

VILLAGE HALL
500 NE 87TH ST
EL PORTAL, FL 33138
DAVID A. ROSEMOND
VILLAGE MANAGER



MAYOR CLAUDIA V. CUBILLOS
VICE MAYOR OMARR C. NICKERSON
COUNCILPERSON HAROLD E. MATHIS, JR.
COUNCILPERSON AUBREY BRUNSON
COUNCILPERSON ROXANNE ISAACS

Regular Village Council Meeting
Tuesday, January 24, 2017
Agenda
7:00 PM

Statement of Decorum

Any person making a racial or slanderous remark or who becomes boisterous while addressing the Village Council, Staff, etc. shall be barred from the audience by the presiding officer. No profanity, shouting, heckling, verbal outbursts or disruptive behavior in support of or opposition to a speaker or his/her remarks is permitted. No signs or placards shall be allowed in the Village Hall. Person exiting the Village Hall shall do so quietly.

“Pursuant to Florida Statutes, Chapter 286.0105: If a person decided to appeal any decision made by the Board, Agency or Committee with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.”

- A. **CALL TO ORDER**.....Mayor Claudia V. Cubillos, Presiding
- B. **SILENT MEDITATION & PLEDGE**.....Salute American Flag in Unison
- C. **ROLL CALL**.....Yenise Jacobi, Village Clerk
- D. **APPROVAL OF AGENDA**
- E. **APPROVAL OF MINUTES FOR THE FOLLOWING MEETING(S):**
 - E1. Approval of the Minutes for November 15, 2016
 - E2. Approval of the Minutes for December 20, 2016
- F. **ACKNOWLEDGMENT OF VISITORS AND/OR SPECIAL PRESENTATIONS:**
 - F1. **Swearing-in of two police officers (Joel Newman & Jose Benitez)**
- G. **GOOD AND WELFARE**

(Note: This section of the agenda is reserved in the spirit of a representative democracy “of, by, and for the people” and is specifically provided as a mechanism for the input and solutions on matters of concern of Villagers. We request that comments be limited to **3 MINUTES PER PERSON**, and that speakers and the audience maintain proper decorum at-large.
The speaker should keep to only issues on the agenda.)
- H. **AGENDA ITEM:**

**Regular Council Meeting
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I. RESOLUTIONS / ORDINANCES:

- I1. ORDINANCE NO. 2017-02** **First Reading**
FORM BASED CODE

AN ORDINANCE OF THE VILLAGE OF EL PORTAL, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 24 IN ORDER TO ADOPT A FORM-BASED CODE; ADOPTING A NEW ZONING MAP; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICTS, REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

- I2. ORDINANCE NO. 2016-08** **Second Reading**
CONVERSION THERAPY

AN ORDINANCE OF THE VILLAGE OF EL PORTAL, FLORIDA, TO CREATE A NEW CHAPTER IN THE VILLAGE OF EL PORTAL CODE OF ORDINANCES TO PROHIBIT WITHIN THE GEOGRAPHIC BOUNDARIES OF THE VILLAGE OF EL PORTAL THE USE OF SEXUAL ORIENTATION OR GENDER IDENTITY CHANGE EFFORTS WITH MINORS, INCLUDING REPARATIVE AND CONVERSION THERAPY; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE

J. REPORTS OF THE VILLAGE MANAGER, MAYOR & COMMITTEE CHAIRS:

- J1. Village Mayor Reports - Mayor Claudia V. Cubillos**
- J2. Village Manager Reports – Manager David Rosemond**
- J3. Committee Chair Remarks -**
- a. Public Affairs**
Chairperson Omarr Nickerson
 - b. Public Works**
Chairperson Werner Dreher
 - c. Public Safety**
Chairperson Claudia V. Cubillos
 - d. Code Enforcement Committee**
Chairperson Vimari Roman

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- e. **Planning & Zoning**
Chairperson Claudia V. Cubillos
- f. **Administration & Finance**
Chairperson Harold Mathis, Jr.

J4. Village Attorney Reports - Attorney Joseph Geller

K. UNFINISHED BUSINESS AND GENERAL ORDERS:

L. NEW BUSINESS:
L1. Logo Selection

M. GOOD AND WELFARE

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N. ADJOURNMENT:
Mayor & Councilpersons

In accordance with the American With Disabilities Act of 1990, all persons with disabilities and who need special accommodations to participate in this meeting due to that disability should contact the Village Clerk’s Office at (305) 795-7880 no later than two (2) business days prior to such proceeding.

VILLAGE OF EL PORTAL, FLORIDA

ORDINANCE NO.

