



**LOCAL PLANNING AGENCY BOARD AGENDA
REGULAR MEETING
Village Hall - Council Chambers
226 Cypress Lane
Palm Springs, FL 33461
Thursday, July 29, 2021
6:30 PM**

Persons who need an accommodation in order to attend or participate in this meeting should contact the Village Clerk at (561) 965-4010 at least three (3) business days prior to the meeting in order to request such assistance.

1. CALL TO ORDER

2. ROLL CALL *Mayor Bev Smith, Vice Mayor Gary Ready, Mayor Pro Tem Doug Gunther, Council Member Joni Brinkman, Council Member Patti Waller, Village Attorney Glen Torcivia, Village Manager Richard Reade, and Village Clerk Kimberly Wynn*

3. PUBLIC HEARINGS

- 3.1 Ordinance No. 2021-07 - Comprehensive Plan Amendment - Property Rights Sub-Element
1. [Proposed Ordinance No. 2021-07 - Text Amendment - Comprehensive Plan - Property Rights Sub-Element](#)
 2. [Committee Substitute/Senate Bill 496](#)
 3. [Advertisement - Ordinance 2021-07 - Comp Plan Text Amendment - Property Rights](#)

4. ADJOURNMENT

If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting, he will need a record of the proceeding, and that for such purpose he may need to ensure that verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.



Village of Palm Springs

Executive Brief

AGENDA DATE: July 29, 2021

DEPARTMENT: Planning, Zoning & Building

ITEM 3.1: Ordinance No. 2021-07 - Comprehensive Plan Amendment - Property Rights Sub-Element

SUMMARY:

The Planning, Zoning & Building Department is proposing a text amendment to the Future Land Use Element to establish a new sub-element in an accordance with new legislation that recently became law.

Note: During the most recent 2021 Florida Legislative Session, Committee Substitute/Senate Bill 496, which was signed into law on June 29, 2021 and became effective on July 1, 2021, adds Section 163.3177(6)(i), Florida Statutes, related to comprehensive plans and now requires each local government to adopt a property rights element within their existing comprehensive plan.

It is expected that the new property rights element will protect private property rights and ensure that these rights are considered during the local decision-making process. This new element is required to be incorporated into the Village's Comp Plan prior to initiating any new comprehensive plan amendments, including small-scale land use changes, after July 1st.

Note: The Florida Department of Economic Opportunity (DEO) staff has interpreted the new law to read that any new comprehensive plan amendment that the Local Planning Agency (LPA) has not held a public hearing and considered prior to July 1, 2021 is stayed (not able to proceed forward and submitted to the state for review) until the property rights provisions are adopted into the comprehensive plan.

The Planning and Zoning Board will consider the proposed amendment during their regular meeting on August 10, 2021 and their recommendation will be shared with the Village Council prior to 2nd reading of the ordinance.

If approved on 1st reading, the proposed ordinance will be considered for 2nd and final reading by the Village Council during a future (expected September/October 2021) meeting. Additionally, if approved, the proposed comprehensive plan text amendment will be forwarded for state and regional agency review, including the Florida Department of Economic Opportunity (DEO) and the South Florida Water Management District (SFWMD). If no objections to the proposed amendment is received, the proposed ordinance will be presented to the Village Council at the next available meeting.

The proposed ordinance was prepared by the Planning, Zoning & Building Director and reviewed by the Assistant Village Manager and the Village Attorney.

FISCAL IMPACT:

Amending the Comprehensive Plan to create a new sub-element (which is required due to new, approved legislation during the 2021 Florida Legislative Session) does not have a fiscal impact.

ATTACHMENTS:

Proposed Ordinance No. 2021-07 - Text Amendment - Comprehensive Plan - Property Rights Sub-Element

Committee Substitute/Senate Bill 496

Advertisement - Ordinance 2021-07 - Comp Plan Text Amendment - Property Rights

ORDINANCE NO. 2021-07

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING THE COMPREHENSIVE PLAN OF THE VILLAGE OF PALM SPRINGS, IN ACCORDANCE WITH THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT, AS AMENDED, BEING SECTIONS 163.3177, ET. SEQ., FLORIDA STATUTES, PROVIDING FOR THE AMENDMENT TO THE TEXT OF THE VILLAGE’S FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN TO CREATE THE “PROPERTY RIGHTS” SUB-ELEMENT, WHICH AMENDMENT IS MORE FULLY DESCRIBED IN EXHIBIT “A” ATTACHED HERETO; PROVIDING FOR DIRECTIONS TO THE VILLAGE CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR OTHER PURPOSES.

