

## **ORDINANCE 3220-21**

### **AN ORDINANCE TO AMEND CHAPTER 58, LAND DEVELOPMENT CODE, ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO ADOPT A NEW PROPERTY RIGHTS ELEMENT IN THE WINTER PARK COMPREHENSIVE PLAN IN COMPLIANCE WITH FLORIDA STATUTES.**

**WHEREAS**, Section 163.3184, Florida Statutes, establishes a process for adoption of comprehensive plans or plan amendments; and

**WHEREAS**, this Comprehensive Plan amendment meets the criteria established by Chapter 163 and 166, Florida Statutes; and pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held; and

**WHEREAS**, the Florida Legislature changed statutory provisions of chapter 163, Florida Statutes effective on July 1, 2021 to ensure that private property rights are considered in local decision-making by requiring the adoption of a Property Rights Element into the Comprehensive Plan; and

**WHEREAS**, the City Commission of the City of Winter Park desires to update the Comprehensive Plan consistent with such statutory changes by adopting a "Property Rights Element"; and

**WHEREAS**, the City Commission desires to incorporate into the Property Rights Element language to signify the City's respect for the rights of people to participate in the land use planning processes and consideration of impacts changes to land use have on the predictability and reliability of the comprehensive plan.

**WHEREAS**, the Winter Park Planning and Zoning Board, acting as the designated Local Planning Agency, has reviewed and recommended adoption of the proposed Comprehensive Plan amendment, having held an advertised public hearing on August 3, 2020, provided for participation by the public in the process, and rendered its recommendations to the City Commission; and

**WHEREAS**, the Winter Park City Commission has reviewed the proposed Comprehensive Plan amendment and held advertised public hearings on August 25, 2021 and on October 13, 2021 and provided for public participation in the process in accordance with the requirements of state law and the procedures adopted for public participation in the planning process.

**NOW THEREFORE BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS:**

**SECTION 1. Comprehensive Plan Amendment.** That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan" is hereby amended to adopt a new Property Rights Element as Chapter 10 of the Comprehensive Plan to read as follows (new language is underlined):

**Chapter 10: PROPERTY RIGHTS ELEMENT**

**GOAL 10-1:**

The purpose and overall goal for the Property Rights Element is to signify respect for judicially acknowledged and constitutionally protected private property rights, signify respect to people's rights to participate in the decisions that affect their lives and property, and to ensure that those rights are considered in the City of Winter Park's decision-making.

**Objective 10.1:**

This objective provides a framework for ensuring that private property rights and the rights of people to participate in the decisions that affect their lives and property are considered in local decision-making. This objective and the policies within this element do not create any property rights or due process rights that are not already judicially acknowledged and constitutionally protected. This objective and the policies within this element are not intended to alter the legislative nature of decisions made in the adoption of comprehensive plan amendments and land development code amendments. This objective and the policies within this element are not intended to require evidence, discussion, or findings of fact concerning the matters set forth herein. Ordinances adopted and land use and zoning decisions made by the City are presumed to have considered the matters set forth in this element.

**Policy 10.1:** The following rights shall be considered in decision-making by the City of Winter Park:

- 1) The right of a property owner to physically possess and control their interests in 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.

**Policy 10.2:** Persons that are affected by proposed land use and zoning decisions have the right to notice of public hearing(s) and the right to present testimony and evidence at public hearing(s) involving land use and zoning decisions of the City. The City will ensure that its land development regulations provide adequate public notice of proposed changes to the comprehensive plan, zoning and land development regulations to afford affected persons with sufficient time to become informed and participate in the decision making process. The City will consider implementing and maintaining processes to better inform the public of proposed changes to the comprehensive plan, zoning, and land development regulations.

**Policy 10.3:** Residents, property owners, and businesses may have made decisions to buy and improve homes, buy and improve property or start and grow businesses based, in part, on the existing comprehensive plan and zoning provisions. The City will consider the impacts that proposed changes to the comprehensive plan, zoning and land development regulations have on the reliability and predictability of the comprehensive plan, zoning and land development regulations and on the best interest of the citizens' health, safety and welfare.

**SECTION 2. Codification.** Section 1 of this Ordinance shall be incorporated into the Winter Park Comprehensive Plan. Any objectives, goals, policies, section, and paragraph number or letters and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance may be freely made.

**SECTION 3. Severability.** The provisions of this Ordinance are declared to be separable and if any section, paragraph, sentence or word of this Ordinance or the application thereto any person or circumstance is held invalid, that invalidity shall not affect other sections or words or applications of this Ordinance. If any part of this Ordinance is found to be preempted or otherwise superseded, the remainder shall

nevertheless be given full force and effect to the extent permitted by the severance of such preempted or superseded part.

**SECTION 4. Conflicts.** If any ordinance or part thereof is in conflict herewith, this Ordinance shall control to the extent of the conflict.

**SECTION 5. Effective Date.** After adoption of this Ordinance, the effective date of the comprehensive plan amendment ("Amendment") set forth in this Ordinance shall be 31 days after the state land planning agency notifies the local government that the comprehensive plan amendment package is complete if the Amendment is not timely challenged. If timely challenged, the Amendment shall become effective on the date the state land planning agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance.

The first reading and public hearing on this Ordinance was held on August 25, 2021.

The second reading and public hearing on this Ordinance was held on October 13, 2021.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 13th day of October, 2021.

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Mayor Phillip Anderson

Attest:

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Rene Cranis, City Clerk