Ordinance are violated; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida pursuant to Chapter 125, Florida Statutes, is authorized to establish procedures for the towing of vehicles when the terms of this Ordinance are violated; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, finds it necessary to the promotion of the public health, safety and welfare that an Ordinance be passed which prohibits the parking of commercial trucks in residential areas and on public right-of-ways, establishes a procedure for the issuance of parking citations/tickets when the terms of this Ordinance are violated, and establishes procedures for the towing of vehicles violating the terms of this Ordinance; and,

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed Ordinance on March 13, 2019, and recommended approval of the Ordinance.

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

**SECTION ONE: SHORT TITLE**

This Ordinance may be cited as the "Lee County Commercial Truck Parking Ordinance".

**SECTION TWO: DEFINITIONS**

The following words and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context otherwise requires:

- A. Board of County Commissioners: The Board of County Commissioners of Lee County, Florida.
- B. Clerk: Clerk of the Circuit Court and County Court of Lee County, Florida.
- C. Code Enforcement Specialist: Any authorized agent or employee of Lee County whose duty it is to assure code compliance.
- D. Commercial Truck: A vehicle that is:
  - 1. A semi-trailer truck or tractor-trailer; or
  - 2. A truck with two or more rear axles; or
  - 3. A truck with a manufacture's Gross Vehicle Weight Rating (GVWR) in excess of 15,000 pounds; or
  - 4. Any truck and trailer combination, excluding a trailer used solely for non-commercial or recreational purposes, resulting in a combined manufacturer's GVWR in excess of 15,000 pounds.

As used herein, the term shall not mean Recreational Vehicle.

- E. County: Lee County, Florida.
- F. Daytime: The period from a half hour before sunrise to a half hour after sunset.

- G. Director: The Director of Lee County Community Development or designee.
- H. Gross Vehicle Weight: The weight of the originally equipped motor vehicle and all items added to it after it has left the factory. This would include the driver and all occupants and the load the vehicle is carrying, as established by the manufacturer.
- I. Land Development Code: The Lee County, Florida, Land Development Code.
- J. Mobile Carrier: An electrically powered device that:
  1. Is operated on sidewalks and crosswalks and is intended primarily for transporting property;
  2. Weighs less than 80 pounds, excluding cargo;
  3. Has a maximum speed of 12.5 mph; and
  4. Is equipped with a technology to transport personal property with the active monitoring of a property owner and primarily designed to remain within 25 feet of the property owner.

A mobile carrier is not considered a vehicle or personal delivery device unless expressly defined by law as a vehicle or personal delivery device.

- K. Official Signs: Any sign which is placed or erected by the authority of a public body or official having jurisdiction for the purpose of regulating, guiding, or warning traffic or prohibiting parking.
- L. Owner: A person who holds the legal title of a vehicle.
- M. Park or Parking: The standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers or performing maintenance or repair services to or upon real property or improvements located thereon as may be permitted by law under this Ordinance.
- N. Parking Citation: Official form used by Lee County Code Enforcement to notify the owner of a vehicle that said vehicle is parked in the violation of the terms of this Ordinance which subjects the owner to possible fines imposed by same.
- O. Parking Ticket: Official form used by the Sheriff to notify the owner of a vehicle that said vehicle is parked in the violation of the terms of this Ordinance which subjects the owner to possible fines imposed by same.
- P. Parking Enforcement Specialist: A person appointed by the Sheriff to enforce parking regulations who has successfully completed a training program established and approved by the Police Standards and Training Commission for parking enforcement specialists, but who does not otherwise meet the uniform minimum standards established by the Police Standards and Training Commission for police officers or auxiliary or part-time officers under Section 943.12, Florida Statutes.
- Q. Person: Any natural person, firm, co-partnership, association or corporation.

- R. Personal Delivery Device: An electrically powered device that:
  1. Is operated on sidewalks and crosswalks and intended primarily for transporting property;
  2. Weighs less than 80 pounds, excluding cargo;
  3. Has a maximum speed of 10 miles per hour; and
  4. Is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.

A personal delivery device is not considered a vehicle unless expressly defined by law as a vehicle. A mobile carrier is not considered a personal delivery device.