WHEREAS, the Village Council (“Council”) of the Village of Palm Springs, Florida (“Village”) has adopted a Comprehensive Plan (“Plan”) pursuant to the “Local Government Comprehensive Planning and Land Development Regulation Act”; and

WHEREAS, The Village’s Plan has been determined to be “in compliance” with the provisions of the Act and Rule 9J-5 of the Florida Administrative Code; and

WHEREAS, the Council wishes to create a “Property Rights” Sub-Element in the Future Land Use Element of the Comprehensive Plan in order to ensure that private property rights are considered in decision making; and

WHEREAS, Pursuant to Chapter 163, Florida Statutes, and Rule 9J-5, Florida Administrative Code, all subsequent amendments to the Plan must be adopted in accordance with detailed statutory procedures; and

WHEREAS, the Village’s LPA has considered the proposed amendments at a duly advertised meeting and has recommended that the Council adopt the Plan Amendments as set forth in the attached Exhibit “A”; and

WHEREAS, the Village Council of the Village of Palm Springs has held all required public hearings; both prior to transmittal and submission of the proposed amendments to the Plan to the Florida Department of Economic Opportunity, and after the proposed amendments to the Plan were returned to the Village of Palm Springs, in accordance with Chapter 163, Florida Statutes; and

NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PALM SPRINGS, FLORIDA:

Section 1. The Village Council of the Village of Palm Springs, Florida hereby amends the current Comprehensive Plan dated November 9, 1989, as amended, to create the “Property Rights” Sub-Element in the Future Land Use Element, which amendment consists of the pages attached hereto as Exhibit “A” and made a part hereof, and which will be incorporated into the current Comprehensive Plan. A copy of the Comprehensive Plan, as amended, is on file in the office of the Village Clerk.

Section 2. This Ordinance shall be effective within the corporate limits of the Village of Palm Springs, Florida.

Section 3. The Village Clerk is hereby directed to transmit the comprehensive plan amendment documents to the Department of Economic Opportunity and other agencies within ten (10) working days, in accordance with Section 163.3184, Florida Statutes.

Section 4. Repeal of Conflicting Ordinances. All Ordinances, Resolutions or parts of Ordinances and Resolutions in conflict herewith are hereby repealed.

Section 5. Severability. If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this ordinance.

Section 6. Effective Date. The effective date of this Plan Amendment shall be in accordance with Section 163.3184, Florida Statutes; however, no later than thirty-one (31) days after the State Land Planning Agency has received the completed Amendment package. No development order, development permits, or land uses dependent on this Amendment may be issued or commence before the Amendment has become effective.

Council Member _____, offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Council Member _____, and upon being put to a vote, the vote was as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
BEV SMITH, MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GARY READY, VICE MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DOUG GUNTHER, MAYOR PRO TEM	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PATTI WALLER, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JONI BRINKMAN, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Mayor thereupon declared this Ordinance approved and adopted by the Village Council of the Village of Palm Springs, Florida, on second reading, the _____ day of _____, 2021.

VILLAGE OF PALM SPRINGS, FLORIDA

BY: _____
BEV SMITH, MAYOR

First Reading: _____

Second Reading: _____

ATTEST:

BY: _____
KIMBERLY M. WYNN, CMC, VILLAGE CLERK

REVIEWED FOR LEGAL FORM AND SUFFICIENCY

BY: _____
GLEN J. TORCIVIA, VILLAGE ATTORNEY

EXHIBIT "A"

Objective S: **Property Rights Sub-Element.** The Village as a governmental entity, shall respect judicially acknowledged and constitutionally protected private property rights. The Village shall ensure that private property rights are considered in local decision making.

The following Property Rights – Statement of Rights shall be considered:

Policy S.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 S.2 The right of a property owner to use, maintain, develop, and improve his or her property for personal use or the use of any other person, subject to state law and local ordinances.

Policy S.3: The right of a property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

Policy S.4: The right of a property owner to dispose of his or her property through sale or gift.

By the Committees on Rules; Judiciary; and Community Affairs;
and Senator Perry

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1 A bill to be entitled
2 An act relating to growth management; amending s.
3 163.3167, F.S.; specifying requirements for certain
4 comprehensive plans effective, rather than adopted,
5 after a specified date and for associated land
6 development regulations; amending s. 163.3177, F.S.;
7 requiring local governments to include a property
8 rights element in their comprehensive plans; providing
9 a statement of rights which a local government may
10 use; requiring a local government to adopt a property
11 rights element by the earlier of its adoption of its
12 next proposed plan amendment initiated after a certain
13 date or the next scheduled evaluation and appraisal of
14 its comprehensive plan; prohibiting a local
15 government's property rights element from conflicting
16 with the statement of rights contained in the act;
17 amending s. 163.3237, F.S.; providing that the consent
18 of certain property owners is not required for
19 development agreement changes under certain
20 circumstances; providing an exception; amending s.
21 337.25, F.S.; requiring the Department of
22 Transportation to afford a right of first refusal to
23 certain individuals under specified circumstances;
24 providing requirements and procedures relating to the
25 right of first refusal; amending s. 380.06, F.S.;
26 authorizing certain developments of regional impact
27 agreements to be amended under certain circumstances;
28 providing retroactive applicability; providing a
29 declaration of important state interest; providing an

