

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

**DATE CRITICAL
Blue Sheet No. 20060214**

1. ACTION REQUESTED/PURPOSE: Conduct first public hearing regarding an ordinance amending Lee County Land Development Code (LDC) Chapter 34 pertaining to resource recovery facilities; Direct the proposed ordinance to a second public hearing on March 28, 2006 at 5:05 p.m. in the Commission Chambers.

2. WHAT ACTION ACCOMPLISHES: Satisfies the statutory requirement to hold two public hearings to amend the LDC. If adopted, this amendment will require the establishment of resource recovery facilities such as wood chipping and similar operations to be first reviewed and approved by the BOCC as part of a planned development.

3. MANAGEMENT RECOMMENDATION: Approve.

4. Departmental Category: 12 **5:05 PM PH 2** **5. Meeting Date:** 03-14-2006

6. Agenda:	7. Requirement/Purpose: (specify)
<input type="checkbox"/> Consent	<input type="checkbox"/> Statute
<input type="checkbox"/> Administrative	<input checked="" type="checkbox"/> Ordinance
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code
<input checked="" type="checkbox"/> Public	<input type="checkbox"/> Other
<input type="checkbox"/> Walk-On	

8. Request Initiated:
Commissioner _____
Department _____ County Attorney
Division _____ Land Use
By: <i>[Signature]</i>
Dawn E. Perry-Lehnert
Assistant County Attorney

9. Background: In August 2005, the Board heard a conventional rezoning case coupled with a special exception (REZ2004-00018 and SEZ2005-00005) allowing a resource recovery facility. The special exception, if approved, would have allowed a wood chipping operation to be established. Citizen opposition to approval of the wood chipping activity lead the applicant to withdraw the request. However, the case made it clear that a wood chipping operation or resource recovery facility could be established in a conventional zoning district with a special exception and without BOCC review.

Based upon the above, the Board directed an amendment to the Land Development Code requiring all resource recovery facilities to be approved within an Industrial Planned Development. The Board waived the requirement to bring the proposed ordinance through committee review; and requested that it be brought forward as a stand alone ordinance outside the regular LDC amendment cycle.

County staff has reviewed the proposed ordinance and recommends adoption.

Attachments:
Draft Ordinance

cc: Mary Gibbs, Director, DCD
Pam Houck, Director, Zoning Division
Paul O'Connor, Director, Planning Division
Nettie Richardson, Senior Planner, DCD

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services			County Manager/P.W. Director
					Analyst	Risk	Grants	
				<i>[Signature]</i>	RK 3/11	<i>[Signature]</i> 3/1/06	<i>[Signature]</i> 3/2/06	<i>[Signature]</i> 3-2-06

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

[Handwritten Signature]
C. Admin
3/14/06

RECEIVED BY
COUNTY ADMIN: *[Signature]*
2-28-06
3:49
COUNTY ADMIN
FORWARDED TO: *[Signature]*
3/2/06
2/10

LEE COUNTY ORDINANCE NO. 06-

AN ORDINANCE AMENDING LEE COUNTY LAND DEVELOPMENT CODE CHAPTER 34, ZONING, WOOD CHIPPING AND RELATED USES; AMENDING DEFINITION OF RECYCLING FACILITY (§34-2); AMENDING USE REDUCTIONS FOR AGRICULTURAL DISTRICTS (§34-653); USE REGULATIONS FOR INDUSTRIAL DISTRICTS (§34-903); USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS (§34-934); AMENDING PROVISIONS RELATED TO PLANNED DEVELOPMENT APPROVAL REQUIRED (§34-1831); PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

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 Board of County Commissioners directed County staff to pursue amendment of the Land Development Code to provide that all wood chipping operations and similar uses be allowed within Lee County only as a permitted use within an Industrial Planned Development; 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, the Board of County Commissioners of Lee County, Florida has adopted a comprehensive Land Development Code; and

WHEREAS, the Local Planning Agency reviewed the proposed amendments on , and found them consistent with the Lee Plan, as indicated.

