

ORDINANCE NO. 22-5420

AN ORDINANCE OF THE CITY OF SARASOTA, FLORIDA, AMENDING THE COMPREHENSIVE PLAN OF THE CITY OF SARASOTA [THE *SARASOTA CITY PLAN (2030)*], TO, AS REQUIRED BY FLORIDA STATUTE, ADD A NEW PROPERTY RIGHTS CHAPTER TO THE *SARASOTA CITY PLAN (2030)*; REPEALING ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY OF THE PARTS HEREOF; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on December 1, 2008, the City of Sarasota, by the adoption of Ordinance No. 08-4792 adopted a new Comprehensive Plan known as the *Sarasota City Plan (2030)*; and,

WHEREAS, the City of Sarasota, through David L. Smith, AICP, Manager of Long-Range Planning, has filed Application No. 22-PA-02 to amend the Comprehensive Plan of the City of Sarasota [the *Sarasota City Plan (2030)*]; and

WHEREAS, Application No. 22-PA-02 proposes to, as required by Florida Statutes, add a new Property Rights Chapter to the *Sarasota City Plan (2030)*; and

WHEREAS, the City of Sarasota Planning Board/Local Planning Agency held a transmittal stage public hearing on proposed Comprehensive Plan Amendment Application No. 22-PA-02 on January 12, 2022 and recommended to the City Commission that the Amendment be transmitted to the Reviewing Agencies as defined in Section 163.3184(1)(c), Florida Statutes, and thereafter adopted by the City Commission; and

WHEREAS, a second transmittal stage public hearing on proposed Comprehensive Plan Amendment No. 22-PA-02 was held by the City Commission on March 7, 2022 at which time the City Commission adopted Resolution No. 22R-3077 authorizing transmittal of Comprehensive Plan Amendment Application No. 22-PA-02 to the Reviewing Agencies in accordance with Section 163.3184 (3), Florida Statutes; and

WHEREAS, the Planning Department has received non-substantive comments from the Reviewing Agencies and has not modified Application No. 22-PA-02; and

WHEREAS, in accordance with Section IV-1404 (b)(2) Zoning Code (2002 edition), the Planning Board did not hold an adoption stage public hearing on proposed Comprehensive Plan Amendment Application No. 22-PA-02 because the Planning Director was able to determine that there were no substantive comments from the Reviewing Agencies; and

WHEREAS, in accordance with Section IV-1405 (b)(2), Zoning Code (2002 edition), the City Commission held an adoption stage public hearing on July 5, 2022 to receive public

comment on the proposed amendment and to consider the recommendations of the Planning Board/Local Planning Agency and the Planning Department staff regarding the proposed amendment.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA, FLORIDA:

Section 1. Adoption of Amendment to Comprehensive Plan. The City Commission hereby approves an amendment to the *Sarasota City Plan (2030)*. There is hereby added to the *Sarasota City Plan (2030)* a new Property Rights Chapter. Attached hereto and incorporated by reference herein as Exhibit A is the proposed Property Rights Chapter and Support Document.

Section 2: Repeal of Ordinances in Conflict. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed, but only to the extent of such conflict.

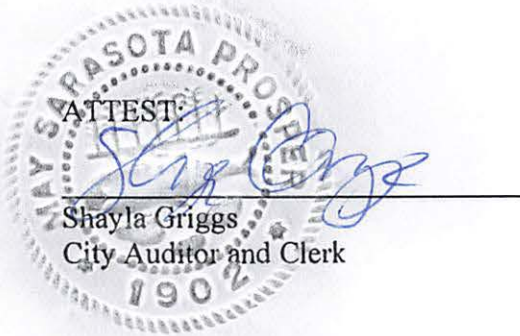
Section 3: Severability. It is hereby declared to be the intention of the City Commission that the sections, paragraphs, sentences, clauses and phrases of this ordinance shall be deemed severable, and if any phrase, clause, sentence, paragraph or section of this ordinance is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 4. Effective Date. The effective date of this Comprehensive Plan Amendment, if the Amendment is not timely challenged, shall be thirty-one (31) days after the State Land Planning Agency notifies the City of Sarasota that the Plan Amendment package is complete. If timely challenged, this Comprehensive Plan Amendment shall become effective on the date the State Land Planning Agency or the Administration Commission enters a final order determining this adopted Comprehensive Plan Amendment to be in compliance. No development orders, development permits, or land uses dependent upon this Comprehensive Plan Amendment may be issued or commenced before it has become effective. If a final order of

non-compliance is issued by the Administration Commission, this Comprehensive Plan Amendment may nevertheless be made effective by adoption of a Resolution affirming its effective status, a copy of which Resolution shall be sent to the State Land Planning Agency.

PASSED on first reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to first reading, as authorized by Article IV, Section 2, Charter of the City of Sarasota, Florida this 5th day of July, 2022

PASSED on second reading and finally adopted this 18th day of July, 2022.



