

LEE COUNTY ORDINANCE NO. 24-10
(Water Supply Plan Update)
(CPA2023-00008)

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 AMENDMENT PERTAINING TO THE WATER SUPPLY PLAN UPDATE (CPA2023-00008) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED MAP AND 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") 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, Chapter 163, Part II, F.S. requires the County to incorporate the Work Plan into the Lee Plan after the South Florida Water Management District (the "District") approves a regional water supply plan or its update; and,

WHEREAS, on December 8, 2022, the District's Lower West Coast Regional Water Supply Plan (LWCWSP) Update was approved by the District's Governing Board; and,

WHEREAS, on August 1, 2023, the Board initiated this amendment to incorporate the Work Plan into the Lee Plan as required by statute; 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 January 22, 2024; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on March 6, 2024. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to Water Supply Plan Update (CPA2023-00008) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the March 6, 2024 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies' written comments; and,

WHEREAS, on May 22, 2024, 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 map and 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 "Water Supply Plan Update Ordinance (CPA2023-00008)."**

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 an amendment, to incorporate the Lee County Water Supply Facilities Work Plan (Work Plan) by reference as required by Florida Statutes (F.S.) §163.3177(6), and text amendments to ensure consistency with regional water supply plans and water use planning.

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 Hamman, who moved its adoption. The motion was seconded by Commissioner Ruane. The vote was as follows:

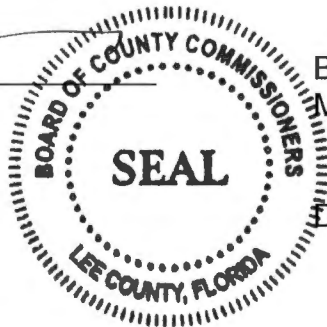
Kevin Ruane	Aye
Cecil L Pendergrass	Aye
Raymond Sandelli	Aye
Brian Hamman	Aye
Mike Greenwell	Aye

DONE AND ADOPTED this 22nd day of May 2024.

ATTEST:
KEVIN C. KARNES
CLERK OF CIRCUIT COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY FLORIDA

BY: 
Deputy Clerk



BY: 
Mike Greenwell, Chair

DATE: 5-29-24

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY


County Attorney's Office

Exhibit A (Adopted by BOCC May 8, 2024): Adopted revisions to Text;
Adopted revisions to Table 5 – Ten Year Water Supply Development Projects

EXHIBIT A

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

Text Amendments:**II Future Land Use Element**

POLICY 1.4.5: The Density Reduction/Groundwater Resource (DR/GR) future land use category includes upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. ~~Only minimal public facilities exist or are programmed.~~

1. New land uses in these areas that require rezoning or a development order must demonstrate compatibility with maintaining surface and groundwater levels at their historic levels utilizing hydrologic modeling, the incorporation of increased storage capacity, and inclusion of green infrastructure. The modeling must also show that no adverse impacts will result to properties located upstream, downstream, as well as adjacent to the site. Offsite mitigation may be utilized, and may be required, to demonstrate this compatibility. Evidence as to historic levels must be submitted as part of the rezoning application and updated, if necessary, as part of the mining development order application.
2. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, public and private recreation facilities, and residential uses at a maximum standard density of one dwelling unit per ten acres (1 du/10 acres). See Objectives 33.2 and 33.3 for potential density adjustments resulting from concentration or transfer of development rights.
3. Private Recreational Facilities may be permitted in accordance with the site locational requirements and design standards, as further defined in Goal 13. No Private Recreational Facilities may occur within the DR/GR land use category without a rezoning to an appropriate Planned Development zoning category, and compliance with the Private Recreation Facilities performance standards, contained in Goal 13. (Ord. No. 91-19, 94-30, 99-16, 02-02, 10-20, 12-24, 15-13, 18-18, 19-13, 20-06)

.....

POLICY 20.3.2: Central water lines may be extended along roads of the Buckingham Community Plan area upon request of property owners, with extension and connection fees paid by the person(s) receiving the water service. The County may also extend central water lines through the Buckingham Community Plan area, if necessary. Connection to this expanded water service network will be on a voluntary basis, unless required by state or federal regulations. Under no circumstances will the availability of central water be accepted as justification for a density or intensity increase, or reduction of lot size requirements (except as provided in Policy 20.1.5), within the Buckingham Community Plan area. (Ord. No. 10- 15, 18-18)

.....

