



# City of North Miami Beach, Florida

## Community Development Department

17050 NE 19<sup>TH</sup> AVENUE, 1<sup>ST</sup> FLOOR  
NORTH MIAMI BEACH, FLORIDA 33162  
PLANNING & ZONING DIVISION: (305) 354-4456

### PLANNING & ZONING BOARD

#### Text Amendment

Meeting: July 11, 2022

File No: 22-18

Application Name: Property Rights Element

#### **Request:**

For the Planning & Zoning Board to provide a recommendation to the City Commission to amend the City of North Miami Beach Comprehensive Plan to add a Property Rights Element as required by and in conformity with Section 163.3177(6)(i), of the Florida Statutes (2021).

#### **Background:**

During the 2021 Legislative Session, the Florida Legislature adopted changes to Chapter 163, Section 163.3177 – entitled "Required and optional elements of comprehensive plan; studies and surveys." This change created Subsection 163.3177 (6)(i) which requires that governmental entities respect judicially acknowledged and constitutionally protected private property rights. The bill was signed into law by the governor on June 29, 2021.

As part of this requirement, a new Property Rights Element must be incorporated into the City of North Miami Beach's Comprehensive Plan.

Pursuant to Ord. Section 24-179 (A)(5), **The Planning & Zoning Board** shall review and make advisory recommendations to the City Commission on all changes to the Zoning and Land Development Code.

#### **Staff Analysis:**

The proposed wording in the new Element, which meets the statutory requirements, is as follows:

#### **Property Right's Element:**

**Goal:** Consider the rights of property owners in all local decision-making.

#### **Objectives and Policies:**

**Objective 1** - Apply rules, ordinances, and regulations with sensitivity for private property rights.

**Policy 1.1:** In local decision-making, the City of North Miami Beach shall consider 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:** In local decision-making, the City of North Miami Beach shall consider 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:** In local decision-making, the City of North Miami Beach shall consider 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:** In local decision-making, the City of North Miami Beach shall consider the right of a property owner to dispose of his or her property through sale or gift.

**Project Planner:**  
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**Review Dates:**  
**Planning & Zoning Board:**  
July 11, 2022

**City Commission:**  
September 21, 2022

**Attachments**  
1. Draft Ordinance  
2. Florida Statute



- After the first reading by the Commission the proposed amendments to the Comprehensive Plan adding the Property Rights Element will be transmitted to the Florida Department of Economic Opportunity (DEO) and other review agencies. Once agency reviews are completed the item will be scheduled for a second reading (adoption).

**Optional Board Motions for Action Items:**

1. **Move to continue** with direction.
2. **Move approval** to add a Property Rights Element to the City of North Miami Beach Comprehensive Plan, by finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in the Zoning and Land Development Regulations.
3. **Move denial** to add a Property Rights Element to the City of North Miami Beach Comprehensive Plan, by finding that the request is inconsistent with the Comprehensive Plan and does not meet criteria set forth in the Zoning and Land Development Regulations.