

ORDINANCE NO. CPA 2023- 01

AN ORDINANCE OF THE TOWN OF LEE, RELATING TO AMENDING THE TEXT OF THE TOWN'S COMPREHENSIVE PLAN, PURSUANT TO AN APPLICATION, CPA 23-01, BY THE TOWN COUNCIL, UNDER THE AMENDMENT PROCEDURES ESTABLISHED IN SECTIONS 163.3161 THROUGH 163.3248, FLORIDA STATUTES, AS AMENDED; PROVIDING FOR ADDING A PROPERTY RIGHTS ELEMENT TO THE COMPREHENSIVE PLAN PER SECTION 163.3161(10), FLORIDA STATUTES, AS AMENDED AND SECTION 187.101(3), FLORIDA STATUTES, AS AMENDED; PROVIDING SEVERABILITY, REPEALING ALL ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 166.021, Florida Statutes, as amended empowers the Town Council of Lee, Florida, hereinafter referred to as the Board of Town Commissioners, to prepare, adopt, and implement a comprehensive plan;

WHEREAS, Sections 163.3161 through 163.3217, Florida Statutes, as amended, the Community Planning Act empowers and requires the Board of Town Commissioners to prepare, adopt and implement a comprehensive plan;

WHEREAS, an application for an amendment, as described below, has been filed by the Town;

WHEREAS, the Town Council acting as the Planning & Zoning Board of Lee, Florida, hereinafter referred to as the Planning and Zoning Board, has been designated as the Local Planning Agency of the Town of Lee, Florida, hereinafter referred to as the Local Planning Agency;

WHEREAS, pursuant to Section 163.3174, Florida Statutes, as amended, and the Land Development Regulations, as amended, the Planning and Zoning Board, serving also as the Local Planning Agency, held the required public hearing, with public notice having been provided, on said application for an amendment, as described below, and at said public hearing, the Planning and Zoning Board, serving also as the Local Planning Agency, reviewed and considered all comments received during said public hearing concerning said application for an amendment, as described below, and recommended to the Town Council for approval of said application for amendment, as described below;

WHEREAS, the Town Council of Lee held the required public hearings, with public notice having been provided, under the procedures established in Section 163.3161 to 163.3248, Florida Statutes, as amended, on said application for amendment, as described below, and at said public hearings, the Town Council of Lee reviewed and considered all comments received during said public hearings, including the recommendation of the Planning and Zoning Board, serving also as the Local Planning Agency, concerning said application for an amendment, as described below; and

WHEREAS, the Town Council of Lee has determined and found that approval of said application for an amendment, as described below, to be consistent with the Land Use Element objectives and policies, and those of other affected elements of the Comprehensive Plan; and

WHEREAS, the Town Council of Lee has determined and found that approval of said application for an amendment, as described below, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity or general welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF LEE, FLORIDA, AS FOLLOWS:

Section 1. Pursuant to an application, CPA 23-01 by the Town Council of Lee, to amend the text of the Comprehensive Plan, a Property Rights Element is hereby adopted to read, as follows:

XI

PROPERTY RIGHTS ELEMENT

INTRODUCTION

The following goal, objective, and policies constitute the Property Rights Element, in accordance with the legislative intent expressed in Section 163.3161(10), Florida Statutes, as amended, and Section 187.101(3), Florida Statutes, as amended.

PROPERTY RIGHTS GOAL, OBJECTIVE, AND POLICIES

GOALS XI – RECOGNIZE AND RESPECT JUDICIALLY ACKNOWLEDGED AND CONSTITUTIONALLY PROTECTED PRIVATE PROPERTY RIGHTS.

OBJECTIVE XI.1 In local decision making, the Town shall consider the statement of rights as enumerated in Policy XI.1.1, Policy XI.1.2, Policy XI.1.3, and Policy XI.1.4.

POLICY XI.1.1 In local decision making, the Town shall consider 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 XI.1.2 In local decision making, the Town shall consider the rights 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 XI.1.3

In local decision making, the Town shall consider the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

POLICY XI.1.4

In local decision making, the Town shall consider the right of a property owner to dispose of his or her property through sale or gift.

Section 2. Severability. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

Section 3. Conflict. All ordinances or portions of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 4. Effective Date. This ordinance shall become effective upon adoption. The effective date of this plan amendment, if the amendment is not timely challenged, shall be thirty-one (31) days after the State Land Planning Agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the State Land Planning Agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance.

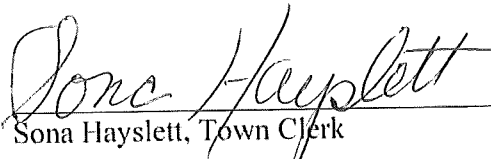
Section 5. Codifier. All text shown in ~~bold and strike through~~ is to be deleted. All text shown in **bold and underline** is adopted.


Section 6. Authority. This ordinance is adopted pursuant to the authority granted by Section 166.021, Florida Statutes, as amended, and Sections 163.3161 through 163.3248, Florida Statutes, as amended.

PASSED AND DULY ADOPTED, in regular session, with a quorum present and voting, by the Town Council of Lee this 11th day of July 2023.

TOWN COUNCIL OF LEE, FLORIDA

Attest:


Sona Hayslett, Town Clerk


James Ruzicka, Mayor