



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PUBLIC NOTICE

The Planning and Zoning Board will consider Ordinance No. 30-21, a City initiated amendment to the Comprehensive Plan adopting a Property Rights Element, and make a recommendation to the City Commission at a **PUBLIC HEARING** on **AUGUST 16, 2021** at **5:01 PM**, (or as soon thereafter as may be heard).

Effective June 29, 2021, the State of Florida amended the requirements for comprehensive plan elements in ss. 163.3177(6) to require a property rights element to ensure that private property rights are considered in local decision-making. The property rights element must be adopted by the earlier of the adoption of the next proposed plan amendment initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of the comprehensive plan pursuant to s. 163.3191. The proposed amendment is adopted in compliance with this regulation.

Members of the public wishing to view Planning and Zoning Board meetings may attend in person in the City Council Chambers at 100 NW 1st Avenue, Delray Beach, FL 33444 or view the meeting through the City's website at <https://www.delraybeachfl.gov/i-want-to/watch/city-meetings>, where it will be live-streamed for the public. Any member of the public wishing to comment publicly on any matter, including public comment or public hearing items, may comment in-person during the presentation of the item, or submit their comments in writing to the Development Services Department prior to the start of the meeting.

The files are available for review at the Development Services Department/Planning and Zoning Division or on the City's website at <https://www.delraybeachfl.gov/government/city-departments/development-services/projects>. If you would like to obtain additional information on this project, please contact Rebekah Dasari, Senior Planner, in the Development Services Department 561-243-7040, Ext. 7044. Written comments may be submitted by e-mail to dasarir@mydelraybeach.com or by regular mail at 100 NW 1st Avenue, Delray Beach, FL 33444.

Please be advised that if the action taken on this request is appealed, the appellant may need to ensure that a verbatim record includes the testimony and evidence upon which the appeal is to be based. The City does not provide nor prepare such record pursuant to F.S. 286.0105.

City of Delray Beach
Development Services Department
Date Posted: August 6, 2021



PRIVATE PROPERTY RIGHTS

LIVE



GOALS, OBJECTIVES, AND POLICIES

GOAL PPR 1

PRIVATE PROPERTY RIGHTS

WORK



PLAY



GROW





PRIVATE PROPERTY RIGHTS ELEMENT

What is the PRIVATE PROPERTY RIGHTS Element?

Property owners in Florida have strong property rights protection through the U.S. Constitution, the Florida Constitution, and the Bert J. Harris Act. However, effective June 29, 2021, the State of Florida amended the requirements for comprehensive plan elements in ss. 163.3177(6) to require a property rights element to ensure that private property rights are considered in local decisionmaking.

Local government rules generally create value in property and bring stability to real estate markets. Rules that benefit the public also protect property rights. However, a local government's process for regulating land greatly impacts real estate markets and property rights. Transparency, predictability, and reliability are three strategies for implementing land use rules in a way that benefits people and respects property rights. The Private Property Rights Element provides a policy framework in support of these strategies.

PRIVATE PROPERTY RIGHTS GOALS

GOAL PPR 1

PRIVATE PROPERTY RIGHTS

CONSIDER PRIVATE PROPERTY RIGHTS IN PLANNING AND DEVELOPMENT DECISIONS, AND RESPECT THE RIGHTS OF CITIZENS TO PARTICIPATE IN DECISIONS THAT AFFECT THEIR LIVES AND PROPERTY.



GOAL PPR 1 PRIVATE PROPERTY RIGHTS

CONSIDER PRIVATE PROPERTY RIGHTS IN PLANNING AND DEVELOPMENT DECISIONS, AND RESPECT THE RIGHTS OF CITIZENS TO PARTICIPATE IN DECISIONS THAT AFFECT THEIR LIVES AND PROPERTY IN ACCORDANCE WITH THE REQUIREMENTS OF THE FLORIDA STATUTES.

