




**Planning, Zoning & Economic Development  
Memorandum**

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**DATE:** September 14, 2021

**TO:** Chair and Members, Planning and Zoning Board

**FROM:** Danny A. Holmes, AICP   
Planning, Zoning & Economic Development Director

**SUBJECT:** Amendment to the Text of the City of Plantation Comprehensive Plan to Incorporate a New Property Rights Element into the Comprehensive Plan (Application No. PD21-0003)

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**THE REQUEST**

City staff is requesting an amendment to the City's Comprehensive Plan to incorporate a new Property Rights Element as required by Section 163.3177(6)(i) of the Florida Statutes.

**BACKGROUND**

Statutory provisions in Chapter 163, Florida Statutes, related to comprehensive plans, were amended to require each local government to adopt a property rights element into their comprehensive plan. Inclusion of the property rights element is intended to protect private property rights and ensure they are considered in local land use decision-making.

House Bill 59, from the most recent legislative session, adds Section 163.3177(6)(i), Florida Statutes. Each local government is now required to adopt a property rights element into its comprehensive plan. This new element must be adopted by local governments by the earlier of the date of its adoption of its next proposed plan amendment, or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to Section 163.3191, Florida Statutes.

HB 59, which was signed by Governor DeSantis on June 29, 2021, became effective July 1, 2021.

**THE PROPOSED AMENDMENT**

The proposed amendment to the Comprehensive Plan is as follows:

## PROPERTY RIGHTS ELEMENT

- Goal 1                    The City of Plantation will make planning and development decisions with respect for property rights.
- Objective 1.1            The City of Plantation will respect judicially acknowledged and constitutionally protected private property rights.
- Policy 1.1.1             The City of Plantation 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.
- Policy 1.1.2             The City of Plantation 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.
- Policy 1.1.3             The City of Plantation 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.
- Policy 1.1.4             The City of Plantation will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.

## ANALYSIS

Section 27-42 of the City's Land Development Regulations provides that the text of the Comprehensive Plan may be amended by application of any person, board, agency or their authorized representative. The application is being submitted by staff in accordance with that section.

Notice of the proposed amendment has been published in accordance with Section 27-41(f) of the Land Development Regulations and Section 163.3184 of the Florida Statutes. If adopted by the City Council, a copy of the ordinance will be transmitted for comment to the review agencies listed in Section 163.3184 of the Florida Statutes. That legislation provides that comments are to be provided within 30 days of receipt. Staff will present the ordinance to the City Council for second reading once comments are received and addressed.

## RECOMMENDATION

It is recommended that the Planning and Zoning Board recommend approval of the proposed amendment to incorporate a new Property Rights Element into the City of Plantation (the "City") Comprehensive Plan described below.

## ATTACHMENTS

1. Exhibit A – Proposed Ordinance

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF PLANTATION, FLORIDA, AMENDING THE CITY OF PLANTATION COMPREHENSIVE PLAN BY ADDING A PROPERTY RIGHTS ELEMENT INTO THE COMPREHENSIVE PLAN AS REQUIRED BY SECTION 163.3177(6)(i) OF THE FLORIDA STATUTES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR CONFLICTS; AUTHORIZING TRANSMITTAL AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANTATION, FLORIDA, THAT:

**SECTION 1:** The City of Plantation Comprehensive Plan is hereby amended as follows:

**PROPERTY RIGHTS ELEMENT**

- Goal 1**            The City of Plantation will make planning and development decisions with respect for property rights.
- Objective 1.1**    The City of Plantation will respect judicially acknowledged and constitutionally protected private property rights.
- Policy 1.1.1**     The City of Plantation 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.
- Policy 1.1.2**     The City of Plantation 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.
- Policy 1.1.3**     The City of Plantation 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.
- Policy 1.1.4**     The City of Plantation will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.

**SECTION 2:** Should any section, paragraph, sentence, clause, phrase or other part of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.

**SECTION 3:** If any ordinances, or parts of ordinances, or if any sections, or parts of sections, of the Ordinances of the City, are in conflict herewith, this Ordinance shall control to the extent of the conflicting provisions.

**SECTION 4:** Transmittal. The City shall transmit within ten (10) working days after passage at first public hearing, the amendment or amendments and appropriate supporting data and analyses to the reviewing agencies in accordance with 163.3184(3)(b)1, Florida Statute, and as specified in the State Land Planning Agency's procedural rules. Also, the City shall transmit a copy of the amendments and supporting data and analyses to any other local government or governmental agency that has filed a written request with the City.

**SECTION 5:** This Ordinance shall take effect immediately upon passage on second reading by the City Council and signature by the Mayor. The effective date of this plan amendment, if the amendment is not timely challenged, shall be thirty-one (31) days after the state land planning agency notifies the City that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance in accordance with 166.3184(3)(c)(4), Florida Statute. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

PASSED ON FIRST READING by the City Council this \_\_\_\_ day of \_\_\_\_\_, 2021.

PASSED AND ADOPTED ON SECOND READING by the City Council this \_\_\_\_ day of \_\_\_\_\_, 2021.

SIGNED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED    DATE

REQUESTED BY: \_\_\_\_\_

DEPT. OK: \_\_\_\_\_

ADMIN. OK: \_\_\_\_\_

ATTY. OK: \_\_\_\_\_

AS TO FORM ONLY

RECORD ENTRY:

I HEREBY CERTIFY that the Original of the foregoing signed Ordinance No. \_\_\_\_\_ was received by the Office of the City Clerk and entered into the Public Record this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

April Beggerow, City Clerk \_\_\_\_\_