



COMPREHENSIVE PLAN AMENDMENT
STAFF REPORT
OFFICE OF PLANNING & ZONING

Tab Number: 4

Public Hearings: Planning & Zoning Board (PZB): September 1, 2021
Board of County Commissioners (BCC) - Transmittal: October 5, 2021
Board of County Commissioners (BCC) – Adoption: To Be Determined

Case No. and Project Name: CP-21-07, Property Rights Element

Applicant: Staff Initiated

Requested Action: Amend the 2030 Comprehensive Plan to establish Goal I-9 to be entitled 'Property Rights' and associated objective and policies to ensure property rights are considered in the decision-making processes.

Staff Determination: Staff finds the amendment consistent with the 2030 Comprehensive Plan.

Case Manager: Michele Janiszewski, Chief Planner

PZB Recommendation:

Summary of Amendment

On June 29, 2021, Governor DeSantis approved House Bill No. 59 which amended Section 163.3177, Florida Statutes, to require local governments to include a property rights element in their comprehensive plans. The property rights element is to implement the legislative intent expressed in Subsection 163.3161(10) and 187.101(3), Florida Statutes, that governmental entities respect judicially acknowledged and constitutionally protected private property rights. Each local government is now required to adopt a property rights element in its comprehensive plan by the earlier 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.

The proposed goal, objective, and policies are provided below:

GOAL I-9 PROPERTY RIGHTS

Lake County shall respect judicially acknowledged and constitutionally protected private property rights and ensure that private property rights are considered in local decision making.

OBJECTIVE I-9.1 CONSIDERATION OF PROPERTY RIGHTS

Lake County shall ensure that property rights are considered in the decision-making processes.

Policy I-9.1.1 Right to Physically Possess and Control Interests in Property

The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights will be considered in the decision-making process.

Policy I-9.1.2 Right to Use, Maintain, Develop, and Improve Property

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, will be considered in the decision-making process.

Policy I-9.1.3 Right to Privacy and to Exclude Others from Property

The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property will be considered in the decision-making process.

Policy I-9.1.4 Right to Dispose of Property

The right of a property owner to dispose of his or her property through sale or gift will be considered in the decision-making process.

Standards for Review
Pursuant to LDR Section 14.02.03.

A. Whether the proposed amendment is consistent with all elements of the Comprehensive Plan.

The proposed amendment is consistent with all elements of the Comprehensive Plan.

B. Whether the proposed amendment is in conflict with any applicable provisions of these regulations.

The amendment is consistent with the Land Development Regulations (LDR).

C. Whether, and the extent to which, the proposed amendment is inconsistent with existing and proposed land uses.

Not Applicable to this Amendment.

D. Whether there have been changed conditions that justify an amendment.

Chapter 2021-195, approved by the Governor on June 29, 2021, became effective on July 1, 2021. This legislative change mandates that every local government adopt a property rights element into its comprehensive plan.

E. Whether, and the extent to which, the proposed amendment would result in demands on public facilities, and whether, or to the extent to which, the proposed amendment would exceed the capacity of such public facilities, infrastructure and services, including, but not limited to police, roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools, and fire and emergency medical facilities.

Not Applicable to this Amendment.

F. Whether, and the extent to which, the proposed amendment would result in significant impacts on the natural environment.

Not Applicable to this Amendment.

G. Whether, and the extent to which, the proposed amendment would affect the property values in the area.

Not Applicable to this Amendment

H. Whether, and the extent to which, the proposed amendment would result in an orderly and logical development pattern, specifically identifying any negative effects on such pattern.

Not Applicable to this Amendment.

I. Whether the proposed amendment would be consistent with or advance the public interest, and in harmony with the purpose and interest of these regulations.

The amendment is in the public interest, and in harmony with the purpose and interest of these regulations

J. Any other matters that may be deemed appropriate by the Local Planning Agency or the Board of County Commissioners, in review and consideration of the proposed amendment.

Not at this time.

ORDINANCE 2021 – XX
CP-21-07
Property Rights Element

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA; AMENDING THE LAKE COUNTY 2030 COMPREHENSIVE PLAN; ESTABLISHING GOAL I-9 ENTITLED ‘PROPERTY RIGHTS’ AND SUBSEQUENT OBJECTIVES AND POLICIES AS PROVIDED BELOW; PROVIDED FOR PUBLICATION AS REQUIRED BY SECTION 163.3184(11), FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

1 **WHEREAS**, Chapter 163, Florida Statutes, Part II, governs growth policy, county and
2 municipal planning, and land development regulation in the State of Florida; and

3 **WHEREAS**, Chapter 125, Florida Statutes, Section 125.01(1)(g), authorizes the Board of
4 County Commissioners of Lake County to "Prepare and enforce comprehensive plans for the
5 development of the county"; and

