

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, to create a new Comprehensive Plan Element entitled, "Chapter 10, Property Rights Element", and Goal 10-1, Objective 10-1.1, and Policies 10-1.1.1- 10-1.1.4 to comply with State of Florida Statutes Section 163.3177(6)(i)1.; Providing for transmittal to the State Land Planning Agency; Providing for filing with the Secretary of State; Providing for severability; Providing for repeal of inconsistent provisions; Providing for an effective date; and providing for inclusion into the City of Key West Comprehensive Plan.

WHEREAS, the City of Key West finds that it is necessary to amend the Comprehensive Plan to include a tenth chapter or element entitled, "Chapter 10: - Property Rights" and "Objective 10-1.1" and Policies 10-1.1.1 through 10-1.1.4.

WHEREAS, the City's Comprehensive Plan has been developed in response to the requirements of the State of Florida Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, Florida Statutes); and

WHEREAS, in order for the City's Comprehensive Plan to remain consistent with State, Regional and County plans, and fulfill legislative requirements the Comprehensive Plan must be updated from time to time; and

WHEREAS, the State recently adopted State of Florida Statutes

Section 163.3177(6)(i)2. (Chapter 2021-195, Laws of Florida) 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 decisionmaking.”; and

WHEREAS, the planning board held a noticed public hearing on August 19, 2021, where based on the consideration of recommendations by the city planner, city attorney and other information, the board recommended approval of the proposed amendments through Planning Board Resolution 2021-40; and

WHEREAS, the City has prepared an amendment to the Comprehensive Plan that considers the recommendations by staff, the public, and the Planning Board; and

WHEREAS, the City Commission has determined that the proposed amendment is consistent with the Comprehensive Plan; is in conformance with all applicable requirements of the 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, these amendments to the City of Key West's Comprehensive Plan will promote the health, safety and welfare of the citizens and visitors of the City of Key West.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST,
FLORIDA:

Section 1: That the Comprehensive Plan is hereby amended as follows to add a tenth chapter or element:

Chapter 10: - Property Rights Element

Goal 10-1: - The City of Key West 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 10-1.1. - The City of Key West will respect judicially acknowledged and constitutionally protected private property rights.

Policy 10-1.1.1 - The City of Key West will consider in its decision-making 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 10-1.1.2 - The City of Key West will consider in its decision-making the right of a property owner to 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 10-1.1.3 - The City of Key West will consider in its

decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

Policy 10-1.1.4 - The City of Key west will consider in its decision-making the right of a property owner to dispose of his or her property through the sale or gift.

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission and approval by the Florida Department of Economic Opportunity, pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held
this _____ day of _____, 2021.

Read and passed on final reading at a regular meeting held
this _____ day of _____, 2021.

Authenticated by the presiding officer and Clerk of the
Commission on _____ day of _____, 2021.

Filed with the Clerk _____, 2021.

Mayor Teri Johnston	_____
Vice Mayor Sam Kaufman	_____
Commissioner Gregory Davila	_____
Commissioner Mary Lou Hoover	_____
Commissioner Clayton Lopez	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

TERI JOHNSTON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK