

LEE COUNTY ORDINANCE NO. 15-01

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA; PROVIDING FOR PROTECTION OF MILITARY MONUMENTS IN LEE COUNTY, FLORIDA; PROVIDING FOR PROTECTIVE MEASURES OF MONUMENTS; PROVIDING PENALTIES; PROVIDING FOR WAIVERS THAT MAY BE GRANTED AFTER CONSIDERATION AT PUBLIC HEARING; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida ("*Board*") is the governing body in and for Lee County, Florida, and

WHEREAS, the Board is authorized pursuant to Chapter 125, Florida Statutes, to enact Ordinances necessary in the exercise of its powers; and

WHEREAS, the Board desires to protect existing military monuments on County property from destruction, damage, or disturbance; and

WHEREAS, any such destruction, damage, or disturbance exhibits disrespect for both the memory of those armed service members who made the ultimate sacrifice and the deeds and sacrifices of every veteran; and

WHEREAS, federal legislation does not adequately protect local war and military memorials and monuments on non-federal land; and

WHEREAS, John S. Ebling, a proud U.S. Army veteran, faithfully served fellow veterans in Lee County as Director of the Office of Veterans Service; and

WHEREAS, John S. Ebling died while in that service on December 30, 2014; and

WHEREAS, John S. Ebling would understand, appreciate and support the goals of this ordinance.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Lee County, Florida, that:

SECTION ONE:

This Ordinance shall be known as the "John S. Ebling/Lee County Armed Forces History and Heritage Protection Ordinance".

SECTION TWO: DEFINITIONS

A. "Public property" is all real property owned or leased by Lee County, Florida.

B. "Monument" or "Memorial" is a statue, nameplate, plaque, or any other artistic rendering in any format created in remembrance of a person or event involving the Armed Forces of the United States at any time since its inception and erected, named or dedicated on or after the effective date of this Ordinance.

SECTION THREE: PROTECTIVE MEASURES

A. Any statue, monument, memorial, nameplate, or plaque which has been erected for, or named or dedicated in honor of, the Native-American Wars, Spanish and English occupation conflicts, French and Indian War, American Revolution, War of 1812, Seminole Indian Wars, U.S.-Mexican War, the War Between the States, Spanish-American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam War, Operation Urgent Fury (Grenada), Operation El Dorado Canyon (Libya), Operation Just Cause (Panama), Operation Desert Shield/Desert Storm (Persian Gulf War I), Operation Enduring Freedom (Afghanistan), and Operation Iraqi Freedom (Persian Gulf War II), and is located on public property, may not be relocated, removed, disturbed, altered, renamed, or rededicated, or otherwise disturbed.

B. A statue, monument, memorial, nameplate, plaque, picture, historic flag display, school, street, bridge, building, park, preserve, or reserve which has been erected for, or named or dedicated in honor of, any historical military figure, historical military event, military organization or military unit and is located on public property, may not be renamed or rededicated.

C. No person may prevent the governmental entity having responsibility for maintaining any of the items, structures or areas described in subsection (b) from taking proper and appropriate measures, and exercising proper and appropriate means, for the protection, preservation, care, repair or restoration of such items, structures or areas.

SECTION FOUR: PENALTIES

If any person shall willfully, except as provided for in Section Three C. above, destroy, mutilate, deface, injure, or remove any monument, memorial, nameplate or plaque which has been erected or placed in honor of the conflicts and wars enumerated in Section Three A. above, and shall be found guilty of a second degree misdemeanor thereof, before a court of competent jurisdiction, shall for each and every such offense forfeit and pay a fine, in the discretion of the court, according to the aggravation of the offense, of not less than \$100 and no more than \$500.

SECTION FIVE: WAIVERS FOR CONVENIENCE

Any entity public or private exercising control of public property on which a monument or memorial is located may petition the Lee County, Florida County Commission for a waiver to section three. A petition for waiver shall be in writing and shall state the reason, or reasons, upon which the waiver is sought. At any regularly scheduled meeting of the Commission, the Commission may grant a petition for waiver. The Commission may include reasonable conditions and instructions to ensure that any items, structures, or areas are preserved to the greatest extent possible.

SECTION SIX: MODIFICATION

It is the intent of the Board of County Commissioners that this Ordinance may be modified as a result of considerations and issues brought forward during Public Hearing(s). Such modifications may be incorporated into the final version.

SECTION SEVEN: CODIFICATION AND SCRIVENER'S ERRORS

The Lee County Board of County Commissioners intends that this Ordinance will be made part of the Lee County Code; and that sections of this Ordinance can be renumbered or relettered and the word "Ordinance" can be changed to "Section", "Article", or some other appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or relettered and typographical errors and clarification of ambiguous wording that do not affect the intent may be corrected with the authorization of the County Manager or designee, without the need for public hearing.

SECTION EIGHT: CONFLICT OF LAW

In the event this Ordinance conflicts with any other Ordinance of Lee County or other applicable law, the more restrictive shall apply. If any phrase or portion of the Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION NINE: SEVERABILITY

The provisions of this Ordinance are severable and it is the legislative intention to confer upon the whole or any part of the Ordinance the powers provided for herein. If any provision of this Ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of the Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provision not been included herein.

SECTION TEN: EFFECTIVE DATE

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

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

John Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Brian Hamman	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 6th day of January, 2015.

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: marcia Wilson
Deputy Clerk

BY: Brian Hamman
Brian Hamman, Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

BY: Jack N. Peterson
Lee County Attorney's Office



FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

January 12, 2015

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

Attention: Marcia Wilson

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy for Lee County Ordinance No. 15-01, which was filed in this office on January 12, 2015.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

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MINUTES OFFICE
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