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**ORDINANCE  
NUMBER 2022-17**

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**AN ORDINANCE OF LEVY COUNTY, FLORIDA,  
AMENDING CHAPTER 50 (THE LAND DEVELOPMENT  
CODE) OF THE COUNTY CODE OF ORDINANCES; BY  
DELETING OBSOLETE PROVISIONS, ADDING  
PROVISIONS FOR EQUITABLE ESTOPPEL  
CERTIFICATES AND RECONFIGURED PARENT  
PARCELS, AND ADDING FEES TO APPENDIX B;  
PROVIDING FOR INCLUSION IN THE CODE; PROVIDING  
A SEVERABILITY CLAUSE; PROVIDING A REPEALING  
CLAUSE; PROVIDING DIRECTIONS TO THE CLERK AND  
AN EFFECTIVE DATE.**

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**WHEREAS**, Section 1, Article VIII of the Florida Constitution and Chapter 125, Florida Statutes, vest the Board of County Commissioners of Levy County, Florida (the “Board”) with the authority to adopt county ordinances that are not inconsistent with state general or special law and provide the required procedures to adopt such ordinances;

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**WHEREAS**, in 1990, the Board adopted the Levy County Comprehensive Plan pursuant to the provisions of Chapter 163, Florida Statutes, which Comprehensive Plan has been amended through adoption of subsequent ordinances (the “Comprehensive Plan”); and

**WHEREAS**, in 1991, the Board adopted the Levy County Land Development Regulations, now codified as Chapter 50 titled “Land Development Code” of the Code of Ordinances of Levy County; and

**WHEREAS**, Section 50-772 of the Land Development Code requires that a Certificate of Zoning Compliance be obtained before applying for a building permit;

**WHEREAS**, it has come to the attention of the Board that certain property owners who have been denied a Certificate of Zoning Compliance (because current County staff has found the proposed use does not meet the requirements set forth in

Note: deletions shown ~~stricken~~, additions shown underlined.

1 Section 50-772) have, in their possession, a written zoning determination from a prior  
2 County employee that confirmed the use that is now being denied;

3 **WHEREAS**, the Board believes that fundamental fairness requires that a  
4 property owner who “did the right thing” by obtaining a written zoning determination from  
5 an authorized County employee and then took action based on receipt of that written  
6 determination should be allowed to rely on that determination and obtain a building  
7 permit, provided there have been no subsequent changes in the law and provided the  
8 property owner has made reasonable efforts towards compliance, if possible; and

9 **WHEREAS**, the Board finds there is a public purpose served by avoiding  
10 litigation, fostering confidence in County government, and facilitating present  
11 improvement and productive use of property in the County; and

12 **WHEREAS**, to those ends, the Board adopts this ordinance establishing a  
13 process (based on the affirmative defense of equitable estoppel) by which the County  
14 will recognize prior written zoning determinations, will voluntarily estop itself from  
15 enforcing the County’s Comprehensive Plan and/or Land Development Code  
16 requirements in the very limited circumstances described in this ordinance, and will  
17 allow an Equitable Estoppel Certificate to be issued as an alternative to a Certificate of  
18 Zoning Compliance in order for a property owner to make application for a building  
19 permit; and

20 **WHEREAS**, County staff has also made the Board aware that it would be helpful  
21 to recognize reconfigured parent parcels in order to allow property owners to improve  
22 the size and/or shape of a parent parcel and get closer to meeting density and other  
23 zoning requirements, such as lot width and setbacks; and

24 **WHEREAS**, it is expressly recognized that the County is not obligated to enact  
25 the equitable estoppel certificate provisions and is not recognizing or creating any  
26 vested rights through this process. This process is one of equity and is not intended to  
27 create a right of appeal or any legal cause of action, nor is it intended to take away or  
28 replace any cause of action that exists independent of this ordinance.

29 **WHEREAS**, as required by Part II of Chapter 163, Florida Statutes and Section  
30 50-55 of the Land Development Code, this proposed ordinance has been reviewed by the  
31 County Planning Commission for consistency with the Comprehensive Plan and the  
32 Planning Commission recommendation has been forwarded to the Board; and  
33

Note: deletions shown ~~stricken~~, additions shown underlined.

1           **WHEREAS**, at least ten (10) days' notice has been given once by publication in a  
2 newspaper of general circulation notifying the public of this proposed ordinance and of a  
3 public hearing in the Levy County Government Center in Bronson, Florida; and  
4

5           **NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners  
6 of Levy County, Florida, that:  
7

8           **Section 1.** A new Section 50-680 is created as follows:  
9

10 Chapter 50. Land Development Code

11           Article XIII. Zoning

12                   Division 3. District Regulations

13                           Subdivision 1. Schedules of District Uses and Lot, Yard and  
14                           Height Restrictions; Other Supplemental Development  
15                           Regulations.  
16

17           **Sec. 50-680. Reconfiguring a parent parcel or parcel of record that is not located**  
18 **within a recorded subdivision.**

19  
20           Parent parcels or parcels of record that are described by metes and bounds legal  
21 description and are not located within a recorded subdivision may be re-configured in  
22 size and shape; provided that the reconfiguration:

23           (1) Either adds acreage to the parent parcel to come closer to meeting density or  
24 maintains the existing acreage and better configures the shape of the parent  
25 parcel to meet or come closer to meeting other zoning requirements, such as lot  
26 width or setbacks.

