

ORDINANCE NO. 21-09

AN ORDINANCE OF THE CITY OF BELLE, FLORIDA, AMENDING THE COMPREHENSIVE PLAN OF THE CITY OF BELLE ISLE TO ADOPT A PRIVATE PROPERTY RIGHTS ELEMENT TO COMPLY WITH SECTION 163.3177, FLORIDA STATUTES; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 163, Part II, Florida Statutes, the City of Belle Isle, Florida (the “City”) proposes to amend the City’s Comprehensive Plan (the “Comprehensive Plan”) to adopt a Private Property Rights Element as set forth herein; and

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

WHEREAS, the City Commission of the City of Belle Isle desires to update the Comprehensive Plan consistent with such statutory changes by adopting a “Property Rights Element”; and

WHEREAS, the Planning and Zoning Board as the City’s Land Planning Agency reviewed this Ordinance in accordance with the requirements of Chapter 163, Florida Statutes, and made a recommendation to the City Council; and

WHEREAS, the City determines that the Comprehensive Plan amendment set forth herein complies with the law and is in the best interest of the City.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA, AS FOLLOWS:

SECTION 1: RECITALS. The above recitals are true, correct and incorporated herein by this reference.

SECTION 2: ADOPTION. The Comprehensive Plan of the City of Belle Isle is hereby amended to adopt a new Property Rights Element to read as follows:

PROPERTY RIGHTS ELEMENT
Goals, Objectives and Policies

GOAL 1:

The purpose and overall goal for the Property Rights Element is to signify respect for judicially acknowledged and constitutionally protected private property rights, and to ensure that those rights are considered in the City of Belle Isle's decision-making concerning land use and zoning matters.

Objective 1.1:

The following objective provides a framework for ensuring that private property rights are considered in local decisionmaking concerning land use and zoning matters.

Policy 1.1. **The following rights shall be considered in decision-making by the City of Belle Isle concerning land use and zoning matters:**

- 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.

This element is not intended to create any property rights or due process rights that are not already judicially acknowledged and constitutionally protected. This element is not intended to alter the legislative nature of decisions made in the adoption of comprehensive plan amendments and land development code amendments. This element is not intended to require discussion, evidence and 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.

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: CODIFICATION. Any goal, objective, and policy number, letter and/or any

heading may be changed or modified as necessary to effectuate the foregoing and/or to be consistent with the numbering system within the Comprehensive Plan. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this Ordinance or the Comprehensive Plan may be freely made.

SECTION 6: EFFECTIVE DATE. This Ordinance shall become effective pursuant to a Notice of Intent issued by DEO finding the Comprehensive Plan amendment ("Amendment") set forth in this Ordinance to be in compliance as defined in Section 163.3184(1)(b), Florida Statutes. If timely challenged, the Amendment shall not become effective until DEO or the Administration Commission enters a final order determining the adopted Amendment to be in compliance.

FIRST READING AND TRANSMITTAL READING: _____

SECOND READING AND ADOPTION: _____

ADOPTED this ____ day of _____, 2021, by the City Council of the City of Belle Isle, Florida.

City of Belle Isle

Nicholas Fouraker, Mayor

ATTEST:

Yolanda Quiceno, CMC-City Clerk