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**VILLAGE OF ESTERO, FLORIDA**

**ORDINANCE NO. 2022 - 06**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, ADOPTING AN AMENDMENT TO THE VILLAGE OF ESTERO COMPREHENSIVE PLAN TO ADD A PROPERTY RIGHTS ELEMENT TO THE TEXT AS PROVIDED IN EXHIBIT “A” AND MADE A PART HEREOF; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND OTHERS AS REQUIRED BY STATE STATUTE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Village Comprehensive Plan became effective on November 21, 2019; and

**WHEREAS**, Section 163.3167, Florida Statutes, requires the Village to maintain a comprehensive plan to guide its future development and growth; and

**WHEREAS**, Section 163.3177(6)(i)1., Florida Statutes, requires the Village to adopt and include a property rights element in its comprehensive plan; and

**WHEREAS**, the Village respects and acknowledges constitutionally protected private property rights, and

**WHEREAS**, the Village respects the rights of all people to participate in land use planning processes; and

**WHEREAS**, this ordinance will amend the comprehensive plan by adding a property rights element (the “Comprehensive Plan Amendment”);

**WHEREAS**, the Village Planning, Zoning, and Design Board, at a duly noticed public hearing held on June 14, 2022 recommended that the aforesaid Comprehensive Plan Amendment be approved; and

**WHEREAS**, the Village Council, at a duly noticed meeting, held a first reading and public hearing on this Ordinance on July 6, 2022, considered the recommendation of the Village Planning, Zoning, and Design Board and the comments of the public, and voted to transmit the Comprehensive Plan Amendment to the State Land Planning Agency and other review agencies as provided in Section 163.3184, Florida Statutes; and

45           **NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero,  
46 Florida:

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48           **Section 1. Recitals.**

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50           The foregoing “Whereas” clauses are hereby ratified and incorporated as a part of this  
51 Ordinance.

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53           **Section 2. Adoption of the Comprehensive Plan Amendment for Transmittal.**

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55           The Village Council adopts on first reading the Comprehensive Plan Amendment,  
56 which is Exhibit “A” and incorporated and made a part of this Ordinance, for purposes of  
57 transmittal to the State Land Planning Agency and other commenting agencies as provided by  
58 Section 163.3184(4)(e), Florida Statutes.

59  
60           **Section 3. Transmittal.**

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62           The Village Manager or his designee shall transmit the Amendment as required by  
63 statute to the State Land Planning Agency and other reviewing agencies as provided by Section  
64 163.3184, Florida Statutes.

65  
66           **Section 4. Severability.**

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68           If any provision of this Ordinance or its application to any person or circumstance is  
69 held invalid, the invalidity does not affect other provisions or applications of this Ordinance  
70 which can be given effect without the invalid provision or application, and to this end the  
71 provisions of this Ordinance are severable.

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73           **Section 5. Conflict.**

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75           All ordinances, resolutions, official determinations or parts thereof previously adopted  
76 or entered by the Village or any of its officials and in conflict with this Ordinance are hereby  
77 repealed to the extent inconsistent herewith.

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79           **Section 6. Effective Date.**

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81           This ordinance shall take effect upon adoption at second reading, except that the  
82 effective date of the Comprehensive Plan Amendment shall be effective thirty-one (31) days  
83 after the State Land Planning Agency notifies the Village that the plan amendment package is  
84 complete or, if timely challenged, thirty-one (31) days after the state Land Planning Agency,  
85 or the Administration Commission enters a final order determining the adopted Plan  
86 Amendment to be in compliance.

89 **PASSED** on first reading this 6th day of July, 2022.

90

91 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,

92 Florida this \_\_\_\_ day of \_\_\_\_\_, 2022.

93

94 Attest: **VILLAGE OF ESTERO, FLORIDA**

95

96

97 By: \_\_\_\_\_ By: \_\_\_\_\_

98 Carol Sacco, Village Clerk

Katy Errington, Mayor

99

100

101 Reviewed for legal sufficiency:

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103

104 By: \_\_\_\_\_

105 Nancy Stroud, Esq., Village Land Use Attorney

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110 Vote: AYE NAY

111 Mayor Errington \_\_\_\_\_

112 Vice Mayor McLain \_\_\_\_\_

113 Councilmember Ribble \_\_\_\_\_

114 Councilmember Fiesel \_\_\_\_\_

115 Councilmember Boesch \_\_\_\_\_

116 Councilmember Ward \_\_\_\_\_

117 Councilmember Wilson \_\_\_\_\_

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120 Exhibit A: Property Rights Element

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134 EXHIBIT A

135 PROPERTY RIGHTS ELEMENT

136 PROPERTY RIGHTS ELEMENT (PRE - 1)

137 PRE – 1.1

138 Goal: In accordance with §163.3177(6)(i), Florida Statutes, property rights will be considered in local

139 decision making.

140 Policies PRE – 1.1.1

- 141 A. The right of property owner to physically possess and control his or her interests in the property,
- 142 including easements, leases, or mineral rights.
- 143
- 144 B. The right of a property owner to use, maintain, develop, and improve his or her property for
- 145 personal use or for the use of any other person.
- 146
- 147 C. The right of the property owner to privacy and to exclude others from the property to protect
- 148 the owner’s possessions and property, subject to State law and local ordinances.
- 149
- 150 D. The right of property owner to dispose of his or her property through sale or gift.

151 PRE - 1.2

152 Goal: Respect people’s rights to participate in decisions that affect their lives and property.

153 Policies PRE - 1.2.1

- 154 A. The right of property owners to be notified of land development applications that may impact
- 155 their property.
- 156
- 157 B. The right of affected persons to participate in the public hearing process on land development
- 158 applications.

159 The comprehensive plan contains existing language regarding public participation, which is one of the

160 components of property rights and is directly related to policies PRE - 1.2.1 A and B, as proposed.

161 “Public Participation has been a strength of Estero, even before its incorporation. The emphasis

162 remains on the importance of an inclusive, informative community planning process.”