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30 effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Subsection (3) of section 163.3167, Florida
35 Statutes, is amended to read:

36 163.3167 Scope of act.—

37 (3) A municipality established after the effective date of
38 this act shall, within 1 year after incorporation, establish a
39 local planning agency, pursuant to s. 163.3174, and prepare and
40 adopt a comprehensive plan of the type and in the manner set out
41 in this act within 3 years after the date of such incorporation.
42 A county comprehensive plan is controlling until the
43 municipality adopts a comprehensive plan in accordance with this
44 act. A comprehensive plan for a newly incorporated municipality
45 which becomes effective ~~adopted~~ after January 1, 2016 ~~2019~~, and
46 all land development regulations adopted to implement the
47 comprehensive plan must incorporate each development order
48 existing before the comprehensive plan's effective date, may not
49 impair the completion of a development in accordance with such
50 existing development order, and must vest the density and
51 intensity approved by such development order existing on the
52 effective date of the comprehensive plan without limitation or
53 modification.

54 Section 2. Paragraph (i) is added to subsection (6) of
55 section 163.3177, Florida Statutes, to read:

56 163.3177 Required and optional elements of comprehensive
57 plan; studies and surveys.—

58 (6) In addition to the requirements of subsections (1)-(5),

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59 the comprehensive plan shall include the following elements:

60 (i)1. In accordance with the legislative intent expressed
61 in ss. 163.3161(10) and 187.101(3) that governmental entities
62 respect judicially acknowledged and constitutionally protected
63 private property rights, each local government shall include in
64 its comprehensive plan a property rights element to ensure that
65 private property rights are considered in local decisionmaking.
66 A local government may adopt its own property rights element or
67 use the following statement of rights:

68
69 The following rights shall be considered in local
70 decisionmaking:

71
72 1. The right of a property owner to physically possess
73 and control his or her interests in the property,
74 including easements, leases, or mineral rights.

75
76 2. The right of a property owner to use, maintain,
77 develop, and improve his or her property for personal
78 use or the use of any other person, subject to state
79 law and local ordinances.

80
81 3. The right of a property owner to privacy and to
82 exclude others from the property to protect the
83 owner's possessions and property.

84
85 4. The right of a property owner to dispose of his or
86 her property through sale or gift.

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88 2. Each local government must adopt a property rights
89 element in its comprehensive plan by the earlier of its adoption
90 of its next proposed plan amendment that is initiated after July
91 1, 2021, or the next scheduled evaluation and appraisal of its
92 comprehensive plan pursuant to s. 163.3191. If a local
93 government adopts its own property rights element, the element
94 may not conflict with the statement of rights provided in
95 subparagraph 1.

96 Section 3. Section 163.3237, Florida Statutes, is amended
97 to read:

98 163.3237 Amendment or cancellation of a development
99 agreement.—A development agreement may be amended or canceled by
100 mutual consent of the parties to the agreement or by their
101 successors in interest. A party or its designated successor in
102 interest to a development agreement and a local government may
103 amend or cancel a development agreement without securing the
104 consent of other parcel owners whose property was originally
105 subject to the development agreement, unless the amendment or
106 cancellation directly modifies the allowable uses or
107 entitlements of such owners' property.

108 Section 4. Subsection (4) of section 337.25, Florida
109 Statutes, is amended to read:

110 337.25 Acquisition, lease, and disposal of real and
111 personal property.—

112 (4) The department may convey, in the name of the state,
113 any land, building, or other property, real or personal, which
114 was acquired under subsection (1) and which the department has
115 determined is not needed for the construction, operation, and
116 maintenance of a transportation facility. When such a

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117 determination has been made, property may be disposed of through
118 negotiations, sealed competitive bids, auctions, or any other
119 means the department deems to be in its best interest, with due
120 advertisement for property valued by the department at greater
121 than \$10,000. A sale may not occur at a price less than the
122 department's current estimate of value, except as provided in
123 paragraphs (a)-(d). The department may afford a right of first
124 refusal to the local government or other political subdivision
125 in the jurisdiction in which the parcel is situated, except in a
126 conveyance transacted under paragraph (a), paragraph (c), or
127 paragraph (e). Notwithstanding any provision of this section to
128 the contrary, before any conveyance under this subsection is
129 made, except a conveyance under paragraph (a) or paragraph (c),
130 the department shall first afford a right of first refusal to
131 the previous property owner for the department's current
132 estimate of value of the property. The right of first refusal
133 must be in writing and sent to the previous owner via certified
134 mail or hand delivery, which is effective upon receipt. The
135 right of first refusal must provide the previous owner with a
136 minimum of 30 days to exercise the right in writing and must be
137 sent to the originator of the offer by certified mail or hand
138 delivery, which is effective upon dispatch. If the previous
139 owner exercises his or her right of first refusal, the previous
140 owner has a minimum of 90 days to close on the property. The
141 right of first refusal set forth in this subsection may not be
142 required for the disposal of property acquired more than 10
143 years before the date of disposition by the department.

