

**Lee County Board of County Commissioners
Agenda Item Summary**

DATE CRITICAL
Blue Sheet No. 20021097

1. REQUESTED MOTION:

ACTION REQUESTED: Conduct first public hearing on proposed extension of Communication Tower Interim Ordinance (Lee County Ordinance No. 01-20). After public hearing, direct the extension ordinance to the second public hearing on October 22, 2002 at 5:05 p.m.

WHY ACTION IS NECESSARY: Public Hearings are necessary to adopt amendments to the LDC.

WHAT ACTION ACCOMPLISHES: Allows for discussion and public input on proposed extension of Communication Tower Interim Ordinance (Lee County Ordinance No. 01-20) to May 1, 2003..

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #CW **5:00 #3**

3. MEETING DATE: **10-08-2002**

4. AGENDA:

CONSENT

ADMINISTRATIVE

APPEALS

PUBLIC

WALK ON

TIME REQUIRED:
15 Minutes

5. REQUIREMENT/PURPOSE:
(Specify)

STATUTE

ORDINANCE (LDC)

ADMIN. CODE

OTHER

6. REQUESTOR OF INFORMATION:

A. COMMISSIONER _____

B. DEPARTMENT County Attorney

C. DIVISION Land Use

BY: *John J. Fredyma*
John J. Fredyma
Assistant County Attorney

7. BACKGROUND:

Extends to May 1, 2003, the temporary (interim) regulations contained in Lee County Ordinance No. 01-20 (Communication Tower Interim Regulations), enacted in November of 2001 covering the construction of communication towers in unincorporated Lee County. The interim ordinance was initially adopted for a period of 8 months. A 3-month extension was approved in June of the current year. The extension of the existing (interim) ordinance will prevent a lapse in regulations and will facilitate the opportunity for industry requested review of the Communication Tower Master Plan and draft ordinance.

The Local Planning Agency (LPA) reviewed a draft ordinance on September 23, 2002, and recommended additional review and discussion with industry representatives and interested members of the public prior to the draft ordinance being sent to public hearing before the Board of County Commissioners.

Attachments: (1) Draft of Extension of Communication Tower Interim Ordinance, labeled "Draft 1" in the footer.
(2) FAIS Form

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>[Signature]</i>	OA	OM	RISK	GC	
					<i>[Signature]</i>	<i>9/25/02</i>	<i>9/25/02</i>	<i>9/25/02</i>	<i>9/25/02</i>

10. COMMISSION ACTION:

APPROVED

DENIED

DEFERRED

OTHER

CO. ATTY
FORWARDED
TO CO. ADMIN.
9/24/02 12PM

RECEIVED BY
COUNTY ADMIN. **CA**
9/25 3:00

LEE COUNTY ORDINANCE NO. _____

AN ORDINANCE TO EXTEND TO MAY 31, 2003 THE COMMUNICATION TOWER INTERIM ORDINANCE (LEE COUNTY ORDINANCE NO. 01-20); PROVIDING FOR A PURPOSE, INTENT AND SCOPE; EXTENSION OF COMMUNICATION TOWER INTERIM ORDINANCE (LEE COUNTY ORDINANCE NO. 01-20); TERMS AND PROVISIONS OF EXTENSION; CONSISTENCY WITH LEE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION AND SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida is authorized, directed and empowered to guide and regulate growth and development of the County pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Florida Statutes Section 125.01(1)(h) authorizes counties to establish, coordinate and enforce zoning regulations necessary for the protection of the public; and

WHEREAS, the Board of County Commissioners adopted the Lee County Land Development Code, which contains regulations applicable to the development of land in Lee County; and

WHEREAS, the U.S. Congress adopted Section 704 as part of the Telecommunications Act that the President of the U.S. signed into law on February 8, 1996, such section defining personal wireless services and personal wireless service facilities and preserving local zoning authority over decisions regarding the placement, construction, and modification of personal wireless service facilities; and

WHEREAS, Goal 24 of the Lee County Comprehensive Land Use Plan (Lee Plan) mandates that the county maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and

WHEREAS, Lee Plan Policies 14.5.3, 24.1.9, 52.1.1 and 110.6.2 require county staff and private citizen committees to review existing development regulations to determine whether the regulations can be further fine tuned and streamlined in order meet the goals, objectives and policies of the Lee Plan; and

WHEREAS, Lee Plan Policy 77.10.5 requires the County to continue to permit towers in excess of 100 feet only by special exception and to consider the impacts of such towers on woodstorks; and

WHEREAS, communication towers and personal wireless service facilities comprise a rapidly growing segment of the utilities and communications sector and have merit and value for the community as a whole; and

WHEREAS, it would be undesirable and inconsistent with sound planning principles to allow the proliferation of communication towers without the benefit of a study and development of a County-wide communication tower Master Plan; and

