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# **THE LEE PLAN**

# **2017 CODIFICATION**

**As amended through October 2017**

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Department of Community Development  
P.O. Box 398  
Fort Myers, FL 33902-0398

- 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.

(Ordinance No. 05-19)

**POLICY 13.1.12:** Mangroves on Captiva Island will be protected to the greatest extent possible. (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. (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. (Ordinance No. 05-19)

**OBJECTIVE 13.2: 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. (Ordinance No. 07-09).

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

**GOAL 14: GREATER PINE ISLAND.** To manage future growth on and around Greater Pine Island so as to: maintain the island's unique natural resources, rural character, and coastal environment; support the viable and productive agricultural community and other local businesses; and to protect the public health, safety and welfare of island residents and visitors when a hurricane strike is imminent. For the purposes

of this plan, the boundaries of Greater Pine Island are indicated on Lee Plan Map 1, Page 2. (Ordinance No. 94-30, 05-21, 16-07)

**OBJECTIVE 14.1: NATURAL RESOURCES.** County regulations, policies, and discretionary actions affecting Greater Pine Island will permit no further degradation of estuarine and wetland resources, and will serve the long-term preservation of native upland vegetation and wildlife habitat. (Ordinance No. 94-30, 00-22, 16-07)

**POLICY 14.1.1:** The county will not approve or support any new canals on Greater Pine Island or any new artificial channels in natural waters within one mile of Pine Island. (Ordinance No. 94-30, 00-22)

**POLICY 14.1.2:** Lee County will map the seagrass beds around Greater Pine Island, and will regulate boating activities around Greater Pine Island and marina siting on Greater Pine Island in such a way as to prevent the net loss of seagrasses due to “prop dredging.” (Ordinance No. 94-30, 00-22)

**POLICY 14.1.3:** Lee County will explore the possibility of estimating the aerial extent and maturity of mangroves in Greater Pine Island for the purpose of providing baseline data necessary to ensure that the cumulative impact of mangrove alteration does not decrease the combination of aerial extent and maturity of mangroves relative to the baseline data. (Ordinance No. 94-30, 00-22, 16-07)

**POLICY 14.1.4:** Maintenance dredging of old channels and canals may be permitted in those cases where the original channel (or canal) depth and width can be accurately determined.

**POLICY 14.1.5:** New development, including “planned development” rezoning approvals, new subdivisions, and agriculture, that adjoin state-designated aquatic preserves and associated wetlands and natural tributaries must preserve or create a 50-foot-wide native vegetated buffer area between the development and the waterbody or associated wetlands. This requirement will not apply to existing subdivided lots. For agriculture, this requirement:

- will be implemented through the notice-of-clearing process in chapter 14 of the Land Development Code;
- will include a requirement to use this area as a riparian forest buffer with an adjoining filter strip wherever farmland abuts wetlands; and
- if native vegetation does not currently exist, native tree cover will be established within three years of issuance of the notice of clearing.

The placement and width of the 50 foot vegetated buffer can be modified to accommodate development; however, the development must meet all of the following criteria:

- impact less than 1.5 acres of the associated wetlands; and,
- the impacted area must consist primarily of exotic vegetation; and,
- avoid all impacts to mangrove swamps and tidal flats (FLUCCS Code 612 and 651); and,
- be in the Urban Community Future Land Use Category; and,
- be a planned development.

In addition to the listed criteria, the development must create an onsite wetland area. The created wetland area must meet the following:

- must be a minimum of 1.5 square feet for each square foot of impacted associated wetlands; and,
  - consist of 100 % native wetland species; and,
  - consist of 6’ wetland trees to be planted 15’ on center and 3 gallon wetland shrubs planted 3’ on center; and,
  - maintain a hydrologic connection with the remaining preserved associated wetlands; and,
  - the wetland creation area may be comprised of planted dry detention, filter marsh or other similar green infrastructure techniques; and,
  - the created wetlands are not intended to replace any state or federal required offsite mitigation for permitted impacts to wetlands.
- (Ordinance No. 00-22, 03-03, 11-30)

