

LEE COUNTY ORDINANCE NO. 10-46  
(2010 Update to the Capital Improvement Element)  
(CPA2010-09)

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2010-09 PERTAINING TO THE 2010 UPDATE TO THE CAPITAL IMPROVEMENT ELEMENT IN ACCORDANCE WITH FLORIDA STATUTES, APPROVED DURING A SPECIAL COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT AND TABLES; 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 a public hearing on portions of the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on November 22, 2010; and,

WHEREAS, Florida Statutes, Sections 163.3177(3)(b)(2) and 163.3187(1)(f) allow for the adoption of plan amendments to update the Capital Improvement Element outside the regular plan amendment cycle; and,

WHEREAS, the Board held a public hearing on the adoption of the proposed amendment to the Lee Plan on December 14, 2010; and,

WHEREAS, on December 14, 2010, the Board 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 amendment to the Lee Plan. The purpose of this ordinance is to adopt the 2010 Update to the Capital Improvement Element 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 "2010 CIE Update Ordinance."**

SECTION TWO: ADOPTION OF LEE COUNTY'S 2010 UPDATE TO THE CAPITAL IMPROVEMENT ELEMENT AS PART OF A SPECIAL PLAN AMENDMENT CYCLE

The corresponding Staff Reports and Analysis, along with all attachments for this amendment are adopted as "Support Documentation" for the Lee Plan. The tables to be incorporated into the Lee Plan are 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, 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 Hall, who moved its adoption. The motion was seconded by Commissioner Manning. The vote was as follows:

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

DONE AND ADOPTED this 14th day of December 2010.

ATTEST:  
CHARLIE GREEN, CLERK  
COMMISSIONERS

LEE COUNTY  
BOARD OF COUNTY

BY: Kathleen A. Motz  
Deputy Clerk

BY: Frank Mann  
Frank Mann, Chairman

DATE: 12-16-10



Approved as to form by:

Donna Marie Collins  
Donna Marie Collins  
County Attorney's Office

Attachments: Exhibit "A"

- Table 3 - Lee County Schedule of Capital Improvements
- Table 3(a) - Lee County School District Five-Year Capital Improvement Program
- Table 4 - Total Revenue and Project Summary
- 2010-2011 Lee County School District Work Plan

I CERTIFY THIS DOCUMENT TO BE A  
TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN MY OFFICE  
CHARLIE GREEN, CLERK OF CIRCUIT COURT,  
STATE OF FLORIDA, COUNTY OF LEE

REDACTED COPY PER F.S. 119.071

BY: Kathleen A. Motz  
DATED: \_\_\_\_\_ Deputy Clerk

12-16-10