

**LEE COUNTY ORDINANCE NO. 10-13**  
(Constrained Road Table )  
(CPA2008-24)

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2008-24 (PERTAINING TO TABLE 2(a) - CONSTRAINED ROADS) APPROVED DURING THE COUNTY'S 2008/2009 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR PURPOSE, INTENT AND SHORT TITLE; AMENDMENTS TO ADOPTED TABLES AND TEXT; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") Policy 2.4.1. and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency ("LPA") held a public hearing on the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on November 24, 2008; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on September 23, 2009. At that hearing, the Board approved a motion to send, and did later send, proposed amendment CPA2008-24 pertaining to constrained road to the Department of Community Affairs ("DCA") for review and comment; and,

WHEREAS, at the October 29, 2009 meeting, the Board announced its intention to hold a public hearing after the receipt of DCA's written comments commonly referred to as the "ORC Report." DCA issued their ORC report on January 15, 2010; and,

WHEREAS, on March 3, 2010, the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

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

## SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to Table 2(a) of the Lee Plan. The purpose of this ordinance is to adopt the amendments to Table 2(a) of the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." **This amending ordinance may be referred to as the "2008/2009 Regular Comprehensive Plan Amendment Cycle CPA2008-24, Table of Constrained Roads Ordinance."**

## SECTION TWO: ADOPTION OF LEE COUNTY'S 2008/2009 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, as revised by the Board on March 3, 2010, known as CPA2008-24. CPA2008-24 amends the table reflecting the constrained roadways in Lee County.

The corresponding Staff Reports and Analysis, along with all attachments for this amendment are adopted as "Support Documentation" for the Lee Plan.

**The updated Table 2(a) reflecting constrained roads is attached to this ordinance as Exhibit "A."**

## SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

## SECTION FOUR: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

## SECTION FIVE: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the

remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

SECTION SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION SEVEN: EFFECTIVE DATE

The plan amendments adopted herein are not effective until a final order is issued by the DCA or Administrative Commission finding the amendment in compliance with Section 163.3184(9), Florida Statutes, or until the Administrative Commission issues a final order determining the adopted amendment to be in compliance in accordance with 163.3184(10), Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status. A copy of such resolution will be sent to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

THE FOREGOING ORDINANCE was offered by Commissioner Mann, who moved its adoption. The motion was seconded by Commissioner Judah. The vote was as follows:

Robert P. Janes*	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

\*By telephone.

DONE AND ADOPTED this 3<sup>rd</sup> day of March 2010.

ATTEST:  
CHARLIE GREEN, CLERK

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: Marcia Wilson  
Deputy Clerk

BY: R. Judes for  
Tammara Hall, Chairwoman

DATE: 3/3/10

Approved as to form by:

Donna Marie Collins  
Donna Marie Collins  
County Attorney's Office



Constrained Roads Table 2(a)

**TABLE 2 (a)**

**CONSTRAINED ROADS  
STATE AND COUNTY ROADS  
CPA2008-24**

ROADWAY	SEGMENT	MAINTENANCE RESPONSIBILITY	CONSTRAINED CONDITIONS
Captiva Road	Blind Pass/South Seas Plantation	County	ROW, Scenic, Aesthetic, Environmental
Daniels Parkway	Metro Parkway/I-75	County	ROW
Estero Boulevard	Center Street/Big Carlos Pass	County	ROW, Scenic, Aesthetic
Hickory Boulevard	Big Carlos Pass/ Bonita Beach Road	County	Scenic, Aesthetic, Environmental
McGregor Boulevard (SR 867)	Colonial Boulevard/ College Parkway	State	ROW, Scenic, Aesthetic, Historic, Environmental
Pine Island Road (Matlacha)	Shoreview Drive/Little Pine Island	County	ROW, Scenic, Aesthetic, <u>Historic</u> , Environmental
San Carlos Boulevard (SR 865) (Mantanzas Pass Bridge)	Center Street/Main Street	State	ROW, Scenic, Aesthetic, Environmental
US 41	South of Daniels Road/ North Airport Road	State	ROW
Gulf Boulevard	Boca Grande	County	Scenic, Aesthetic, Historic, Environmental

Note: Underscored text represents addition to lee Plan Table 2(a)

STATE OF FLORIDA

COUNTY OF LEE

I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby certify that the above and foregoing is a true and correct copy of Ordinance 10-13, as approved by the Board of Lee County Commissioners in the Regular Meeting of March 03, 2010, and same filed in the Clerk of the Court's Office.

Given under my hand and seal, at Fort Myers, Florida, this 12<sup>th</sup> day of March, 2010.

CHARLIE GREEN,  
Clerk of Circuit Court  
Lee County, Florida

By: *Sisa J. Pierce*  
Deputy Clerk

