

**Village of Royal Palm Beach
Village Council
Agenda Item Summary**

Agenda Item:

PUBLIC HEARING FOR SECOND READING AND ADOPTION OF ORDINANCE NO. 1023, ADOPTING AN AMENDMENT TO THE VILLAGE'S COMPREHENSIVE DEVELOPMENT PLAN IN ACCORDANCE WITH THE MANDATES SET FORTH IN SECTION 163.3184, ET SEQ., FLORIDA STATUTES, TO ADD AND ADOPT A PRIVATE PROPERTY RIGHTS ELEMENT. BY VILLAGE ATTORNEY KEITH W. DAVIS, ESQ.

Issue:

The Florida Legislature recently passed House Bill 59 which became effective on July 1, 2021. The bill amends § 163.3177, F.S. to require the Village to incorporate a private property rights element into its Comprehensive Plan by the earlier of either the adoption date of its next proposed Plan amendment initiated after July 1, 2021, or by the date of the next scheduled evaluation and appraisal of its Comprehensive Plan.

Village Staff is proposing to add and adopt the following Private Property Rights Element:

PRIVATE PROPERTY RIGHTS ELEMENT

INTRODUCTION

The Private Property Rights Element represents the Village's strategy for ensuring that private property rights are considered in local decision-making as required by Section 163.3177(6)(i)1, Florida Statutes.

GOAL PPR-1 PRIVATE PROPERTY RIGHTS IN DECISION-MAKING. ENSURE PRIVATE PROPERTY RIGHTS ARE CONSIDERED IN LOCAL DECISION-MAKING 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 PPR-1.1 Private property rights shall be considered in local decision-making based upon the following policies.

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| Initiator: | Village Manager | Agenda Date | Village Council |
| Village Attorney | Approval | 3-17-2022 | Action |

Policy PPR-1.1.1 Physically Possess and Control Property. Property owners shall have the right to physically possess and control their interests in the property, including easements, leases, or mineral rights.

Policy PPR-1.1.2 Personal Use. Property owners shall have the right to use, maintain, develop, and improve their property for personal use or the use of any other person, subject to state law and local ordinances.

Policy PPR-1.1.3 Privacy. Property owners shall have the right to privacy and to exclude others from the property to protect the owner's possessions and property.

Policy PPR-1.1.4 Disposition of Property. Property owners shall have the right to dispose of their property through sale or gift.

Objective PPR-2.1 Transparency, Reliability, and Predictability in Decision-making. Decision-making will be transparent, reliable, and predictable so that all people may participate in decisions that affect their lives and property.

Policy PPR-2.1.1 Development Applications. All development applications, including comprehensive plan amendments, shall be made available for public review and an affected person/party shall be provided equal opportunity for participation of in all associated hearings.

Recommended Action:

Staff recommends Approval of Ordinance No. 1023 on Second Reading.

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| Initiator: | Village Manager | Agenda Date | Village Council |
| Village Attorney | Approval | 3-17-2022 | Action |

ORDINANCE NO. 1023

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, ADOPTING AN AMENDMENT TO ITS COMPREHENSIVE DEVELOPMENT PLAN IN ACCORDANCE WITH THE MANDATES SET FORTH IN SECTION 163.3184, ET SEQ., FLORIDA STATUTES, TO ADD AND ADOPT A PRIVATE PROPERTY RIGHTS ELEMENT; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the State Legislature of the State of Florida has mandated that all municipalities draft and adopt Comprehensive Development Plans to provide thorough and consistent planning with regard to land within their corporate limits; and

WHEREAS, the State Legislature of the State of Florida has also mandated that all municipalities shall include in their Comprehensive Development Plans a property rights element to ensure that private property rights are considered in local decision-making; and

WHEREAS, all amendments to the Comprehensive Development Plan must be adopted in accordance with detailed procedures which must be strictly followed; and

WHEREAS, the Village of Royal Palm Beach, Florida, has carefully prepared an amendment to its Comprehensive Development Plan in order to add a Private Property Rights Element; and

WHEREAS, the Village of Royal Palm Beach has held all duly required public hearings; both prior to submission of the proposed amendments of the plan to the State Department of Economic Opportunity and after the proposed amendment of the plan was returned to the Village of Royal Palm Beach, in accordance with Chapter 163.3184, *Florida Statutes*; and

WHEREAS, the Village Council desires to adopt certain amendments to its current Comprehensive Development Plan to guide and control the future development of the Village, and to preserve, promote and protect the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, THAT:

Section 1: The facts and recitations contained in the preamble of this ordinance are adopted and incorporated by reference as if set forth in this section.

Section 2: The Village of Royal Palm Beach Comprehensive Development Plan is hereby amended to add a “Private Property Rights Element”, as follows:

PRIVATE PROPERTY RIGHTS ELEMENT

INTRODUCTION

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GOAL PPR-1 PRIVATE PROPERTY RIGHTS IN DECISION-MAKING. ENSURE PRIVATE PROPERTY RIGHTS ARE CONSIDERED IN LOCAL DECISION-MAKING 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 PPR-1.1 Private property rights shall be considered in local decision-making based upon the following policies.

Policy PPR-1.1.1 Physically Possess and Control Property. Property owners shall have the right to physically possess and control their interests in the property, including easements, leases, or mineral rights.

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Objective PPR-2.1 Transparency, Reliability, and Predictability in Decision-making. Decision-making will be transparent, reliable, and predictable so that all people may participate in decisions that affect their lives and property.

Policy PPR-2.1.1 Development Applications. All development applications, including comprehensive plan amendments, shall be made available for public review and an affected person/party shall be provided equal opportunity for participation of in all associated hearings.

Section 3: A copy of the Comprehensive Development Plan, as amended is on file in the office of the Village Clerk, Village of Royal Palm Beach, Florida.

Section 4: The Village Clerk is hereby directed to transmit within ten (10) working days after adoption one (1) paper copy and two (2) electronic PDF format copies of the amendment to the current Comprehensive Development Plan to the State Land Planning Agency, along with one copy to any other agency or unit of local government that timely provided comments in accordance with Section 163.3184(3)(c)2, Florida Statutes.

Section 5: Each and every other section and subsection of the Village of Royal Palm Beach Comprehensive Development Plan shall remain in full force and effect as previously adopted.

Section 6: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 7: Specific authority is hereby given to codify this Ordinance and make it part of the Village's Comprehensive Development Plan.

Section 8: This plan amendment shall not become effective until 31 days after the State Land Planning Agency notifies the Village that the plan amendment is complete. If timely challenged, this amendment does not become effective until the State Land Planning Agency or Administration Commission enters a final order determining the adopted amendment to be in compliance in accordance with Section 163.3184(3)(c)4, Florida Statutes. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective.

FIRST READING this 16th day of December, 2021.

SECOND AND FINAL READING this 17th day of March, 2022.

VILLAGE OF ROYAL PALM BEACH

MAYOR FRED PINTO

ATTEST:

(Seal)

DIANE DISANTO, VILLAGE CLERK