



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.

- 1 **WHEREAS**, the City of North Port is committed to planning and managing the future growth and
2 development of the City; and
3
- 4 **WHEREAS**, pursuant to Article VIII, Section 2(b) of the Constitution of the State of Florida, the North Port
5 City Charter, and the Community Planning Act ("Act"), Florida Statutes Chapter 163, Part II, the City is
6 authorized and required to adopt a Comprehensive Plan; and
7
- 8 **WHEREAS**, on March 15, 1989, the City Commission adopted Ordinance No. 89-3, establishing the North
9 Port Comprehensive Plan ("Comprehensive Plan"), as amended; and
10
- 11 **WHEREAS**, on June 27, 2017, the City Commission adopted Ordinance No. 2016-34, approving the
12 Evaluation and Appraisal Report-based Amendments to the Comprehensive Plan; and
13
- 14 **WHEREAS**, Florida Statutes Section 163.3177(6)(i)2 requires the City to adopt a property rights element
15 in its comprehensive plan by the earlier of: (i) the date of the adoption of its next proposed plan
16 amendment that is initiated after July 1, 2021; or (ii) the date of the next scheduled evaluation and
17 appraisal of the comprehensive plan; and
18
- 19 **WHEREAS**, property rights are currently addressed in North Port Comprehensive Plan Chapter 2 Future
20 Land Use, Goal 4, Objective 12; and
21
- 22 **WHEREAS**, the City Commission desires to create a new Comprehensive Plan Chapter 12 to include the
23 element required by Florida Statutes Section 163.3177(6)(i) and to relocate the property rights portion
24 from Chapter 2; and
25

26 **WHEREAS**, the Planning and Zoning Advisory Board, designated as the local planning agency, held a properly
27 noticed public hearing on _____, 202__ to receive public comment on the subject matter of this
28 ordinance and to make its recommendation to the City Commission; and
29

30 **WHEREAS**, the City Commission of the City of North Port held properly noticed public hearings at first and
31 second reading of this ordinance to review the recommendations of the Planning and Zoning Advisory
32 Board and to receive public comment on the subject matter of this ordinance; and
33

34 **WHEREAS**, pursuant to Florida Statute Section 163.3184(3)(b)4.h., the State Land Planning Agency of the
35 Florida Department of Economic Opportunity reviewed the proposed amendments for impacts to important
36 state resources and facilities not within the jurisdiction of other state agencies; and
37

38 **WHEREAS**, the City Commission determined that the proposed amendment serves the public health,
39 safety, and welfare of the citizens of the City of North Port, Florida.
40

41 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:**
42

43 **SECTION 1 – FINDINGS**
44

45 1.01 The above recitals are true and correct and are incorporated in this ordinance by reference.
46

47 1.02 Pursuant to Florida Statutes Section 163.3184(3), the City followed the expedited state review
48 process for text changes to a local government’s comprehensive plan goals, objectives, and
49 policies, as follows:
50

- 51 1. Within ten (10) working days after the initial public hearing, the City transmitted the
52 amendment and appropriate supporting data and analyses to the reviewing agencies and
53 other local governments that filed a written request;
54
- 55 2. Not later than thirty (30) days after the date the reviewing agencies and local governments
56 first received the amendment, the City received the reviewing agencies’ and local
57 governments’ comments;
58
- 59 3. The adoption hearing was held within 180 days after receipt of the agency comments; and
60
- 61 4. Within ten (10) working days after the second public hearing, the City transmitted the
62 adopted comprehensive plan amendment and supporting data and analyses to the state land
63 planning agency and any affected person that provided comments; and
64
- 65 5. The City did not receive notice of any deficiencies within five (5) working days after the
66 agency’s receipt of the amendment.
67

68 **SECTION 2 – ADOPTION**
69

70 2.01 The City Commission hereby amends the City of North Port Comprehensive Plan to add
71 Chapter 12 Property Rights to read as follows:
72

73 “CITY OF NORTH PORT COMPREHENSIVE PLAN

74 . . .

75 **CHAPTER 12 PROPERTY RIGHTS**

76
77 **GOALS, OBJECTIVES, & POLICIES**

78
79 **GOAL 1: To consider judicially acknowledged and constitutionally protected private property**
80 **rights, as well as the right of property owners to participate in the planning and development**
81 **process and in all local decision making that affects their lives and property.**

82
83 **Objective 1:** To ensure that private property rights are considered in local decision-making.

