

ORDINANCE 2022-05

AN ORDINANCE AMENDING THE TOWN OF YANKEETOWN COMPREHENSIVE PLAN; PROVIDING FOR THE ENACTMENT OF A PROPERTY RIGHTS ELEMENT WITH GOALS, OBJECTIVES AND POLICIES; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR A SAVINGS PROVISION AND RATIFICATION OF PRIOR ACTS OF THE TOWN; PROVIDING FOR CONFLICTS; CODIFICATION AND DIRECTIONS TO THE CODE CODIFIER AND PROVIDING FOR THE IMPLEMENTATION OF THE STATUTORY STATE REVIEW PROCESS AND AN EFFECTIVE DATE.

WHEREAS, Section 163.3167, Florida Statutes, which is a part of Florida’s Community Planning Act, requires the Town of Yankeetown to maintain a comprehensive plan to guide its future development and growth; and

WHEREAS, Florida’s Community Planning Act was amended during the 2021 Legislative Session by the passage of Committee Substitute for Committee Substitute for Committee Substitute for House Bill Number 59 (initially codified as Chapter Number 2021-195, Laws of Florida) to require every Town and county within the State of Florida “to include in its comprehensive plan a property rights element.” (Section 163.3177(6)(i)1, Florida Statutes); and

WHEREAS, the Town of Yankeetown respects judicially acknowledged and constitutionally protected private property rights; and

WHEREAS, the Town of Yankeetown planning and zoning staff has reviewed and opined that the amendment to the Town’s *Comprehensive Plan* as set forth in this Ordinance are consistent with state law, the state comprehensive plan, the regional plan and are internally consistent with all other elements, goals, objectives and policies of the Town of Yankeetown Comprehensive Plan.

WHEREAS, the Town’s Planning and Zoning Board recommended approval of this Ordinance at its meeting of December 7, 2021; and

WHEREAS, the Town of Yankeetown has complied with all requirements and procedures of Florida law in processing this amendment to the Town of Yankeetown Comprehensive Plan including, but not limited to, Section 163.3184, Florida Statutes, as well as other controlling law; and

WHEREAS, the Town Council of the Town of Yankeetown is enacting this Ordinance in order to protect the public health, safety and welfare.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF YANKEETOWN, FLORIDA:

Section 1. Legislative Findings and Intent. The Town Council of the Town of Yankeetown hereby adopts and incorporates into this Ordinance the above “WHEREAS” clauses to this Ordinance legislative findings of the Town Council as if fully set forth in this Section.

Section 2. New Property Rights Element; Town Comprehensive Plan. A new Chapter 13 Property Rights Element of the Comprehensive Plan of the Town of Yankeetown is created to read as follows:’

CHAPTER THIRTEEN
PROPERTY RIGHTS ELEMENT

The purpose of this Property Rights Element is to meet and implement the statutory requirements of House Bill 59, signed by the Governor on June 28, 2021. Florida Statutes (F.S.) Chapter 163.3177(i) requires local government comprehensive plans to contain a Property Rights Element which identifies property rights that shall be considered during the local decision-making process. The following Property Rights provisions shall be considered by the Town when making decisions.

GOALS, OBJECTIVES, AND POLICIES

GOAL 13

Property Rights. For the Town of Yankeetown to respect judicially acknowledged and constitutionally protected private property rights and with respect for people’s rights to participate in decisions that affect their lives and property.

Objective 13.1

The Town of Yankeetown shall respect judicially acknowledged and constitutionally protected private property rights and consider these property rights during local decision-making processes.

Policy 13.1.1

The right of a property owner to physically possess and control his or her interest in the property, including easements, leases, or mineral rights.

Policy 13.1.2

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, the provisions of the Town Comprehensive Plan and local ordinances.

Policy 13.1.3

The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

Policy 13.1.4

The right of a property owner to dispose of his or her property through sale or gift.

Section 3. Implementing Administrative Actions. The Town Clerk/Administrator, Town Attorney, Town Planner, or their designees, are hereby authorized to implement the provisions of this Ordinance as deemed appropriate and warranted.

Section 4. Savings Provision; Ratification of Prior Actions. The prior actions of the Town Council and its agencies in enacting and causing amendments to the Comprehensive Plan of the Town of Yankeetown, as well as the implementation thereof, are hereby ratified and affirmed.

Section 5. Severability. If any section, sentence, phrase, word, or portion of this Ordinance proves to be invalid, unlawful or unconstitutional, it shall not be held to impair the validity of the Ordinance or effect of any other action or part of this Ordinance.

Section 6. Conflicts. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 7. Codification/Instructions to Code Codifier. It is the intention of the Town Council of the Town of Yankeetown, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the codified version of the Town of Yankeetown Comprehensive Plan and/or the Code of Ordinances of the Town of Yankeetown, Florida by adding a new Property Rights Element to the Comprehensive Plan.

Section 8. Charter Referendum prior to Second Reading. Pursuant to the home rule powers grandfathered by Florida Statutes in Town of Yankeetown Charter Section 11. "Voter approval is required for approval of comprehensive land use plan or comprehensive land use plan amendments affecting more than five parcels except for amendments to the capital improvements element of the comprehensive plan, including annual updates to the capital improvement schedule. Amendments to the capital improvements element of the comprehensive plan, including annual updates to the capital improvement schedule shall not require voter approval. A comprehensive plan or comprehensive plan

amendment, (both as defined in Florida Statutes Chapter 163), shall not be adopted by the town council until such proposed plan or plan amendment is approved by the electors in a referendum as provided by Florida Statute Section 166.031 or by the town Charter or as otherwise provided by general or special law. Elector approval shall not be required for any plan or plan amendment that affects five or fewer parcels of land or as otherwise prohibited by Florida Statutes including but not limited to Florida Statute Section 163.3167 as may be amended from time to time.”

Section 9. Effective Date. The Comprehensive Plan amendment set forth herein shall not become effective, in accordance with Section [163.3184\(3\)](#), Florida Statutes, until 31 days after the State land planning agency (Florida Department of Economic Opportunity) notifies the Town that the Comprehensive Plan amendment package is complete. If timely challenged, the Comprehensive Plan amendment shall not become effective until the said State land planning agency or the Administration Council enters a final order determining the adopted amendment to be in compliance.

**APPROVED AT FIRST READING THIS _____ DAY OF _____,
2021.**

**PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN
AND REGULAR SESSION OF THE TOWN COUNCIL OF THE TOWN OF
YANKEETOWN, FLORIDA THIS _____ DAY OF _____,
2021.**

Attest:

Town Clerk

Mayor

Approved as to form and legality:

Town Attorney

Date filed with Town Clerk: _____