

**LEE COUNTY ORDINANCE NO. 10-17  
(COASTAL RURAL FUTURE LAND USE)  
(CPA2008-17)**

**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 CPA2008-17 (PERTAINING TO COASTAL RURAL FUTURE LAND USE) APPROVED DURING THE COUNTY'S 2008/2009 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PURPOSE, INTENT AND SHORT TITLE; AMENDMENTS TO ADOPTED 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 June 22, 2009, July 27, 2009, and August 24, 2009.

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 CPA2008-17 pertaining to Coastal Rural Future Land Use, 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 the Lee Plan. The purpose of this ordinance is to adopt the amendments to 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 CPA2008-17 Coastal Rural Future Land Use 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 CPA2008-17, with strike through identifying deleted text and underlining identifying new text.

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

### **II. FUTURE LAND USE**

**POLICY 1.4.7:** The Coastal Rural areas will remain rural except for portions of properties where residential lots are permitted in exchange for permanent preservation or restoration of native upland habitats or a commitment, in the form of a perpetual easement, to preserve agricultural activity on existing farmland, on the remainder of the property. The standard maximum density is one dwelling unit per ten acres (1DU/10 acres). Maximum densities may increase as higher percentages of native habitat are permanently preserved or restored on the uplands portions of the site, or a commitment, in the form of a perpetual easement, to preserve agricultural activity on existing farmland, in accordance with the chart below. Permitted land uses include agriculture, fill-dirt extraction, conservation uses, and minimal non-residential land uses, limited to minor commercial, that are necessary to provide basic commercial services to serve the island residents and visitors, and residential uses up to the following densities:

The balance of Policy 1.4.7 remains unchanged.

**POLICY 14.4.2:** Commercial development at other urban locations on Greater Pine Island (such as Bokeelia, Pineland, Matlacha, and St. James City), should be limited to marinas, fish houses, and minor commercial uses to serve the day to day needs of local residents; and ~~uses to serve island visitors.~~ Such development must be

sited and designed to minimize disruptive influences to the greatest degree possible.

**POLICY 14.4.6:** In the Coastal Rural future land use category, non-residential development is limited to minor commercial development. New commercial zoning requests must utilize the Planned Development rezoning process. All commercial development in this category must be consistent with the following limitations:

- Total building floor area is limited to 5,000 square feet;
- Development must not exceed two acres of impervious area.
- Uses are limited to those that reflect the Coastal Rural character and unique culture of Greater Pine Island such as animal clinics, bait and tackle shops, ecotourism, farm and feed supply stores, food stores, lawn and garden supply stores, restaurants (excluding fast food), roadside/produce stands, speciality retail, and plant nurseries.
- Buildings exceeding 5,000 square feet that are lawfully existing or approved as of October 1, 2009 will be deemed vested for the approved and existing square footage for the life of the structure despite a change in use.

**POLICY 14.4.7:** During the Comprehensive Plan Evaluation and Appraisal Report process the County will analyze commercial rezoning and commercial development in the Coastal Rural areas and assess their impacts to the Greater Pine Island Community and identify any needed policy modifications.

**OBJECTIVE 14.7: PUBLIC PARTICIPATION.** Lee County will encourage and solicit public input and participation prior to and during the review and adoption of county regulations, Land Development Code provisions, Lee Plan provisions, and zoning approvals.

**POLICY 14.7.1:** The owner or agent of a requested zoning action (planned development, conventional rezoning, special exception, or variance requests) within the Greater Pine Island community must conduct one public informational meeting within the community where the agent will provide a general overview of the project for any interested citizens. This meeting must be conducted before the application can be found sufficient. The applicant is fully responsible for advertising, providing the meeting space, and security measures as needed. Subsequent to this meeting, the applicant must provide staff with a summary that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues.

### 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 Comprehensive Plan. 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.

Commissioner Mann made a motion to adopt the foregoing ordinance, seconded by Commissioners 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: Ray Judah for  
Tammara Hall, Chairwoman

DATE: 3/3/10



Approved as to form by:

Dawn E. Perry-Lehnert  
Dawn E. Perry-Lehnert  
County Attorney's Office

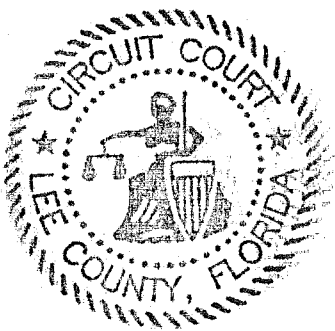
STATE OF FLORIDA

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 10-17, 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: Lisa A. Pica  
Deputy Clerk