144 (a) If the property has been donated to the state for
145 transportation purposes and a transportation facility has not

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146 been constructed for at least 5 years, plans have not been
147 prepared for the construction of such facility, and the property
148 is not located in a transportation corridor, the governmental
149 entity may authorize reconveyance of the donated property for no
150 consideration to the original donor or the donor's heirs,
151 successors, assigns, or representatives.

152 (b) If the property is to be used for a public purpose, the
153 property may be conveyed without consideration to a governmental
154 entity.

155 (c) If the property was originally acquired specifically to
156 provide replacement housing for persons displaced by
157 transportation projects, the department may negotiate for the
158 sale of such property as replacement housing. As compensation,
159 the state shall receive at least its investment in such property
160 or the department's current estimate of value, whichever is
161 lower. It is expressly intended that this benefit be extended
162 only to persons actually displaced by the project. Dispositions
163 to any other person must be for at least the department's
164 current estimate of value.

165 (d) If the department determines that the property requires
166 significant costs to be incurred or that continued ownership of
167 the property exposes the department to significant liability
168 risks, the department may use the projected maintenance costs
169 over the next 10 years to offset the property's value in
170 establishing a value for disposal of the property, even if that
171 value is zero.

172 (e) If, at the discretion of the department, a sale to a
173 person other than an abutting property owner would be
174 inequitable, the property may be sold to the abutting owner for

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175 the department's current estimate of value.

176 Section 5. Paragraph (d) of subsection (4) of section
177 380.06, Florida Statutes, is amended to read:

178 380.06 Developments of regional impact.—

179 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

180 (d) Any agreement entered into by the state land planning
181 agency, the developer, and the local government with respect to
182 an approved development of regional impact previously classified
183 as essentially built out, or any other official determination
184 that an approved development of regional impact is essentially
185 built out, remains valid unless it expired on or before April 6,
186 2018, and may be amended pursuant to the processes adopted by
187 the local government for amending development orders. Any such
188 agreement or amendment may authorize the developer to exchange
189 approved land uses, subject to demonstrating that the exchange
190 will not increase impacts to public facilities. This paragraph
191 applies to all such agreements and amendments effective on or
192 after April 6, 2018.

193 Section 6. The Legislature finds and declares that this act
194 fulfills an important state interest.

195 Section 7. This act shall take effect July 1, 2021.

NOTICE OF PUBLIC HEARING

Public Hearings on the proposed ordinance will be held in Council Chambers at Village Hall, 226 Cypress Lane, Palm Springs, Florida, on the following dates:

Local Planning Agency, Thursday, July 29, 2021 at 6:30 PM
Regular Council Meeting, Thursday, July 29, 2021 at 6:30 PM
Planning and Zoning Board, Tuesday, August 10, 2021 at 6:30 PM

ORDINANCE NO. 2021-07

AN ORDINANCE OF THE VILLAGE OF PALM SPRINGS, FLORIDA, AMENDING THE COMPREHENSIVE PLAN OF THE VILLAGE OF PALM SPRINGS, IN ACCORDANCE WITH THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT, AS AMENDED, BEING SECTIONS 163.3177, ET. SEQ., FLORIDA STATUTES, PROVIDING FOR THE AMENDMENT TO THE TEXT OF THE VILLAGE'S FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN TO CREATE THE "PROPERTY RIGHTS" SUB-ELEMENT, WHICH AMENDMENT IS MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR DIRECTIONS TO THE VILLAGE CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR OTHER PURPOSES.

The ordinance in the entirety may be inspected at the Office of the Village Clerk during Monday through Friday between 8:00 a.m. and 5:00 p.m. All interested parties may appear at the meeting and be heard with respect to the proposed ordinance at the public hearing.

If a person decides to appeal any decision made by the above Village Council with respect to any matter considered at such hearing, he or she will need a record of the proceedings, and for such purpose may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. Persons who need an accommodation in order to attend or participate in this meeting should contact the Village Clerk at 965-4010 at least 3 days prior to the meeting in order to request such assistance.

Kimberly M. Wynn, Village Clerk
PUBLISH: July 22, 2021