

Lee County Board Of County Commissioners
Agenda Item Summary

DATE CRITICAL
Blue Sheet No. 20050324

1. Action Requested/Purpose: Adopt Ordinance to amend blasting regulations. Amendment will provide relief from LDC Chapter 3 blasting regulations in conjunction with development blasting operations under the control and coordination of the Blasting Consultant, TerraDinamica, and specifically to further the current blasting study.

2. What Action Accomplishes: Allows limited relief from the restrictions on location and intensity of development blasting to facilitate the County's Blasting Study.

3. Departmental Category:

5:05 #1

4. Meeting Date:

04-12-2005

5. Agenda:

Consent
 Administrative
 Appeals
 Public 5:05 p.m.
 Walk-On

6. Requirement/Purpose (specify)

Statute F.S. §125.66
 Ordinance
 Admin. Code
 Other

7. Request Initiated:

Commissioner _____
 Department _____
 Division _____
 By: *Dawn E. Perry-Lehnert*
 Dawn E. Perry-Lehnert
 Assistant County Attorney

8. Background:

In order to facilitate the Blasting Study, some relief from the .3 Peak Particle Velocity (PPV) limitation at all structures is necessary and has been requested by the Blasting Study Consultant. The proposed ordinance is intended to provide this relief under limited circumstances. Specifically, the draft amendment will allow deviation from the provisions of Chapter 3 if: (1) the Board has issued a blasting permit; and, (2) the applicant submits a written request to deviate from the existing permit conditions, which is approved by the County; and, (3) the deviation will facilitate the blasting study; and, (4) the blasting will be conducted under the supervision of the County's Blasting Consultant. In all other respects, Chapter 3 will remain in full force and effect.

Attachment: Draft Ordinance

9. Review for Scheduling

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager / P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>BS</i>				<i>Smith Lehr</i>	<i>RK 3/7</i>	<i>no 3/7</i>	<i>db 3/10/05</i>	<i>ra 3/7/05</i>	<i>3-23-05</i>

10. Commission Action

Approved

Deferred

Denied

RECEIVED BY COUNTY ADMIN <i>3/14/05</i>	IN:
COUNTY ADMIN FORWARDED TO: <i>3/23/05</i> <i>SPM</i>	Other
	FORWARDED TO:

CO. ATTY.
FORWARDED TO:
3/14/05
SPM

*TD
MAY 14
6:20:05*

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

NAME OF ORDINANCE:

I. DESCRIPTION OF ORDINANCE

A. Statement of Purpose:

Amendment will provide relief from LDC Chapter 3 blasting regulations in conjunction with development blasting operations under the control and coordination of the Blasting Consultant, TerraDinamica, and specifically to further the current blasting study.

B. Narrative Summary of Ordinance (Several Sentence Summary)

An ordinance amending Lee County Land Development Code Chapter 3 to provide limited relief from the established location and blasting intensity limitations set forth in LDC sections 3-8, 3-9 and 3-20.

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

Community Development

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

Ordinance Amending Blasting Regulations to Provide Limited Relief

II. Fiscal Impact on County Agencies/County Funds.

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

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

C. What are estimated costs?

	1st Year \$'s		2nd Year \$'s	
	<u>Existing</u>	<u>New</u>	<u>Existing</u>	<u>New</u>
Personnel	N/A		N/A	
Fringe	N/A		N/A	
Operating	N/A		N/A	
Capital Outlay	N/A		N/A	
Total	N/A		N/A	

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

1. What is the basis (rationale) for the fee? N/A

2. Do the anticipated fees cover the full cost of operation? If not, what percentage of the costs are covered? N/A

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

No financial or administrative impact. Ordinance authorizes Blasting Consultant and DCD to allow deviation of existing permit conditions in specific instances in order to facilitate collection of useful data relative to the development of the blasting study analysis.

