

LEE COUNTY ORDINANCE NO. 14-01
AG REZONING IN SUBURBAN AREAS
(CPA2013-00002)

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 AMENDMENTS PERTAINING TO AG REZONING IN SUBURBAN AREAS – POLICY 9.2.1 (CPA2013-00002) APPROVED DURING A PUBLIC HEARING; 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 amendments in accordance with Florida Statutes and the Lee County Administrative Code on September 23, 2013; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on October 21, 2013. At that hearing, the Board approved a motion to send, and did later send, proposed amendments pertaining to Policy 9.2.1, Ag Rezoning in Suburban Areas (CPA2013-00002) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the October 21, 2013 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies' written comments; and,

WHEREAS, on January 22, 2014, the Board held a public hearing and adopted the proposed amendments 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 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 "Ag Rezoning in Suburban Areas Ordinance (CPA2013-00002)."**

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 Policy 9.2.1 to Goal 9: Agricultural Land Uses known as Ag Rezoning in Suburban Areas (CPA2013-00002).

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

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

John E. Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Brian Hamman	Aye
Frank Mann	Aye

DONE AND ADOPTED this 22nd day of January 2014.

ATTEST:
LINDA DOGGETT, CLERK

LEE COUNTY
BOARD OF COUNTY
COMMISSIONERS

BY: Marcia Wilson
Deputy Clerk

BY: Bria Amor
For: Larry Kiker, Chair



DATE: 1/22/14

Approved as to form by:

Michael D. Jacob
Michael D. Jacob
County Attorney's Office

Exhibit A: Adopted revisions to Policy 9.2.1 (Adopted by BOCC January 22, 2014)

EXHIBIT A

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

POLICY 9.2.1: Rezoning of land to agricultural zoning districts is prohibited in those areas designated by the Lee Plan as Future Urban Areas, with the exception of those areas designated as Sub-Outlying Suburban, Outlying Suburban, or Suburban where parcels five acres or larger may request rezoning to an agricultural zoning district. These requests will be reviewed on a case by case basis. Approval will be based on:

- a. current and future availability of urban infrastructure;
- b. compatibility of the existing and future land uses;
- c. acreage of rezoning request;
- d. cumulative effect on county tax base; and
- e. Suburban and Sub-Outlying Suburban lands must be located within the Pine Island and Caloosahatchee Shores Planning Communities;
- f. evaluation of how environmental features, including but not limited to flowways, protected species, and habitat, will be protected or mitigated.

~~In Outlying Suburban areas, such requests will be reviewed on a case by case basis, and recommendations will be made based on current and future availability of urban infrastructure and compatibility with existing and future land uses.~~

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. 14-01, adopted by the Board of Lee County Commissioners, at their meeting held on the 22nd day of January, 2014 and same filed in the Clerk's Office.

Given under my hand and seal, at Fort Myers, Florida, this 28th day of January, 2014.

LINDA DOGGETT
Clerk of Circuit Court
Lee County, Florida

By:

Marcia Wilson
Deputy Clerk