**POLICY 14.1.6:** The county will continue to purchase environmentally sensitive areas, rare and unique uplands, eagle nesting areas, and archaeological and historic sites on Greater Pine Island in accordance with the priorities set out in this plan. (Ordinance No. 94-30, 00-22)

**POLICY 14.1.7:** Lee County will design a program within one year to assess the condition of septic tank drainfields along saltwater canals in St. James City, Bokeelia, and Flamingo Bay if grant funding can be obtained and if property owners are willing to cooperate with the study. This program would analyze whether current soil conditions or the density, age, or condition of drainfields are likely to be degrading tidal water in the canals. If serious degradation is taking place, Lee County will assess the feasibility of various corrective measures. (Ordinance No. 94-30, 00-22, 03-03)

**POLICY 14.1.8:** Lee County will support practices that reduce pesticides, fertilizers, animal waste, and other pollutants entering Greater Pine Island’s estuarine and wetland resources. (Ordinance No. 16-07)

**POLICY 14.1.9:** Lee County will support the use of central sanitary sewer service to reduce potential contamination to groundwater or the surrounding estuarine systems from on-site septic systems. (Ordinance No. 16-07)

**OBJECTIVE 14.2: ROAD IMPROVEMENTS.** The county will continually monitor traffic levels within Greater Pine Island to maintain hurricane evacuation clearance times in accordance with Objective 14.8. (Ordinance No. 00-22, 16-07)

**POLICY 14.2.1:** Lee County will monitor impacts to the existing transportation infrastructure of Greater Pine Island recognizing the limited access to the community and the seasonal nature of infrastructure demand. (Ordinance No. 16-07)

**POLICY 14.2.2:** By 2030 Lee County will work toward attaining a level of service for out of county hurricane evacuation in a Category 5 storm event that does not exceed 18 hours. (Ordinance No. 16-07)

**POLICY 14.2.3:** Lee County will work with the Florida Department of Transportation to identify hurricane evacuation roadway capacity improvements in order to maintain evacuation clearance time standards for Greater Pine Island. (Ordinance No. 16-07)

**POLICY 14.2.4:** The county will make every effort to continue extending the bicycle path to run the entire length of Stringfellow Road. This path should be designed similar to the bicycle path north of Pineland that was completed in 2001. (Ordinance No. 03-03, 16-07)

**POLICY 14.2.5:** Lee County will continue to evaluate pedestrian safety and circulation, and will seek to minimize pedestrian-vehicular conflicts within the Matlacha Historic District. (Ordinance No. 16-07)

**POLICY 14.2.6:** Lee County will assess the benefits of expanding mass transit services to Greater Pine Island to minimize the number of vehicular trips through Matlacha, and will encourage projects to accommodate bus stops, multi-modal opportunities, ride share lots, water taxis, and/or pedestrian connectivity. (Ordinance No. 16-07)

**OBJECTIVE 14.3: RESIDENTIAL LAND USES.** County regulations, policies, and discretionary actions will recognize certain unique characteristics of Greater Pine Island which justify different treatment of existing and future residential areas than in mainland Lee County, as described in the following policies. (Ordinance No. 94-30, 00-22)

**POLICY 14.3.1:** Due to the constraints on future development posed by the limited road connections to mainland Lee County, only Greater Pine Island TDUs are permitted in Greater Pine Island consistent with Table 1(a), Note 4. Only the portion of Greater Pine Island defined as Pine Island Center is eligible to receive Greater Pine Island TDUs. (Ordinance No. 16-07)

**POLICY 14.3.2:** When warranted by actual construction and occupancy of homes, existing substandard subdivisions may become subject to Municipal Service Taxing or Benefit Districts to provide roads, drainage, and other public facilities.