POLICY 25.9.3: Lee County will support the expansion of water and sewer facilities throughout Lehigh Acres. work with Florida Governmental Utilities Authority (FGUA) to prioritize areas for the expansion of utilities. (Ord. No. 10-16, 18-18)

.....

IV. Community Facilities and Services Element

a. Potable Water

POLICY 54.1.13: Encourage and pursue the use of funding assistance provided by the South Florida Water Management District for the development of alternative water supply and water conservation projects.

POLICY 54.1.14: Encourage water uses that reduce reliance on the surficial aquifer system (SAS) and intermediate aquifer system (IAS) through the use of alternative water systems to meet future water demands.

POLICY 54.1.15: Consider the feasibility of desalinated seawater from the Gulf of Mexico as an additional water source option.

POLICY 54.1.16: Use of a low volume irrigation system, as defined by SFWMD, and water efficiency plan that includes drought-tolerant species, real-time pumping technology, advanced/Smart irrigation controllers, micro-irrigation, or other water use efficiency devices are encouraged.

.....

POLICY 55.1.2: Perform groundwater modeling and analysis, as needed, to assess the potential impact of land use changes on water resources of the County. Analysis will focus on adequacy of water supply, including groundwater level draw-down and avoidance of adverse impacts on natural systems from water supply withdrawals, declining water levels, and harmful movement of saline water. Modeling and analysis performed by the County does not eliminate any site specific requirements that are part of an application for new or proposed development. (Ord. No. 00-22, 03-04, 17-19)

POLICY 55.1.3: Actively implement and utilize the Water Supply Facilities Work Plan, Lee County, Florida, May 2019[insert date of BoCC approval of the 2024 LC WSFWP], adopted by reference, as a guide to potable water supply facility planning consistent with the Ten Year Water Supply Development Projects (Table 5), potable water resources, and water conservation. (Ord. No. 94-30, 00-22, 03-04, 09-13, 16-01, 17-19, 19-02)

.....

VI. Capital Implements Element

POLICY 95.1.1: Incorporate the schedule of capital improvements adopted as part of the

annual operating budget on an annual basis. Table 3(a) includes estimated costs, timing of need, location, and revenue sources for all public facility projects to be undertaken during the ensuing five-year period. CIP project priorities for public facilities will be based on:

1. System preservation/maintenance of assets;
2. Operation at or below the applicable minimum LOS, existing or projected, based on approved development orders;
3. Provision of system continuity;
4. Removal of a direct and immediate threat to the public health or safety;
5. Donation or matching fund offers;
6. Return on investment; and
7. Other considerations (e.g. improving facilities in urban areas, state or federal regulations, consistency with applicable adopted government plans, emergency evacuation, regulatory or non-regulatory LOS, competition with other governmental or private sector facilities, revenue-generating potential, similar projects in planning and commission districts).

(Ord. No. 94-30, 00-22, 07-16, 16-03, 17-19)

Table Amendments:

