

**ORDINANCE NO. 2024 - 03**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, AMENDING ARTICLE II OF CHAPTER 1 OF THE VILLAGE CODE REGARDING CODE ENFORCEMENT; MAKING RELATED FINDINGS; AND PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the process of local government code enforcement is regulated primarily by Florida Statutes Chapter 162; and

**WHEREAS**, Article II of Chapter 1 of the Village Code addresses code enforcement within the Village; and

**WHEREAS**, at its meeting on January 24<sup>th</sup> 2024, the Village Council asked the Village Attorney to perform a review of the Village Code and to bring back recommended revisions to remove any outdated, preempted or lawfully questionable provisions, and to incorporate best practices as to the various governmental and regulatory functions the Village and its staff performs; and

**WHEREAS**, as the Village Attorney has reviewed the Village’s code enforcement code, which was adopted in 2015, and has recommended adoption of the revisions set forth in this Ordinance; and

**WHEREAS**, the Village Council has considered the Village Attorney’s recommendations, the recommendations of Village staff with oversight regarding the code enforcement function, and input from residents provided at Council meetings on the Ordinance; and

**WHEREAS**, the Village Council finds that the provisions in this Ordinance are in the best interests of the Village and its residents and business community.

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

**Section 1.** Article II (Code Enforcement) of Chapter 1 (General Provisions) of the Village Code is hereby amended as follows:

**ARTICLE II. – CODE ENFORCEMENT**

**DIVISION 1. – GENERAL PROVISIONS AND MAGISTRATE PROCESS**

**Sec. 1-41. – Intent.**

The intent of this article is to authorize the use of a local government code enforcement special magistrate, and to adopt code enforcement procedures and enforcement options in order to

promote, protect and improve the health, safety and welfare of the citizens of the village by providing for equitable, expeditious, effective and inexpensive methods of enforcing the village code.

**Sec. 1-42. – Applicability; optional enforcement.**

Pursuant to Florida Statutes Chapter 162, the village is authorized to create or abolish by ordinance local government code enforcement systems. This article creates a code enforcement system that gives a code enforcement special magistrate designated by the council the authority to hold hearings and assess fines against violators of the village’s code. A special magistrate shall have the same status as a code enforcement board as provided under Florida Statutes Chapter 162, and in this article. The provisions of this article shall in no way be construed to limit the power of the village to proceed in any other civil or criminal proceeding or in any other forum to enforce its code. Nor shall the provisions of this article negate the independent statutory authority of the village’s fire marshal and building official to enforce the fire code and building code.

**Sec. 1-43. - Definitions.**

The following definitions are applicable to this article and have the following meanings:

*Code enforcement special magistrate*—The person(s) appointed by the council to serve as special magistrate and to administer the provisions of this article.

*Code enforcement officer*—Any employee or authorized agent of the village whose duty it is by virtue of job description, contract, or other lawful designation to assure code compliance through investigation and enforcement. In addition to any other person so designated, a deputy sheriff and any municipal law enforcement officer providing law enforcement services to the village are authorized to enforce the village’s codes according to the provisions of this article.

*Repeat violation*—A violation of a provision of the village code by a person, business, or other entity who or which has previously been found by the special magistrate or through any other quasi-judicial or judicial process, to have violated (or who has admitted violating) the same provision within five years prior to the violation, notwithstanding the location of the prior violation(s).

**Sec. 1-44. – Appointment of special magistrates; role of village attorney.**

- (a) The council may, from time to time, appoint one or more persons to serve as code enforcement special magistrate. Such persons must be members in good standing of The Florida Bar and possess such other skills and experience as the council may require, with such compensation as is deemed appropriate by the council. Appointed magistrates will be subject to any oath or additional requirements as may be set forth in state law.
- (b) Unless otherwise specified by contract, special magistrates shall have no set term of appointment. Upon initial appointment to preside over a case, a special magistrate shall

review the identity of the alleged violator(s) so as to ensure the magistrate does not have any family, business or other such involvement with the violator(s) such that a conflict of interest would be present. Should such a conflict be identified, the special magistrate shall recuse her or himself and an alternative magistrate will be appointed to preside over the case. The recusal standards established in the state supreme court's judicial conduct code will control such questions.

- (c) The village manager or designee shall assign any violation notice referred by the code enforcement officer for hearing to the special magistrate. In the event more than one person is appointed special magistrate, the village staff shall endeavor to rotate assignments to permit each magistrate to remain current and active.
- (d) The code enforcement officer is authorized to present cases before the special magistrate. The village attorney will attend special magistrate hearings to represent the village, and may, in conjunction with the code enforcement officer, present or argue complex or legally significant cases before the special magistrate.

