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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

44 WHEREAS, the Village transmitted the Comprehensive Plan Amendment to State
45 Planning Agency and other state agencies which completed their reviews pursuant to Section
46 163.3184, Florida Statutes; and

47
48 WHEREAS, the Village Council, at a duly noticed meeting, held a second reading and
49 public hearing on this Ordinance on September 21, 2022, considered the comments of the
50 public and the review agencies.

51
52 **NOW, THEREFORE,** be it ordained by the Village Council of the Village of Estero,
53 Florida:

54
55 **Section 1. Recitals.**

56
57 The foregoing “Whereas” clauses are hereby ratified and incorporated as a part of this
58 Ordinance.

59
60 **Section 2. Adoption of the Comprehensive Plan Amendment for Transmittal.**

61
62 The Village Council adopts the Comprehensive Plan Amendment, which is Exhibit
63 “A” and incorporated and made a part of this Ordinance.

64
65 **Section 3. Transmittal.**

66
67 The Village Manager or his designee shall transmit the adopted Comprehensive Plan
68 Amendment as required by statute to the State Land Planning Agency and any reviewing
69 agencies that provided timely comments as provided by Section 163.3184, Florida Statutes.

70
71 **Section 4. Severability.**

72
73 If any provision of this Ordinance or its application to any person or circumstance is
74 held invalid, the invalidity does not affect other provisions or applications of this Ordinance
75 which can be given effect without the invalid provision or application, and to this end the
76 provisions of this Ordinance are severable.

77
78 **Section 5. Conflict.**

79
80 All ordinances, resolutions, official determinations or parts thereof previously adopted
81 or entered by the Village or any of its officials and in conflict with this Ordinance are hereby
82 repealed to the extent inconsistent herewith.

83
84
85 **Section 6. Effective Date.**

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

93
94 **PASSED** on first reading this 6th day of July, 2022.

95
96 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,
97 Florida this ____ day of _____, 2022.

98
99 Attest: **VILLAGE OF ESTERO, FLORIDA**

100
101
102 By: _____ By: _____
103 Carol Sacco, Village Clerk Katy Errington, Mayor

104
105
106 Reviewed for legal sufficiency:

107
108
109 By: _____
110 Nancy Stroud, Esq., Village Land Use Attorney

111
112
113
114
115 Vote: AYE NAY
116 Mayor Errington _____
117 Vice Mayor McLain _____
118 Councilmember Ribble _____
119 Councilmember Fiesel _____
120 Councilmember Boesch _____
121 Councilmember Ward _____
122 Councilmember Wilson _____

123
124
125 Exhibit A: Property Rights Element

126 EXHIBIT A

127 PROPERTY RIGHTS ELEMENT

128
129
130 PROPERTY RIGHTS ELEMENT (PRE - 1)

131
132 PRE – 1.1

133 Goal: In accordance with §163.3177(6)(i), Florida Statutes, property rights will be considered
134 in local decision making.

135
136 Policies PRE – 1.1.1

- 137 A. The right of property owner to physically possess and control his or her interests in the
138 property, including easements, leases, or mineral rights.
139
140 B. The right of a property owner to use, maintain, develop, and improve his or her property
141 for personal use or for the use of any other person.
142
143 C. The right of the property owner to privacy and to exclude others from the property to
144 protect the owner’s possessions and property, subject to State law and local ordinances.
145
146 D. The right of property owner to dispose of his or her property through sale or gift.

147
148 PRE - 1.2

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

150
151 Policies PRE - 1.2.1

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