- S. Public Right-of-way: See "Right-of-way."
- T. Repeat Violation: A violation of this Ordinance by a vehicle owner who has previously violated this Ordinance and been issued a parking citation within 5 years prior to the violation, notwithstanding the violations may occur at different locations.
- U. Right-of-way: The word "right-of-way" shall mean the entire width between the boundary lines of every road, roadway or land area of whatever nature dedicated or open to the use of the public for the purpose of vehicular traffic or pedestrian traffic or otherwise, including state roads, both primary and secondary, and county roads acquired by dedication, condemnation, use or otherwise.
- V. Sheriff: The Sheriff of Lee County or his duly appointed deputies.
- W. Stand or Standing: The halting of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in, receiving or discharging passengers or performing maintenance or repair services to or upon real property or improvements located thereon as may be permitted by law under this Ordinance.
- X. Removal Notice: Official form used by Lee County Code Enforcement to notify the owner of a vehicle that said vehicle is parked in violation of the terms of this Ordinance and, further notify the vehicle owner that if the violation continues beyond the specified reasonable time to remove the vehicle, the code enforcement specialist may issue a parking citation.
- Y. Vehicle: Any device in, upon, or by which any person or property is or may be transported or drawn upon a road right-of-way, except personal delivery devices, mobile carriers, and devices used exclusively upon stationary rails or tracks.

**SECTION THREE: PROHIBITION OF PARKING ON RESIDENTIALLY ZONED PROPERTY**

**A. Prohibition of Parking on Property in Residential Zoning Districts:**

It shall be a violation of this Ordinance to park a commercial truck on any property zoned in accordance with Chapter 34 of the Land Development Code as:

1. RS residential single-family
2. RSA residential single-family

3. RSC residential single-family conservation
4. TFC residential two-family conservation
5. TF residential two-family
6. RM residential multiple-family
7. MH mobile home residential
8. PUD planned unit development
9. RPD residential planned development
10. RV recreational vehicle
11. RVPD recreational vehicle planned development
12. MHPD mobile home planned development
13. MPD mixed use planned development (limited to the residential portion of a MPD).

B. Exceptions:

1. Daytime deliveries or daytime service calls;
2. A truck parked in a completely enclosed building or garage;
3. A truck used for emergency service work by a person employed by a public utility, when approved by the Director, provided:
  - a. The truck is parked while the employee is on "emergency on-call status;" AND
  - b. Only one emergency service truck is allowed for each employee residing at the property; AND
  - c. The truck may not be stored at the property.

C. Enforcement Authority:

The Lee County Code Enforcement Section is authorized to enforce violations of this Section through the enforcement procedures set forth below.

D. Enforcement:

1. Removal Notice:
  - a. When a violation of this Section is discovered, and prior to issuance of a citation, a code enforcement specialist must place a written removal notice on a conspicuous place upon the vehicle.
  - b. If the owner of the vehicle can be ascertained, the removal notice may be provided to that person rather than being placed upon the vehicle.
  - c. The removal notice must provide the owner notice that a violation of this Ordinance has occurred and provide a reasonable amount of time to remove the vehicle.
  - d. The placing of the removal notice upon the vehicle shall be considered sufficient notice to the owner that a violation of this Section has occurred.

2. Citation:

- a. If, upon investigation, a code enforcement specialist finds that the vehicle has not been removed within the reasonable time provided in the removal notice, the code enforcement specialist may issue a citation to the owner of the vehicle.
- b. If the owner of the vehicle cannot be ascertained, the citation may be placed on a conspicuous place upon the vehicle.
- c. The citation shall inform the owner that they have been found in violation of this Ordinance and may assess a fine in accordance with Chapter 162 Part II, Florida Statutes, or its successor.
- d. The citation shall inform the owner that they have thirty (30) days either to contest the citation by requesting a court date from the Clerk's office or to pay the fine indicated on the citation.
- e. The citation shall inform the owner that if they fail to either pay the fine or request a court date within thirty (30) days that they may be held in contempt of court and a warrant for their arrest may be issued.
- f. The citation shall inform the owner that if a repeat violation of this Ordinance occurs, the vehicle may be towed at the expense of the owner.

3. Repeat Violations:

- a. If a repeat violation is found subsequent to the issuance of a citation, the code enforcement specialist may immediately issue a citation in accordance with the Section above and without the placement of a removal notice.
- b. If a repeat violation is found subsequent to the issuance of a citation, the Director is authorized to cause the vehicle to be towed.
- c. The County shall not be responsible for the payment of any fees necessary for the release of the vehicle.
- d. Any cost incurred by the County in the towing and storage of the vehicle shall be paid by the owner.

**SECTION FOUR: PROHIBITION OF PARKING ON PUBLIC RIGHT-OF-WAYS**

A. Prohibition of Parking on Right-of-Way:

It shall be a violation of this Ordinance to park a commercial truck on any public right-of-way in unincorporated Lee County. Official Signs shall be erected at the locations depicted and described on "Exhibit A" and "Exhibit B" to this Ordinance. The Official Signs shall provide notice that parking commercial trucks on Public right-of-ways is prohibited. The Official Signs shall provide notice that violators may be ticketed and/or towed. The Official Signs shall reference this Ordinance. The Lee County Department of Transportation shall have the authority and responsibility to erect the Official Signs.

