

LEE COUNTY ORDINANCE NO. 13-12
(Port Authority Hazardous Wildlife Attractant Update)
(CPA2011-00022)

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 PORT AUTHORITY HAZARDOUS WILDLIFE ATTRACTANT UPDATE (CPA2011-00022) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED MAP 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 with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with Florida Statutes and Lee County Administrative Code AC-13-6 provided 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 January 28, 2013 and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on March 4, 2013. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to Port Authority Hazardous Wildlife Attractant Update (CPA2011-00022) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the March 4, 2013 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies' written comments; and,

WHEREAS, on June 17, 2013, 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 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 "Port Authority Hazardous Wildlife Attractant Update Ordinance (CPA2011-00022)."**

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, which amends Lee Plan Policies 1.2.1. (Airport Lands), 1.2.7. (Southwest Florida International Airport), and 1.9.8. (Page Field General Aviation Airport).

The corresponding Staff Reports and Analysis, along with all attachments for this amendment are adopted as "Support Documentation" for the Lee Plan. The amendments consist of revisions to certain Policies set forth in Exhibit A. Underscored text in that exhibit represents additions to the Lee Plan. Strike-through text represents deletions from the Lee Plan.

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 Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status.

Commissioner Manning made a motion to adopt the foregoing ordinance, seconded by Commissioner Hall. The vote was as follows:

John Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 17th day of June, 2013.

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *Lisa Pierce*
Deputy Clerk

BY: *[Signature]*
Cecil L Pendergrass, Chair

Approved as to form by:

[Signature]
Donna Marie Collins
County Attorney's Office



Exhibit A: Text Amendments to Lee Plan Policies: 1.2.1., 1.2.7., and 1.9.8.

EXHIBIT A

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

POLICY 1.2.1: Airport Lands include the existing facility and projected growth areas for the Southwest Florida International Airport and Page Field General Aviation Airport through the year 2030. The Airport Lands comprising the Southwest Florida International Airport includes airport and airport-related development as well as non-aviation land uses as proposed in the approved 2003 Airport Master Plan update and as depicted on the Airport Layout Plan sheet (Map 3F) and the Southwest Florida International Airport Proposed Development Schedule (Table 5(a)). This mix of uses is intended to support the continued development of the Southwest Florida International Airport. Future development at the Southwest Florida International Airport will also include non-aviation related land uses such as hotels/motels, light industrial, service stations, retail/shopping, and office development. Any future airport expansion or development of aviation-related and non-aviation uses at Southwest Florida International Airport will offset environmental impacts through the Airport Mitigation Lands Overlay (Map 3M) or other appropriate mitigation ~~acceptable to the permitting agencies and to Lee County~~. The physical design of the airport expansion will minimize any degradation of the recharge capability of land being developed. Wetland mitigation for any future expansion or development of aviation and non-aviation uses on Airport Lands must be designed so it does not create a wildlife hazard. Development and land management practices on airport property will be in accordance with FAA directives and other required agency approvals. Airport expansion beyond the present boundaries will be subject to necessary amendments to the Lee Plan.

All development on Airport Lands comprising Southwest Florida International Airport must be consistent with Map 3F and Table 5(a). Map 3F depicts the planned expansion of the Southwest Florida International Airport through 2020.

Future development on Airport Lands comprising Page Field General Aviation Airport must be consistent with Objective 1.9 and related policies as well as Map 3G and Table 5(b).

If the airport master planning process precipitates a substantive change to the Airport Layout Plan (Map 3F or Map 3G), then the Port Authority must amend Map 3F or Map 3G, as appropriate, prior to obtaining local development approval.

The non-aviation related development areas have been depicted on the approved Airport Layout Plan sheets (Maps 3F and 3G). These uses will be constructed upon Airport lands with long term leases. All development within the non-aviation land use areas will be subject to mitigation requirements for wetland impacts. Mitigation of wetland impacts will be in accordance with the U.S. Army Corps of Engineers and South Florida Water Management District requirements. ~~To the greatest extent reasonably~~

possible, development of non-aviation land use areas must avoid wetland impacts. All non-aviation land use development will meet the indigenous vegetation requirements set forth in the Lee County Land Development.

POLICY 1.2.7: ~~Future non-aviation areas depicted on the Airport Layout Plan (Map 3F) will be developed, to the greatest extent possible, only within existing upland areas. Impacts to wetlands in the future non-aviation areas will be minimized by site design, whenever possible, in compliance with the Lee County Land Development Code. In cooperation with local, state, and Federal regulatory agencies, the Port Authority will work to minimize and correct any wildlife hazards arising from existing wetlands located on airport property. Site improvements on airport property will be designed to minimize attractiveness to wildlife of natural areas and man-made features on airport property such as detention/retention ponds, landscaping, and wetlands, which can provide wildlife with ideal locations for feeding, loafing, reproduction, and escape. Development within the non-aviation area, as designated on Map 3F, is limited to a maximum of 300 acres north of runway 6-24 and approximately 52 acres within the midfield terminal area. All development must be in compliance with Map 3F and the intensities outlined in Table 5(a). Development of additional acreage will require prior Lee Plan amendment approval.~~

POLICY 1.9.8: ~~Future non-aviation areas depicted on the Airport Layout Plan (Map 3G) will be developed, to the greatest extent possible, within existing upland areas. Impacts to wetlands in the future non-aviation areas will be minimized by site design whenever possible in compliance with the Lee County Land Development Code. In cooperation with local, state, and Federal regulatory agencies, the Port Authority will work to minimize and correct any wildlife hazards arising from existing wetlands located on airport property. Site improvements on airport property will be designed to minimize attractiveness to wildlife of natural areas and man-made features on airport property such as detention/retention ponds, landscaping, and wetlands, which can provide wildlife with ideal locations for feeding, loafing, reproduction, and escape.~~



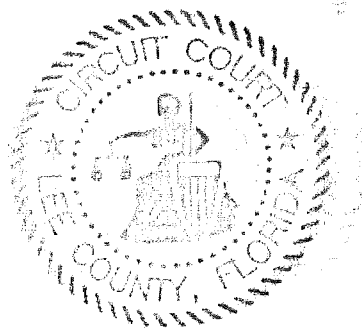
I CERTIFY THIS DOCUMENT TO BE A
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE
LINDA DOGGETT, CLERK CIRCUIT COURT
LEE COUNTY, FLORIDA
DATED: 6/20/2013
BY: Jessica Pierce
Deputy Clerk

STATE OF FLORIDA

COUNTY OF LEE

I Linda Doggett, 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. 13-12 adopted by the Board of Lee County Commissioners at their meeting held on the 17th , day of June, 2013.

Given under my hand and seal, at Fort Myers, Florida, this 20th day of June, 2013.



LINDA DOGGETT,
Clerk of Circuit Court
Lee County, Florida

By: *Inna L. Pierce*
Deputy Clerk

June 20, 2013

Liz Cloud
Department of State
Bureau of Administrative Code
The RA Gray Building
500 South Bronough St.
Tallahassee, FL 32399-0250

RE: Ordinance No. 13-12
Lee County, Florida


Dear Ms. Cloud:

Enclosed is a certified copy of Ordinance No. 13-12, adopted by the Board of Lee County Commissioners on June 17, 2013.

Please use the enclosed envelope when sending your acknowledgment to our office. Thank you for your cooperation.

Sincerely,

Linda Doggett, Clerk


Lisa L. Pierce
Deputy Clerk

Enclosure