#### **Sec. 1-45. – Enforcement procedures.**

- (a) It shall be the duty of the code enforcement officer to initiate enforcement proceedings of the various codes. Neither the council nor the special magistrate shall have the power to initiate such enforcement proceedings.
- (b) Except as provided in subsections (c) and (d), if a violation of the code is found, the code enforcement officer shall notify the violator and allow a reasonable time for the violator to correct the violation. Should the violation not be corrected within the time allowed (including any extensions the code enforcement officer determines to be reasonable under the circumstances), the code enforcement officer shall notify the village staff that a special magistrate hearing is requested. The village staff shall, thereafter, notify the special magistrate of the referral and coordinate with the magistrate on the scheduling of the hearing. The village staff shall also ensure a written notice of such hearing is hand delivered or mailed as provided in Florida Statutes § 162.12 to the violator. Notice may additionally be served by publication or posting as provided in Florida Statutes § 162.12. If, within the time provided by the code enforcement officer for correction, the violation is corrected but then recurs, or if the violation is not corrected, the violation is still considered a violation and shall still be presented to the special magistrate even if, prior to the hearing, the violation is corrected, and the notice of hearing shall so state.
- (c) If a repeat violation is found, the code enforcement officer shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code enforcement officer, upon notifying the violator of a repeat violation, may immediately notify the staff to schedule a special magistrate hearing. If the repeat violation has been corrected by the time of the hearing, the special magistrate shall schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator.

- (d) If the code enforcement officer has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the code enforcement officer shall make a reasonable effort to notify the violator and may immediately notify the staff and request a special magistrate hearing.
- (e) If the owner of property that is subject to an enforcement proceeding before the special magistrate or court transfers ownership of such property between the time the initial pleading was served and the time of the hearing, such owner shall:
  - (1) Disclose, in writing, the existence and the nature of the proceeding to the transferee.
  - (2) Deliver to the transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding.
  - (3) Provide written disclosure to the transferee that the transferee will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.
  - (4) File a notice with the code enforcement official of the transfer of the property, with the identity and address of the new owner and copies of the above-required disclosures made to the new owner, within five days after the date of the transfer.

If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall, upon proper motion made, be afforded a reasonable continuance to allow the new owner to correct the violation, secure legal counsel, or for other good cause shown. If the new owner corrects the violation before the re-scheduled hearing, the code enforcement officer may, if he or she determines that the new owner has acted in good faith to promptly come into compliance, file a dismissal of the violation and request cancellation of the hearing.

**Sec. 1-46. – Conduct at hearings; legal counsel.**

- (a) Upon request of the code enforcement officer, or at such other times as may be necessary, the special magistrate may call a hearing to hear any outstanding notices of violations or any related motions. The village staff shall ensure that adequate hearing space within village hall, or at such other location within the village as would be appropriate, is secured for the hearing. The village shall provide an employee or contractor to serve as the hearing clerk for the magistrate and shall keep and maintain a copy of all official records of the case including exhibits admitted into evidence. However, it shall be the responsibility of any party to such hearing to secure a certified court reporter should a record of the proceedings be desired.
- (b) If the village prevails in prosecuting a case before the special magistrate, it shall be entitled to recover all costs incurred in prosecuting the case before the code enforcement board or magistrate and such costs may be included in the lien authorized by law.

- (c) The special magistrate shall proceed to hear the cases on the agenda for that day. However, the special magistrate may, in its/his/her discretion, continue any case until the next agenda upon a showing of good cause at the time of or prior to the scheduled hearing. All testimony shall be under oath. The special magistrate shall take testimony from the code enforcement officer, the alleged violator and any other witnesses called by the parties and allowed to testify by the special magistrate. The parties shall have the opportunity to give testimony, present witnesses and to cross-examine adverse witnesses in person or through their attorney. The formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. The special magistrate may impose the rule of witness exclusion during the hearing if so requested by a party. While Florida Statutes § 286.011 is not applicable to a magistrate hearing, the magistrate shall generally allow citizens to attend and observe the hearing, and shall not exclude a person from the hearing room absent the person's engaging in threatening or disruptive behavior or for other good cause. Before removing a person from the hearing, the magistrate shall, safety permitting, hear from the parties and the person to be removed before ruling. Any such ruling shall be made on the record, and the magistrate shall state the reasons for the removal.
- (d) At the conclusion of the hearing, the special magistrate shall issue a final order containing findings of fact and conclusions of law, and shall therein affording the proper relief consistent with the findings and conclusions, and within the limits provided for in Florida Statutes Chapter 162. A certified copy of any such order which imposes a daily fine or awards allowable costs to the village may be recorded by the code enforcement officer in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the code enforcement board or special magistrate shall issue an order acknowledging compliance that shall be recorded in the public records.

