

ORDINANCE NO. 09-27

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 10, LAND DEVELOPMENT CODE, OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA; AMENDING ARTICLE VI, DIVISION 1, SECTION 10-6.109, ENTITLED GOVERNMENTAL RIGHT-OF-WAY TAKINGS OR PRIVATE CONDEMNATIONS; AMENDING SECTION 10-6.109(a) RELATED TO PURPOSE AND PROCEDURE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners (the "Board"), on June 9, 2009, adopted Ordinance No. 09-17 which amended Chapter 10 of the Code of Laws of Leon County (the "Code"), relating to off-site signs and billboards (the "Sign Ordinance"); and

WHEREAS, the new regulations contained in the Sign Ordinance could result in an increased financial burden on a governmental or private entity with the power of eminent domain when such entities are involved in a taking of property which necessitates the relocation of a sign to the remaining property; and

WHEREAS, the Board recognizes that, to the extent feasible, owners and tenants whose property has been adversely affected by any taking should be given the opportunity to maintain the status quo on the remainder with regard to the conformity of their improvements with the development standards of this chapter; and

WHEREAS, in order to (i) mitigate the damages resulting from the taking of a sign by providing the opportunity for its relocation to the remaining property, (ii) clarify that to the extent they were conforming, legally nonconforming, vested, or otherwise legal before a taking, any improvements relocated to the remaining property or otherwise affected by a taking should, as feasible, remain so after a taking, (iii) clarify that, with regard to configuring the relocation of improvements to the remainder, the limitations placed on any deviation from development standards are not restricted to only those involving set-back, (iv) provide consistency with other provisions in the Code with regard to damage or destruction of impacted improvements, and (v) clarify that this regulation is applicable to any taking under the power of eminent domain, the Board desires to adopt an ordinance modifying Chapter 10 of the Code by amending Section 10-6.109 of Division 1 of Article VI, relating to Governmental Right-of-Way Takings or Private Condemnations.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, that:

Section 1. Chapter 10, Article VI, Division 1, Section 10-6.109, of the Code of Laws of Leon County, Florida, entitled "Governmental Right-of-Way Takings or Private Condemnations," is hereby amended to read as follows:

Sec. 10-6.109. Governmental ~~Right-of-Way~~ Takings or Private Condemnations.

(a) *Purpose and procedure.* If, as a result of any proposed, pending, or completed taking by a governmental or private entity with the power of eminent domain, by either negotiation or condemnation, any existing lawfully established building areas, and vehicular use areas, or signs would or have, but for this section, become nonconforming or further nonconforming with any of the development standards of this chapter upon such taking, the following provisions shall apply:

- (1) Any Existing lawfully established building areas, and vehicular use areas, or signs which are not within the part taken but, because of the taking, do not comply with any development standard of this ~~chapter ordinance~~, shall not be required to be reconstructed to meet such development standards and the remainders to the extent they were conforming, legally nonconforming, vested, or otherwise legal before the taking, such building areas, vehicular use areas, and signs shall remain so after the taking be deemed thereafter to be conforming properties; and,
- (2) Any existing lawfully established building areas, or vehicular use areas, or signs taken either totally or partially may be relocated on the remainder of the site without the altered site's being required to comply with any development standard of this chapter; provided, however, that, in configuring the relocation of such improvements on the remainder, any deviation from such development standard shall be allowed only to the extent necessary the relocated building or vehicular use areas shall be set back as far as is physically feasible, in the determination of the county administrator or designee, to maintain the utility or use of such

~~improvements that existed before the taking, without reducing the utility or use of the relocated building or vehicular use areas below its pre-taking utility or use. The exemption thus created shall constitute a covenant of compliance running with the land. To the extent they were conforming, legally nonconforming, vested, or otherwise legal before the taking, such building areas, vehicular use areas, and signs shall remain so after being relocated to the remainder; and,~~

- (3) Any lawfully established nonconforming improvements, other than one-family or two-family residential buildings, on property remainders exempted according to paragraphs (1) and (2) above which are thereafter damaged or destroyed, other than by voluntary demolition, to an extent that would allow repair, maintenance, remodeling, or reconstruction with a cost of less than or equal to 50 percent of the value of the improvements of less than 60 percent of the value at the time of such damage or destruction, may be so repaired, maintained, remodeled or reconstructed ~~restored~~ but only to the pre-damage or pre-destruction size and location; and, in the case of voluntary demolition, no rights of restoration are conferred except in compliance with the then existing applicable standards of this chapter; and,
- (4) In order to secure the exemptions in paragraphs (1) and (2) above, either the condemning authority, or ~~the landowner~~ any owner, or any tenant, shall apply in writing by filing an application with the county administrator or designee for a determination that the granting of the exemption will not or does not result in a condition dangerous to the health, safety, or welfare of the general public. The applicant shall serve notice of the filing of the application and a copy of the application to all concerned parties involved in the negotiation or condemnation of the parcel, in person or by first class mail. Non-applicant parties may file responses to the application within 15 working days of service of the notice. The county administrator or designee shall, within 30 working days of the filing of the application, determine whether or not the exemption from the development standards

granted by this section will endanger the health, safety, or welfare of the general public. If the county administrator or designee determines that the granting of an exemption requested under this article will not or does not constitute a danger to the health, safety, or welfare of the general public, the county administrator or designee shall issue a certificate of exemption to the applicant granting the exemption with or without conditions, and notify all parties thereof. The certificate of exemption shall specify the details of the exemption and be executed in a form recordable in the Public Records of Leon County, Florida.

If the application is denied, the county administrator or designee shall issue a signed letter to the applicant specifying the specific health, safety, or welfare ground upon which the denial is based.

If the county administrator or designee fails to issue a certificate of exemption within 30 working days from the filing of the application, the applicant may bring the application before the planning commission at the next meeting of the planning commission occurring next after the expiration of 30 working days from the filing of the application with the county administrator.

- (5) The determination of the county administrator or designee will become final 15 calendar days after it is rendered unless a person who qualifies as a party as defined in Article VII of Chapter 10 at Division 7 of this Code files a petition for formal proceedings before the planning commission together with the filing fee within this time period in accordance with Division 7 of Article VII of Chapter 10 of this Code and the bylaws of the Tallahassee-Leon County Planning Commission.
- (6) No fee shall be required for any application under this section, however, a filing fee will be required for appeals as provided in Division 7 of Article VII of Chapter 10 of this Code and the bylaws of the Tallahassee-Leon County Planning Commission.

Section 2. Conflicts. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Comprehensive Plan as amended, which provisions shall prevail over any part of this ordinance which is inconsistent, either in whole or in part, with the Comprehensive Plan.

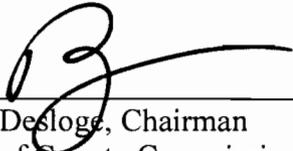
Section 3. Severability. If any word, phrase, clause, section or portion of this ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4. Effective date. This ordinance shall have effect upon becoming law.

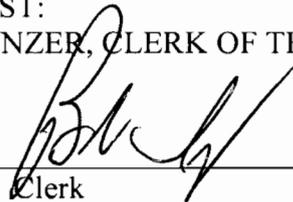
DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this 25th day of August, 2009.



LEON COUNTY, FLORIDA

By: 
Bryan Desloge, Chairman
Board of County Commissioners

ATTEST:
BOB INZER, CLERK OF THE COURT

By: 
Clerk

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

By: 
Herbert W. A. Thiele, Esq.
County Attorney