

ORDINANCE NO. 2021-19

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, FLORIDA AMENDING THE COMPREHENSIVE PLAN TO INCORPORATE A NEW PRIVATE PROPERTY RIGHTS ELEMENT; PROVIDING FOR INCORPORATION INTO THE COMPREHENSIVE PLAN; AND, PROVIDING FOR IMPLEMENTATION OF THE STATUTORY STATE REVIEW PROCESS AND AN EFFECTIVE DATE.

WHEREAS, Section 163.3167, Florida Statutes, requires the City of West Melbourne to maintain a comprehensive plan to guide its future development and growth; and

WHEREAS, the City of West Melbourne enacted its Comprehensive Plan in accordance with the controlling provisions of State law, which Comprehensive Plan has guided the City for many years; and

WHEREAS, the City of West Melbourne, Florida adopted the Horizon 2030 Comprehensive Plan in October 2010; and

WHEREAS, in 2021, the Florida legislature enacted Section 163.3177(6)(i)1., Florida Statutes, which requires the City of West Melbourne Comprehensive Plan to include a property rights element; and

WHEREAS, the City of West Melbourne respects judicially acknowledged and constitutionally protected private property rights; and

WHEREAS, this ordinance will amend the Comprehensive Plan by adding a property rights element.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of West Melbourne, Brevard County, Florida:

Section 1.

The City of West Melbourne Comprehensive Plan is amended by adding the property rights element attached hereto as EXHIBIT A and made a part of this ordinance as if set forth in full.

Section 2.

The Planning Director is hereby authorized and directed to implement the provisions of this Ordinance.

Section 3.

It is the intention of the City Council of the City of West Melbourne, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the codified version of the City's Comprehensive Plan.

Section 4.

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 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 by the City Council of the City of West Melbourne, Brevard County, Florida, this 5th day of October 2021.

ATTEST:

Cynthia Hanscom, City Clerk

Hal J. Rose, Mayor

Reviewed as to form and content:

Morris Richardson, City Attorney

1ST READING: August 17, 2021

2ND READING: October 5, 2021

Effective date: November 6, 2021



Private Property Rights Element

Background

In accordance with the requirements set forth in Florida Statutes § 163.3177(6)(i), this element ensures that private property rights are considered in the City's local decisionmaking.



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Private Property Rights Goal 1

Consider private property rights in local decisionmaking.

Objective 1: Private Property Rights Principles

Respect judicially acknowledged and constitutionally protected private property rights.

Policies

1.1 Property Interests

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

1.2 Property Usage, Maintenance, Development, and Improvement

The City shall consider in its decisionmaking 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.

1.3 Privacy and Exclusion

The City shall consider in its decisionmaking the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

1.4 Disposition of Property

The City shall consider in its decisionmaking the right of a property owner to dispose of his or her property through sale or gift.