ORDINANCE NO. 05-

AN ORDINANCE AMENDING LEE COUNTY LAND DEVELOPMENT CODE CHAPTER 3 TO PROVIDE LIMITED RELIEF FROM THE ESTABLISHED LOCATION AND BLASTING INTENSITY LIMITATIONS SET FORTH IN LDC SECTIONS 3-8, 3-9 AND 3-20; PROVIDING FOR LEGISLATIVE FINDINGS; PURPOSE; AMENDING LEE COUNTY LAND DEVELOPMENT CODE CHAPTER 3, APPLICABILITY (§3-2); ESTABLISHING A SUNSET PROVISION; PROVIDING FOR CONFLICTS OF LAW; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 1 of the Florida Constitution and Chapter 125 of the Florida Statutes, Lee County is authorized and required to protect the public health, safety and welfare of its citizens and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, the Board adopted Lee County Land Development Code (LDC) Chapter 3 establishing regulations applicable to development blasting in Lee County on April 27, 2004; and

WHEREAS, Chapter 3 requires all existing and future permits to conform to the newly adopted regulations; and

WHEREAS, the Board is pursuing a study on the various issues and aspects of development blasting in order to determine if appropriate levels of blasting intensity can be established for Lee County given its geology and development characteristics; and

WHEREAS, in order to study the effects on blasting in Lee County, development blasting activity must be pursued; and

WHEREAS, the current constraints on blasting location and intensity act as an impediment to collection of all the meaningful data necessary to accomplish the purposes set forth in the contract covering the Development Blasting Study; and

WHEREAS, the Board believes it is appropriate to provide relief from established limitations on development blasting to facilitate the development blasting study commissioned by the Board.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lee County, Florida:

SECTION ONE: LEGISLATIVE FINDINGS

The Board hereby adopts the recitals set forth above as the legislative findings and conclusions necessary to support adoption of this ordinance.

SECTION TWO: PURPOSE

The purpose of this ordinance is to facilitate the collection of meaningful data as part of the Lee County Development Blasting Study conducted by the County Blasting Consultant, TerraDinamica. This ordinance amends Lee County Land Development Code Chapter 3 to provide limited relief from strict compliance with the location and blasting intensity provisions set forth in LDC sections 3-8, 3-9 and 3-20.

SECTION THREE: AMENDMENT TO LDC CHAPTER 3.

Lee County Land Development Code Chapter 3 is hereby amended as follows with strike through identifying deleted provisions and underline identifying additional provisions.

Sec. 3-2. Applicability; Winkler Road Extension blasting prohibition; development blasting study.

- (a) no change
- (b) no change
- (c) no change
- (d) In order to facilitate the development blasting study conducted by County's Blasting Consultant, TerraDinamica, limited relief from the restrictions on location and intensity of development blasting set forth in sections 3-8(b) and (c), 3-9 and 3-20, is necessary. Accordingly, deviation from the identified sections may be granted, if and only if, all of the following occurs:
 - (1) The Board has issued a development blasting permit in accordance with this article; and
 - (2) The applicant submits a written request for a deviation from the existing permit conditions and the request is specifically agreed upon, in writing, by the County's Blasting Consultant and Director of Community Development; and
 - (3) The deviation is designed to allow collection of meaningful data necessary to accomplish the goals and objectives of the development blasting study; and
 - (4) All development blasting that deviates from the provisions of this article is conducted under the supervision and control of the County's Blasting Consultant.

SECTION FOUR: SUNSET PROVISION

The provisions set forth in LDC section 3-2(d) automatically sunset and become of no further force and effect on the earlier of December 31, 2005, or, the date the Blasting Consultant submits the final Development Blasting Study Report to the County for presentation to the Board of County Commissioners.

SECTION FIVE: CONFLICTS OF LAW

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

SECTION SIX: SEVERABILITY

It is the Board of County Commissioner’s intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION SEVEN: EFFECTIVE DATE

This ordinance will take effect on the date a copy of the ordinance is accepted for delivery, by express mail, to the Department of State.

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

ROBERT P. JANES
DOUGLAS ST. CERNY
RAY JUDAH
TAMMY HALL
JOHN E. ALBION

DULY PASSED AND ADOPTED THIS day of _____, 2005.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Dawn E. Perry-Lehnert
Office of County Attorney