**POLICY 14.3.3:** Adjusted Maximum Density is not permitted to be located within Coastal Rural designated lands within the Coastal High Hazard Area. (Ordinance No. 16-07)

**POLICY 14.3.4:** Dwelling units may be transferred from parcels that have a future land use designation of Coastal Rural to parcels with urban future land use categories on Greater Pine Island, subject to the following:

1. The receiving and transferring lands are under the same ownership at the time this policy was adopted, and remain under the same ownership at the time units are transferred;
2. The maximum allowable density that may be transferred from Coastal Rural parcels is limited to one dwelling unit per 2.7 acres (1 du/2.7 acres);
3. The property receiving the additional dwelling units is rezoned to a planned development;
4. Density can be allocated across the planned development-zoned property, including those lands within the planned development that are designated Coastal Rural, provided that the density developed within Coastal Rural designated property does not exceed 1 dwelling unit per 2.7 acres (1 du/2.7 acres);
5. Development rights for each unit transferred from the transferring parcel are extinguished through a recorded instrument acceptable to the County Attorney's Office and provided to the Department of Community Development with the planned development rezoning application for the receiving parcel;
6. The allowable density on the receiving parcels will be the sum of the allowable densities for the receiving and transferring parcel, subject to the Coastal Rural density limitations set forth in subsection 4 above; and
7. Bona fide agricultural uses on the transferring parcel may continue in accordance with Policy 14.6.1.

(Ordinance 16-07)

**OBJECTIVE 14.4: COMMERCIAL LAND USES.** County regulations, policies, and discretionary actions will recognize certain unique characteristics of Greater Pine Island which justify different treatment of existing and future commercial areas than in mainland Lee County, as described in the following policies. (Ordinance No. 94-30, 00-22)

**POLICY 14.4.1:** Future urban area in Pine Island Center are targeted for most future commercial and industrial uses, as permitted by other portions of this plan. Non-residential developments within Pine Island Center are encouraged to provide employment opportunities; serve the day to day needs of residents and visitors; demonstrate a positive impact on traffic patterns within Greater Pine Island; and reduce the number of vehicular trips through Matlacha. (Ordinance No. 16-07)

**POLICY 14.4.2:** Commercial development at locations outside Pine Island Center, but within future urban land use categories, must be designed to minimize impacts to residential and adjacent agricultural uses. Permitted uses should be restricted to the following: marinas; fish houses; and minor commercial uses to serve the day to day needs of local residents and island visitors. (Ordinance No. 94-30, 00-22, 10-17, 16-07)

**POLICY 14.4.3:** The county will provide specific architectural and site design standards for Greater Pine Island in the Land Development Code. These standards must: promote but not mandate rehabilitation over demolition; address the size and scale of building mass in relation to the built and natural environment; establish community-specific architectural standards in support of Greater Pine Island's coastal rural character; preserve mature trees wherever possible; encourage the location of off-street parking to the side and rear of buildings to preserve viewsheds along public roadways; require large windows and forbid most blank walls; and encourage metal roofs and other features of traditional "Old Florida" styles. The new commercial design standards will reflect the different characteristics of Bokeelia, Pineland, Matlacha, and St. James City. Deviations from these standards may not be granted unless the request meets the County approval criteria for variances set forth in Chapter 34 of the Land Development Code. (Ordinance No. 03-03, 16-07)

**POLICY 14.4.4:** In the Coastal Rural future land use category, non-residential development is restricted to minor commercial development. All zoning requests for commercial projects must utilize the planned development rezoning process and be consistent with the following:

- Total building floor area is limited to 5,000 square feet, unless the development can demonstrate compatibility with adjacent uses, and a positive impact on traffic patterns within Greater Pine Island.
- Development must not exceed two acres of impervious area.
- Uses are limited to those that reflect the Coastal Rural character and unique culture of Greater Pine Island, such as animal clinics, bait and tackle shops, ecotourism, farm and feed supply stores, food stores, lawn and garden supply stores, restaurants (excluding fast food), roadside/produce stands, specialty retail, and plant nurseries.
- Buildings exceeding 5,000 square feet that are lawfully existing or approved as of October 1, 2009 will be deemed vested for the approved and existing square footage for the life of the structure despite a change in use.