Table 5 – Ten Year Water Supply Development Projects

<p align="center">TABLE 5 10 Year Water Supply Development Projects APPROVED LEE COUNTY CIP FY 23/24</p>					
WATER SUPPLY DEVELOPMENT PROJECTS					
CIP #	Lee County Project Name / LWCWSP Project Name	Description	Project Status	Total CIP Budget	Estimated Completion Date
200633	North Lee County WTP Expansion to 15 MGD	Expand the existing North Lee County Treatment Plant from 10 MGD to 15 MGD treatment capacity. The expansion will utilize a reverse osmosis treatment system.	Planning- Construction	\$50,300,000	2025
207619	North Lee County Wellfield Expansion to 15 MGD, Phase IIIA	Design, permitting, land/easement acquisition and construction of six additional Lower Hawthorn Wells and required transmission main to provide the necessary raw water source for the North Lee County Water Treatment Plant expansion to 15 MGD.	Construction	\$23,531,307	2024
207619	North Lee County Wellfield Expansion to 15 MGD, Phase IIIB	Design, permitting, land/easement acquisition and construction of six additional Lower Hawthorn Wells and required transmission main to provide the necessary raw water source for the North Lee County Water Treatment Plant expansion to 15 MGD.	Design	\$27,889,632	2025/2026
200749	Green Meadows WTP - Floridian Wells 10F, 11F, 12F, and 13F	Construct 12 new wells (6 SSA & 6 LHA) to supplement existing under performing wells and provide redundancy.	Design	\$35,000,000	2026 2027
200779	Corkscrew Feasibility Study-Wellfield Expansion	Analysis for potential plant and source water expansion. Installation of additional source water wells to provide redundancy and resiliency.	Planning	\$500,000	2023 2024
200784	Pinewoods Wellfield - 3 Well Expansion	Three wells to provide reliable capacity and allow expansion farther south into Kiker Preserve.	Planning	\$7,750,000	2026 2028
ALTERNATIVE WATER SUPPLY PROJECTS					
200616	Fiesta Village Reuse Main Upgrade	Upgrade the reuse main from Fiesta Village WWTP to Fort Myers Beach Reuse System	Construction	\$5,777,500	2022
207467	Southeast WRF	Design, permitting, and construction of a new <u>6</u> MGD water reclamation facility to address growth in the Southeast area of the county.	Planning/ Design	\$109,962,452- \$163,148,281	2028
200723	Three Oaks WRF Expansion	Design/Build project to expand the plant capacity by <u>2-3</u> MGD for a total of <u>8-9</u> MGD. The expansion is to accommodate growth in the service area.	Design/Build	\$44,200,000	2024
207460	Gateway WRF Expansion 3MGD to 6MGD	Design, permitting, and construction of 3MGD expansion to the Gateway WRF to accommodate growth	Design/Build	\$25,000,000	2032



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

May 30, 2024

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

Dear Kevin Karnes:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Lee County Ordinance No. 24-10, which was filed in this office on May 29, 2024.

Sincerely,

Matthew Hargreaves
Administrative Code and Register Director

MJH/wlh

RECEIVED

By Chris Jagodzinski at 12:44 pm, May 30, 2024

FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM
CODRS CODING FORM

COUNTY: Lee

COUNTY ORDINANCE #: 24-10
(e.g., 93-001)

PRIMARY KEYFIELD
DESCRIPTOR:

Comprehensive Planning

SECONDARY KEYFIELD
DESCRIPTOR:

Planning

OTHER KEYFIELD
DESCRIPTOR:

Land Use Planning

ORDINANCE DESCRIPTION:

Water Supply Plan Update

(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: _____

**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

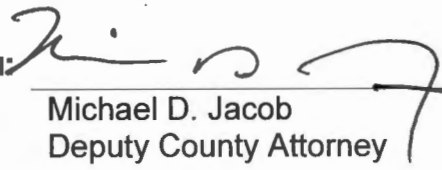
VIA HAND DELIVERY

DATE: May 23, 2024

TO: Commissioner Mike Greenwell

Chair, Board of County
Commissioners

FROM:


Michael D. Jacob
Deputy County Attorney

RE: **Lee County Ordinance Amending the Lee County Comprehensive Plan
Water Supply Plan Update
Ord #24-10 (CPA2023-00008)
Adoption Hearing – May 22, 2024**

On May 22, 2024, the Board of County Commissioners adopted an ordinance amending the Lee County Comprehensive Plan. The original ordinance is attached to this memorandum for execution. Kindly execute the ordinance at your earliest convenience and then forward to Eileen Gabrick in the Minutes Department.

By copy of this memorandum to Eileen Gabrick, I request that a clerk attest to the Chair's signature on the attached ordinance and email a copy of the fully executed ordinance with all exhibits to my attention.

Insofar as State Statute mandates that the ordinance reach Tallahassee within ten (10) days of the adoption, please expedite the above request so that the ordinance arrives in Tallahassee no later than June 1, 2024. Also attached please find the Data Retrieval form to accompany the ordinance when transmitted to the State.

Thank you for your assistance.

MDJ/les

Attachment:

Ord #24-10 (CPA2023-00008)

cc via email only:

Laurel Chick, Internal Services Manager
Samantha Westen, Executive Assistant
Rose Bahena, Administrative Specialist, Senior
Eileen Gabrick, Manager, Minutes Department
leeclerkminutes@leeclerk.org
Brandon Dunn, Principal Planner, Planning
Becky Sweigert, Principal Planner, DCD
Janet Miller, Administrative Specialist/DCD
Erica Temerario, Legal Administrative Specialist (for ordinance history)

RECEIVED
MINUTES OFFICE
2024 MAY 29 PM 12:20
