

ORDINANCE NO. 2022-2251

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA PROVIDING FOR AMENDMENT OF THE CITY'S ADOPTED COMPREHENSIVE PLAN; PROVIDING FOR ADOPTION OF A NEW PRIVATE PROPERTY RIGHTS ELEMENT IN ACCORDANCE WITH SECTION 163.3177 FLORIDA STATUTES; PROVIDING FOR PROTECTION OF PRIVATE PROPERTY RIGHTS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes Chapter 163 requires each county and each municipality to adopt or amend and enforce a comprehensive land use plan to guide its future development and growth; and

WHEREAS, on June 29, 1989, the City Council adopted Ordinance No. 1203, which approved the City's Comprehensive Plan; and

WHEREAS, at the LDRB regular public hearing held on November 18, 2021, the LDRB sitting as the Local Planning Agency, considered the proposed amendment to the Comprehensive Plan and Development Department staff report and recommendation and all evidence presented at the LDRB hearing, and forwarded the record to the City Council with a recommendation the Ordinance be adopted; and

WHEREAS, the City of New Port Richey, Florida respects judicially acknowledged and constitutionally protected private property rights; and

WHEREAS, the City Council hereby finds that adoption of this Ordinance is in the best interest of the health, safety and general welfare of residents, property owners, and businesses; and

WHEREAS, at the duly noticed City Council regular public hearing on first reading considered the LDRB recommendation and all evidence presented at the hearing, and approved the Ordinance on first reading; and

WHEREAS, at the duly noticed City Council regular public hearing on second reading considered the evidence presented at first reading and all evidence presented at the hearing, and adopted the Ordinance; and

WHEREAS, notice of this Ordinance and the hearings conducted hereunder has been provided in accordance with Florida law; and

WHEREAS, it is declared as a matter of legislative determination and public policy that the provisions and prohibitions herein are necessary in the public interest; and it is further declared that the provisions and prohibitions herein are in pursuance of and for the purpose of securing and promoting the public health, safety, welfare and quality of life in the City in accordance with the City's police and legislative powers.

NOW, THEREFORE, THE CITY OF NEW PORT RICHEY, FLORIDA HEREBY ORDAINS:

Section 1. Whereas clauses. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and accurate and are hereby made a part of this Ordinance.

Section 2. Comprehensive Plan Amendment. The City of New Port Richey, Florida comprehensive plan is hereby amended by adding the private property rights element thereto, as attached as EXHIBIT A and made part of this ordinance.

Section 3. Severability. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

Section 4. Conflicts. All ordinances or parts of ordinances of the City of New Port Richey, Florida, in conflict with the provisions of this ordinance, are hereby repealed to the extent of such conflict.

Section 5. Effective Date. This Ordinance shall become effective as provided by state law upon adoption hereof, and upon approval of the state land planning agency and all appeals of any order are final, if applicable.

The foregoing Ordinance was duly read and approved on first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this 7th day of December, 2021 and read and adopted on second reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this 18th day of January, 2022.

ATTEST:

CITY OF NEW PORT RICHEY, FLORIDA

Judy Meyers, CMC, City Clerk

Rob Marlowe, Mayor – Councilmember

(SEAL)

APPROVED AS TO LEGAL FORM AND CONTENT

Timothy P. Driscoll, City Attorney

CA Approved 10-21-2021

EXHIBIT A

**Private Property Rights
Element**
Transmittal December 7, 2021

Private Property Rights Element

Transmittal December 7, 2021

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I. Purpose

During the 2021 Florida Legislative Session, the Florida Legislature passed House Bill 59, and the Florida Governor signed House Bill 59 into law. House Bill 59 creates section 163.3177(6)(i)1, Florida Statutes, which requires all local governments to adopt a private property rights element as part of its comprehensive plan.

II. Guiding Principles

The City shall respect judicially acknowledged and constitutionally protected private property rights

III. Inventory

Does not apply to this element.

IV. Analysis

During the 2021 Florida Legislative Session, the Florida Legislature passed House Bill 59, and the Florida Governor signed House Bill 59 into law. House Bill 59 creates section 163.3177(6)(i)1, Florida Statutes, which requires all local governments to adopt a private property rights element as part of its comprehensive plan.

V. Implementation

Unless otherwise stated, the implementation of objectives and policies contained in this Section shall be through the development, adoption and application of the regulations set forth in the City Code of Ordinances and Land Development Code.

VI. Goals, Objectives, and Policies

Introduction

Pursuant to Section 163.3177(6)(i)1.Florida Statutes, the following represents the Property Rights Element Goals, Objectives, and Policies of the City of New Port Richey.

Implementation

Unless otherwise stated, the implementation of objectives and policies contained in this Section shall be through the development, adoption and application of the regulations set forth in the City Code of Ordinances and Land Development Code.

GOAL PRE 1

The City of New Port Richey will make planning and development decisions respecting private property rights.

Objective PRE 1.1

The City of New Port Richey will respect judicially acknowledged and constitutionally protected private property rights.

Policies

- PRE 1.1.1 The City will consider in its decision-making the right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
- PRE 1.1.2 The City will consider in its decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.
- PRE 1.1.3 The City will consider in its decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
- PRE 1.1.4 The City will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.