

**LEE COUNTY ORDINANCE NO. 10-37**  
(Tradeport Future Land Use Category)  
(CPA2010-00001)

**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 CPA2010-00001 (PERTAINING TO THE TRADEPORT FUTURE LAND USE CATEGORY) APPROVED DURING A PUBLIC HEARING DURING THE COUNTY'S 2009/2010 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 June 18, 2010; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on June 23, 2010. At that hearing, the Board approved a motion to send, and did later send, proposed amendment CPA2010-00001 pertaining to the Tradeport Future Land Use Category to the Department of Community Affairs ("DCA") for review and comment; and,

WHEREAS, at the June 23, 2010 meeting, the Board announced its intention to hold a public hearing after the receipt of DCA's written comments commonly referred to as the "ORC Report." DCA issued their ORC report received on August 23, 2010; and,

WHEREAS, on October 20, 2010, 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 text 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 "CPA2010-00001, Tradeport Future Land Use Category Ordinance."**

## SECTION TWO: ADOPTION OF DRI RELATED COMPREHENSIVE PLAN AMENDMENT CYCLE

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, as revised by the Board on October 20, 2010, known as CPA2010-00001 (Tradeport Future Land Use Category).

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

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

**POLICY 1.2.2:** The Tradeport areas are commercial and industrial lands adjacent to the airport needed to accommodate projected growth through the year 2030. These areas will include developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; research and development activities; laboratories; ground transportation and airport-related terminals or transfer facilities; hotels/motels, meeting facilities; and office uses. Stand alone retail commercial uses intended to support and compliment the surrounding business and industrial land uses are permitted if they are approved as part of a Development of Regional Impact (DRI) or Planned Development rezoning. Stand alone retail commercial uses are limited to 1 acre out of every 10 Tradeport and preserved wetland acres within the project. To provide an incentive to preserve upland habitat, Developments of Regional Impact or Planned Developments may also receive additional stand alone retail acres at the rate of 1 additional acre out of every 10 acres of preserved and enhanced uplands within the project that protect wetlands, flowways or occupied listed species habitat. Ancillary retail and Corner Store-commercial uses, related directly to the sale of products manufactured or services provided in the Tradeport intended to support the surrounding business and industrial land uses, are allowed if they are part of a Planned Development. Future development in this category is encouraged to include a mixture of land uses as described in Policy 2.12.2. Residential uses, other than bona fide caretaker

residences, are not permitted in this category except to the extent provided in Chapter XIII of the Plan. Caretaker residences are not permitted in the Airport Noise Zone B. Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County. Property in Section 1 and the east ½ of Section 2, Township 46 South, Range 25 East, and in Section 6, Township 46 South, Range 26 East, must be rezoned to a planned development zoning category prior to any development other than the construction of essential public services. During the rezoning process, the best environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled, "Groundwater Resource Protection Study" will be rebuttably presumed to be necessary to protect potential groundwater resources in the area.

### 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 a final order is issued by the DCA or Administrative Commission finding the amendment in compliance with Section 163.3184(9), Florida Statutes, or until the Administrative Commission issues a final order determining the adopted amendment to be in compliance in accordance with 163.3184(10), Florida Statutes, whichever occurs earlier. 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. A copy of such resolution will be sent to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

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

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

[Remainder of page intentionally left blank.]

DONE AND ADOPTED this 20th day of October 2010.

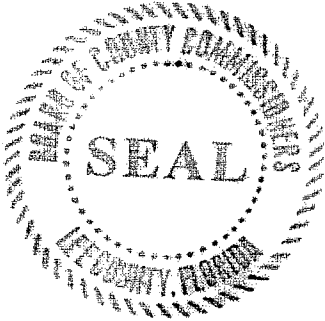
ATTEST:  
CHARLIE GREEN, CLERK

BY: *Lucia A. Perce*  
Deputy Clerk

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: *Tammara Hall*  
Tammara Hall, Chairwoman

DATE: 10/20/10



Approved as to form by:

*Donna Marje Collins*  
Donna Marje Collins  
County Attorney's Office

STATE OF FLORIDA

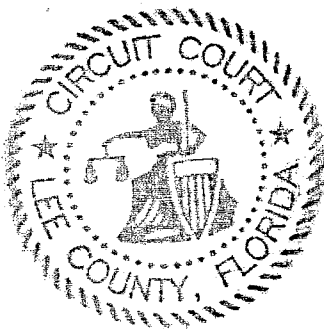
COUNTY OF LEE

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. 10-37, adopted by the Board of Lee County Commissioners, at their meeting held on the 20<sup>th</sup> day of October, 2010 and same filed in the Clerk's Office.

Given under my hand and seal, at Fort Myers, Florida, this 21st day of October 2010.

CHARLIE GREEN,  
Clerk of Circuit Court  
Lee County, Florida

By: *Tracie S. Pierce*  
Deputy Clerk





# FLORIDA DEPARTMENT of STATE

**CHARLIE CRIST**  
Governor

**STATE LIBRARY AND ARCHIVES OF FLORIDA**

**DAWN K. ROBERTS**  
Interim Secretary of State

October 28, 2010

Honorable Charlie Green  
Clerk of Court  
Lee County  
Post Office Box 2469  
Fort Myers, Florida 33902-2469

Attention: Ms. Lisa L. Pierce, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated October 20, 2010 and certified copies of Lee County Ordinance Nos. 10-34 through 10-40, which were filed in this office on October 22, 2010.

Sincerely,

Liz Cloud  
Program Administrator

LC/srd

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