

PRIVATE PROPERTY RIGHTS ELEMENT



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**Private Property Rights Element
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Private Property Rights Element

Introduction

In 2021, Florida legislature amended the Community Planning Act to require every city and county “to include in its comprehensive plan a property rights element.” Florida Statutes (F.S.) § 163.3177(6)(i)1. (2021). Each city or county must adopt this new element “by the earlier of the date of its adoption 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.” F.S. § 163.3177(6)(i)2. (2021).

Florida law recognizes the due process rights of people who are parties to many local government land use decisions. See *Brevard County. v. Snyder*, 627 So. 2d 469 (Fla. 1993) and *Jennings v. Dade County.*, 589 So. 2d 1337 (Fla. 3d DCA 1991). Due process rights are rights to have government make decisions in a certain way when those decisions affect other rights, like the right to property. The Fifth Amendment of the United States Constitution states that no one shall be “deprived of life, liberty or property without due process of law.”

Courts have recognized due process rights in Florida land use hearings including the right to receive notice, the right to be heard, the right to present or rebut evidence, and the right to be informed of all facts on which a local government bases its decision. People have the right to participate in planning and development decisions that affect their lives and property.

Municipal Processes

The City of Crystal River recognizes that a person cannot participate in decisions about which they are unaware. People rely on this comprehensive plan and on the zoning designations of properties when deciding how to use property. When amending this comprehensive plan or changes affecting the zoning designation on the official zoning map for the City, the Land Development Code includes processes and standards providing for due process consistent with the minimum requirements of Chapter 163, Part II - *Growth Policy; County and Municipal Planning; Land Development*, of the F. S. public hearings and the advertising and mail noticing requirements of Section 166.041 *Procedures for adoption of ordinances and resolutions*, F.S.

The public hearing process provides that any affected person may participate in and be a party to a hearing on a planning or land use/zoning decisions that affect this comprehensive plan and the land development code. Planning and development decisions must be made in response to true and accurate information. In all decisions, the City will provide every affected person an equal opportunity to be heard, to present and rebut evidence, and to be informed of all information on which the City bases its decision. The City will not grant any affected person a greater opportunity to be heard than another affected person, and utilizes quasi-judicial proceedings to ensure due process for citizens and applicants during public hearings. The Crystal River Land Development Code provides criteria for notice and advertising requirements, and the City remains adherent to statutory public notice standards.

Private Property Rights Element
Goals, Objectives and Policies

GOAL 1: To establish and utilize a Private Property Rights Element in compliance with Florida Statutes.

OBJECTIVE 1.1: To ensure that private property rights are considered in local decision making, complying with Florida Statutes.

POLICIES:

- A) The City will 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.
- B) The City will 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 including but not limited to the Crystal River Comprehensive Plan and Land Development Code.
- C) The City will consider the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property in accordance with Florida law.
- D) The City will consider the right of a property owner to dispose of his or her property through sale or gift.