

<b>SUMMARY</b>		
<b>Applicant:</b>	<b>Proposed Change</b>	<b>Staff Recommendation:</b>
Tallahassee-Leon County Planning Department	This is a text amendment to create a Property Rights Element.	<b>Approve</b>
<b>TLCDP Staff:</b>	<b>Comprehensive Plan Element</b>	<b>LPA Recommendation:</b>
Jacob Fortunas	Property Rights (Proposed)	<b>Approve</b>
<b>Contact Information:</b>	<b>Policy Number(s)</b>	
<a href="mailto:Jacob.Fortunas@talgov.com">Jacob.Fortunas@talgov.com</a> 850-891-6418	N/A	
Date: 11/02/2021	Updated: 03/03/2022	

**A. SUMMARY:**

This amendment proposes the creation of a property rights element within the Tallahassee-Leon County Comprehensive Plan.

**B. STAFF RECOMMENDATION:**

Find that the proposed text amendment is consistent with the Tallahassee-Leon County Comprehensive Plan, based on the findings and other information contained in this staff report, and recommend adoption of the proposed amendment.

**C. LOCAL PLANNING AGENCY RECOMMENDATION**

Find that the proposed text amendment is consistent with the Tallahassee-Leon County Comprehensive Plan, based on the findings and other information contained in this staff report, and adopt the proposed amendment.

**D. PROPOSED POLICY CHANGE:**

This text amendment provides for the addition of an element to the Tallahassee-Leon County Comprehensive Plan, entitled Property Rights Element. The content of the proposed element reads as follows:

Goal 1: [PR]

To recognize and respect judicially acknowledged or constitutionally protected private property rights.

Objective 1.1: [PR]

Ensure that all rules, ordinances, regulations, and programs are developed, advertised, implemented, and applied with sensitivity for private property rights.

Policy 1.1.1: [PR]

To ensure that private property rights are considered in local decision-making, the following rights shall be considered:

1. The right of a property owner to physically possess and control their interests in the property, including easements, leases, or mineral rights, subject to state law and local ordinances.
2. The right of a property owner to use, maintain, develop, and improve their property for personal use or for the use of any other person, subject to state law and local ordinances.
3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property, subject to state law and local ordinances.
4. The right of a property owner to dispose of their property through sale or gift, subject to state law and local ordinance.

**E. APPLICANT'S REASON FOR THE AMENDMENT:**

The Tallahassee-Leon County Planning Department is proposing this amendment to comply with section 163.3177(6) of Florida Statutes. This section was amended by House Bill 59 during the 2021 legislative session and now requires local comprehensive plans to include a Property Rights Element.

**F. STAFF ANALYSIS**

The State Legislature passed, and the Governor signed HB 59 (SB 496) during the 2021 legislative session. The bill includes a new requirement that local governments adopt a Property Rights Element into their comprehensive plans earlier than the date of its adoption of its next proposed plan amendment that is initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan. This new Element will reaffirm the property rights of property owners established by the US Constitution, the Florida Constitution, State Statutes (including the Bert Harris Act), and local ordinances. The bill requires that the new Property Rights Element be adopted prior to any proposed plan amendments.

## G. STAFF REPORT UPDATE

Below is a list of all public meetings and actions taken by appointed or elected bodies in consideration of this proposed amendment:

Cycle Meetings		Date Completed
X	Public Open House	December 15, 2021
X	Local Planning Agency Workshop	January 4, 2022
X	Local Planning Agency Public Hearing	March 1, 2022
X	Joint City-County Commission Workshop	March 23, 2022
	Joint City-County Transmittal Public Hearing	
	Joint City-County Adoption Public Hearing	

### Email Noticing

Emails noticing this amendment, along with all amendments of the 2022 cycle, were distributed on November 17, 2021. To subscribe to the City of Tallahassee Digital Subscription Service, please visit the following webpage:

City of Tallahassee Digital Subscription Service:  
<https://www.talgov.com/cotnews/subscribe.aspx>

### Online Availability

This staff report, along with reports for all amendments of the 2022 cycle, were posted on the Tallahassee-Leon County Planning Department's webpage beginning the week of January 17, 2022. The Planning Department's webpage is accessible through the following link:

<https://www.talgov.com/place/planning.aspx>

### Public Open House

An open house was held on December 15, 2021 where staff provided an overview of the 2022 Cycle Amendments. There were no questions from the LPA that resulted in updates to this staff report.

#### Local Planning Agency Workshop

A workshop was held on January 4, 2022 where staff provided an overview of the 2022 Cycle Amendments. There were no questions from the LPA that resulted in updates to this staff report.

#### Local Planning Public Hearing

The public hearing was held on March 1, 2022 to vote on the proposed 2022 Cycle Amendments. The LPA found the proposed text amendment consistent with the Tallahassee-Leon County Comprehensive Plan, based on the findings and other information contained in this staff report, and recommended ADOPTION of the proposed amendment. There were no public speakers on this item.

#### Joint City-County Commission Workshop

The joint City-County Commission Workshop was held on March 23, 2022. The 2022 Cycle Amendments were introduced to both City and County Commissioners at this time. Being a workshop to introduce and discuss the amendments, no public comment no votes by either commission were taken at this time. There were no questions nor comments regarding this item.

#### Joint City-County Transmittal Public Hearing

#### Joint City-County Adoption Public Hearing

### **H. CONCLUSION:**

Based on the above analysis, Planning Department staff recommends approval of the amendment request for the following reasons:

- Consistency with s. 163.3177 F.S. requiring comprehensive plans be amended to include a property rights element.
- Consistency with s. 163.3177 F.S. requiring comprehensive plans be amended to include a property rights element prior to other amendments.
- Consistency with s. 163.3161 F.S. requiring that all governmental agencies in the State of Florida recognize and respect judicially acknowledged or constitutionally protected private property rights.
- Consistency with the goals, objectives, and policies of the Tallahassee-Leon County Comprehensive Plan.

### **I. APPENDICES:**

Draft Property Rights Element for the Tallahassee-Leon County Comprehensive Plan.

## Property Rights

### Goals, Objectives, and Policies

#### Goal 1: [PR]

To recognize and respect judicially acknowledged or constitutionally protected private property rights.

#### Objective 1.1: [PR]

Ensure that all rules, ordinances, regulations, and programs are developed, advertised, implemented, and applied with sensitivity for private property rights.

#### Policy 1.1.1: [PR]

To ensure that private property rights are considered in local decision-making, the following rights shall be considered:

1. The right of a property owner to physically possess and control their interests in the property, including easements, leases, or mineral rights, subject to state law and local ordinances.
2. The right of a property owner to use, maintain, develop, and improve their property for personal use or for the use of any other person, subject to state law and local ordinances.
3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property, subject to state law and local ordinances.
4. The right of a property owner to dispose of their property through sale or gift, subject to state law and local ordinance.