27           (2) Does not create additional parcels;

28           (3) Does not cut off or alter rights-of-way or other areas dedicated for public use; and

29           (4) Does not leave any residual land that does not meet density or other zoning  
30 requirements.

31  
32           Parent parcels that are reconfigured under this section result in a new parent parcel  
33 designation that is irrevocable and will be reflected in the records of the county planning  
34 and zoning department.

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36           **Section 2.** Section 50-772 is amended as follows:  
37

38 Chapter 50. Land Development Code

39           Article XIII. Zoning

Note: deletions shown ~~stricken~~, additions shown underlined.

1 Division 4. Permits and Non-Conformities  
2 Subdivision I. Permits and Certificates

3 **Sec. 50-772. Certificate of zoning compliance; equitable estoppel certificate;**  
4 **certificate of concurrency.**

5 (a) It shall be duty of the zoning official to issue a certificate of zoning compliance,  
6 provided ~~he is~~ they are satisfied that the proposed use conforms with all  
7 requirements of the zoning district within which the proposed use will be located,  
8 and will meet all other requirements of this article. This certificate shall be  
9 obtained before application is made for a building permit. ~~The zoning official may~~  
10 ~~issue a special use permit for any temporary use in any district not otherwise~~  
11 ~~provided for in schedule 2 of this article. No temporary use permit may be issued~~  
12 ~~for more than 30 days.~~

13  
14 ~~(b) Should the zoning official have difficulty assigning a land use to that specific~~  
15 ~~zoning classification, then that use shall be considered by the zoning board at~~  
16 ~~their earliest regular meeting. With a recommendation to the board of county~~  
17 ~~commissioners who will then determine if and how the schedule will be revised,~~  
18 ~~as provided in subdivision III of this division.~~

19  
20 (b) In the event the zoning official cannot issue a certificate of zoning compliance  
21 because the property fails to meet the requirements in (a) above, the property owner  
22 may request an equitable estoppel certificate (as an alternative to a certificate of  
23 zoning compliance) if they meet all requirements of this subsection (b).

24 (1) Definitions

25 Authorized county official means an employee of the county who was acting on  
26 behalf of the county in making good faith determinations regarding zoning  
27 matters.

28 Complete application means filling out all the information required in the form  
29 provided by the County, attaching all relevant and necessary documentation and  
30 paying the fee for an equitable estoppel certificate set forth in appendix B of this  
31 code.

32 Equitable estoppel certificate means the written document issued by the county  
33 zoning official after they determine the requirements of this subsection have been  
34 met.

Note: deletions shown ~~stricken~~, additions shown underlined.

1 Good faith reliance means the property owner did not have actual knowledge of  
2 the county comprehensive plan and/or land development code requirements and  
3 did not create a violation of those requirements.

4 Property owner means the person(s) who obtained the zoning determination and  
5 such person(s) must also be the current fee simple owner(s) of the property.

6 Significant action means the property owner expended significant time, effort or  
7 money in reliance on the zoning determination. Examples include closing on the  
8 purchase of the property or obtaining a permit and constructing improvements.

9 Zoning determination means a prior written document issued by an authorized  
10 county official who made a determination regarding a specific zoning matter on a  
11 specific property. It does not include generalized inquiries.

12 (2) Process

13 a. To request an equitable estoppel certificate, a property owner must submit  
14 a complete application to the county planning and zoning department.

15 b. Upon receipt of an application, county staff will conduct an initial review of  
16 the application. In the event the application is incomplete, the county will  
17 notify the property owner and the application will not be processed further  
18 by the county. The property owner will be given 30 days to complete their  
19 application, after which it will be deemed denied and no fee refund will be  
20 issued.

21 c. Upon reviewing a complete application, the county zoning officer will issue  
22 a written approval or denial. In the event the county requires further  
23 information from the property owner or requires time to conduct  
24 independent research or verification, county staff will notify the property  
25 owner and request further information, if applicable.

26 (3) Requirements for approval. In order to approve an equitable estoppel  
27 certificate, the county zoning officer must find that:

28 (a) The property owner has met their burden of proving the elements of  
29 equitable estoppel, which include, at a minimum:

30 (i) The original or a copy of the zoning determination;

Note: deletions shown ~~stricken~~, additions shown underlined.

1 (ii) A written description of, together with written documentation  
2 (not verbal or heresay/indirect communication) as evidence of, the  
3 significant action that the property owner took in good faith reliance  
4 on the zoning determination; and

5 (iii) A written explanation of why it would be unjust for the county to  
6 refuse to recognize the zoning determination at this time.

