ORDINANCE 26-69

AN ORDINANCE OF THE CITY OF PORT ST. LUCIE, FLORIDA, RELATING TO UPLAND HABITAT MITIGATION PAYMENT IN LIEU OF PRESERVATION; AMENDING SECTION 157.06; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the preservation and acquisition of land for upland preservation is an important function of the City: and

WHEREAS, the Mayor and City Council have provided for the preservation of habitat and for the creation of a Conservation Trust Fund in Section 157.06; and

WHEREAS, Section 157.06 provides for mitigation standards for Upland Habitat Preservation and the option for Payment in Lieu of Preservation (Upland Preservation Mitigation Fee); and

WHEREAS, the Upland Preservation Mitigation Fee should be evaluated and adjusted periodically.

NOW, THEREFORE, THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. Ratification of Recitals. The foregoing recitals are hereby ratified and confirmed as true and correct and are hereby made a part of this Ordinance.

Section 2. Section 157.06, Native Upland Habitat Protection, of the Code of Ordinances is amended as follows:

Sec. 157.06. Native Upland Habitat Protection.

(A) Natural upland plant communities preserve the ecological values and functions of significant plant and wildlife habitats, provide habitat corridors, minimize habitat fragmentation, and maintain and enhance the diversity and distribution of plant and animal species within the city. Development activities on all parcels with native upland habitat shall be evaluated for the protection of native upland habitat and listed species habitat prior to clearing, grading, or other alteration of the habitat.

(B) A site survey for gopher tortoises shall be conducted on all upland properties. If gopher tortoises are identified on the property, then the property must also be surveyed for listed species associated with gopher tortoise burrows. Site surveys shall be conducted by qualified ecologist, biologist, or equally qualified individual.

(C) Minimum Preservation Requirements

1. Residential. All residential development subject to site plan or subdivision plat approval shall meet the following requirements for provision of open space.

a. Fifty percent of the total area of each site must remain as open space.

b. An environmental assessment shall be provided that identifies those areas of the site, if any, where native upland habitat exists using the Florida Land Use and Cover Classification System (FLUCCS).

c. When native upland habitat exists on the property, a minimum of twenty-five (25) percent of the total native upland habitat on site shall be preserved.

d. A native upland buffer around wetlands and/or native habitat preserved for listed species may be counted toward meeting the native upland habitat preserve requirement.

2. Nonresidential. All nonresidential development subject to site plan or subdivision plat approval on all parcels greater than or equal to two acres in size shall include an environmental assessment that identifies those areas of the site, if any, where native upland habitat exists using the Florida Land Use and Cover Classification System (FLUCCS).

a. When native upland habitat exists on the property, a minimum of twenty-five (25) percent of the total native upland habitat on site shall be preserved.

b. A native upland buffer around wetlands and/or native habitat preserved for listed species may be counted toward meeting the native upland habitat preserve requirement.

c. When possible, wildlife corridors shall be provided between preserve areas within and adjacent to the development site.

(D) Preserve Areas.

1. Whenever possible, preserve areas should form a contiguous tract, be adjacent to wetlands, or link to adjacent parcel preserves. Wildlife corridors should be established where possible.

2. Preserve areas shall be maintained in their natural state, except that invasive, non-native vegetation shall be eradicated prior to issuance of a certificate of occupancy. Fences shall be allowed around the perimeter of the preserve.

3. Designation and Management. All preserved native upland habitat shall be identified on the site plan or subdivision plat, designated as conservation areas, and protected by a management plan. A conservation easement may be required.

(E) Mitigation.

1. The ability to mitigate for native upland preserve areas shall be determined during the development review process and considered by the City Council, based on the advice of the Site Plan Review Committee. This determination shall be based on the environmental assessment, prepared by the applicant, addressing the reasons for mitigation, which may include one (1) or more of the following circumstances:

a. Preserved areas would be ten acres or less, and cannot be connected with other preserved areas which would result in an area ten acres or more.

b. The proposed preserve area within a project would result in a small, fragmented area with limited habitat value compared to available alternatives.

c. The site is proposed for a public project that will provide substantial benefit to the health, safety, and welfare of citizens.

2. Jurisdictional wetlands shall not be used as mitigation for upland habitat.

3. Forms of mitigation that may be approved by the City Council, on the advice of the Site Plan Review Committee, include the programs or a combination of the programs listed below.

a. Offsite Mitigation: The applicant may propose to preserve similar or more rare native upland habitat at a mitigation ratio of one and one-half (1.5) acres of off-site preservation for each one (1) acre required to be preserved on site depending upon the size, location, and quality of the habitat of the off-site preserve. The proposed off-site preserve shall be within the corporate limits of the City of Port St. Lucie. The applicant shall submit environmental assessments for both the on-site and off-site preservation areas for comparison purposes.

b. Payment in Lieu of Preservation: Monetary donations in lieu of preservation of native upland habitat shall be made to the Conservation Trust Fund for the acquisition and management of land containing native upland habitat at a mitigation ratio of one and one-half (1.5) acres of off-site preservation for each one (1) acre required to be preserved on site.

i. The mitigation fee shall be as established by <u>resolution.</u> ~~Ordinance 07-151, as may be amended.~~ The mitigation fee shall be calculated and paid at the time the applicant applies for a clearing permit.

ii. Conservation Trust Funds shall only be used for acquisition and management of upland preserves, development of passive recreation facilities on such lands consistent with the permitted principal uses and structures of the Open Space Conservation Zoning District, and education pertaining to such lands.

<u>Section 3.</u> <u>Conflict.</u> If any ordinances, or parts of ordinances, or resolutions, or parts of resolutions, are in conflict herewith this Ordinance shall control to the extent of the conflicting provisions.

<u>Section 4</u>. <u>Severability.</u> The provisions of this Ordinance are intended to be severable. If any provision of this Ordinance is determined to be void or is declared illegal, invalid, or unconstitutional by a Court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 5. Codification. The provisions of this Ordinance shall be made a part of the Code of Ordinances of the City of Port St. Lucie, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; the word "ordinance" may be changed to "section" or other appropriate word as may be necessary.

Section 6. Effective Date. This Ordinance shall become effective upon adoption.

PASSED AND ADOPTED by the City Council of the City of Port St. Lucie, Florida, this _____ day of _____, 2026.

CITY COUNCIL
CITY OF PORT ST. LUCIE

By: _____
SHANNON MARTIN, Mayor

ATTEST:

_____
SALLY WALSH, City Clerk

APPROVED AS TO FORM:

_____
RICHARD BERRIOS, City Attorney