AN ORDINANCE OF THE VILLAGE OF EL PORTAL, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 24 IN ORDER TO ADOPT A FORM-BASED CODE; ADOPTING A NEW ZONING MAP; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICTS, REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, at the request of the residents of the Village of El Portal, the Village Council approved funding for the 2013 El Portal Community Design Charrette which was held May 5 – 12th, 2013, at El Portal Village Hall; and,

WHEREAS, the interactive workshop brought the community together with elected officials, the village staff, and planners and facilitators from the County's Urban Design Center to create a new plan for a walkable, environmentally sustainable, attractive, and economically sound future for the Village of El Portal, with a focus on preserving the existing beauty, culture, and quality of life of this key area along the Biscayne Corridor; and,

WHEREAS, the Charrette was open to all residents of the community, including those without formal training or previous experience with urban planning, and was well attended; and,

WHEREAS, participants shared their visions for the community and the designers drew them into a final Charrette Report which was used to create an updated Comprehensive Plan; and,

WHEREAS, the existing Code of Ordinances of the Village do not sufficiently address urban design, innovative mixed-use, walkable infill development, and excellence in architectural design and materials; and,

WHEREAS, a Form-Based Code and companion text amendments to Chapter 24 of the Code of Ordinances are necessary to implement the community vision of the adopted Comprehensive Plan and the El Portal Charrette Report of 2013; and,

WHEREAS, the Form-Based Code promotes the health, safety and general welfare of the citizens of the Village of El Portal, including protection of the environment, conservation of land, energy and natural resources, reduction in vehicular traffic congestion, more efficient use of public funds, health benefits of a pedestrian environment, recreation and access to open space, reduction in sprawl development, and improvement of the built environment; and,

WHEREAS, the Form-Based Code is drafted to achieve the community vision based on the traditional forms of urbanism; and

WHEREAS, the Form-Based Code is designed to foster predictable built results, high-quality Public Streets and Open Spaces by using the physical form of Buildings; and,

WHEREAS, the Form-Based Code is intended to foster shops, workplaces, residences, and Civic Buildings within walking distance of one another, and to incorporate Streets that are attractive to pedestrians and also conveniently and efficiently accommodate the needs of cyclists, transit and the automobile; and,

WHEREAS, after notice was duly published, a public hearing was held before the Local Planning Agency (LPA) on November 14, 2016, at which hearing all interested parties were afforded the opportunity to be heard; and,

WHEREAS, after notice duly published, a public hearing for First Reading was held before the Village Council on January 24, 2017, at which hearing all interested parties were afforded the opportunity to be heard; and,

WHEREAS, the Village Council was presented with a text amendment to the Code of Ordinances, and after due consideration and discussion, (____) the amendment on First Reading (vote: __-__).

WHEREAS, after notice duly published, a public hearing for Second Reading was held before the City Commission on ____, 2017, at which hearing all interested parties were afforded the opportunity to be heard; and,

WHEREAS, the City Commission was presented with a text amendment to the Code of Ordinances, and after due consideration and discussion, (____) the amendment on Second Reading (vote: __-__).

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF EL PORTAL, FLORIDA:

SECTION 1. The foregoing “**WHEREAS**” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. Chapter 24 of the Code of Ordinances of the Village of El Portal is hereby amended to read as set forth in “Exhibit A” to this ordinance.

SECTION 3. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 5. It is the intention of the Village Council that the provisions of this Ordinance shall become and be made a part of Ordinance No. ____ as amended and known as the “Code of Ordinances” of the Village of El Portal, Florida, which provisions may be

renumbered or re-lettered and the word ordinance be changed to “section”, “article”, or other appropriate word to accomplish such intention.

SECTION 6. If the Official Code of Ordinances of the Village of El Portal Tables of Contents or other reference portions is affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 7. This ordinance shall become effective _____, 2017.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D. 2017.

APPROVED:

CLAUDIA V. CUBILLOS
MAYOR

ATTEST:

YENISE JACOBI
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

JOSEPH GELLER
CITY ATTORNEY

1st Reading: October 25, 2016
2nd Reading:
Adopted:
Effective Date:

ORDINANCE NO. 2016-08

AN ORDINANCE OF THE VILLAGE OF EL PORTAL, FLORIDA, TO CREATE A NEW CHAPTER IN THE VILLAGE OF EL PORTAL CODE OF ORDINANCES TO PROHIBIT WITHIN THE GEOGRAPHIC BOUNDARIES OF THE VILLAGE OF EL PORTAL THE USE OF SEXUAL ORIENTATION OR GENDER IDENTITY CHANGE EFFORTS WITH MINORS, INCLUDING REPARATIVE AND CONVERSION THERAPY; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the American Psychiatric Association in December 1998 published a position statement opposing any psychiatric treatment, including reparative or conversion therapy, which therapy regime is based upon the assumption that homosexuality per se is a mental disorder or upon an assumption that a patient should change his or her homosexual orientation; and

WHEREAS, the American Psychological Association's Task Force on Appropriate Therapeutic Responses to Sexual Orientation ("APA Task Force") concluded that sexual orientation change efforts can pose critical health risks to lesbian, gay and bisexual people, including, among other things, confusion, depression, social withdrawal, suicidality, substance abuse, self-hatred, high-risk sexual behaviors, and a feeling of being dehumanized; and