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

SECTION ONE: AMENDMENT OF LAND DEVELOPMENT CODE CHAPTER 34

Lee County Land Development Code Chapter 34 is hereby amended as follows with strike through identifying deleted provisions and underline identifying additional provisions.

Chapter 34

ZONING

ARTICLE I. IN GENERAL

Sec. 34-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Recycling facility means a building within which sorting, separating, baling or crushing of materials such as glass, aluminum or paper products is conducted prior to being transported to another location for recycling into usable products. The term "recycling facility" shall not be interpreted to include auto wrecking or salvage yards, junkyards, trash or refuse dumps, or incinerators, wood chipping, shredding and composting of vegetative matter.

(Balance remains unchanged.)

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 2. AGRICULTURAL DISTRICTS

Sec. 34-653. Use regulations table.

Use regulations for agricultural districts are as follows:

TABLE 34-653. USE REGULATIONS FOR AGRICULTURAL DISTRICTS

	Special Notes or Regulations	AG-1	AG-2	AG-3
Shredding and composting of vegetative matter	34-1831 et seq.	SE	--	--

[Balance of table remains unchanged.]

DIVISION 8. INDUSTRIAL DISTRICTS

Sec. 34-903. Use regulations table.

Use regulations for industrial districts are as follows:

TABLE 34-903. USE REGULATIONS FOR INDUSTRIAL DISTRICTS

	Special Notes or Regulations	IL Note (14)	IG Note (14)	IR Note (14)
Manufacturing, repair or wholesale sales of: Lumber and wood products (34-622(c)(26)): Group I	<u>IPD only</u> Note (9)	--	<u>PEO</u>	<u>PEO</u>
Resource Recovery facilities Recovery facilities to produce energy Recovery facilities, other	IPD only 34-3001 et. seq.	-- SE	EO SE	-- --

[Balance of table remains unchanged.]

DIVISION 9. PLANNED DEVELOPMENT DISTRICTS

Sec. 34-934. Use regulations table.

Use regulations for planned development districts are as follows:

TABLE 34-934. USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS

	Special Notes or Regulations	RPD	MHPD	RVPD	CFPD	CPD	IPD Note (37)	AOPD	MPD
<u>Resource recovery facilities:</u>									
<u>Recovery facilities to produce energy</u>		==	==	==	==	==	P	==	==
<u>Recovery facilities, other</u>	24-3001 et seq.	==	==	==	==	==	P	==	==
<u>Shredding and composting of vegetative matter</u>	34-1831 et seq.	==	==	==	==	==	P	==	==

[Balance of table remains unchanged.]

ARTCILE VII. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 20. JUNK, SCRAP OR SALVAGE YARDS; DUMPS AND SANITARY LANDFILLS

Sec. 34-1831. Planned development approval required;~~exception.~~

(a) Except as provided in subsection (b) of this section, it ~~shall be~~ is unlawful for any person to develop a new junk, scrap or salvage yard, auto wrecking or wrecking yard, refuse or trash dump, or any landfill operation, or to expand in land area any lawfully existing operation, within the unincorporated area of the county, without first having obtained a planned development approval from the Board of County Commissioners.

(b) Shredding and composting of vegetative matter, such as grass clippings, shrubs and brush, generated from a location other than the same premises may be permitted by ~~special exception~~ planned development in the ~~IPD AG-1~~ district only. Provided, however, this section will not prevent emergency debris removal operations specifically authorized, as to duration and location, by the Board of County Commissioners during a state of Local Emergency or Major/Catastrophic Disaster Declaration.

SECTION TWO: 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 THREE: 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 FOUR: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intend 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 Administrator, County Manager or his designee, without the need for a public

hearing.

SECTION FIVE: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the application for such project is complete and found sufficient before the effective date hereof.

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
TAMMARA HALL
JOHN E. ALBION

DULY PASSED AND ADOPTED THIS day of _____, 2006.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairwoman

APPROVED AS TO FORM:

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