(Ordinance No. 10-17, 16-07)

**OBJECTIVE 14.5: HISTORIC RESOURCES.** Lee County will continue to formally designate historic resources and archaeological sites on and around Greater Pine Island. (Ordinance No. 94-30, 00-22)

**POLICY 14.5.1:** The county will continue to recognize Matlacha as an historic district, with an emphasis upon preserving the historic commercial fishing uses that give the community its unique character. (Ordinance No. 94-30, 00-22)

**POLICY 14.5.2:** Public acquisition of historic structures and archaeological sites will be considered in conjunction with other public purposes such as parks or preservation of environmentally sensitive lands. (Ordinance No. 00-22)

**POLICY 14.5.3:** The county will evaluate the effects of county regulations (such as zoning, road setbacks, and other development regulations) on designated historic districts and other districts of local concern, and will modify such regulations where necessary to protect both the interests of owners of historic structures and the health, safety, and welfare of the general public. (Ordinance No. 94-30, 00-22)

**POLICY 14.5.4:** The county will update its historic sites survey of Greater Pine Island if an update is determined to be needed. The county will consider formal local designation of additional historic buildings, especially in St. James City, Pineland, and Bokeelia, and will identify potential buildings or districts for the National Register of Historic Places. (Ordinance No. 03-03)

**OBJECTIVE 14.6: GREATER PINE ISLAND TRANSFER OF DEVELOPMENT RIGHTS PROGRAM.** To promote and preserve the rural character of Pine Island, Lee County will pursue the incorporation of Greater Pine Island's purchase and transfer of development rights programs into the Land Development Code. (Ordinance No. 05-21, 16-07)

**POLICY 14.6.1:** Lee County will amend its Land Development Code to implement Transfer of Development Rights (TDR) and Purchase of Development Rights (PDR) programs for Greater Pine Island. The new programs will create incentives for property owners within Greater Pine Island to transfer development rights associated with their parcels to: receiving lands outside of the planning community; future urban areas within the planning community that are targeted for development in accordance with these provisions; or, Lee County. The programs will allow for continued agricultural uses on sending lands, in addition to limited non-residential uses that directly support the agricultural operations. (Ordinance No. 16-07)

**POLICY 14.6.2:** The Greater Pine Island TDR program will have the following characteristics:

- a. Creation of Transferable Development Units (TDUs).
  1. Up to one (1) TDU may be created per five (5) acres of wetlands.
  2. Up to one (1) TDU may be created per one (1) acre of uplands located in non-urban future land use categories.
  3. Up to three (3) TDUs may be created per one (1) acre of uplands located in the Outlying Suburban future land use categories.

4. Up to two (2) TDUs may be created in a single-family lot or parcel designated as wetlands that holds an affirmative determination of the single-family residence provision pursuant to Chapter XIII of the Lee Plan.
- b. Receiving area density and intensity equivalents of Greater Pine Island TDUs.
    1. One (1) Greater Pine Island TDU will be equal up to two (2) dwelling units when transferred to eligible receiving lands outside of the Greater Pine Island Planning Community.
    2. One (1) Greater Pine Island TDU will be equal up to one (1) dwelling unit when transferred to receiving lands in Pine Island Center.
    3. Lee County may establish non-residential incentives for the use of Greater Pine Island TDUs within Future Urban Areas of the unincorporated Lee County.
  - c. The Land Development Code may include regulations that permit the County to evaluate the effectiveness of the Greater Pine Island TDR program and make changes that may further condition or restrict the use of Greater Pine Island TDUs. (Ordinance No. 16-07)

**POLICY 14.6.3:** The county will administer the TDR program and will develop a clear and concise forum to disseminate program information and records, including but not limited to a: TDR program website that will provide general program information, rules and guidelines; TDU administrative determination application; county-approved form of conservation easement; certified TDU database with ownership information; and, for-sale TDU clearinghouse information for those individuals that request to be included within the TDU clearinghouse program. (Ordinance No. 16-07)

**OBJECTIVE 14.7: PUBLIC PARTICIPATION.** Lee County will encourage and solicit public input and participation prior to and during the review and adoption of county regulations, Land Development Code provisions, Lee Plan provisions, and zoning approvals. (Ordinance No. 10-17)

