

LEE COUNTY ORDINANCE NO. 18-04
Captiva Community Plan
(CPA2015-00009)

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 COMMUNITY PLAN (CPA2015-00009) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED TEXT; LEGAL EFFECT OF "THE LEE PLAN"; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; 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 October 23, 2017, and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on November 22, 2017. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to Captiva Community Plan (CPA2015-00009) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the November 22, 2017 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies' written comments; and,

WHEREAS, on February 7, 2018 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 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 Community Plan Ordinance (CPA2015-00009)."**

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 Goal 13 of the Lee Plan to revise policies specific of Captiva known as Captiva Community Plan.

The corresponding Staff Reports and Analysis, along with all attachments and application submittals 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: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION FIVE: 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 SIX: 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 SEVEN: 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 designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION EIGHT: 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 Kiker. The vote was as follows:

John Manning	Aye
Cecil Pendergrass	Aye
Larry Kiker	Aye
Brian Hamman	Absent
Frank Mann	Aye

DONE AND ADOPTED this 7th day of February, 2018.

ATTEST:
LINDA DOGGETT, CLERK

LEE COUNTY BOARD OF
COUNTY COMMISSIONERS

BY: Missy Flint
Deputy Clerk

BY: [Signature]
Cecil Pendergrass, Chair



Commissioner Cecil L Pendergrass
Lee County Board of County Commissioners
District 2

DATE: 02/08/2018

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

[Signature]
County Attorney's Office

Exhibit A: Adopted revisions to Goal 13 (Adopted by BOCC February 7, 2018)

EXHIBIT A

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

Exhibit A
Strike Through and Underline of Proposed Goal 13

GOAL 13: CAPTIVA COMMUNITY PLAN. The goal of the Captiva Community Plan is to protect the coastal barrier island community's natural resources such as beaches, waterways, wildlife, vegetation, water quality, dark skies and history. This goal will be achieved through environmental protections and land use regulations that preserve shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, maintain the mangrove fringe, limit noise, light, water, and air pollution, create mixed-use development of traditionally commercial properties, and enforce development standards that maintain one and two story building heights and the historic low-density residential development pattern of Captiva. ~~To maintain and enhance the historic pattern of development on Captiva, consisting of unobtrusive, low density residential use in an environment characterized by diverse and healthy native vegetation, clean offshore water with diverse and healthy marine life, and limited commercial development and traffic. The purpose of this goal is to provide policies to confirm and reinforce that historic pattern.~~ (Added by Ordinance No. 03-01)

OBJECTIVE 13.1: PROTECTION OF NATURAL RESOURCES. ~~Develop and maintain incentive and/or regulatory programs to ensure~~ To continue the long-term protection and enhancement of wetland habitats, water quality, native natural-upland habitats (including rare and unique habitats), and beaches ~~community facilities, existing land use patterns, infrastructure capacity, and historically significant features on Captiva Island.~~ (Added by Ordinance No. 03-01)

POLICY 13.1.12: Mangrove Fringe. Consider development regulations that will provide additional protection to the shoreline, including mangrove fringe. ~~Mangroves on Captiva will be protected to the greatest extent possible.~~ (Added by Ordinance No. 05-19)

~~**POLICY 13.1.2:** 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.~~ (Added by Ordinance No. 03-01, Amended by Ordinance No. 11-19)

POLICY 13.1.2: Blind Pass. Cooperate at the federal, state, regional and local levels, efforts to maintain Blind Pass as an open pass. Lee County recognizes the positive due to its benefits of maintaining an open Blind Pass to the near-shore environment, marine ecology, and back-bay water quality and boater access.

POLICY 13.1.3: Estuarine and Wetland Resources. ~~Continue to support the protection of estuarine and wetland resources and wildlife habitat on Captiva. Lee County will encourage and support efforts by Captivans to strengthen existing vegetation ordinances to establish a landscaping code for Captiva Island that will require all new development, including single family residences, to implement minimum landscaping requirements intended to preserve, promote, and enhance the existing native vegetation and tree canopy on the Island. New landscaping requirements will focus on areas including, but not limited to, buffering and separation between new structures and Captiva Drive, buffering between adjoining properties, preservation and enhancement of native plant communities including, but not limited to, beach dune community, tropical hardwood hammock, coastal scrub and mangroves. (Added by Ordinance No. 03-01)~~

POLICY 13.1.4: Beach and Shore Preservation. ~~Lee County will continue~~ Continue to support the effort of the Captiva Erosion Prevention District, a beach and shore preservation authority under provisions of Chapter 161, Florida Statutes, to preserve, protect and maintain Captiva's beaches using environmentally responsible methods. (Added by Ordinance No. 03-01)

POLICY 13.1.5: Quality of Adjacent Waters. ~~Lee County will encourage and support~~ Continue to support efforts by the Captiva community to investigate and recommend measures that ~~will~~ may improve water quality in Pine Island Sound and the Gulf of Mexico. ~~Such measures may include sewers only if sized to limit development to that permitted by this plan. This may include a feasibility analysis of alternative wastewater collection and treatment systems to serve the Captiva community for a planning period of 30 years, including a central sewer system based upon current land use regulations. Should the feasibility analysis show that Captiva requires or is best served by an alternative wastewater collection and treatment system, Lee County will encourage efforts to size the system consistent with development permitted by the Lee Plan and the Land Development Code. (Added by Ordinance No. 03-01)~~

