

**ORDINANCE NO. 22-02**

**AN ORDINANCE OF THE ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CREATING A NEW COMPREHENSIVE PLAN ELEMENT ENTITLED, "CHAPTER 11: PROPERTY RIGHTS ELEMENT"; ESTABLISHING GOAL 11-1, OBJECTIVE 11-1.1, AND POLICIES 11-1.1.1-11-1.1.4 IN ACCORDANCE WITH SECTION 163.3177(6)(I), FLORIDA STATUTES; PROVIDING FOR TRANSMITTAL TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.**

**WHEREAS**, the Comprehensive Plan of Islamorada, Village of Islands (the "Village"), became effective on December 6, 2001; and

**WHEREAS**, in order to fulfill legislative requirements and remain consistent with State, regional and county plans, the Village's Comprehensive Plan must be updated from time to time; and

**WHEREAS**, the State of Florida recently adopted Chapter 2021-195, Laws of Florida, thereby requiring that any local government Comprehensive Plan amendments initiated after July 1, 2021, must be accompanied by an amendment to create a Property Rights element; and

**WHEREAS**, the stated intent of this new legislation is "...to respect judicially acknowledged and constitutionally protected private property rights" and "... to ensure that private property rights are considered in local decision making"; and

**WHEREAS**, pursuant to Chapter 163, Part II, Florida Statutes, the Village proposes to amend the Village's Comprehensive Plan to adopt the required property rights element; and

**WHEREAS**, the Village Council finds that it is necessary to amend the Comprehensive Plan to include an Eleventh Chapter or Element entitled, "Chapter 11: Property Rights" as well as "Objective 11-1.1" and "Policies 11-1.1.1 through 11-1.1.4" therein; and

**WHEREAS**, the Village Local Planning Agency ("LPA") held a noticed public hearing on November 15, 2021, to consider the proposed ordinance and receive public input thereupon; and

**WHEREAS**, the Village Council has determined that the proposed amendment is consistent with the Comprehensive Plan; is in conformance with all applicable requirements of the Village Code of Ordinances; is not stimulated by changed conditions after the effective date of the Comprehensive Plan; will promote land use compatibility; will not negatively affect property values in the area or general welfare; and is not in conflict with public interest; and

**WHEREAS**, the Village Council has determined that the provisions of this Ordinance are intended to carry out the purpose and intent of, and exercise the authority set out in, the Community Planning Act.

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are true and correct and incorporated herein by this reference.

**Section 2. Adoption of Property Rights Element.** The Comprehensive Plan is hereby amended to add an eleventh chapter or element entitled "Property Rights Element" as follows:

**CHAPTER 11: PROPERTY RIGHTS ELEMENT**

**Goal 11-1:** The Village of Islamorada will make planning and development decisions with respect for property rights and with respect for people's rights to participate in decisions that affect their lives and property.

**Objective 11-1.1:** The Village will respect judicially acknowledged and constitutionally protected private property rights. The following rights shall be considered in the Village's decision-making:

**Policy 11-1.1.1:** The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

**Policy 11-1.1.2:** 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.

**Policy 11-1.1.3:** The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

**Policy 11-1.1.4:** The right of a property owner to dispose of his or her property through sale or gift.

**Section 3. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 4. Repeal of Conflicting Provisions.** The provisions of the Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**Section 5. Inclusion in the Code.** It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become a part of the Code; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 6. Effective Date.** This Ordinance shall not become effective until a Notice of Intent has been issued by DEO finding the Comprehensive Plan Amendment to be in compliance as defined in Section 163.3184(1)(b), Florida Statutes. If timely challenged, the Comprehensive Plan Amendment shall not become effective until DEO or the Administration Commission enters a final order determining that the adopted Comprehensive Plan Amendments to be in compliance.

The foregoing Ordinance was offered by Councilman David Webb, who moved its passage on first reading. This motion was seconded by Councilman Joseph B. Pinder III, and upon being put to a vote, the vote was as follows:

|                                 |     |
|---------------------------------|-----|
| Mayor Pete Bacheler             | YES |
| Vice Mayor Henry Rosenthal      | YES |
| Councilman Mark Gregg           | YES |
| Councilman Joseph B. Pinder III | YES |
| Councilman David Webb           | YES |

The foregoing Ordinance was offered by Councilman Mark Gregg, who moved its passage and adoption on second reading. This motion was seconded by Councilman David Webb, and upon being put to a vote, the vote was as follows:

|                                 |     |
|---------------------------------|-----|
| Mayor Pete Bacheler             | YES |
| Vice-Mayor Henry Rosenthal      | YES |
| Councilman Mark Gregg           | YES |
| Councilman Joseph B. Pinder III | YES |
| Councilman David Webb           | YES |

**PASSED AND ADOPTED** on second reading this 23<sup>rd</sup> day of June, 2022.

  
PETER BACHELER, MAYOR

ATTEST:

  
STEPHANIE CONDE, DEPUTY VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY  
FOR THE USE AND BENEFIT OF ISLAMORADA,  
VILLAGE OF ISLANDS ONLY

  
JOHN QUICK, ACTING VILLAGE ATTORNEY