**POLICY 14.7.1:** The owner or agent of a requested zoning action (planned development, conventional rezoning, special exception, or variance requests) within the Greater Pine Island community must conduct one public informational meeting within the community where the agent will provide a general overview of the project for any interested citizens. This meeting must be conducted before the application can be found sufficient. The applicant is fully responsible for advertising, providing the meeting space, and security measures as needed. Subsequent to this meeting, the applicant must provide staff with a summary 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. (Ordinance No. 10-17)

**OBJECTIVE 14.8: HURRICANE PREPAREDNESS, EVACUATION AND MITIGATION.** Lee County will provide for the protection of Greater Pine Island residents, visitors and property from the physical and economic effects of hurricanes and tropical storms. The following policies will supplement Goal 109 of the Conservation and Coastal Management element of this plan, as it relates to the hurricane preparedness, evacuation, mitigation and sheltering for residents of Greater Pine Island. (Ordinance No. 16-07)

**POLICY 14.8.1:** Lee County will work to maintain hurricane evacuation clearance times for Greater Pine Island, and continue to incorporate those times into the county-wide evacuation decision-making planning. (Ordinance No. 16-07)

**POLICY 14.8.2:** Lee County will continue to include Greater Pine Island specific issues in its Comprehensive Emergency Management Plan (CEMP) and related evacuation planning documents. (Ordinance No. 16-07)

**POLICY 14.8.3:** Comprehensive Plan amendments within Greater Pine Island must be found consistent with Policy 109.1.5. (Ordinance No. 16-07)

**POLICY 14.8.4:** Lee County will continue to include Greater Pine Island in its year-round public information program focused on disaster preparedness. The program will include information on hurricane risk, the need for timely evacuation, the availability and location of hurricane shelters and the actions necessary to minimize property damage to protect human life. (Ordinance No. 16-07)

**POLICY 14.8.5:** New residential development and redevelopment within, or partially within, the Hurricane Vulnerability Zone must mitigate hurricane sheltering and evacuation impacts in accordance with Chapter 2, Article XI of the Land Development Code. (Ordinance No. 16-07)

**POLICY 14.8.6:** Shelters will not be built on barrier or coastal islands within Greater Pine Island. Where financially feasible, geographically appropriate, and in the interest of public health, safety and welfare, Lee County will make every effort to construct new public buildings to hurricane shelter standards. (Ordinance No. 16-07)

**POLICY 14.8.7:** Where feasible, Lee County will evaluate the purchase of lands within Greater Pine Island identified as Coastal High Hazard in order to reduce the expansion of new development within vulnerable areas. (Ordinance No. 16-07)

**POLICY 14.8.8:** The county will evaluate alternative mechanisms to improve evacuation clearance times within the planning community, including but not limited to: access control; mandatory evacuation notices; one-way evacuation routes; and the preparation and implementation of community-specific mitigation measures. (Ordinance No. 16-07)

**POLICY 14.8.9:** Deviations relating to setbacks, lot coverage, and density within the Coastal High Hazard Area may not be granted, unless the request meets the County approval criteria for variances set forth in Chapter 34 of the Land Development Code. (Ordinance No. 16-07)

**GOAL 15: RESERVED** (Ordinance No. 11-20)

**GOAL 16: PRIVATE RECREATIONAL FACILITIES IN THE DR/GR.** To ensure that the development of Private Recreational Facilities in the DR/GR areas is compatible with the intent of this Future Land Use category, including recharge to aquifers, development of future wellfields and the reduction of density. (Ordinance No. 99-16)

**OBJECTIVE 16.1:** To ensure that Private Recreation Facilities are located in the most appropriate areas within the DR/GR future land use category. (Ordinance No. 99-16)

**POLICY 16.1.1:** The Private Recreation Facilities Overlay Map, Map 4, shows those locations that are appropriate for the development of Private Recreation Facilities in the DR/GR area. The areas depicted on Map 4 are consistent with the application of the following locational criteria: