



## City of North Port

### ORDINANCE NO. 2022-10

**AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE CITY OF NORTH PORT COMPREHENSIVE PLAN TO ADD CHAPTER 12 PROPERTY RIGHTS ELEMENT; ADDING GOALS, OBJECTIVES, AND POLICIES PURSUANT TO FLORIDA STATUTES SECTION 163.3177; REPEALING CITY OF NORTH PORT COMPREHENSIVE PLAN CHAPTER 2, GOAL 4, OBJECTIVE 12 OF THE FUTURE LAND USE ELEMENT RELATING TO BALANCING PROPERTY OWNER INTERESTS; PROVIDING FOR FINDINGS; PROVIDING FOR ADOPTION; PROVIDING FOR TRANSMITTAL OF DOCUMENTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of North Port is committed to planning and managing the future growth and development of the City; and

**WHEREAS**, pursuant to Article VIII, Section 2(b) of the Constitution of the State of Florida, the North Port City Charter, and the Community Planning Act ("Act"), Florida Statutes Chapter 163, Part II, the City is authorized and required to adopt a Comprehensive Plan; and

**WHEREAS**, on March 15, 1989, the City Commission adopted Ordinance No. 89-3, establishing the North Port Comprehensive Plan ("Comprehensive Plan"), as amended; and

**WHEREAS**, on June 27, 2017, the City Commission adopted Ordinance No. 2016-34, approving the Evaluation and Appraisal Report-based Amendments to the Comprehensive Plan; and

**WHEREAS**, Florida Statutes Section 163.3177(6)(i)2 requires the City to adopt a property rights element in its comprehensive plan by the earlier of: (i) the date of the adoption of its next proposed plan amendment that is initiated after July 1, 2021; or (ii) the date of the next scheduled evaluation and appraisal of the comprehensive plan; and

**WHEREAS**, property rights are currently addressed in North Port Comprehensive Plan Chapter 2 Future Land Use, Goal 4, Objective 12; and

**WHEREAS**, the City Commission desires to create a new Comprehensive Plan Chapter 12 to include the element required by Florida Statutes Section 163.3177(6)(i) and to relocate the property rights portion from Chapter 2; and

**WHEREAS**, the Planning and Zoning Advisory Board, designated as the local planning agency, held a properly noticed public hearing on April 21, 2022 to receive public comment on the subject matter of this ordinance and to make its recommendation to the City Commission; and

**WHEREAS**, the City Commission of the City of North Port held properly noticed public hearings at first and second reading of this ordinance to review the recommendations of the Planning and Zoning Advisory Board and to receive public comment on the subject matter of this ordinance; and

**WHEREAS**, pursuant to Florida Statute Section 163.3184(3)(b)4.h., the State Land Planning Agency of the Florida Department of Economic Opportunity reviewed the proposed amendments for impacts to important state resources and facilities not within the jurisdiction of other state agencies; and

**WHEREAS**, the City Commission determined that the proposed amendment serves the public health, safety, and welfare of the citizens of the City of North Port, Florida.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:**

**SECTION 1 – FINDINGS**

- 1.01 The above recitals are true and correct and are incorporated in this ordinance by reference.
- 1.02 Pursuant to Florida Statutes Section 163.3184(3), the City followed the expedited state review process for text changes to a local government’s comprehensive plan goals, objectives, and policies, as follows:
  - 1. Within ten (10) working days after the initial public hearing, the City transmitted the amendment and appropriate supporting data and analyses to the reviewing agencies and other local governments that filed a written request;
  - 2. Not later than thirty (30) days after the date the reviewing agencies and local governments first received the amendment, the City received the reviewing agencies’ and local governments’ comments;
  - 3. The adoption hearing was held within 180 days after receipt of the agency comments; and
  - 4. Within ten (10) working days after the second public hearing, the City transmitted the adopted comprehensive plan amendment and supporting data and analyses to the state land planning agency and any affected person that provided comments; and
  - 5. The City did not receive notice of any deficiencies within five (5) working days after the agency’s receipt of the amendment.

**SECTION 2 – ADOPTION**

- 2.01 The City Commission hereby amends the City of North Port Comprehensive Plan to add Chapter 12 Property Rights to read as follows:

“CITY OF NORTH PORT COMPREHENSIVE PLAN

...  
**CHAPTER 12 PROPERTY RIGHTS**

**GOALS, OBJECTIVES, & POLICIES**

**GOAL 1: To consider judicially acknowledged and constitutionally protected private property rights, as well as the right of property owners to participate in the planning and development process and in all local decision making that affects their lives and property.**

**Objective 1: To ensure that private property rights are considered in local decision-making.**

**Policy 1.1: The City shall encourage the participation of the property owner and the public in all local decision-making that affects their lives and property.**

**Policy 1.2: The City shall consider the following rights in all local decision-making processes, consistent with Florida Statutes Section 163.3177(6)(i):**

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.

**Objective 2: To ensure fairness and balance for all property owners.**

**Policy 2.1: Vested property rights shall be protected, as provided by law.**

**Policy 2.2: Replats shall meet current codes, including incentives and bonuses.**

**Policy 2.3: When a specific action of the City has inordinately burdened an existing use of real property or a vested right to a specific use of real property, the property owner is entitled to relief, which may include compensation for the actual loss to the fair market value of the property caused by the action of the City.**

**Policy 2.4: The City shall amend the Unified Land Development Code to provide a mechanism whereby land use controversies are solved without formal court action and resulting excessive costs. The mechanism shall establish an informal, non-judicial**

settlement procedure with a hearing process overseen by a neutral hearing examiner (Special Master) who attempts to resolve the dispute.

