

**ORDINANCE NO. 22-02**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING THE TOWN'S COMPREHENSIVE PLAN (GROWTH MANAGEMENT PLAN) TO ADD A PROPERTY RIGHTS ELEMENT AS REQUIRED BY SECTION 163.3177(6), FLORIDA STATUTES; PROVIDING FOR TRANSMITTAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 163.3177(6), Florida Statutes, was recently amended to require each local government to include a Property Rights Element in its Comprehensive Plan; and

**WHEREAS**, Section 163.3177(6)(i)(2), Florida Statutes, provides that local governments “must adopt a property rights element in its comprehensive plan by the earlier of the date of its adoption of its next proposed plan amendment that is initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to s. 163.3191;” and

**WHEREAS**, the Town of Cutler Bay (the “Town”) Council desires to comply with state law and adopt a new Property Rights Element in the form prescribed by the new law; and

**WHEREAS**, the Town Council further desires to amend its Comprehensive Plan (Growth Management Plan) to include a Property Rights Element consistent with and pursuant to the new Law; and

**WHEREAS**, public notice was provided as required by applicable law; and

**WHEREAS**, the Town Council, sitting in its capacity as the Local Planning Agency, has reviewed this Ordinance and recommends approval; and

**WHEREAS**, after two duly noticed public hearings, the Town Council desires to adopt this Ordinance; and

**WHEREAS**, the Town Council finds that this Ordinance is in the best interest and welfare of the residents of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS:** <sup>1</sup>

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<sup>1</sup> Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with **highlighted** ~~double-strikethrough~~ and double underline.

**Section 1. Findings.** The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

**Section 2. Town Comprehensive Plan (Growth Management Plan) Amendment.** The Town’s Comprehensive Plan (Growth Management Plan) is hereby amended as provided in Exhibit “A,” which is attached hereto and made a part of this Ordinance.

**Section 3. Transmittal.** The Town Manager or designee is authorized to transmit this Ordinance to the appropriate local, regional and state agencies.

**Section 4. Severability.** If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

**Section 5. Conflict.** All sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions, or parts of resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

**Section 6. Effective Date.** This Ordinance shall become effective upon passage and adoption. However, pursuant to Florida Law, the Comprehensive Plan amendment(s) adopted by this Ordinance shall not become effective until 31 days after the state land planning agency notifies the Town that the plan amendment(s) package is complete. If timely challenged, the amendment(s) do not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment(s) to be in compliance.

PASSED on first reading this 19<sup>th</sup> day of January, 2022.

PASSED and ADOPTED on second reading the 16<sup>th</sup> day of March, 2022.



TIM MEERBOTT  
Mayor

Attest:



MAURICIO MELINU  
Town Clerk



APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
SOLE USE OF THE TOWN OF CUTLER BAY:



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WEISS SEROTA HELFMAN  
COLE & BIERMAN, P.L.  
Town Attorney

First Reading

Moved By: Council Member Coriat

Seconded By: Council Member Lord

Second Reading

Moved By: Council Member Coriat

Seconded By: Council Member Lord

FINAL VOTE AT ADOPTION:

Mayor Tim Meerbott YES

Vice Mayor Michael P. Callahan YES

Council Member Robert "BJ" Duncan YES

Council Member Suzy Lord YES

Council Member Roger Coriat YES

**COMPREHENSIVE PLAN AMENDMENT**

**PROPERTY RIGHTS ELEMENT**

**Goal 1**

The Town will consider rights of property owners in all local decision-making.

**Objective PRE-1** The Town will apply rules, ordinances, and regulations with sensitivity for private property rights.

**Policy PRE-1A** The Town shall consider in its decision-making the right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

**Policy PRE-1B** The Town shall consider in its decision-making 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.

**Policy PRE-1C** The Town shall consider in its decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

**Policy PRE-1D** The Town shall consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.

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