

LEE COUNTY ORDINANCE NO. 10-36
(LOS Standard for Six Mile Cypress Parkway)
(CPA2009-00010)

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 CPA2009-00010 (PERTAINING TO THE LEVELS OF SERVICE STANDARDS FOR SIX MILE CYPRESS PARKWAY) APPROVED DURING THE COUNTY'S 2009/2010 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT; PURPOSE AND SHORT TITLE; 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 public hearings on the proposed amendments in accordance with Florida Statutes and the Lee County Administrative Code on January 25, 2010; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on June 16, 2010. At that hearing, the Board approved a motion to send, and did later send, proposed amendment CPA2009-00010 pertaining to the update of the Levels of Service (LOS) Standards for Six Mile Cypress Parkway to the Department of Community Affairs ("DCA") for review and comment; and,

WHEREAS, at the June 16, 2010 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 August 27, 2010; and,

WHEREAS, on October 20, 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 text amendment 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 "2009/2010 Regular Amendment Cycle LOS Standards for Six Mile Cypress Parkway Ordinance."**

SECTION TWO: ADOPTION OF LEE COUNTY'S 2009/00010 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 October 20, 2010, known as CPA2009-00010. CPA2009-00010 amends the LOS Standards for Six Mile Cypress Parkway.

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

Note: Underscored text represents additions to the Lee Plan. Strike-through text represents deletions from the Lee Plan.

POLICY 37.1.1: The minimum acceptable peak hour, peak season, peak direction roadway levels of service (see also Policy 95.1.3) will be as follows:

	Peak Hour/Peak Season/Peak Direction
State & County-Maintained Roads (Excluding FIHS, SIS and TRIP Roads)	
Expressways (Limited Access Facilities)	D
Controlled Access Arterials	E
Arterials	E
Major Collectors	E
Minor Collectors	E
FIHS Roads ⁽¹⁾	
I-75	
- Collier County to SR 78	D
- SR 78 to Charlotte County	C
SR 80 (Palm Beach Boulevard)	
- I-75 to Werner Dr.	D
- Werner Dr. to Hendry County	C
SIS Roads	
SR 82 (Immokalee Road)	

- Lee Boulevard to Commerce Lakes Dr.	D
- Commerce Lakes Dr. to Hendry County Airport Connector	C
- I-75 to Ben Hill Griffin Parkway	D
TRIP-Funded Roads	
Colonial Boulevard	
- I-75 to Lee Boulevard	D
Imperial Parkway	
- E. Terry Street to Bonita Bill Dr.	D
<u>Six Mile Cypress Parkway</u>	
- <u>Daniels Parkway to Winkler Avenue Extension</u>	<u>D</u>

(1) The County may seek variances to the level of service standards for the FIHS facilities as authorized under Section 120.542, F.S. If granted, the level of service standards for I-75 and SR 80 will be as approved by FDOT in the Order Granting Petition for Variance.

The minimum acceptable level of service as specified above for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is subject to Policies 14.2.1 and 14.2.2.

For minimum acceptable levels of service determination, the peak season, peak hour, peak direction condition will be defined as the 100th highest volume hour of the year in the predominant traffic flow direction. The 100th highest hour approximates the typical peak hour during the peak season. Peak season, peak hour, peak direction conditions will be calculated using K-100 factors and "D" factors from the nearest, most appropriate county permanent traffic count station.

POLICY 95.1.3: (no changes to subparagraphs 1 through 5)

6. Roadway Facilities:

The minimum acceptable peak hour, peak season, peak direction roadway levels of service will be as follows:

	Peak Hour/Peak Season/Peak Direction
State & County-Maintained Roads (Excluding FIHS, SIS and TRIP Roads)	
Expressways (Limited Access Facilities)	D
Controlled Access Arterials	E
Arterials	E
Major Collectors	E
Minor Collectors	E
FIHS Roads ⁽¹⁾	
I-75	
- Collier County to SR 78	D
- SR 78 to Charlotte County	C
SR 80 (Palm Beach Boulevard)	
- I-75 to Werner Dr.	D
- Werner Dr. to Hendry County	C

SIS Roads

SR 82 (Immokalee Road)

- Lee Boulevard to Commerce Lakes Dr. D

- Commerce Lakes Dr. to Hendry County C

Airport Connector

- I-75 to Ben Hill Griffin Parkway D

TRIP-Funded Roads

Colonial Boulevard

- I-75 to Lee Boulevard D

Imperial Parkway

- E. Terry Street to Bonita Bill Dr. D

Six Mile Cypress Parkway

- Daniels Parkway to Winkler Avenue Extension D

- (1) The County may seek variances to the level of service standards for the FIHS facilities as authorized under Section 120.542, F.S. If granted, the level of service standards for I-75 and SR 80 will be as approved by FDOT in the Order Granting Petition for Variance.

Due to scenic, historic, environmental, aesthetic, and right-of-way characteristics and considerations, Lee County has determined that certain roadway segments will not be widened. Therefore, reduced peak hour levels of service will be accepted on those constrained roads within unincorporated Lee County as a trade-off for the preservation of the scenic, historic, environmental, and aesthetic character of the community. These constrained roads are defined in Table 2(a). Growth on those constrained roads will be permitted only within the volume-to-capacity (v/c) ratios established in this plan and only if consistent with the Operational Improvement Program for those constrained roads.

The minimum acceptable level of service as specified above for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is subject to Policy 14.2.1 and Policy 14.2.2.

For minimum acceptable levels of service determination, the peak season, peak hour, peak direction condition will be defined as the 100th highest volume hour of the year in the predominant traffic flow direction. The 100th highest hour approximates the typical peak hour during the peak season. Peak season, peak hour, peak direction conditions will be calculated using K-100 factors and "D" factors from the nearest, most appropriate county permanent traffic count station.

(Amended by Ordinance No. 07-09)

No changes to remainder of policy (subparagraphs 7 thru 10)

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, 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 Manning, who moved its adoption. The motion was seconded by Commissioner Judah. The vote was as follows:

John E. Manning Aye
Brian Bigelow Aye
Ray Judah Aye
Tammara Hall Aye
Frank Mann Aye

DONE AND ADOPTED this 20th day of October 2010.

ATTEST:
CHARLIE GREEN, CLERK
COMMISSIONERS

LEE COUNTY
BOARD OF COUNTY

BY: *Isa Pierce*
Deputy Clerk

BY: *R. Judah*
Tammara Hall, Chair

DATE: 10/20/10



Approved as to form by:

Donna Marie Collins
Donna Marie Collins
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 No. 10-36, adopted by the Board of Lee County Commissioners, at their meeting held on the 20th day of October, 2010 and same filed in the Clerk's Office.

Given under my hand and seal, at Fort Myers, Florida, this 21st day of October 2010.

CHARLIE GREEN,
Clerk of Circuit Court
Lee County, Florida

By: *Lisa L Pierce*
Deputy Clerk