**Policy 2.5:** To apply the takings balancing test, the City shall require property owners to produce evidence of an inordinate burden on the subject property, prior to filing a legal action. This administrative procedure shall require property owners to support claims by producing relevant information, including:

- An explanation of the property owners' interest in the property;
- Price paid or option price;
- Terms of purchase or sale;
- All appraisals of the property;
- Assessed value;
- Taxes and assessments on the property;
- Offers to purchase;
- Rent, income, and expense statements for income-producing property.

**Policy 2.6:** The property owner shall have the burden of proof on hardship and takings issues."

### **SECTION 3 – REPEAL**

3.01 The City Commission hereby repeals the City of North Port Comprehensive Plan Chapter 2, Goal 4, Objective 12 in its entirety as follows.

~~"CITY OF NORTH PORT COMPREHENSIVE PLAN~~

~~...~~

#### ~~CHAPTER 2 FUTURE LAND USE~~

#### ~~GOALS, OBJECTIVES, & POLICIES~~

~~...~~

~~Goal 4: The City shall identify and re-evaluate how to promote urban development through a sustainable mix of new communities and GDC pre-platted lots.~~

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~~Objective 12: The City shall develop policies for establishing a rational basis for land development decisions and environmental regulations to ensure fairness and balance for all property owners.~~

~~Policy 12.1: Vested property rights shall be protected, as provided by law.~~

~~Policy 12.2: Any replatting of an area shall meet current codes, including incentives and bonuses.~~

~~Policy 12.3: When a specific action of the City has inordinately burdened an existing use of real property or a vested right to a specific use of real property, the property owner is entitled to relief, which may include compensation for the actual loss to the fair market value of the property caused by the action of the City.~~

~~Policy 12.4: The City shall amend the Unified Land Development Code to provide a mechanism whereby land use controversies are solved without formal court action and resulting excessive costs. The mechanism shall establish an informal, non-judicial settlement procedure with a hearing process overseen by a neutral hearing examiner (Special Master) who attempts to resolve the dispute.~~

~~Policy 12.5: In order to apply the takings balancing test, the City shall require property owners to produce evidence of an inordinate burden on the subject property, prior to filing a legal action. This administrative procedure shall require property owners to support claims by producing relevant information, including:~~

- ~~• an explanation of the property owners interest in the property;~~
- ~~• price paid or option price;~~
- ~~• terms of purchase or sale;~~
- ~~• all appraisals of the property;~~
- ~~• assessed value;~~
- ~~• tax on the property;~~
- ~~• offers to purchase;~~
- ~~• rent, income and expense statements for income producing property and the like.~~

~~Policy 12.6: The property owner shall have the burden of proof on hardship and takings issues.~~

~~...”~~

#### **SECTION 4 – TRANSMITTAL OF DOCUMENTS**

- 4.01 Pursuant to Florida Statutes Section 163.3184, the City Manager or designee is directed to transmit, within ten (10) days after first reading, this ordinance and the appropriate supporting data and analyses to:
- a. Florida Department of Economic Opportunity;
  - b. Southwest Florida Regional Planning Council;
  - c. Southwest Florida Water Management District;
  - d. Florida Department of Environmental Protection;
  - e. Florida Department of State;
  - f. Florida Department of Transportation;
  - g. Sarasota County, Florida; and
  - h. Any other local government or governmental agency who has filed a request with the City.
- 4.02 Pursuant to Florida Statutes Section 163.3184, the City Manager or designee is directed to transmit, within ten (10) days of final adoption of this ordinance, all documents to the Florida Department of Economic Opportunity and any other agency or local government that provided timely comments.

**SECTION 5 – CONFLICTS**

5.01 In the event of any conflict between the provisions of this ordinance and any other ordinance, in whole or in part, the provisions of this ordinance will prevail to the extent of the conflict.

**SECTION 6 – SEVERABILITY**

6.01 If a court of competent jurisdiction finds that any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason invalid or unconstitutional, that provision will be deemed a separate, distinct, and independent provision and will not affect the validity of the remaining portions of the ordinance.

**SECTION 7 – CODIFICATION**

7.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. Any additional codification information and notations appear in *italics*. These editorial notations are not intended to appear in the codified text.

**SECTION 8 – EFFECTIVE DATE**

8.01 If not timely challenged, this ordinance takes effect thirty-one (31) days after the Florida Department of Economic Opportunity notifies the City that the Comprehensive Plan Amendment package is complete, as provided in Florida Statutes Section 163.3184(3)(c).

8.02. If timely challenged, this ordinance takes effect upon the Florida Department of Economic Opportunity or Administration Commission entering a final order determining the adopted amendment is in compliance, as provided in Florida Statutes Section 163.3184(3)(c).

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida, in public session on May 10, 2022.

ADOPTED by the City Commission of the City of North Port, Florida, on the second and final reading in public session on July 12, 2022.

CITY OF NORTH PORT, FLORIDA

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PETE EMRICH  
MAYOR

ATTEST

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HEATHER FAUST, MMC  
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

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AMBER L. SLAYTON  
CITY ATTORNEY