**Sec. 1-47. – Powers of special magistrate.**

The special magistrate shall have the power to:

- (a) Adopt rules for the conduct of his or her hearings which are not inconsistent with this article.
- (b) Subpoena alleged violators and witnesses to his or her hearings. Subpoenas may be served by a sheriff's deputy or, if the violator or witness is not located in the sheriff's jurisdiction, then by any other individual authorized to serve process in the jurisdiction where the violator or witness is located.
- (c) Issue subpoenas for evidence when so requested by a party.
- (d) Take testimony under oath.

- (e) Issue orders having the force of law commanding whatever steps are necessary to bring a violation into compliance.
- (f) Impose daily fines in the manner and amounts set forth in this code, but not to exceed the maximum amounts established by state law.

Notwithstanding the foregoing authority, the magistrate shall not have any authority to grant or make a declaration regarding the underlying title to, or property rights of an alleged violator, including declaring whether a property owner has a vested or grandfathered right. Nor shall the magistrate have authority to grant or make a finding that a party's constitutional rights were or were not violated. Such determinations may only be made by a court of competent jurisdiction.

**Sec. 1-48. – Administrative fines; costs of repair; liens.**

- (a) The special magistrate, upon notification by the code inspector that an order of the special magistrate requiring compliance by a date certain has not been complied with by that date, or upon a finding by the special magistrate that a repeat violation has occurred, may order the violator to pay a fine as specified herein for each day the violation continues past the date set by the special magistrate for compliance, or in the case of a repeat violation, for each day the repeat violation continues past the date set by the special magistrate for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found by the code enforcement officer to have occurred or is discovered to exist. In addition, if the violation is a violation described in § 1-45(d), the special magistrate shall notify the village council, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable costs of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the village to make further repairs or to maintain the property and does not create any liability against the village for any damages to the property if such repairs were completed in good faith. If a finding of violation or a repeat violation has been made, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, the special magistrate finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in subsection (b).
- (b) A fine imposed pursuant to this article shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (a). However, if a special magistrate finds the violation to be irreparable or irreversible in nature, the magistrate may impose a fine not to exceed \$5,000.00 per violation.
- (c) In determining the amount of fine, if any, the special magistrate shall consider the following factors:
  - (1) The gravity of the violation;
  - (2) Any actions taken by the violator to correct the violation; and

- (3) Any previous violations committed by the violator.
- (d) In any case in which the violator is found by the special magistrate to be in violation of the ordinances of the village, the special magistrate may impose additional fines to cover all costs incurred by the village in enforcing its codes against the violator, including the fee of the special magistrate, and all costs of repairs pursuant to subsection (a). In determining the amount of such fines, the special magistrate shall consider the criteria set forth in subsection (c).
- (e) The special magistrate may reduce or eliminate a fine imposed by her or him pursuant to this section. The request to reduce or eliminate a fine shall be made within 60 days of correcting the violation for which the fine was assessed. If the violator fails to appear before the special magistrate because the violator did not receive actual notice of the hearing on the underlying violation, and so long as said lack of actual notice was not the result of the violator's own act or omission, the special magistrate may consider a request to reduce or eliminate a fine notwithstanding that the request is untimely made. Nothing herein shall be construed to grant the magistrate the right to reduce or eliminate a recorded code lien. Lien reductions or releases shall be approved by the council pursuant to subsection (g) below.
- (f) Unless any request to reduce or eliminate a fine meets the conditions of subsection (e), any reduction or elimination in any fine previously imposed can only be considered by the village council.
- (g) A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records of the county, and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of the state, including execution of a levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever first occurs. A lien arising from a fine imposed pursuant to this section runs in favor of the village, and the council may execute a satisfaction or release of lien entered pursuant to this section. Upon filing and recording of such a lien, it shall remain a lien against each such property until paid.
- (h) After three months from the filing of any such lien which remains unpaid, the village council may authorize the village attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this section may be foreclosed on real property which is homestead under Section 4, Article X of the Florida Constitution. The money judgment provisions of this section shall not apply to real property or personal property which is covered by Section 4(a), Article X of the Florida Constitution. The village attorney or her/his designee is authorized to obtain a public records search for the purpose of determining whether to

institute a lien foreclosure proceeding without the necessity of any action by the council whenever the unpaid amount of a lien assessed by the special magistrate exceeds \$100.00. No public records search for the purpose of determining whether to institute a lien foreclosure proceeding shall be obtained where the unpaid amount of the lien is less than \$100.00.