B. Exceptions:

1. Daytime deliveries or daytime service calls;
2. If specifically authorized by an official sign to park on a certain area of a public right-of-way.

C. Enforcement Authority:

The Lee County Sheriff's Office is authorized to enforce violations of this Section through the enforcement procedures set forth below.

D. Enforcement:

1. Ticket:

- a. When a violation of this Section is discovered, a sheriff's officer or parking enforcement specialist may issue a ticket to the owner.
- b. If the owner cannot be ascertained, the ticket may be placed on a conspicuous place upon the vehicle.
- c. The ticket shall inform the owner of the violation of this Ordinance and may assess a fine in accordance with Chapter 316, Florida Statutes, or its successor.
- d. The ticket shall inform the owner that they have thirty (30) days either to contest the citation by requesting a court date from the Clerk's office or to pay the fine indicated on the ticket.
- e. The ticket shall inform the owner that if they fail to either pay the fine or request a court date within thirty (30) days that they may be held in contempt of court and a warrant for their arrest may be issued.
- f. The ticket shall inform the owner that if a vehicle under his/her ownership is found to be in violation of this Ordinance again in the future, the vehicle may be towed at the expense of the owner.

2. Towing:

- a. If a vehicle is found to be parked in violation of this Section, and the owner has previously been issued a ticket for violating this Ordinance, the Sheriff is authorized to cause the vehicle to be towed.
- b. The Sheriff's Office shall not be responsible for the payment of any fees necessary for the release of the vehicle.
- c. Any cost incurred by the Sheriff's Office in the towing and storage of the vehicle shall be paid by the owner.

**SECTION FIVE: SUPPLEMENTAL**

This Ordinance is supplemental to any other lawfully adopted ordinances or laws that regulate parking in the County.

**SECTION SIX: CONFLICTS OF LAW**

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

**SECTION SEVEN: SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held illegal, invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Board of County Commissioners hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared illegal, invalid or unconstitutional.

**SECTION EIGHT: SCRIVENER'S ERRORS**

The Board of County Commissioners intends that this Ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

**SECTION NINE: MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING**

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

**SECTION TEN: EFFECTIVE DATE**

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



Commissioner Mann made a motion to adopt the foregoing Ordinance, seconded by Commissioner Manning. The vote was as follows:

John Manning	Aye
Cecil Pendergrass	Aye
Vacant	
Brian Hamman	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 7th day of May, 2019.