84
85 **Policy 1.1:** The City shall encourage the participation of the property owner and the public
86 **in all local decision-making that affects their lives and property.**

87
88 **Policy 1.2:** The City shall consider the following rights in all local decision-making
89 **processes, consistent with Florida Statutes Section 163.3177(6)(i):**

- 90
91 1. **The right of a property owner to physically possess and control his or her interests**
92 **in the property, including easements, leases, or mineral rights.**
93
94 2. **The right of a property owner to use, maintain, develop, and improve his or her**
95 **property for personal use or for the use of any other person, subject to state law**
96 **and local ordinances.**
97
98 3. **The right of the property owner to privacy and to exclude others from the**
99 **property to protect the owner’s possessions and property.**
100
101 4. **The right of a property owner to dispose of his or her property through sale or**
102 **gift.**

103
104 **Objective 2:** To ensure fairness and balance for all property owners.

105
106 **Policy 2.1:** Vested property rights shall be protected, as provided by law.

107
108 **Policy 2.2:** Replats shall meet current codes, including incentives and bonuses.

109
110 **Policy 2.3:** When a specific action of the City has inordinately burdened an existing use of
111 **real property or a vested right to a specific use of real property, the property owner is**
112 **entitled to relief, which may include compensation for the actual loss to the fair market**
113 **value of the property caused by the action of the City.**

114
115 **Policy 2.4:** The City shall amend the Unified Land Development Code to provide a
116 **mechanism whereby land use controversies are solved without formal court action and**
117 **resulting excessive costs. The mechanism shall establish an informal, non-judicial**

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

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

- 125
- 126 • An explanation of the property owners’ interest in the property;
- 127 • Price paid or option price;
- 128 • Terms of purchase or sale;
- 129 • All appraisals of the property;
- 130 • Assessed value;
- 131 • Taxes and assessments on the property;
- 132 • Offers to purchase;
- 133 • Rent, income, and expense statements for income-producing property.
- 134

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

137
138 **SECTION 3 – REPEAL**

139
140 3.01 The City Commission hereby repeals the City of North Port Comprehensive Plan Chapter 2, Goal 4,
141 Objective 12 in its entirety as follows.

142
143 “CITY OF NORTH PORT COMPREHENSIVE PLAN

144 . . .

145 **CHAPTER 2 FUTURE LAND USE**

146
147 **GOALS, OBJECTIVES, & POLICIES**

148 . . .

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

151 ~~---~~

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

154
155 ~~Policy 12.1: Vested property rights shall be protected, as provided by law.~~

156
157 ~~Policy 12.2: Any replatting of an area shall meet current codes, including incentives and~~
158 ~~bonuses.~~

159
160 ~~Policy 12.3: When a specific action of the City has inordinately burdened an existing use of~~
161 ~~real property or a vested right to a specific use of real property, the property owner is entitled~~
162 ~~to relief, which may include compensation for the actual loss to the fair market value of the~~
163 ~~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.

205 **SECTION 5 – CONFLICTS**

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207 5.01 In the event of any conflict between the provisions of this ordinance and any other ordinance, in
208 whole or in part, the provisions of this ordinance will prevail to the extent of the conflict.

209

210 **SECTION 6 – SEVERABILITY**

211

212 6.01 If a court of competent jurisdiction finds that any section, subsection, sentence, clause, phrase,
213 or provision of this ordinance is for any reason invalid or unconstitutional, that provision will be
214 deemed a separate, distinct, and independent provision and will not affect the validity of the
215 remaining portions of the ordinance.

216

217 **SECTION 7 – CODIFICATION**

218

219 7.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. Any
220 additional codification information and notations appear in *italics*. These editorial notations are
221 not intended to appear in the codified text.

222

223 **SECTION 8 – EFFECTIVE DATE**

224

225 8.01 If not timely challenged, this ordinance takes effect thirty-one (31) days after the Florida
226 Department of Economic Opportunity notifies the City that the Comprehensive Plan Amendment
227 package is complete, as provided in Florida Statutes Section 163.3184(3)(c).

228

229 8.02. If timely challenged, this ordinance takes effect upon the Florida Department of Economic
230 Opportunity or Administration Commission entering a final order determining the adopted
231 amendment is in compliance, as provided in Florida Statutes Section 163.3184(3)(c).

232

233

234 READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida, in public
235 session on _____, 202__.

236

237 ADOPTED by the City Commission of the City of North Port, Florida, on the second and final reading in
238 public session on _____, 202__.

239

CITY OF NORTH PORT, FLORIDA

PETE EMRICH
MAYOR

ATTEST

HEATHER TAYLOR, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON
CITY ATTORNEY