7 (b) There have been no changes in federal, state and local law (including  
8 the county comprehensive plan and code of ordinances) that have occurred after  
9 the date of the zoning determination that would render it null and void, in whole  
10 or in part.

11 (c) The property owner has made reasonable efforts within their control  
12 towards compliance, such as unifying adjoining parcels under common  
13 ownership to come nearer to meeting density requirements.

14 (4) Limitations; Effect of an equitable estoppel certificate. The county will accept  
15 an application for an equitable estoppel certificate only in the limited  
16 circumstances described in this subsection. Any evidence of fraud in application  
17 or documentation is grounds for immediate denial. An equitable estoppel  
18 certificate serves as an alternative to a certificate of zoning compliance and is  
19 issued for the limited purpose of allowing the property owner to make application  
20 for a building permit in order to make present (not future or speculative) use of  
21 their property. An equitable estoppel certificate is valid for a period of 90 calendar  
22 days from the date of issuance, subject to changes in law during that time. An  
23 equitable estoppel certificate grants no other rights or cause of action.

24 (c) A certificate of concurrency is also required prior to issuance of building permits,  
25 pursuant to article VII of this chapter.  
26

27 **Section 3.** A new fee is added to Sec. 2. Planning and Zoning Department of Appendix  
28 B of the Code as follows:

29  
30 Chapter 50. Land Development Code  
31 Appendix B. Schedule of Fees, Rates and Charges  
32 Sec. 2 Planning and zoning department  
33

34 Note regarding refunds: Once an application is filed with the County and the associated  
35 fees, rates or charges are paid to the County, no refunds will be issued to the applicant,

Note: deletions shown ~~stricken~~, additions shown underlined.

1 unless a refund is specifically provided for in this Appendix or unless the permit was  
2 issued in error by the County.

3  
4 Note regarding additional costs: The fees do not include additional costs to be paid by  
5 applicant for the services of engineers, legal counsel, or other professional consultants  
6 that are retained by the County in connection with review of any application or permit.  
7

<b>13. Zoning compliance review</b>	
a) Single-Family Residential	\$100.00
b) Additions to Single-Family Residence	\$100.00
c) Residential Accessory Building	\$25.00
d) Multi-Family Residential Developments	\$100.00, plus \$5.00 per acre and \$5.00 per unit
e) Commercial	\$100.00 plus \$5.00 per acre
f) Additions to Commercial Structures	\$50.00
g) Commercial Accessory Structure	\$50.00
h) Towers, communication or broadcast 350' or greater above ground level	\$250.00
i) Temporary Asphalt Plants (per 6 months of operation)	\$25.00
j) New or Transfer of Alcohol Package Sales License	\$25.00
<u>k) Equitable Estoppel Certificate</u>	<u>\$300.00</u>

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9  
10 **Section 4.** The provisions of Sections 1 through 3 of this ordinance shall become and be  
11 made a part of the Levy County Code, and the sections of this ordinance may be  
12 renumbered or relettered and the word “ordinance” may be changed to “section,” “article,”  
13 “regulation,” or other appropriate word or phrase in order to accomplish the codification.  
14

Note: deletions shown ~~stricken~~, additions shown underlined.

1 **Section 5.** It is declared to be the intent of the Board that if any section, subsection,  
2 sentence, clause, phrase, portion or provision of this Ordinance is for any reason declared  
3 or held invalid or unconstitutional by any court of competent jurisdiction, such section,  
4 subsection, sentence, clause, phrase, portion or provision shall be deemed a separate,  
5 distinct and independent provision, and the remainder of this Ordinance shall be not  
6 affected by such declaration or holding.

7  
8 **Section 6.** All ordinances or parts of ordinances and all resolutions or parts of  
9 resolutions of Levy County in conflict herewith are hereby repealed to the extent of such  
10 conflict

11  
12 **Section 7.** In accordance with Section 125.66, Florida Statutes, the Clerk to the Board  
13 of County Commissioners is directed to file this ordinance with the Florida Department of  
14 State within 10 days after adoption and upon such filing, this ordinance shall become  
15 effective.

16  
17 Passed and Duly Adopted this 20<sup>th</sup> day of September, 2022.

18  
19 BOARD OF COUNTY COMMISSIONERS  
20 OF LEVY COUNTY, FLORIDA

21  
22  
23 \_\_\_\_\_  
24 Russell Meeks Jr., Chairman

25 ATTEST: Danny J. Shipp, Clerk of  
26 the Circuit Court and Ex-Officio Clerk  
27 to the Board of County Commissioners

28  
29 \_\_\_\_\_  
30 Danny J. Shipp

31  
32 Approved as to form and legal sufficiency

33  
34 \_\_\_\_\_  
35 Nicolle M. Shalley, County Attorney  
36  
37

Note: deletions shown ~~stricken~~, additions shown underlined.