ATTEST:  
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

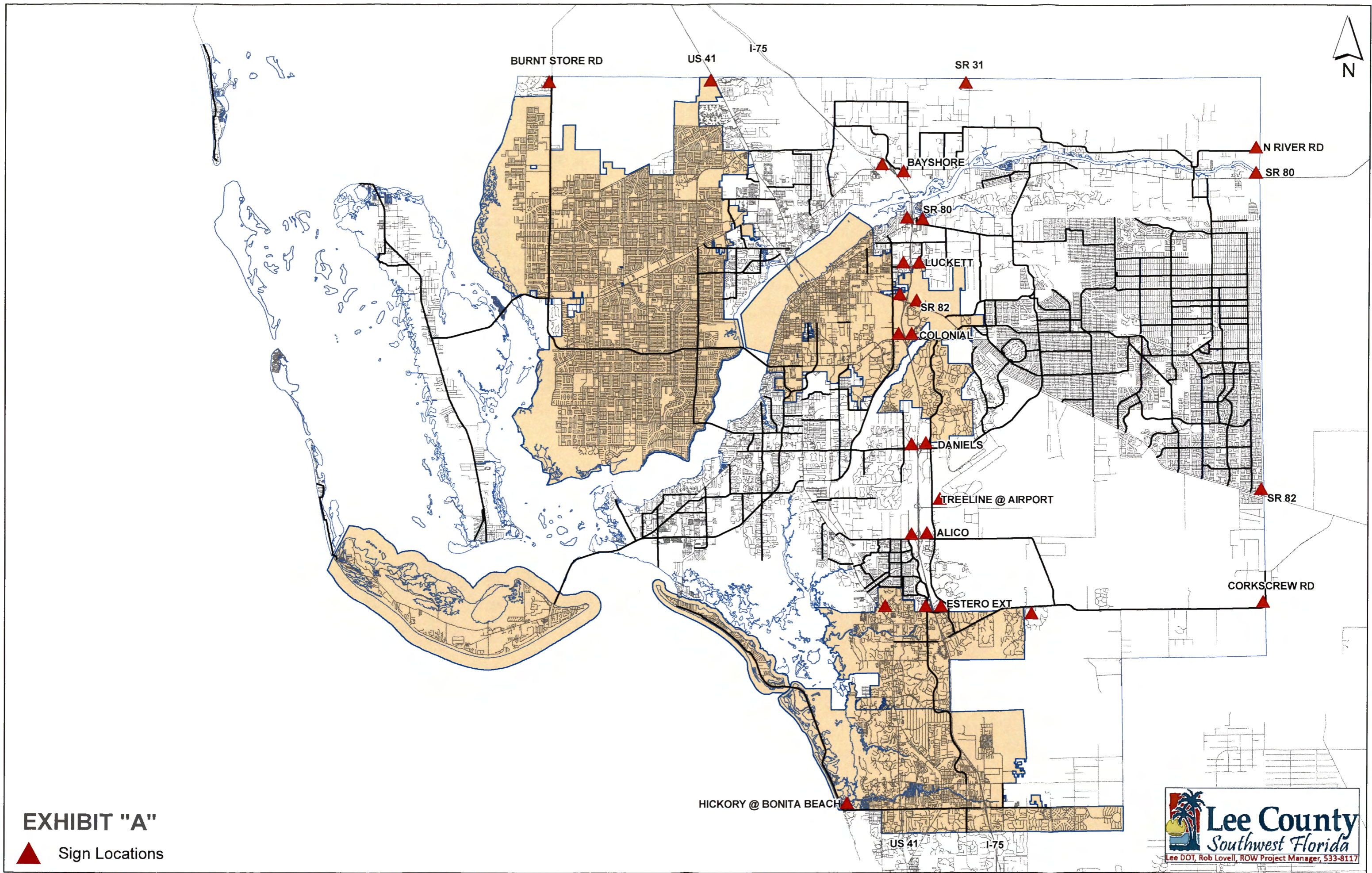
BY: Missy Flint  
Deputy Clerk

BY: Brian Hamman  
Brian Hamman, Vice-Chair



APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY

Joseph Adams  
Office of the County Attorney



**EXHIBIT "A"**

 Sign Locations



**Lee County**  
*Southwest Florida*  
Lee DOT, Rob Lovell, ROW Project Manager, 533-8117

EXHIBIT "B"

Sign Locations

On Street	Between	And	Direction
Burnt Store Rd	Charlotte County Line	Islamorada Blvd	SB
US 41	Charlotte County Line	Heron's Glen Blvd	SB
SR 31	Charlotte County Line	Busbee Ln	SB
North River Rd	Hendry County Line	Silver Shores Ln	WB
Palm Beach Blvd	Hendry County Line	Floweree Rd	WB
Immokalee Rd	Hendry County Line	Columbus Blvd	WB
Corkscrew Rd	Collier County Line	TPI Rd	WB
Corkscrew Rd	Bella Terra Blvd	Panther Island Blvd	EB
Bonita Beach Rd	Lely Blvd	Kings Kew	WB
US 41	Estero Pkwy	Vintage Pkwy	NB
Three Oaks Pkwy	Estero Pkwy	Koreshan Way	NB
Ben Hill Griffin Pkwy	Estero Pkwy	Eagle Village Dr	NB
Alico Rd	Royal Queen Blvd	Ben Hill Griffin Pkwy	EB
Alico Rd	I-75 SB Ramp	Three Oaks Pkwy	WB
Terminal Access Rd WB Ramp	Terminal Access Rd	Treeline Ave	WB
Daniels Pkwy	Jetport Commerce Pkwy	Treeline Ave	EB
Daniels Pkwy	Danport Blvd	Palomino Ln	WB
Colonial Blvd	Colonial Country Club Blvd	Treeline Ave	EB
Colonial Blvd	Colonial Center Dr	Ortiz Ave	WB
Dr. Martin Luther King Blvd	Destination Dr	Forum Blvd	EB
Dr. Martin Luther King Blvd	Park Plaza	Ortiz Ave	WB
Luckett Rd	Northland Dr	Country Lakes Dr	EB
Luckett Rd	Enterprise Pkwy	Golden Lake Rd	WB
Palm Beach Blvd	I-75 NB Ramp	Orange River Blvd	EB
Palm Beach Blvd	I-75 SB Ramp	Morse Plaza	WB
Bayshore Rd	Pritchett Pkwy	Wells Rd	EB
Bayshore Rd	Park 78 Dr	Williamsburg Dr	WB



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

May 13, 2019

Honorable Linda Doggett  
Clerk of the Circuit Courts  
Lee County  
Post Office Box 2469  
Fort Myers, Florida 33902-2469

Attention: Missy Flint

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Ordinance No. 19-08, which was filed in this office on May 13, 2019.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb