

LEE COUNTY ORDINANCE NO 98-09

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" AS ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENTS APPROVED IN CONJUNCTION WITH ADOPTION OF LEE COUNTY'S EVALUATION AND APPRAISAL ADDENDUM REPORT; PROVIDING FOR AMENDMENTS TO THE ADOPTED TEXT AND MAPS; PROVIDING FOR PURPOSE AND SHORT TITLE; PROVIDING FOR ADOPTION OF THE SPECIFIED AMENDMENTS TO THE LEE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR THE LEGAL EFFECT OF "THE LEE PLAN"; PROVIDING FOR GEOGRAPHICAL APPLICABILITY; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan (hereinafter referred to as the "Lee Plan") Policy 2 4 1 and Chapter XIII, provides for adoption of Plan Amendments with such frequency as may be permitted by applicable state statutes, in accordance with such administrative procedures as the Board of County Commissioners may adopt; and,

WHEREAS, the Lee County Board of County Commissioners, in accordance with Section 163 3181, Florida Statutes, and Lee County Administrative Code AC-13-6 further provides an opportunity for individuals to participate in the plan amendment public hearing process, and,

WHEREAS, the Lee County Local Planning Agency (hereinafter referred to as the "LPA") held statutorily prescribed public hearings pursuant to Chapter 163, Part II, Florida Statutes, and Lee County Administrative Code AC-13-6 on May 6, 1997, May 29, 1997, June 12, 1997, June 26, 1997, July 24, 1997, October 27, 1997, and,

WHEREAS, the Board of County Commissioners, pursuant to Chapter 163, Part II, Florida Statutes, and Lee County Administrative Code AC-13-6, held a statutorily prescribed public hearing for the transmittal of the amendments being proposed on November 5, 1997, and at said hearing approved a motion to send, and did later send, the proposed amendments to the Florida Department of community affairs (hereinafter referred

to as "DCA") for their review and comment pursuant to Chapter 163, Part II, Florida Statutes; and,

WHEREAS, at the November 5, 1997 meeting, pursuant to Chapter 163, Part II, Florida Statutes, the Board of County Commissioners did announce its intention to hold a public hearing after the receipt of DCA's written comments commonly referred to as the "ORC Report," which were later received on February 5, 1998 by the Chairman of the Lee County Board of County Commissioners, and,

WHEREAS, the Board of County Commissioners during its statutorily prescribed public hearing for the plan amendments on May 27 and June 3, 1998, moved to adopt said proposed amendments as more particularly 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, has conducted a series of public hearings to review the proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt those amendments to the Lee Plan discussed at said meetings and approved by an absolute majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Plan, as hereby amended, shall continue to be the "Lee Plan." This ordinance may be referred to as the "Evaluation and Appraisal Report Addendum Amendment Ordinance."

**SECTION TWO: ADOPTION OF EVALUATION AND APPRAISAL REPORT ADDENDUM AMENDMENTS TO THE LEE PLAN**

The Lee County Board of County Commissioners hereby amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting amendments, as

revised by the Board of County Commissioners on May 27 and June 3, 1998, known as PAM/T 96-08, PAM/T 96-13, PAM/T 96-14, PAM 96-15, PAM/T 96-19, PAT 96-20, PAT 96-21, PAT 96-22, PAT 96-23, PAT 96-24, PAT 96-25, PAT 96-26, PAM/T 96-27, PAT 96-28, PAT 96-29, PAM/T 96-30, PAT 96-31, PAT 96-32, PAT 96-33, PAT 96-34, PAT 96-35, PAT 96-36, PAT 96-37, PAT 96-38, PAT 96-39, PAT 96-40, PAT 96-41, PAT 96-42, PAT 96-44, PAT 96-45, PAT 96-46, and PAT 96-47 which amend the text of the Lee Plan as well as the Future Land Use Map series

In addition, the above-mentioned Staff Reports and Analysis, along with all attachments for these amendments are hereby adopted as "Support Documentation" for the Lee County Comprehensive Plan

### SECTION THREE LEGAL EFFECT OF THE "LEE PLAN"

No public or private development shall be permitted except in conformity with the Lee Plan, and all land development regulations and land development orders shall be consistent with the Lee Plan as so amended

### SECTION FOUR GEOGRAPHIC APPLICABILITY

The Lee Plan shall be applicable throughout the unincorporated area of Lee County, Florida, except in such unincorporated areas as are included in any joint or interlocal agreements with other local governments that specifically provide otherwise.

This ordinance shall also be applicable to those portions of the incorporated areas of Lee County, Florida, for which the Florida Statutes have delegated regulatory jurisdiction to county governments over municipal governments.

## 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 shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provision of this ordinance. It is hereby declared to be the legislative intent of the Board of County Commissioners that this ordinance would have been adopted had such 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 shall become and be made a part of the Lee County Code; and that sections of this ordinance may be numbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intention, and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered, and the correction of typographical errors which do not affect the intent, may be authorized by the County Administrator, or his or her designee, without need of public hearing, by filing a corrected or recodified copy of same with the Clerk of the Circuit Court.

## SECTION SEVEN EFFECTIVE DATE

The plan amendments adopted herein shall not be effective until a final order is issued by the DCA or Administration Commission finding the amendment in compliance with Section 163 3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it 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 which resolution shall be sent to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

THE FOREGOING ORDINANCE was offered by Commissioner Andrew Coy who moved its adoption. The motion was seconded by Commissioner Douglas St. Cerny and, being put to a vote, the vote was as follows

JOHN MANNING	<u>ABSENT</u>
DOUGLAS ST. CERNY	<u>AYE</u>
RAY JUDAH	<u>AYE</u>
ANDREW COY	<u>AYE</u>
JOHN ALBION	<u>AYE</u>

DONE AND ADOPTED this 3rd day of June, 1998.

ATTEST:  
CHARLIE GREEN, CLERK

BY: [Signature]  
Deputy Clerk

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: [Signature]  
Chairman

Approved as to form by:

[Signature]  
County Attorney's Office