Erik Arroyo, Mayor

- Yes Mayor Erik Arroyo
- Yes Vice Mayor Kyle Scott Battie
- Yes Commissioner Jen Ahearn-Koch
- Yes Commissioner Liz Alpert
- No Commissioner Hagen Brody



*The
Property Rights
Chapter*

Sarasota City Plan

and

Support Document

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The Property Rights Plan

INTENT AND PURPOSE

The purpose of Property Rights Plan is to respect judicially acknowledged and constitutionally protected private property rights. The foundation for this Chapter is the **City of Sarasota Strategic Plan** and Florida statutory requirements.

Sarasota's Strategic Plan Vision

In 2016, the City Commission adopted "The City of Sarasota Strategic Plan", which provides our vision:

"A world-class community and treasured destination, with enduring natural beauty, charm, and diversity."

To achieve this vision the City's mission is to provide high-quality services to our residents, businesses, and visitors, while safeguarding our natural resources and building a prosperous community.

It is the intent of the Property Rights Plan to pursue actions that further the **The City Sarasota Strategic Plan**.

Florida Statutory Requirements

The Property Rights Chapter is intended to meet the requirements as outlined in Subsection 163.3177 (6) (i) 1, Florida Statutes.

Organization of the Property Rights Plan

The Property Rights Plan consists of a goal followed by an objective and action strategies pursuant to the goal.

The Property Rights Plan is organized around one objective addressing:

Objective 1. Private Property Rights.

The Property Rights Plan is one of the twelve plans which collectively represent the Sarasota City Plan. This Plan can neither stand alone nor be interpreted independent of the others.

Implementation of the Sarasota City Plan

Implementation of the Sarasota City Plan will require actions by both the public and private sectors. In this regard many of the plan components speak to “the City” pursuing certain actions to:

promote, provide, consider, identify, enhance, create, maintain, conserve, support, reduce discourage, coordinate, and employ.

While these actions may be initiated by City government itself, City government will also be expecting applicants seeking development approvals to pursue these same type of actions as part of their applications.

GOAL, OBJECTIVE AND ACTION STRATEGIES

Goal

The City recognizes and shall respect judicially acknowledged and constitutionally protected private property rights.

Objective 1 – Private Property Rights

The City shall consider private property rights in decision making as provided by the following Action Strategies.

Action Strategies

- 1.1 The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
- 1.2 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.
- 1.3 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 The right of a property owner to dispose of his or her property through sale or gift.
- 1.5 The right to due process.
- 1.6 The right to just compensation for property taken for a public purpose.
- 1.7 The right to relief, or payment of compensation, when a law, rule, regulation, or ordinance unfairly affects an owner's property.

The Property Rights Support Document

The inventory and analysis in the Support Document provide the foundation for the Plan portion of this Chapter.

The Support Document is not adopted.

INVENTORY AND ANALYSIS

Overview of Private Property Rights in Florida

House Bill 59. During the 2021 Florida legislative session, House Bill 59 was passed and signed into law by the governor on June 29, 2021. House Bill 59 requires that local governments consider private property rights when regulating land and for each local government to adopt a property rights element into its comprehensive plan. The bill provides a model statement of property rights a local government may adopt to satisfy the requirement. Alternatively, a local government may adopt a distinct property rights element as long as it does not conflict with the model statement. Those model statements from the Florida Statutes, as well as statements contained in the Property Owner Bill of Rights (noted below), have been adopted as action strategies in the Plan section of this chapter. The bill directs local governments to adopt this element by the earlier of its next proposed plan amendment initiated after July 1, 2021, or the date of its next comprehensive plan evaluation, as required by s. 163.3191, Florida Statutes.

Bill of Rights. The Florida Statutes also includes a property owner's bill of rights in Section 70.002. The bill of rights lists property owner's rights and protections as:

1. The right to acquire, possess, and protect your property.
2. The right to use and enjoy your property.
3. The right to exclude others from your property.
4. The right to dispose of your property.
5. The right to due process.
6. The right to just compensation for property taken for a public purpose.
7. The right to relief, or payment of compensation, when a new law, rule, regulation, or ordinance of the state or a political entity unfairly affects your property.

Bert J. Harris Jr. Private Property Rights Protection Act. Florida law places a high value on the civil rights of property ownership as evidenced by the passage of House Bill 59 and the Bill of Rights noted above. The state also previously enacted the Bert J. Harris Jr. Private Property Rights Protection Act in 1995. The Harris Act, located in Section 70.001, Florida Statutes, provides specific processes for landowners to seek relief when they perceive their property rights may be inordinately burdened, restricted, or limited by government action without amounting to a taking under the State Constitution or the United States Constitution. Therefore, the Harris Act can provide for relief, or payment of compensation, when a new law, rule, regulation, or ordinance of the state or a political entity in the state inordinately burdens an existing use of real property or a vested right to a specific use of real property.

Riparian Rights. Additionally, the Florida Statutes defines riparian rights as those rights incident to land bordering upon navigable waters. They are rights of ingress, egress, boating, bathing, and fishing and such others as may be or have been defined by law and are not of a proprietary nature. The land to which an owner holds title must extend to the ordinary high watermark of the navigable water in order for riparian rights to be attached. Riparian rights are defined in Section 253.141 of the Florida Statutes.