6 **WHEREAS**, pursuant to Chapters 163 and 125, Florida Statutes, on the 25th day of May
7 2010, the Board of County Commissioners enacted Ordinance No. 2010-25, adopting the Lake
8 County 2030 Comprehensive Plan; and

9 **WHEREAS**, on the 23rd day of July 2010, the State of Florida Department of Community
10 Affairs, now known as the Community Planning and Development Division of the Florida
11 Department of Economic Opportunity, published a Notice of Intent finding the Lake County 2030
12 Comprehensive Plan Amendment "In Compliance" with Chapter 163, Florida Statutes; and

13 **WHEREAS**, on the 22nd day of September 2011, the Lake County 2030 Comprehensive
14 Plan became effective; and

15 **WHEREAS**, Section 163.3184, Florida Statutes, sets forth the process for adoption of
16 Comprehensive Plan Amendments; and

17 **WHEREAS**, as of July 1, 2021, Section 163.3177, Florida Statutes, requires each local
18 government to include in its comprehensive plan a property rights element to ensure that private
19 property rights are considered in local decision-making; and

20 **WHEREAS**, on the 1st day of September 2021, this Ordinance was heard at a public
21 hearing before the Lake County Planning & Zoning Board in its capacity as the Local Planning
22 Agency; and

23 **WHEREAS**, on the 5th day of October 2021, this Ordinance was heard at a public hearing
24 before the Lake County Board of County Commissioners for approval to transmit to the state
25 planning agency and other reviewing agencies; and

26 **WHEREAS**, on the XX day of XXXX 2022, this Ordinance was heard at a public hearing
27 before the Lake County Board of County Commissioners for adoption; and

28 **WHEREAS**, it serves the health, safety and general welfare of the residents of Lake
29 County to adopt the amendment to the Lake County Comprehensive Plan.

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1 **NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of
2 Lake County, Florida, that:

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4 **Section 1. Comprehensive Plan Text Amendment.** The 2030 Comprehensive Plan shall
5 be amended to include Goal I-9 entitled ‘Property Rights’ and its subsequent Objectives and
6 Policies as provided below:

7
8 **GOAL I-9 PROPERTY RIGHTS**

9 Lake County shall respect judicially acknowledged and constitutionally protected private
10 property rights and ensure that private property rights are considered in local decision making.

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12 **OBJECTIVE I-9.1 CONSIDERATION OF PROPERTY RIGHTS**

13 Lake County shall ensure that property rights are considered in the decision-making processes.

14
15 **Policy I-9.1.1 Right to Physically Possess and Control Interests in Property**

16 The right of a property owner to physically possess and control his or her interests in the
17 property, including easements, leases, or mineral rights will be considered in the decision-
18 making process.

19
20 **Policy I-9.1.2 Right to Use, Maintain, Develop, and Improve Property**

21 The right of a property owner to use, maintain, develop, and improve his or her property for
22 personal use or for the use of any other person, subject to state law and local ordinances will
23 be considered in the decision-making process.

24
25 **Policy I-9.1.3 Right to Privacy and to Exclude Others from Property**

26 The right of the property owner to privacy and to exclude others from the property to protect
27 the owner's possessions and property will be considered in the decision-making process.

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29 **Policy I-9.1.4 Right to Dispose of Property**

30 The right of a property owner to dispose of his or her property through sale or gift will be
31 considered in the decision-making process.

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34 **Section 2. Advertisement.** This Ordinance was advertised pursuant to Chapter 163, Florida
35 Statutes, Section 163.3184(11).

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37 **Section 3. Severability.** If any section, sentence, clause, or phrase of this Ordinance is held to
38 be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no
39 way affect the validity of the remaining portions of this Ordinance.

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41 **Section 4. Effective Date.** The effective date of this plan amendment, if the amendment is not
42 timely challenged, shall be 31 days after the state land planning agency notifies the local
43 government that the plan amendment package is complete. If timely challenged, this amendment
44 shall become effective on the date the state land planning agency or the Administration

ORDINANCE 2021 – XX
CP-21-07, Property Rights Element

1 Commission enters a final order determining this adopted amendment to be in compliance. No
2 development orders, development permits, or land uses dependent on this amendment may be
3 issued or commence before it has become effective. If a final order of noncompliance is issued by
4 the Administration Commission, this amendment may nevertheless be made effective by adoption
5 of a resolution affirming its effective status, a copy of which resolution shall be sent to the state
6 land planning agency.

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9 ENACTED this ____ day of _____ 2022.

10 FILED with the Secretary of State _____, 2022.

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14 BOARD OF COUNTY COMMISSIONERS
15 LAKE COUNTY, FLORIDA

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18 _____
19 Sean Parks, Chairman
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21 ATTEST:

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25 _____
26 Gary J. Cooney, Clerk
27 Board of County Commissioners
28 of Lake County, Florida
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31 Approved as to form and legality:

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35 _____
36 Melanie Marsh,
37 County Attorney