WHEREAS, the County commissioned an independent review and analysis of the use and location of communication towers in unincorporated Lee County, and a review of the existing goal, policies and regulations as they may be found in the County's Comprehensive Plan (the Lee Plan) and the Lee County Land Development Code (LDC) and any other adopted ordinances and regulations; and

WHEREAS, the purpose and intent of this ordinance are to extend and utilize an existing interim regulation during which the County will complete its study and establish standards for the location, siting and design of communication towers and personal wireless service facilities; and

WHEREAS, on November 27, 2001, Lee County adopted the Communication Tower Interim Ordinance (Lee County Ordinance No. 01-20) containing interim or temporary regulations relating to the siting, placement and erection of all types of communication towers and personal wireless service facilities for an initial eight-month period, supplemented with an additional three-month duration; and

WHEREAS, the public and industry seek additional time to review and evaluate the newly produced Master Plan and proposed ordinance; and

WHEREAS, the initial Communication Tower Interim Ordinance and first extension were reviewed by the Local Planning Agency (LPA) only on October 14, 2001 and June 10, 2002, respectively, and found to be consistent with the County's comprehensive plan (the Lee Plan); and

WHEREAS, the LPA reviewed the proposed extension of the Communication Tower Interim Ordinance on October 14, 2002, and found it _____ with the Lee Plan, as indicated.

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

Section One: Purpose, Intent and Scope.

The purpose of this ordinance is to extend the Communication Tower Interim Ordinance (Lee County Ordinance No. 01-20) containing interim or temporary regulations relating to the siting, placement and erection of all types of communication towers and personal wireless service facilities. The provisions of Lee County Ordinance No. 01-20 regulate communication towers for the purpose of attaching personal wireless communication facilities as defined herein within the limits of unincorporated Lee County, Florida. Extension of these temporary interim regulations will allow Lee County to complete its study of the presence of communication towers within its unincorporated limits and to develop and implement a personal wireless communication facility master plan.

Section Two: Extension of Communication Tower Interim Ordinance (Lee County Ordinance No. 01-20)

The Communication Tower Interim Ordinance (Lee County Ordinance No. 01-20), first adopted on November, 27, 2001, is hereby extended beyond the previous sunset dates so as to remain fully effective without interruption, from first adoption, until May 1, 2003, unless further extended by formal action of the Lee County Board of County Commissioners.

Section Three: Terms and provisions of extension.

The terms and provision of the Communication Tower Interim Ordinance (Lee County Ordinance No. 01-20) are incorporated herein by reference and continue in full force and effect except where modified herein.

Section Four: Consistency with Lee County Land Development Code.

The terms and provisions of this interim ordinance are to be read in conjunction with those regulations set forth in the Lee County Land Development Code (LDC), as amended. To the extent that any existing regulation set forth in the LDC is in conflict with this ordinance, the more restrictive regulation will supersede and control.

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 be considered 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 invalid or unconstitutional provision was not included.

Section Seven: Codification and Scrivener's Errors.

The 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 that 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 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 Eight: Effective Date.

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida 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	_____
Andrew W. Coy	_____
John E. Albion	_____

DULY PASSED AND ADOPTED THIS ____ day of October, 2002.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of County Attorney

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

NAME OF ORDINANCE: **EXTENSION OF COMMUNICATION TOWER
INTERIM ORDINANCE (LEE COUNTY
ORDINANCE NO. 01-20)**

I. DESCRIPTION OF ORDINANCE

A. Statement of Purpose

Extension of the Communication Tower Interim Ordinance (Lee County Ordinance No. 01-20) adopted by the Lee County Board of County Commissioners on November 27, 2001. Allows the County's consultant and County staff to complete a review of the current communication tower regulations and develop a county-wide communication tower master plan for the future construction and use of communication towers.

B. Narrative Summary of Ordinance (Several Sentence Summary)

Extends to May 1, 2003 the temporary regulations covering the construction of communication towers in unincorporated Lee County enacted in November of 2001. An extension of the existing ordinance will prevent a lapse in regulations and will facilitate the opportunity for a full review of the requested Communication Tower Master Plan and ordinance by the industry and interested members of the general public prior to requested adoption at public hearing.

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

Department of Community Development

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

Extension of Communication Tower Interim Ordinance

**II. Fiscal Impact on County Agencies/County Funds.
(This section to be completed by Division of Budget Services)**

- A. What is estimated Demand? (Develop Indicators) N/A
- B. What is estimated Workload? (Develop Indicators) N/A
- C. What are estimated costs?

	<u>1st Year \$'s</u>		<u>2nd Year \$'s</u>	
	<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-D, above.

This ordinance will extend the Communication Tower Ordinance effective date to May 1, 2003. Time extension is needed to complete the Communication Tower Study.