

**LEE COUNTY ORDINANCE NO. 18-14**  
Overriding Public Necessity  
(CPA2014-00008)

**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 AN AMENDMENT PERTAINING TO REMOVING THE TERM “OVERRIDING PUBLIC NECESSITY” FROM THE LEE PLAN (CPA2014-00008) 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 public hearings on the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on February 27, 2017 and November 27, 2017; and,

WHEREAS, the Board held public hearings for the transmittal of the proposed amendment on March 22, 2017 and January 17, 2018. At the hearings, the Board approved a motion to send, and did later send, proposed amendments pertaining to Overriding Public Necessity (CPA2014-00008) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the March 22, 2017 and January 17, 2018 meetings, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies’ written comments; and,

WHEREAS, on April 4, 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 "Overriding Public Necessity Ordinance (CPA2014-00008)."**

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 amendments to the Lee Plan Objectives 17.1 and 20.1 and Policies 21.1.5 and 26.2.2 with regards to removing the overriding public necessity requirement in the Buckingham, Caloosahatchee Shores, Alva, and Bayshore community plans and to Policy 1.4.3 in reference to the Rural Community Preserve future land use category, known as Overriding Public Necessity (CPA2014-00008).

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      | Aye |
| Frank Mann        | Aye |

DONE AND ADOPTED this 4<sup>th</sup> day of April, 2018.

ATTEST:  
LINDA DOGGETT, CLERK

LEE COUNTY BOARD OF  
COUNTY COMMISSIONERS

BY: Chris Du  
Deputy Clerk

BY: [Signature]  
Cecil Pendergrass, Chair



DATE: 4/4/2018

APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY

[Signature]  
County Attorney's Office

Exhibit A: Adopted revisions to Lee Plan Goals 1, 17, 20, 21 and 26  
(Adopted by BOCC April 4, 2018)

## EXHIBIT A

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

**POLICY 1.4.3:** The Rural Community Preserves future land use category requires special design approaches to maintain existing rural character, for example: conservation easements, flexible road design standards (including relocation of future arterials not serving the rural community), special fencing and commercial sign standards, and retention of historic rural uses. These areas are not programmed to receive urban-type capital improvements. Lands within this category are not intended to be converted to future urban or suburban areas; rather, they are to remain permanently rural in character and use. These areas are restricted to low density residential uses (with minimum lot size requirements), agricultural uses, and minimal non-residential uses that are needed to serve the rural community. Property in this category may not be rezoned to any RV district. Maximum density is one dwelling unit per acre (1 du/acre). (Ordinance No. 91-19, 94-30, 17-13)

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**OBJECTIVE 17.1: LAND USE.** ~~The primary land use designation for the Buckingham Community is "Rural Community Preserve." Other land use designations exist within the Buckingham Community, such as Rural, Sub-Outlying Suburban, Conservation Lands, and Wetlands. Public Facilities have also been designated as appropriate. No land in the Buckingham Community will be changed to a land use category more intense than Rural Community Preserve (including Public Facilities) unless a finding of overriding public necessity is determined by three members of the Board of County Commissioners. Land use decisions will be guided by preserving the Land uses in the Buckingham Community will be developed in a manner that is consistent with the rural and agricultural land use pattern.~~

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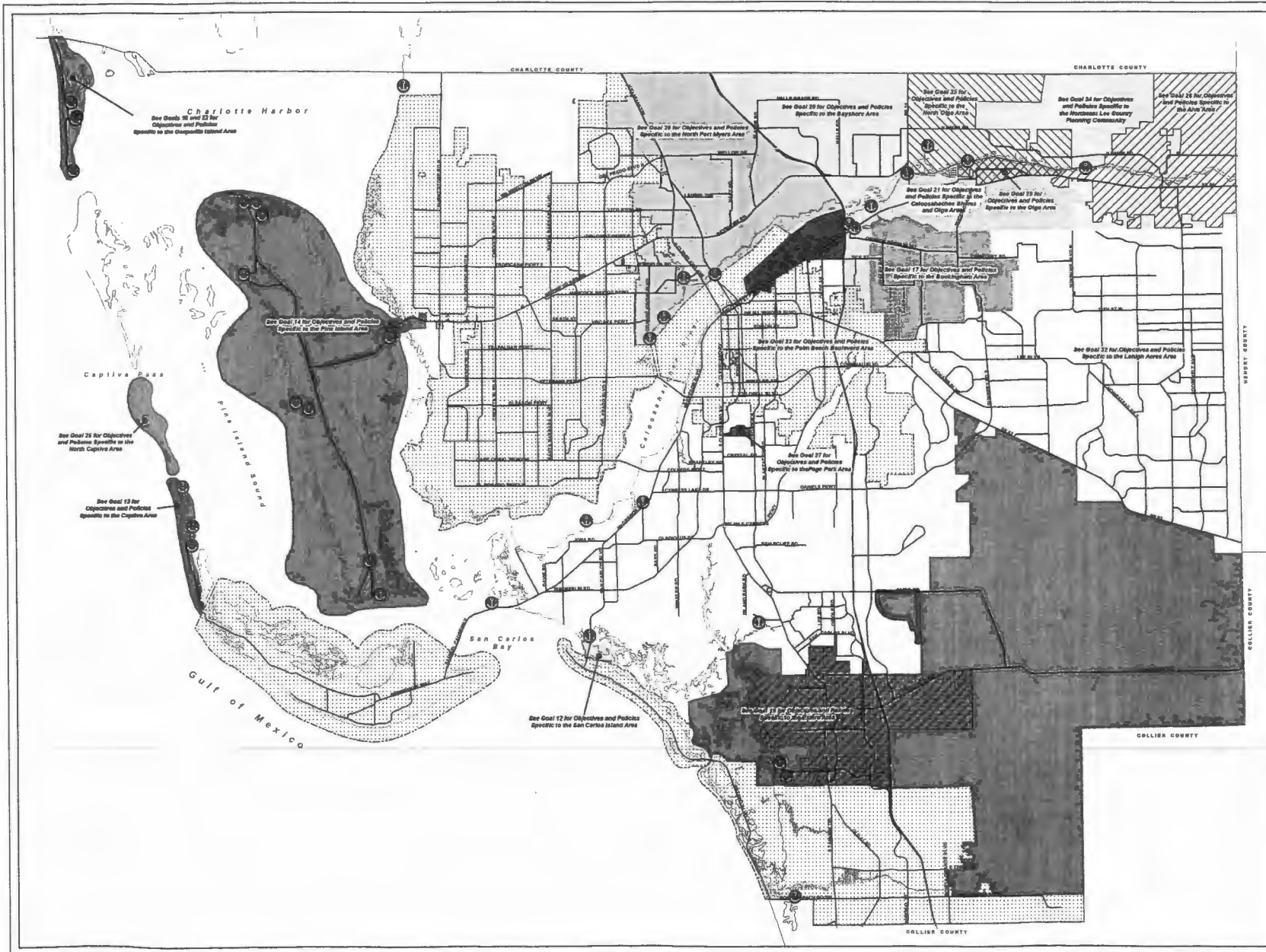
**OBJECTIVE 20.1: LAND USE.** ~~The county will continue to enforce land development regulations that ensure separation of urban and rural land uses through the implementation of open space, buffers, and setback requirements that protect high quality environmental areas, such as creeks, oak hammocks, floodplains and wetlands from potential impacts of development. Planned developments, through appropriate conditions of approval, will be required to locate low residential densities along the perimeters of the development. Amendments to the future land use map that increase density or intensity must demonstrate compatibility through a concurrent planned development rezoning. The existing land use designations of the Lee Plan (as of September 30, 2001) are appropriate to achieving the goal of the Bayshore Plan. No land use map amendments to a more intensive category will be permitted after March 11, 2003, unless a finding of overriding public necessity is made by three members of the Board of County Commissioners.~~

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**POLICY 21.1.5:** ~~One important aspect of the Protect Caloosahatchee Shores' Community Plan goal is to retain its' rural character from the encroachment of inconsistent and incompatible urban development and rural land uses where it currently they exist as of May 15, 2009. by requiring that amendments to the future land use map that increase density or intensity be accompanied with a concurrent planned development rezoning that demonstrates compatibly with the rural character..Therefore no land use map amendments to the remaining rural lands category will be permitted after May 15, 2009, unless a finding of overriding public necessity is made by three members of the Board of County Commissioners.~~

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**POLICY 26.2.2:** Future Land use map amendments that would increase the allowable total density of Alva are discouraged and must demonstrate consistency with the objectives and policies of this goal through concurrent planned development rezoning. Future Land use map amendments that would decrease the allowable total density of ~~the area~~ Alva and that are otherwise consistent with the objectives and policies of this goal are encouraged. ~~in Alva. No land-use amendments to a more intensive category will be permitted unless a finding of overriding public necessity is made by a supermajority of the members of the Board of County Commissioners.~~



### SPECIAL TREATMENT AREAS

#### Community Planning Areas

- Bayshore
- Boca Grande
- Buckingham
- Caloosahatchee Shores
- Clis
- Captiva
- Estero
- Greater Pine Island
- Lehigh Acres
- North Captiva
- North Fort Myers
- Northeast Lee County
- Ave
- North Clis
- Page Park
- San Carlos Island
- Southeast Lee County
- Palm Beach Boulevard
- City Limits

Adopted by Ord. 89-02, 1/31/1989  
 Amended by Ordinance Nos.  
 02-02, 03-01, 03-02, 03-04, 03-21, 07-06, 08-05,  
 08-07, 09-06, 09-08, 09-10, 09-11, 10-16, 11-14,  
 11-21, 11-24

Water Dependent Overlay  
 See Maps 2 and 12 for Details  
 Adopted by Ord. 89-02, 1/31/1989  
 Amended by Ordinance Nos.  
 91-18, 92-35, 00-22, 02-03, 08-05

**CPA2016-00011  
 CENTERPLACE**  
 Remove from  
 Southeast Lee County



Map Generated: February 2017  
 City Limits current to date of map generation





## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

April 4, 2018

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

Attention: Mr. Chris Du

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Ordinance No. 18-14, which was filed in this office on April 4, 2018.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

**RECEIVED**  
**By Chris Du at 9:08 am, Apr 05, 2018**