POLICY 13.1.6: Natural Upland Habitats. ~~Continue to support the preservation of native upland vegetation and wildlife habitat on Captiva. The Captiva Island Community will establish a "document clearing house" on Captiva, where copies of selected zoning submittal documents, staff reports, Hearing Examiner recommendations and resolutions will be provided for public inspection. The County's failure to provide or to timely provide documents to the document clearing house, or failure of the document clearing house to receive documents, will not constitute a defect in notice or bar a public hearing from occurring as scheduled. (Added by Ordinance No. 03-01)~~

POLICY 13.1.7: ~~The owner or agent for any rezoning, variance, or special exception request within the Captiva Planning Community must conduct one public informational session on Captiva where the agent will provide a general overview of the project for any interested citizens. Lee County encourages zoning staff to participate in such public workshops. This meeting must be conducted before the application can be found sufficient. The applicant is fully responsible for providing the meeting space and providing security measures as needed. Subsequent to this meeting, the applicant must provide county staff with a meeting summary document that contains the following information: the date, time, and location of the~~

meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised. (Added by Ordinance No. 03-01)

~~POLICY 13.1.8: Lee County will encourage and support the solicitation of the widest possible range of public input for any future Lee Plan amendments that directly apply to Captiva or the policies adopted for Captiva under this section of the Lee Plan. To that end, Lee County is committed to provide continuing assistance to the Captiva Community as part of the Evaluation and Appraisal Report process as well as ongoing technical expertise related to the functioning of the adopted policies. (Added by Ordinance No. 03-01)~~

~~POLICY 13.1.9: Lee County will encourage and support efforts by Captivans to develop and submit ordinances that will encourage the siting and building of structures consistent with the historical character of the island. (Added by Ordinance No. 03-01)~~

~~POLICY 13.1.10: New requests for residential re-zoning that would increase density on said property above current zoning will not be permitted. (Added by Ordinance No. 05-19)~~

~~POLICY 13.1.11: Variances should be limited to unique, specifically authorized circumstances and will be allowed only in situations where unnecessary hardship would otherwise occur; i.e., where all of the following are met: • Where the hardship cannot be corrected by other means allowed in the ordinances; • Where strict compliance of the regulations allows the property owner no reasonable use of the property; • Where the variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties located on the same street and within the same Future Land Use category, unless denial of the variance would allow no reasonable use of the property; • Where the applicant did not cause the need for the variance, and • Where the variance is not contrary to the spirit of the ordinance. (Added by Ordinance No. 05-19)~~

~~POLICY 13.1.13: Within two years of the adoption of this policy Indigenous or Native trees will be replanted and maintained along Captiva Drive between Blind Pass and the north end of Captiva Drive. The replanting of trees within the Captiva Drive right-of-way is needed to replace the loss of tree canopy following Hurricane Charley. A comprehensive Captiva Drive landscape plan that addresses specific native tree species, tree placement, public safety, access and utilities to facilitate the restoration of tree canopy will be created. The comprehensive Captiva Drive landscape plan will identify funding sources for implementing the plan and will designate the entity or entities responsible for long term maintenance. (Added by Ordinance No. 05-19)~~

~~POLICY 13.1.14: Notwithstanding anything pertaining to Captiva Community Plan Height Restriction Policy 13.1.2, due to the unique degree of public interest attached to it regarding emergency communications services, the existing telecommunications tower facility located in the maintenance and engineering area of South Seas Resort may be replaced in such area to a height not to exceed 170 feet, provided that said new facility makes space available to the county for adequate emergency communications service coverage for Captiva, as well as co-location within the capabilities of that tower for all wireless carriers desirous of serving Captiva. Destruction of mangroves will not be allowed in order to build or operate such a~~

~~tower or related tower facilities. The telecommunication tower will be a monopole, unless public safety is compromised. (Added by Ordinance No. 05-19)~~

OBJECTIVE 13.2: PROTECTION OF COMMUNITY RESOURCES. ~~To continue the long-term protection and enhancement of community facilities, existing land use patterns, unique neighborhood-style commercial activities, infrastructure capacity, and historically significant features on Captiva. **MIXED USE DEVELOPMENT.** The Captiva community seeks to preserve the island's unique neighborhood style commercial activities and to provide islanders with reasonable access to basic goods and services without having to leave the island. Toward that end, Lee County will encourage mixed use developments in specific and appropriate areas of the Captiva planning community through its regulations, policies and discretionary actions. (Added by Ordinance No. 07-09).~~

POLICY 13.2.1: Mixed Use Development. Mixed use developments as defined in the Lee Plan, and mixed use developments containing both commercial and residential uses within the same structure, are appropriate ~~strongly encouraged~~ on Captiva properties that were zoned C-1 or CT as of Jan. 1, 2006. Such properties may be allowed ~~one~~ residential units in addition to commercial uses at a density consistent with the Lee Plan. Such developments will only be permitted if approved as a Commercial or Mixed Use Planned Development. ~~(Added by Ordinance No. 07-09)~~

POLICY 13.2.2.1: Subdivision of Existing RSC-2 Parcels. Maintain existing development regulations that restrict the ~~No~~ subdivisions of parcels that are ~~were~~ zoned RSC-2 (Captiva Estate) ~~on as of January 1, 2002, regardless of their zoning at any time thereafter,~~ may be permitted unless all of the resulting lots comply with all of the minimum lot size and dimensional requirements in set forth in the Land Development Code for the RSC-2 district zoned lots in Captiva. ~~(Added by Ordinance No. 03-01)~~

POLICY 13.2.3: Building Heights. Maintain building height regulations established as of [Effective Date of Ordinance] that account for barrier island conditions, such as mandatory flood elevation and mean-high sea level, for measuring height of buildings and structures.

POLICY 13.2.4: Historic Development Pattern. Limit development to that which is in keeping with the historic development pattern on Captiva including the designation of historic resources and the rehabilitation or reconstruction of historic structures. The historic development pattern on Captiva is comprised of low-density residential dwelling units, as defined in Chapter 10 of the Land Development Code, minor commercial development and South Seas Island Resort.

POLICY 13.2.5: Lot Size Per Unit. Development Orders or Development Permits that would result in a reduction of the minimum lot size per unit permitted on a parcel under the parcel's current zoning category or under any other zoning category that would result in a reduction of the minimum lot size per unit on that parcel (as of [Effective Date of Ordinance]) are prohibited.

POLICY 13.2.6: Variances and Deviations. Variances and/or deviations from the current development standards will not be permitted unless they meet all of the specific requirements for variances and deviations set forth in the Land Development Code.

POLICY 13.2.7: Alternative Transportation. Support integration of pedestrian and bicycle facilities into the transportation network to make Captiva safer for pedestrians, golf carts and bicyclists and to reduce automobile dependence and the need for increased parking facilities.

POLICY 13.2.8: Underground Utilities. Support efforts to investigate the relocation of utilities underground.

POLICY 13.2.9: Dark Skies. Limit light pollution and light trespass on Captiva in order to protect wildlife from any detrimental effects and for the benefit of Captiva residents and visitors.

OBJECTIVE 13.3: NATIVE VEGETATION AND TREE CANOPY. To enforce and strengthen existing vegetation ordinances intended to preserve, promote, and enhance the existing native vegetation and tree canopy on Captiva.

POLICY 13.3.1: Trees along Captiva Drive. Support efforts to restore the historic tree canopy and vegetative buffers along Captiva Drive between Blind Pass and the north end of Captiva Drive by promoting planting of indigenous, native or non-invasive trees, preferably those that require minimal irrigation once established.

POLICY 13.3.2: Invasive Vegetation and Nuisance Pests. Consider implementation of methods or programs, including education of individual property owners, to reduce the proliferation of invasive exotic vegetation and nuisance pests.

OBJECTIVE 13.4: Public Participation. Opportunities for public input will be provided during the comprehensive plan amendment and rezoning processes.

POLICY 13.4.1: Public Informational Meeting. The owner or agent applying for an amendment to Captiva community-specific provisions in the Lee Plan or Land Development Code must conduct one public informational meeting. The applicant is fully responsible for providing the meeting space, providing advance notice of the meeting, and providing security measures as needed. The meeting must be held within the community plan boundary. Advance notice of the meeting must be disseminated in a community-based media outlet, physically posted at the post office and provided in writing to citizen groups and civic associations within the community that are registered with Lee County for notification of pending Lee Plan or Land Development Code amendments. The notice must be available and posted at least one week prior the scheduled meeting date.

At the meeting, the agent will provide a general overview of the amendment for any interested citizens. Subsequent to this meeting, the applicant must provide county staff with a meeting summary document that contains the following information: the date, time, and

location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and the applicant's response to any issues that were raised. This information must be submitted to the county before an application for a project can be found sufficient.

Zoning Public Informational Meetings: Zoning related public information meetings will be required as provided in Land Development Code.

POLICY 13.4.2: Online Database. Maintain an online database available to the public for their review containing comprehensive plan amendment and zoning case information specific to each community plan area.

FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM
CODRS CODING FORM

COUNTY: Lee

COUNTY ORDINANCE #: 18-04

(e.g., 93-001)

PRIMARY KEYFIELD

DESCRIPTOR: Comprehensive Planning

SECONDARY KEYFIELD

DESCRIPTOR: Planning

OTHER KEYFIELD

DESCRIPTOR: Land Use Planning

ORDINANCE DESCRIPTION: Captiva Comm Plan

(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: _____



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

February 9, 2018

Honorable Linda Doggett
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Ms. Missy Flint

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Ordinance No. 18-04, which was filed in this office on February 9, 2018.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb