Application for Amending the Text of the
Comprehensive Plan
Including changes to maps other than the Future Land Use Map

Text Amendments submitted by entities other than a department of Leon County or City of Tallahassee
government or the Local Planning Agency must be approved by the City or County Commission before
they are included in the Comprehensive Plan Amendment Cycle.

Please contact the Planning Department prior to the pre-application deadline of September 15, 2021 to
discuss this process.

Applicant Name: Tallahassee-Leon County Planning Department
Address: 435 N. Macomb St
Tallahassee, FL 32301
Telephone: (850) 891-6400
E-mail Address: Planning@talgov.com
Goals, Objectives, Policy Numbers or figures to be amended:
Property Rights Element

REQUIRED ATTACHMENTS
✓ Attachment 1: A strikethrough/underline version of any requested text changes.
N/A Attachment 2: Amended version of any requested changes to maps or figures.
✓ Attachment 3: Statement of the problem that is to be addressed by the requested
amendment and anticipated positive effects of the request on the community.

APPLICATION FEES
Text Amendments $1,500 plus actual cost of direct notice and legal advertising

APPLICATION DEADLINE: Friday, September 24, 2021 at 5:00 PM (EST)

Received by the Tallahassee-Leon County Planning Department
on the 21 day of May, 2021

[Signature of Staff]

[Signature of Applicant]
XII. Property Rights

Property Rights
GOALS, OBJECTIVES AND POLICIES

Goal 1: [PR]
Respect judicially acknowledged and constitutionally protected private property rights.

Objective 1.1: [PR]
Consider private property rights in local decision-making.

Policy 1.1.1: [PR]
The following rights shall be considered in local decision-making:

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 ordinances.
The proposed Property Rights Element attached addresses the 2021 legislative changes to Section 163.3177 resulting from House Bill 59.

These changes require all local governments to adopt a Property Rights Element into the local government comprehensive plan by the earlier of 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 pursuant to s. 163.3191.

The 2022 Comprehensive Plan Amendment Cycle is the next proposed plan amendment cycle after July 1, 2021.
An act relating to growth management; amending s. 163.3167, F.S.; specifying requirements for certain comprehensive plans effective, rather than adopted, after a specified date and for associated land development regulations; amending s. 163.3177, F.S.; requiring local governments to include a property rights element in their comprehensive plans; providing a statement of rights which a local government may use; requiring a local government to adopt a property rights element by the earlier of its adoption of its next proposed plan amendment initiated after a certain date or the next scheduled evaluation and appraisal of its comprehensive plan; prohibiting a local government's property rights element from conflicting with the statement of rights contained in the act; amending s. 163.3237, F.S.; providing that the consent of certain property owners is not required for development agreement changes under certain circumstances; providing an exception; amending s. 337.25, F.S.; requiring the Department of Transportation to afford a right of first refusal to certain individuals under specified circumstances; providing requirements and procedures for the right of first refusal; amending s. 380.06, F.S.; authorizing
certain developments of regional impact agreements to be amended under certain circumstances; providing retroactive applicability; providing a declaration of important state interest; providing an effective date.

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

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

163.3167 Scope of act.—

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

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

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

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following
elements:

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

The following rights shall be considered in local
decisionmaking:

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.
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.

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

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

2. Each local government must adopt a property rights element in its comprehensive plan by the earlier of 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 pursuant to s. 163.3191. If a local government adopts its own property rights element, the element may not conflict with the statement of rights provided in subparagraph 1.

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

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

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

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

(4) The department may convey, in the name of the state,
any land, building, or other property, real or personal, which
was acquired under subsection (1) and which the department has
determined is not needed for the construction, operation, and
maintenance of a transportation facility. When such a
determination has been made, property may be disposed of through
negotiations, sealed competitive bids, auctions, or any other
means the department deems to be in its best interest, with due
advertisement for property valued by the department at greater
than $10,000. A sale may not occur at a price less than the
department's current estimate of value, except as provided in
paragraphs (a)-(d). The department may afford a right of first
refusal to the local government or other political subdivision
in the jurisdiction in which the parcel is situated, except in a
conveyance transacted under paragraph (a), paragraph (c), or
paragraph (e). Notwithstanding any provision of this section to
the contrary, before any conveyance under this subsection may be
made, except a conveyance under paragraph (a) or paragraph (c),
the department shall first afford a right of first refusal to
the previous property owner for the department's current
estimate of value of the property. The right of first refusal
must be made in writing and sent to the previous owner via
certified mail or hand delivery, effective upon receipt. The
right of first refusal must provide the previous owner with a
minimum of 30 days to exercise the right in writing and must be
sent to the originator of the offer by certified mail or hand
delivery, effective upon dispatch. If the previous owner
exercises his or her right of first refusal, the previous owner
has a minimum of 90 days to close on the property. The right of
first refusal set forth in this subsection may not be required
for the disposal of property acquired more than 10 years before
the date of disposition by the department.

(a) If the property has been donated to the state for
transportation purposes and a transportation facility has not
been constructed for at least 5 years, plans have not been
prepared for the construction of such facility, and the property
is not located in a transportation corridor, the governmental
entity may authorize reconveyance of the donated property for no
consideration to the original donor or the donor's heirs, successors, assigns, or representatives.

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

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

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

(e) If, at the discretion of the department, a sale to a person other than an abutting property owner would be inequitable, the property may be sold to the abutting owner for...
the department's current estimate of value.

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

380.06 Developments of regional impact.—
(4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—
(d) Any agreement entered into by the state land planning
agency, the developer, and the local government with respect to
an approved development of regional impact previously classified
as essentially built out, or any other official determination
that an approved development of regional impact is essentially
built out, remains valid unless it expired on or before April 6,
2018, and may be amended pursuant to the processes adopted by
the local government for amending development orders. Any such
agreement or amendment may authorize the developer to exchange
approved land uses, subject to demonstrating that the exchange
will not increase impacts to public facilities. This paragraph
applies to all such agreements and amendments effective on or
after April 6, 2018.

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

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