

ORDINANCE 2021-02

AN ORDINANCE OF POLK CITY, FLORIDA, AMENDING THE POLK CITY COMPREHENSIVE PLAN, ADDING A PROPERTY RIGHTS ELEMENT TO ENSURE THAT PRIVATE PROPERTY RIGHTS ARE CONSIDERED IN LOCAL DECISION MAKING CONSISTENT WITH FLORIDA STATUTES 163.3177(6); PROVIDING FOR TRANSMISSION TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY FOR REVIEW AND COMPLIANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF POLK CITY, FLORIDA:

SECTION 1. FINDINGS AND INTENT. In adopting this Ordinance and amending the City's Comprehensive Plan, the City Commission of Polk City, Florida hereby makes the following findings:

(1) Chapter 163, Part II, Florida Statutes, establishes the Community Planning Act ("Act"), which empowers and mandates Polk City, Florida (the "City") to plan for future development and growth and to adopt and amend comprehensive plans, or elements or portions thereof, to guide the future growth and development of the City.

(2) Pursuant to the Act, the City has adopted a comprehensive plan ("Comprehensive Plan").

(3) The Act authorizes a local government desiring to revise its comprehensive plan to prepare and adopt comprehensive plan amendments.

(4) Effective July 1, 2021, statutory provisions in Chapter 163, Florida Statutes, related to comprehensive plans, were amended to require each local government to adopt a property rights element into their comprehensive plan.

(5) Inclusion of the property rights element is intended to protect provide property rights and to ensure they are considered in local decision-making.

(6) The City has prepared a text amendment to add a new Property Rights Element of the Comprehensive Plan consistent Florida Statutes 163.3177(6).

(7) In exercise of its authority the Commission has determined it necessary to adopt this amendment to the Plan, which is attached hereto as **Exhibit "A"** and by this reference made a part hereof, to ensure that the Plan is in full compliance with the laws of the State of Florida.

(8) Pursuant to Section 163.3184, Florida Statutes, the City Commission held a meeting and hearing on Ordinance 2021-16, with due public notice having been provided, to obtain public comment, and considered all written and oral comments received during public hearings, including support documents.

(9) In the exercise of its authority, the City Commission has determined that it is necessary to adopt the proposed text amendment to the Comprehensive Plan contained herein to encourage the most appropriate use of land, water, and resources consistent with the public interest; to deal effectively with future problems that may result from the use and development of land within the City; and to ensure that the Comprehensive Plan is in full compliance with State law.

(10) The City Commission finds that the proposed text amendment to the Comprehensive Plan contained herein is in the best interests of the health, safety, and welfare of the general public and the City's residents, furthers the purposes of, and is consistent with, the City's Comprehensive Plan, and is consistent with and compliant with State law, including, but not limited to, Chapter 163, Part II, Florida Statutes.

SECTION 2. ADOPTION OF PROPERTY RIGHTS ELEMENT TEXT AMENDMENTS. The City Commission hereby adopts a new element as a part of the City's Comprehensive Plan to be named the "Property Rights Element" of the City's Comprehensive Plan. This adoption occurs at the behest of the Florida Legislature as a mandatory element in accordance with § 163.3177(6), Fla. Stat.

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 existing ordinances or parts of existing ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5. CODIFICATION. An official, true and correct copy of this Ordinance and the City's Comprehensive Plan, as adopted and amended from time to time, shall be maintained by the City Clerk. The City Clerk will make copies available to the public for a reasonable publication charge.

SECTION 6. TRANSMITTAL. Within ten (10) days of final passage and adoption of this Ordinance, the City shall forward a copy hereof, and all supporting data and analysis, to the Florida Department of Economic Opportunity and any other agency or local government that provided timely comments to the City, as required by Section 163.3184(3)(c)2, Florida Statutes.

SECTION 7. EFFECTIVE DATE. The effective date of this Plan amendment, if the amendment is not timely challenged, shall be 45 days after the State Land Planning Agency notifies the local government that the plan amendment package is complete. If

timely challenged, this amendment shall become effective on the date the State Land Planning Agency, or the Administration Commission enters a final order determining this adopted amendment to be in compliance. 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 Council, 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 state land planning agency.

INTRODUCED AND PASSED on First Reading this 20th day of September, 2021.

POLK CITY, FLORIDA



Joe LaCascia, Mayor

ATTEST:



Patricia R. Jackson, City Manager/Clerk

APPROVED AS TO FORM AND CORRECTNESS:



Thomas A. Cloud, City Attorney

PASSED AND DULY ADOPTED ON SECOND READING, with a quorum present and voting by the City Commission of Polk City, Florida meeting in Regular Session this 19th day of January, 2021.¹²



Joe LaCascia, Mayor

ATTEST:



Patricia R. Jackson, City Manager/Clerk

EXHIBIT "A"
POLK CITY ORDINANCE 2021-02

NEW PROPERTY RIGHTS ELEMENT

Proposed Text Amendments to the Comprehensive Plan

PROPERTY RIGHTS ELEMENT

Policy 1:

Consistent with Section 163.3177(6), Florida Statutes, Polk City shall consider the following private property rights in local decision making:

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
2. 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.
3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
4. The right of a property owner to dispose of his or her property through sale or gift.