- (i) Pursuant to Florida Statutes § 695.01(3), a lien by the village that attaches to real property for a code enforcement fine or penalty is valid and effectual in law or equity against creditors or subsequent purchasers for a valuable consideration only if:
  - (1) the lien is recorded in the official records of the county in which the property is located, and
  - (2) the recorded notice of lien contains:
    - a. the name of the owner of record,
    - b. a description or address of the property, and
    - c. the tax or parcel identification number applicable to the property as of the date of recording.

**Sec. 1-49. – Duration of lien.**

No lien provided under this article and applicable state law shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced pursuant to subsection 1-77(g) in a court of competent jurisdiction. In an action to foreclose on a lien or for a money judgment, the village is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. The village shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

**Sec. 1-50. – Ex Parte communications prohibited.**

- (a) No person who is or may become a party or a witness to a hearing before the special magistrate shall communicate with the special magistrate concerning that violation except at the hearings provided for in this article. This restriction shall extend to any person appearing or interceding on behalf of a party, whether or not such person may have a direct, personal or financial interest in the property which is the subject of the alleged violation.
- (b) The special magistrate shall not communicate with any party, witness, representative of a party, or interceding person concerning any alleged violation except at the hearings provided for in this article.



- (c) Failure on the part of the special magistrate to comply with the provisions of this subsection shall constitute grounds for removal of the special magistrate.

**Sec. 1-51. – Appeals.**

An aggrieved party, including the village council, may appeal a final administrative order of the special magistrate to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the special magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed.

**Sec. 1-52. – Notices.**

- (a) All notices required pursuant to this article shall be provided to the alleged violator by certified mail to the address listed in the tax collector’s office for tax notices or to the address listed in the county property appraiser’s database. The village may also provide an additional notice to any other address it may find for the property owner and, if the owner informs the village in writing that notices should be sent to an alternative address, subsequent notices shall also be sent to that address. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. Notice may also be by hand delivery by a law enforcement officer or code inspector; or by leaving the notice at the alleged violator's usual place of residence with any person residing there who is above 15 years of age and informing such person of the contents of the notice. In the case of a commercial premises, notice may be by leaving the notice with the manager or other person in charge of the commercial establishment.
- (b) In addition to providing notices as set forth in subsection (a) above, at the option of the special magistrate, notice may also be served by publication as follows:
  - (1) Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the special magistrate is located. The newspaper shall meet such requirements as are prescribed under Florida Statutes Chapter 50 for legal and official advertisements.
  - (2) Proof of publication shall be made as provided in Florida Statutes § 50.041 and § 50.051.
- (c) Notice of publication may run concurrently with or may follow an attempt or attempts to provide notice by hand delivery or by mail. Evidence that an attempt has been made to hand deliver or mail notice in compliance with this section, together with proof of publication as required herein, shall be sufficient to show that notice requirements of this article have been met without regard to whether or not the alleged violator actually received such notice.

**DIVISION 2. - SUPPLEMENTAL ENFORCEMENT PROCEDURES IN COUNTY COURT**

**Sec. 1-60. – Citation system procedure; issuance; filing; notice.**

- (a) The provisions of this section are additional and supplemental means of enforcing the village's codes or ordinances and may be used for the enforcement of any code or ordinance, or for the enforcement of all codes and ordinances. Nothing contained in this section shall prohibit the village from enforcing its codes or ordinances by any other means.
- (b) A violation of this code is a civil infraction. A code enforcement officer, including any sheriff's deputy, is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code and that the county court will hear the charge. The citation will be filed and heard in the county court.
- (c) Prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, a code enforcement officer may issue a citation to the person who has committed the violation. A code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

**Sec. 1-61. – Form and content of citation.**

Pursuant to Florida Statutes § 162.21(3)(c), a citation issued by a code enforcement officer pursuant to this article shall be in a form prescribed by the village and shall contain:

- (a) The date and time of issuance.
- (b) The name and address of the person to whom the citation is issued.
- (c) The date and time the civil infraction was committed.
- (d) The facts constituting reasonable cause.
- (e) The number or section of the code or ordinance violated.
- (f) The name and authority of the code enforcement officer.
- (g) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
- (h) The applicable civil penalty if the person elects to contest the citation.

- (i) The applicable civil penalty if the person elects not to contest the citation.
- (j) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

**Sec. 1-62. – Deposit of citation with county court; refusal to sign and accept.**

- (a) After issuing a citation to an alleged violator, a code enforcement officer shall deposit the original citation and one copy of the citation with the county court.
- (b) Pursuant to Florida Statutes § 162.21(6), any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in Florida Statutes § 775.082 or F.S. § 775.083.

**Sec. 1-63. – Application of article’s provisions.**

The provisions of this part shall not apply to the enforcement pursuant to Florida Statutes §§ 553.79 and 553.80 (the state building code adopted pursuant to Florida Statutes § 553.73) as applied to construction, provided that a building permit is either not required or has been issued by the village. For the purposes of this subsection, the term “building codes” means only those codes adopted pursuant to Florida Statutes § 553.73.

**Sec. 1-64. – Penalty for violation.**

- (a) Findings of violations will subject the violator to a maximum fine of \$500.00. The fine for a violator who elects not to contest a violation citation shall be \$250.00.
- (b) Any person charged with a violation of village code in county court may appear and contest the citation, and if found to be in violation, may appeal such finding as provided in the Florida Rules of Civil Procedure.

**Sec. 1-65. – Notice to appear.**

- (a) Notwithstanding Florida Statutes § 34.07, a code enforcement officer, designated pursuant to this article, may issue a notice to appear at any hearing conducted by a county court if the officer, based upon personal investigation, has reasonable cause to believe that the person has violated village code. A notice to appear means a written order issued by a code enforcement officer in lieu of physical arrest requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time. If a person issued a notice to appear under this section refuses to sign such notice, the code enforcement officer has no authority to arrest such person.

- (b) Prior to issuing a notice to appear, a code enforcement officer shall provide written notice to the person that the person has committed a violation of village code and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no fewer than five days and no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the prescribed time period, a code enforcement officer may issue a notice to appear to the person who has committed the violation. A code enforcement officer is not required to provide the person with a reasonable time period to correct the violation prior to issuing a notice to appear and may immediately issue a notice to appear if a repeat violation is found, or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare or that the violator is engaged in violations of an itinerant or transient nature, as defined by local code or ordinance within the jurisdiction, or if the violation is irreparable or irreversible.

### **DIVISION 3. – ENFORCEMENT BY CIVIL ACTION**

#### **Sec. 1-70. – Civil actions to enforce village codes.**

In addition to other provisions of law or this code authorizing the enforcement of the village's codes, the village may enforce any violation of its code by filing a civil action, including actions alleging nuisance, in the same manner as instituting a civil action. The action shall be brought in county or circuit court, whichever is appropriate depending upon the relief sought.

**Section 2.** For purposes of codification of any existing section of the Estero Village Code herein amended, words **underlined** represent additions to original text, words **~~stricken~~** are deletions from the original text, and words neither underlined nor stricken remain unchanged.

**Section 3.** If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Village Council would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

**Section 4.** The Codifier shall codify the substantive amendments to the Estero Village Code contained in Section 1 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

**Section 5.** Pursuant to Florida Statutes § 166.041(4)(a), prior to the date the public notice of the public hearing for this Ordinance was published, the Village prepared and posted on its website a business impact estimate which included: a) a summary of the Ordinance, a statement of the public purpose to be served by the Ordinance, b) an estimate of the direct economic impact of the Ordinance on private, for-profit businesses in the Village, c) an estimate of direct compliance costs that businesses may reasonably incur due to the Ordinance, d) identification of any new charge or fee on businesses created by the Ordinance or for which businesses will be financially responsible, e) an estimate of the Village’s regulatory costs and of revenues from any new charges or fees imposed on businesses to cover such costs, and f) a good faith estimate of the number of businesses likely to be impacted by the Ordinance.

**Section 6.** Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon adoption.

**ADOPTED ON FIRST READING** by the Village Council of the Village of Estero, Florida on the 21 day of February, 2024.

**ADOPTED ON SECOND AND FINAL READING** by the Village Council of the Village of Estero, Florida on the 6 day of March, 2024.

**VILLAGE OF ESTERO, FLORIDA**

Attest:

By: \_\_\_\_\_  
Jon McLain, Mayor

By: \_\_\_\_\_  
Carol Sacco, Village Clerk