### **ORDINANCE NO. 2022-003**

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AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AMENDING THE COMPREHENSIVE PLAN BY ADDING A NEW PROPERTY RIGHTS ELEMENT; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND OTHER REVIEW AGENCIES DEFINED IN F.S. 163.3184(1)(C); PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (APPLICATION NO. PA-22-2)

WHEREAS, Section 163.3167, Florida Statutes, requires The Town of Southwest Ranches to maintain a comprehensive plan to guide its future development and growth; and

**WHEREAS,** Section 163.3177(6)(i)1., Florida Statutes, requires that all local governments' comprehensive plans include a property rights element; and

**WHEREAS,** the Town of Southwest Ranches respects judicially acknowledged and constitutionally protected private property rights; and

**WHEREAS,** this Ordinance will amend the comprehensive plan by adding a property rights element in compliance with Section 163.3177(6)(i)1., Florida Statutes; and

**WHEREAS**, the Town Council, sitting as the Local Planning Agency, held a duly noticed public hearing on September 23, 2021 and recommended that the Town Council adopt the proposed Ordinance.

# NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:

**Section 1: Ratification.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct, and are hereby incorporated herein and made a part hereof.

1 2 3	<u>Section 2:</u> New Element. The Town's Comprehensive Plan is amended by adding the property rights element attached as Exhibit "A" and made a part of this Ordinance as if set forth in full.
4 5 6 7 8	<u>Section 3:</u> <b>F.S. Chapter 163 Transmittal.</b> That the Town Planner is hereby directed to transmit this Ordinance to the State Land Planning Agency immediately following first reading of this Ordinance, and is hereby directed to transmit the adopted Ordinance to the State Land Planning Agency immediately following the second and final reading of this Ordinance.
9 10 11	<u>Section 4:</u> Conflict. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.
12 13 14 15	<u>Section 5:</u> Severability. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word hereof be declared unconstitutional or invalid, the invalidity thereof shall not affect the validity of any of the remaining portions of this Ordinance.
16 17 18 19 20 21	<u>Section 6:</u> Effective Date. This Ordinance shall take effect 31 days after the Department of Economic Opportunity notifies the Town that the plan amendment package is complete, unless timely challenged pursuant to sec. 163.3184(5), F.S., in which case the Ordinance shall take effect on the date that the Department of Economic Opportunity or the Administration Commission enters a final order determining the adopted amendment to be in compliance.
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<ul><li>23</li><li>24</li></ul>	<b>PASSED ON FIRST READING</b> this <u>23<sup>rd</sup></u> day of <u>September</u> , 2021 on a motion made by <u>Vice Mayor Hartmann</u> and seconded by <u>Council Member Jablonski</u> .
25	PASSED AND ADOPTED ON SECOND READING this 18th day of November,
26	2021, on a motion made by Vice Mayor Hartmann and seconded by Council Member
27	<u>Jablonski</u> .
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[Signatures on the Following Page]

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4 5 6 7 8 9 10	Breitkreuz Hartmann Allbritton Jablonski Kuczenski	Jes Jes Jes		Ayes Nays Absent Abstaining	5		
12					J-/		
13				_	Steve Breitkreuz, Mayor		
14	ATTEST:						
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18	Russell Muñiz, MM	C, Assistant Tow	n Administrat	tor/Town Cle	erk		
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20	Approved as to Form and Correctness:						
21 22 23		7					
24	Keith Poliakoff, J.D., Town Attorney						
25	1001.435.01						

## **EXHIBIT "A"**

# III. J. PROPERTY RIGHTS ELEMENT (PRE)

1. GOALS OBJECTIVES AND POLICIES

#### PRE GOAL 1

The Town will make planning and development decisions with respect for preperty rights consider private property rights in its decisionmaking.

**PRE Objective 1:** The Town will respect judicially acknowledged and constitutionally protected private property rights.

**PRE Policy 1.1:** The Town will 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.

**PRE Policy 1.2:** The Town will 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.

**PRE Policy 1.3:** The Town will 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.

**PRE Policy 1.4:** The Town will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.

# The 2021 Florida Statutes

Title XI COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS Chapter 163 INTERGOVERNMENTAL PROGRAMS

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

\* \* \*

(i)1. 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 decisionmaking. A local government may adopt its own property rights element or use the following statement of rights:

The following rights shall be considered in local decisionmaking:

- 1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
- 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 and local ordinances.
- 3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
- 4. The right of a property owner to dispose of his or her property through sale or gift.
- 2. Each local government 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. If a local

government adopts its own property rights element, the element may not conflict with the statement of rights provided in subparagraph 1.