

ORDINANCE NO. 2021-120

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING ITS COMPREHENSIVE PLAN TO INCORPORATE A NEW ELEMENT, THE PROPERTY RIGHTS ELEMENT, OBJECTIVE 1.1., POLICY 1.1.1 THROUGH 1.1.4, AS PROVIDED IN EXHIBIT "A"; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Hialeah initiated a text amendment to the City of Hialeah 2015-2025 Comprehensive Plan to incorporate a new element, the Property Rights Element, that was recommended for approval by the Planning and Zoning Board, sitting as the local land planning agency at a public meeting on August 11, 2021; and

WHEREAS, the proposed text amendment was approved for transmittal by the City Council on August 24, 2021, by Resolution No. 2021-116 (August 24, 2021) and declared its intent to adopt the text amendment and submitted it to the Florida Department of Economic Opportunity (DEO); and

WHEREAS, on September 24, 2021, the DEO reviewed the proposed amendment (Amendment No. 21-03ESR) in accordance with the State of Florida expedited review process set for in section 163.3184 for consistency with the Hialeah, Fla., Comprehensive Plan, and Chapter 163, Part II, Florida Statutes, and the Department issued no objections, recommendations nor comments.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The City of Hialeah 2015-2025 Comprehensive Plan is hereby amended to incorporate a new element, the Property Rights Element and after appropriate comment and public hearing, the Comprehensive Plan shall be amended as provided for in Exhibit “A”, which is made a part hereof for all purposes, shall be on the file in the Office of the City Clerk.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty described above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Severability Clause.

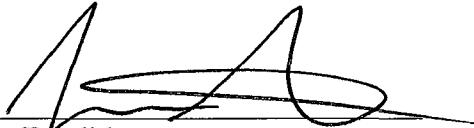
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

Pursuant to Florida Statutes §163.3184(3)(c)4 the effective date of this plan amendment shall be thirty-one (31) days after the state land planning agency notifies the City that the plan


amendment package is complete or if timely challenged, the date a final order is issued by the land planning agency or Administration Commission finding the amendment in compliance in accordance with section 163.3184, Florida Statutes, whichever occurs earlier.

PASSED AND ADOPTED this 26 day of October, 2021.

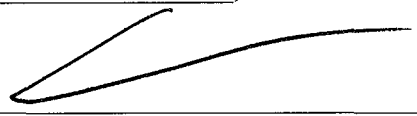


Jesus Tundidor
Council President

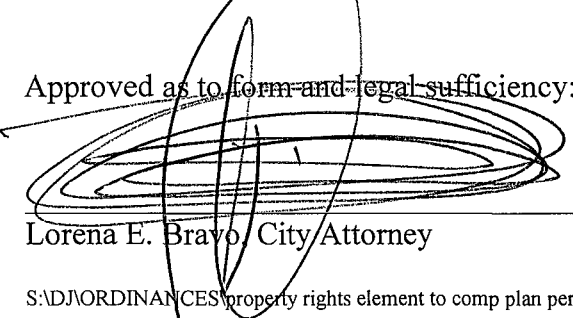
Attest: Approved on this 3 day of November, 2021.



Brigette Leal
For: Marbelys Fatjo, City Clerk



Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


Lorena E. Bravo, City Attorney

Ordinance was adopted by 6-0-1 vote with Councilmembers, Cue-Fuente, De la Rosa, Garcia-Roves, Hernandez, Tundidor, and Zogby voting "Yes" and with Council Vice President Perez absent.

EXHIBIT "A"

CITY OF HIALEAH COMPREHENSIVE PLAN PROPERTY RIGHTS ELEMENT

In accordance with the legislative intent expressed in ss. 163.3161(10) and 187.101(3) that governmental entities respect judicially acknowledged and constitutionally protected private property rights, each local government shall include in its comprehensive plan a property rights element to ensure that private property rights are considered in local decision making. Accordingly, the City of Hialeah is hereby proposing to adopt a Property Rights Element into its Comprehensive Plan.

GOAL: Ensure that the City of Hialeah, in its local decision making, respects judicially acknowledged and constitutionally protected private property rights.

Objective 1.1 Property Rights. Adopt a statement of rights as provided in House Bill 59, approved on June 29, 2021.

Policy 1.1.1: The City of Hialeah, in its local decision making 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 1.1.2: The City of Hialeah, in its local decision making shall consider 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 1.1.3: The City of Hialeah, in its local decision making 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 1.1.4: The City of Hialeah, in its local decision making shall consider the right of a property owner to dispose of his or her property through sale or gift.