WHEREAS, following the report issued by the APA Task Force, the American Psychological Association issued a resolution in 2009 on Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts, advising parents, guardians, young people and their families to avoid sexual orientation change efforts that portray homosexuality as a mental illness or developmental disorder, and encouraging psychotherapy, social support, and educational services that provide accurate information on sexual orientation and sexuality, increase family and school support, and reduce rejection of sexual minority youth; and

WHEREAS, the American Academy of Child and Adolescent Psychiatry in 2012 published a statement in its journal that, "[g]iven that there is no evidence that efforts to alter sexual orientation are effective, beneficial or necessary, and the possibility that they carry the risk of significant harm, such interventions are contraindicated"; and

WHEREAS, the American Academy of Pediatrics, the American Medical Association Council on Scientific Affairs, the National Association of Social Workers, the American

Counseling Association Governing Council, and the American Psychoanalytic Association each have asserted in reports or position statements that sexual orientation change efforts, including reparative therapy or conversion therapy, are not recommended and may be harmful; and

WHEREAS, the Pan American Health Organization issued a statement in 2012 that “[t]hese supposed conversion therapies constitute a violation of the ethical principles of health care and violate human rights that are protected by international and regional agreements”; and

WHEREAS, the Village of El Portal has a compelling interest in protecting the physical and psychological well-being of minors, including lesbian, gay, bisexual, transgender, and questioning youth and in protecting its minors against exposure to serious harms caused by sexual orientation change efforts; and

WHEREAS, it is the desire of the Village Council to prohibit within the geographic boundaries of the Village of El Portal the use of sexual orientation or gender identity change efforts with minors, including reparative and conversion therapy, which have been demonstrated to be harmful to the physical and psychological well-being of lesbian, gay, bisexual and transgender persons; now, therefore,

NOW THEREFORE BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF EL PORTAL, FLORIDA:

SECTION 1: Recitals Adopted. The forgoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof

That the Village Council of the Village of El Portal, hereby finds that being lesbian, gay, bisexual or transgender is not a disease, disorder, illness, deficiency, or shortcoming, and that research has demonstrated sexual orientation change efforts can pose critical health risks to lesbian, gay, bisexual or transgender persons.

A new Chapter shall be created regarding “Sexual Orientation or Gender Identity Change of the Village of El Portal Municipal Code to read as follows:

SECTION 2: Create New Chapter: The Code of Ordinances of the Village of El Portal, Florida is hereby amended to read as follows:

Conversion therapy. Chapter _____

(1) As used in this section, the term "conversion therapy" means any practice or treatment performed with the goal of changing a person's sexual orientation, including, but not limited to, efforts to change behavior, gender identity, or gender expression, or to reduce or eliminate sexual or romantic attraction or feelings toward a person of the same gender. The term does not include counseling that:

- (a) Provides support to a person actively undergoing gender transition; or
 - (b) Provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, if such counseling is not conducted with the goal of changing the person's sexual orientation or gender identity.
- (2) (a) A person who is licensed to provide professional counseling, or who performs counseling as part of his or her professional training under chapter 458, chapter 459, chapter 490, or chapter 491, including, but not limited to, medical practitioners, osteopathic practitioners, psychologists, psychotherapists, social workers, marriage and family therapists, and licensed counselors, may not engage in conversion therapy with a person younger than 18 years of age within the geographic boundaries of the Village of El Portal;
- (b) A licensed professional as described in paragraph (a) who engages in or attempts to engage in conversion therapy with a person younger than 18 years of age within the geographic boundaries of the Village engages in unprofessional conduct and is subject to disciplinary action without regard to whether the mental health professional is compensated or receives any form of remuneration for his or her services. If the village manager or his designee receives a report of a violation of this provision, the village manager or his designee shall mail to licensed professional written notice to immediately cease and desist offering to provide or engaging in conversion therapy. The failure of the licensed professional to immediately cease and desist shall subject the licensed professional to the civil fine provided in paragraph (c).
- (c) Whoever violates this section shall be subject to a civil fine of \$200.00. Each day in violation constitutes a separate offense.

That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

SECTION 3: Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall for any reason be 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: 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 and be made a part of the Code of Ordinances of the Village of El Portal, Florida, that the sections of this Ordinance may be renumbered 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 be effective upon adoption on second reading.

FIRST READING THIS 25th DAY OF October, 2016.

SECOND READING AND FINAL PASSAGE THIS _____ DAY OF _____, 2017.

APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2016.

Claudia Cubillos, Mayor

ATTEST: _____
Yenise Jacobi, Village Clerk

Approved as to form and legal sufficiency:
Greenspoon Marder, PA, Village Attorneys

By: _____
Joseph S. Geller, Esq.

Vote:
Councilperson Mathis: ___(Yes) ___(No)
Councilperson Issacs: ___(Yes) ___(No)
Councilperson Brunson: ___(Yes) ___(No)
Vice Mayor Nickerson.: ___(Yes) ___(No)
Mayor Cubillos: ___(Yes) ___(No)