

ORDINANCE NO. 015-2022

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN OF PALM BEACH COMPREHENSIVE PLAN BY CREATING A PROPERTY RIGHTS ELEMENT IN ORDER TO MEET UPDATED STATUTORY REQUIREMENTS; MAINTAINING INTERNAL CONSISTENCY WITHIN THE COMPREHENSIVE PLAN; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town proposes to amend its Comprehensive Plan in accordance with the requirements of the 1993 Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, the Town created the Town of Palm Beach Comprehensive Plan with the adoption of Ordinance No. 11-89, and last amended the Comprehensive Plan on August 9, 2017 with the adoption of Ordinance No. 9-2017 based upon the Town's Evaluation and Appraisal of the Comprehensive Plan; and

WHEREAS, the Town of Palm Beach respects judicially acknowledged and constitutionally protected private property rights;

WHEREAS, the Town of Palm Beach respects the rights of all people to participate in land use planning processes;

WHEREAS, the Town is amending the Data and Analysis as well as the Goals, Objectives and Policies (GOPs) within the Comprehensive Plan to incorporate the new Property Rights Element; and

WHEREAS, after a public hearing pursuant to notice required by law, the Planning and Zoning Commission at its August 16, 2022, considered all testimony and recommended modifications to the Town's Comprehensive Plan; and

WHEREAS, after public hearing pursuant to notice required by law, the Town Council, acting as the Local Planning Agency (LPA) at its September 14, 2022 meeting, considered the Planning and Zoning Commission's Record and Report and all evidence and testimony and recommended that the Town Council approve on first reading the subject Ordinance amending the Town's Comprehensive Plan and transmit said ordinance to the Florida Department of Economic Opportunity (DEO); and

WHEREAS, after public hearings on September 14, 2022 and November 9, 2022, pursuant to notice as required by law, the Town Council did find, determine, and declare that the public health, safety, morals and general welfare of the citizens of the Town of Palm Beach requires that the aforesaid Comprehensive Plan, be amended as hereinafter set forth, and transmitted on first reading to the Florida Department of Economic Opportunity (DEO).

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Palm Beach, Palm Beach County, Florida, as follows:

Section 1. Incorporation of Recitals. The above recitals are incorporated as fully set forth herein.

Section 2. Findings. The proposed Comprehensive Plan amendments, as more particularly described in Exhibit A, have been determined by the Town Council to promote the public health, safety and welfare, and are consistent with the requirements in Florida Statutes, and all elements of the adopted Comprehensive Plan.

Section 3. Amendment of the Comprehensive Plan. The Comprehensive Plan of the Town of Palm Beach is hereby amended by adding a new Element XI, the Property Rights Element, attached as “EXHIBIT A” and made a part of this ordinance as set forth in full.

Section 4. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 5. Repeal of Ordinances in Conflict. All other ordinances of the Town of Palm Beach, Florida, or parts thereof, which conflict with this or any part of this Ordinance are hereby repealed.

Section 6. Codification. This Ordinance shall be codified and made a part of the official Comprehensive Plan of the Town of Palm Beach, Florida.

Section 7. Effective Date. The effective date of this plan amendment if the amendment is not timely challenged shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this ____ day of _____, 2022, and for second and final reading on this ____ day of _____, 2022.

Danielle H. Moore, Mayor

Julie Araskog, Town Council Member

Edward A. Cooney, Town Council Member

ATTEST:

Lewis S.W. Crampton, Town Council Member

Bobbie Lindsay, Town Council Member

Pat Gayle-Gordon, Acting Town Clerk

Margaret A. Zeidman, Town Council Member

EXHIBIT A

PROPERTY RIGHTS ELEMENT

INTRODUCTION

The purpose of the Property Rights Element is to consider property rights in local government decision making 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.

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 (3) strategies for implementing land use policies in a way that benefits the public and respects property rights. The Private Property Rights Element provides a policy framework in support of these strategies.

EXECUTIVE SUMMARY

Effective June 29, 2021, the State of Florida amended the requirements for comprehensive plan elements in ss. 163.3177(6), Florida Statutes, (F.S.), to require a Property Rights Element. The statutory requirement stipulated that 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, F.S. In accordance with the legislative intent expressed in ss. 163.3161(10), F.S. and 187.101(3), F.S., governmental entities must respect judicially acknowledged and constitutionally protected private property rights. As such, the Property Rights Element is intended to ensure that private property rights are considered in local decision-making.

Citizens rely on local government plans: In general, residents choose to live in a community based upon factors that local governments provide, such as the quality of housing, the condition of streets and parks, the proximity to daily needs, and community safety. Businesses locate in a community for its resources, for such assets as consumers and the labor force but also public infrastructure and the environment. Businesses rely on local government plans to ensure these resources will be available. Lastly, real estate investors study local government regulations to 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. A local government's process for regulating land greatly impacts real estate markets and property rights.

Transparency, predictability, and reliability are three (3) strategies for implementing land use regulations in a way that benefits the public and respects property rights.

1. *Transparency* means people can see and participate in processes for developing rules.
2. *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.
3. *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.

GOALS, OBJECTIVES, AND POLICIES

GOAL 1

**THE TOWN OF PALM BEACH SHALL RESPECT JUDICIALLY
ACKNOWLEDGED AND CONSTITUTIONALLY PROTECTED PRIVATE
PROPERTY RIGHTS IN ITS LOCAL DECISION-MAKING PROCESSES.**

OBJECTIVE 1

The Town shall ensure that private property rights are considered in local decision-making to the extent that they are protected through the legal system and the law and order of the government.

POLICY 1.1

The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

POLICY 1.2

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.

POLICY 1.3

The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

POLICY 1.4

The right of a property owner to dispose of his or her property through sale or gift.