Performance Measures: Success in addressing Objectives and Policies of **GOAL PPR 1** shall be measured utilizing the following performance indicators:

- Provision of legal notice consistent with the Florida Statute requirements for planning and development decisions.

Objective PPR 1.1 Private Property Rights

Respect judicially acknowledged and constitutionally protected private property rights in local decision-making.

Policy PPR 1.1.1

Consider the right of a private property owner to

- Physically possess and control interests in their own property, including easements, leases, or mineral rights.
- Use, maintain, develop, and improve property for their own personal use or for the use of any other person, subject to state law and local ordinances.
- Maintain privacy and exclude others from the property to protect the owner's possessions and property.
- Dispose of their own property through sale or gift.

Objective PPR 1.2 Transparency, Reliability, and Predictability in Decision-making

Decision-making shall be transparent, reliable and predictable, based on adherence to adopted local regulations, in order to promote sound, long-term investments in the community.

Policy PPR 1.2.1

Continue to make available all development applications, including comprehensive plan amendments for public review and provide an affected party an equal opportunity for participation in all associated hearings.

Policy PPR 1.2.2

Continue to allow any affected person that will suffer an adverse effect to an interest protected or furthered by this comprehensive plan to participate in and be a party to a hearing on a local government decision.



PRIVATE PROPERTY RIGHTS

LIVE



WORK



PLAY



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DATA, INVENTORY, AND ANALYSIS



PRIVATE PROPERTY RIGHTS ELEMENT

TABLE OF CONTENTS

Introduction _____	PPR DIA - 1
Property Rights and Government Regulation _____	PPR DIA - 1



PRIVATE PROPERTY RIGHTS ELEMENT

INTRODUCTION

Property owners in Florida have strong property rights protection through the U.S. Constitution, the Florida Constitution, and the Bert J. Harris Act. However, effective June 29, 2021, the State of Florida amended the requirements for comprehensive plan elements in ss. 163.3177(6) to require a property rights element. In accordance with the legislative intent expressed in ss. 163.3161(10) and 187.101(3), that governmental entities must respect judicially acknowledged and constitutionally protected private property rights, the property rights element is intended to ensure that private property rights are considered in local decisionmaking. A local government may adopt its own property rights element or use the statutory language. If a local government adopts its own property rights element, the element may not conflict with the statement of rights in the state statutes.

The property rights element must be adopted by the earlier of the adoption of the next proposed plan amendment initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of the comprehensive plan pursuant to s. 163.3191.

PROPERTY RIGHTS AND GOVERNMENT REGULATION

Citizens rely on local government plans in different ways:

- *Residents* of any community have chosen to live there—and often have bought a home, the most significant financial decision many people make—because of things local governments address, like the condition of streets and parks, the proximity to daily needs, and community safety.
- *Businesses* locate in a community for its resources. They care about human assets, like customers and workers. And they care about physical assets like public infrastructure and the environment. From farmers to tech companies, businesses rely on local

government plans so they can count on these resources being available.

- Finally, *real estate investors* study local government rules so they can make financial plans and accurately evaluate investment opportunities. For investments in real estate to have low risk, local governments need to protect and improve the quality of a community over time.

Land values reflect how desirable a community is in many ways. Regulating land use and protecting property rights are not conflicting goals. Rather, local government rules generally create value in property and bring stability to real estate markets. Rules that benefit the public also protect property rights.

Still, *a local government's process for regulating land* greatly impacts real estate markets and property rights. Transparency, predictability, and reliability are three strategies for implementing land use rules in a way that benefits people and respects property rights.

- *Transparency* means people can see and participate in processes for developing rules.
- *Predictability* means a local government follows rules that are clear and unambiguous. Real estate investors should be able to read rules and know whether local government will permit a development proposal. Residents should be able to read rules and then know what kind of development will occur in their community.
- *Reliability* means a local government follows through on its commitments. Cities and counties should make realistic plans and should follow them. And local governments should only change their plans after thorough consideration leads to strong support. When a government is reliable, people can make long-term investments in the community—one key to a successful local economy.