

PROPOSED
ORDINANCE NO. 27-22

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE APPROVING FOR ADOPTION, FOLLOWING THE REQUIRED STATUTORY REVIEW PROCESS BY THE STATE OF FLORIDA, AMENDMENTS TO THE COMPREHENSIVE PLAN OF THE CITY OF PENSACOLA, FLORIDA, PROPERTY RIGHTS ELEMENT; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Pensacola adopted a Comprehensive Plan on October 4, 1990, pursuant to applicable law; and

WHEREAS, the City of Pensacola conducted a public hearing on June 16, 2022 to consider amendments to the Comprehensive Plan; and

WHEREAS, said amendments will affirmatively contribute to the health, safety and general welfare of the citizens of the City of Pensacola; and

WHEREAS, the City Council has followed all of the procedures set forth in Section 163.3184, Fla. Stat., and all other applicable provisions of law and local procedures with relation to amendments to the Comprehensive Plan; and

WHEREAS, proper public notice was provided and appropriate public hearing was held pursuant to the provisions referred to hereinabove as to the following amendments to the Comprehensive Plan of the City of Pensacola;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. The City of Pensacola City Council does hereby approve for adoption, after transmittal to the state land planning agency and the completion of the statutory process set forth in Section 163.3184, these amendments to the City's Comprehensive Plan.

PROPERTY RIGHTS ELEMENT

GOAL PRE-1: Ensure private real property rights are considered in local decision-making and that judicially acknowledged and constitutionally protected private property rights are respected through the inclusion of a Property Rights Element within the City of Pensacola Comprehensive Plan. For purposes of the Property

Rights Element, the term “property owner” or “real property owner” means the person who holds legal title to the real property that is the subject of and directly impacted by the action of the City in its local decision-making. The term does not include another governmental entity

Objective PRE-1.1: Implement and maintain mechanisms to ensure that private property rights are considered in local decision-making. Provided, nothing in this Property Rights Element is intended to grant additional rights not already in existence or to supersede existing rights in accordance with the law. Further, nothing herein shall require the City to ascertain or determine the existence of any purported private interest in real property; those matters are within the jurisdiction of the circuit courts not the City (see s. 26.012(g), Florida Statutes (2021), and Art. V, Sec. 20(c)(3), Fla. Const. as may be amended from time-to-time).

Policy PRE-1.1: When real property is the subject of and directly impacted by a proposed action being considered by the City of Pensacola, the City shall consider as part of its decision making, the following:

Policy PRE-1.1.1: The right of a real property owner to physically possess and control his or her interests in the real property, including easements, leases, or mineral rights.

Policy PRE-1.1.2: The right of a real property owner to use, maintain, develop, and improve his or her real property for personal use or for the use of any other person, subject to applicable federal, state, and local law.

Policy PRE-1.1.3: The right of a real property owner to privacy and to exclude others from the property to protect the property owner’s legal interests in such real property, subject to applicable federal, state, and local law.

Policy PRE-1.1.4: The right of a real property owner to dispose of his or her real property interest through sale or gift.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. The effective date of these plan amendments, if the amendments are not timely challenged, shall be the date the state land planning agency posts a notice of

intent determining that these amendments are in compliance. If timely challenged, or if the state land planning agency issues a notice of intent determining that these amendments are not in compliance, these amendments shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining these adopted amendments to be in compliance. If a final order of noncompliance is issued by the Administration Commission, these amendments 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.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk