

FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM  
CODRS CODING FORM

COUNTY: Lee

COUNTY ORDINANCE #: 11-19  
(e.g., 93-001)

PRIMARY KEYFIELD

DESCRIPTOR: COMPREHENSIVE PLANNING

SECONDARY KEYFIELD

DESCRIPTOR: PLANNING

OTHER KEYFIELD

DESCRIPTOR: LAND USE PLANNING

ORDINANCE DESCRIPTION: Captiva Isl Comm Plan Height Restriction  
Re-Evaluation

(25 Characters Maximum Including Spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT #1: 89-02 AMENDMENT #2: \_\_\_\_\_

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL #1: \_\_\_\_\_ ; REPEAL #3: \_\_\_\_\_

REPEAL #2: \_\_\_\_\_ ; REPEAL #4: \_\_\_\_\_

(Others Repealed: List All That Apply): \_\_\_\_\_

(FOR OFFICE USE ONLY): COUNTY CODE NUMBER: \_\_\_\_\_

KEYFIELD 1 CODE: \_\_\_\_\_ KEYFIELD 2 CODE: \_\_\_\_\_

KEYFIELD 3 CODE: \_\_\_\_\_

**LEE COUNTY ORDINANCE NO. 11-19**  
(Captiva Island Community Plan Height Restriction Re-Evaluation)  
(CPA2010-00015)

**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 PERTAINING TO THE CAPTIVA ISLAND COMMUNITY PLAN HEIGHT RESTRICTION RE-EVALUATION (CPA2010-00015) APPROVED DURING A PUBLIC HEARING DURING THE COUNTY'S 2010/2011 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR 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 May 23, 2011; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on June 13, 2011. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to the Captiva Island Community Plan Height Restriction Re-Evaluation (CPA2010-00015) to the reviewing agencies set forth in 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the June 13, 2011 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies' written comments; and,

WHEREAS, on September 28, 2011, 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 text 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 "Captiva Island Community Plan Height Restriction Re-Evaluation Ordinance (CPA2010-00015)."**

## SECTION TWO: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment to Policy 13.1.2, known as CPA2010-00015 (Captiva Island Community Plan Height Restriction Re-Evaluation), which clarifies the building and structure height regulations on Captiva Island.

The corresponding Staff Reports and Analysis, along with all attachments for this amendment are adopted as "Support Documentation" for the Lee Plan. The adopted revisions to Policy 13.1.2 are set forth in the attached 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 31 days after the State Land Planning Agency notifies the County that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the State Land Planning Agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. 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 Administrative Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status.

THE FOREGOING ORDINANCE was offered by Commissioner John Manning, who moved its adoption. The motion was seconded by Commissioner Tammara Hall. The vote was as follows:

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

DONE AND ADOPTED this 28th day of September 2011.

ATTEST:  
CHARLIE GREEN, CLERK

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: Marcia Wilson  
Deputy Clerk

BY: Frank Mann  
Chair

DATE: 9/28/11



Approved as to form by:

Donna Marie Collins  
Donna Marie Collins  
County Attorney's Office

Exhibit A: Revisions to Policy 13.1.2 (Adopted by BOCC 9-28-11)

## EXHIBIT A

**Note: Text depicted with underscore represents additions to the Lee Plan. Strike-through text represents deletions from the Lee Plan.**

**POLICY 13.1.2:** ~~No building or structure may be erected or altered so that the peak of the roof exceeds 35 feet above the average grade of the lot in question or 42 feet above mean sea level, whichever is lower.~~ Due to the nature of a barrier island, the height of buildings and structures is dependent on conditions such as elevation of the site above sea level and mandatory flood elevation requirements. In response to these conditions, the height of buildings and structures may not exceed the least restrictive of the two following options:

- a) 35 feet above the average grade of the lot in question or 42 feet above mean sea level measured to the peak of the roof, whichever is lower; or
- b) 28 feet above the lowest horizontal member at or below the lawful base flood elevation measured to the mean level between eaves and ridge in the case of gable, hip, and gambrel roofs. If lowest horizontal member is set above the base flood elevation the 28 foot measurement will be measured starting from the base flood elevation.

Notwithstanding the above height limitations, purely ornamental structural appurtenances and appurtenances necessary for mechanical or structural functions may extend an additional four (4) feet above the roof peak or eight (8) feet above the mean height level in the case of gable, hip, and gambrel roofs, whichever is lower, so long as these elements equal 20% or less of the total roof area.

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. 11-19, adopted by the Board of Lee County Commissioners, at their meeting held on the 28<sup>th</sup> day of September, 2011 and same filed in the Clerk's Office.

Given under my hand and seal, at Fort Myers, Florida, this 6<sup>th</sup> day of October, 2011.

CHARLIE GREEN,  
Clerk of Circuit Court  
Lee County, Florida

By:

Marcia Wilson

Deputy Clerk

