

## **ORDINANCE NO. 2025-12**

### **AN ORDINANCE OF THE VILLAGE OF ESTERO, FLORIDA, REPEALING ORDINANCE 2015-13 RELATED TO DEVELOPMENT APPLICATION EXPENSE COST RECOVERY; MAKING RELATED FINDINGS; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, early after the Village’s incorporation, and in conjunction with establishing its own regulatory fee structures, the Village Council adopted Ordinance 2015-13, establishing a “cost recovery” scheme for complex development applications which would require extensive outside legal or consulting services; and

**WHEREAS**, while all Ordinances creating legal obligations are required by law to be codified in a Village Code, it does not appear Ordinance 2015-13 was ever sent to the codifier for codification; and

**WHEREAS**, in the ensuing years, the Village Council went on to adopt Community Development fee Resolutions which included cost recovery, and the Village Council has recently adopted the newest such Resolution which, again, provides for cost recovery; and

**WHEREAS**, the structure established by Ordinance 2015-13, which current Village staff was not even aware of until recent research, no longer reflects how the Village administers cost recovery, and so it is no longer necessary to maintain the Ordinance; and

**WHEREAS**, the Village Attorney and Community Development Director have recommended the Ordinance be repealed; and

**WHEREAS**, the Village Council therefore finds that it is in the best interests of the Village of Estero, its citizens, businesses, and property owners, to adopt this Ordinance.

**NOW, THEREFORE BE IT ORDAINED** by the Village Council of the Village of Estero, Florida, that:

**Section 1.** Ordinance 2015-13, as set forth in **Exhibit “A”** to this Ordinance, is hereby repealed in its entirety.

**Section 2.** Since the original Ordinance 2015-13 was never codified, the Village Clerk shall not transmit this Ordinance to the Codifier.

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

**ADOPTED ON FIRST READING** on the **1<sup>st</sup> day of October, 2025**, by the Village Council of the Village of Estero, Florida.

**ADOPTED ON SECOND AND FINAL READING** on the **15<sup>th</sup> day of October, 2025**, by the Village Council of the Village of Estero, Florida.

**VILLAGE OF ESTERO, FLORIDA**

**Attest:**

By: \_\_\_\_\_  
Joanne Ribble, Mayor

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

**EXHIBIT "A"**

**VILLAGE OF ESTERO, FLORIDA**

**ORDINANCE NO. 2015 - 13**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, PROVIDING FOR THE RECOVERY OF PROFESSIONAL FEES AND COSTS AND VILLAGE STAFF COSTS FOR THE REVIEW OF CERTAIN ENUMERATED DEVELOPMENT APPLICATIONS AND PROCEDURES THEREFORE; PROVIDING FOR FIXED FEES FOR THE VILLAGE REVIEW OF CERTAIN ENUMERATED DEVELOPMENT APPLICATIONS; PROVIDING FOR PAYMENT OF COST RECOVERY AND FIXED FEES; PROVIDING FOR CONFLICTS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Village of Estero was incorporated by referendum held on November 4 3, 2014, pursuant to the Charter of the Village of Estero ("Charter") created by Ch. 2014-249, Laws of Florida and as amended by Ch. 2015-193, Laws of Florida; and

**WHEREAS**, the Charter provides that the Village Council shall have the broadest exercise of home rule powers permitted under the state Constitution and the laws of the state; and

**WHEREAS**, the Charter provides at Section 11, "General Provisions", paragraph (5) "Transitional Ordinances and Resolutions", that all applicable county ordinances currently in place at the time of passage of the referendum, unless specifically referenced in the Charter, shall remain in place unless rescinded by the Village Council or unless they are in conflict with an ordinance, rule or regulation of the Village; and

**WHEREAS**, the Village Council has determined that it is in the best interests and welfare of the Village and its residents to enact an ordinance that provides for the recovery of actual costs from applicants for the Village's review of certain enumerated development applications as set forth herein, and for the recovery of fixed fees from applicants for the Village's review of certain other development applications; and

**WHEREAS**, the Village intends that any county ordinances that are in conflict with this ordinance shall be rescinded and superseded by this ordinance upon its adoption; and

**WHEREAS**, the Village intends that any Lee County resolution adopting fees for the review of development applications shall be superseded by the fees adopted by this Ordinance for projects located within the Village of Estero; and

45           **WHEREAS**, the Village Council has considered this ordinance at a duly noticed public  
46 hearing as required by law.

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

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51       **Section 1.     Recitals Adopted.**     That each of the above stated recitals is hereby adopted  
52 and confirmed as being true, and the same are hereby incorporated as a part of this Ordinance.

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54       **Section 2.     Cost Recovery Fees for Review of Development Applications.**

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56           (a)   Cost Recovery Fees. There is hereby imposed a fee for the recovery of various  
57 costs of the Village's administrative and outside fee consultant processing and  
58 review of applications, submissions, or requests concerning development,  
59 utilization, or improvement of property in the Village of Estero, including,  
60 without limitation, the preparation of staff reports and attendance at public  
61 hearings related to such applications. Such fee is to be equal in amount to the  
62 Village's actual costs, in terms of staff and outside fee consultants' time expended  
63 in such review and processing (but shall not include the cost of one pre-  
64 application meeting per application). Applications subject to cost recovery shall  
65 include but not be limited to the following reviews:

- 66           1.   Planned Development (including original plan, amendments and final  
67 approval)  
68           2.   Development of Regional Impact (including all DRI related reviews such  
69 as abandonments, substantial and non-substantial deviations, ordinance and  
70 agreement reviews, time extensions, and notices of proposed change.)  
71           3.   Special Exceptions  
72           4.   Variances  
73           5.   Development Order (including new submittals, major or minor  
74 modifications, and resubmittals)  
75           6.   Plat  
76           7.   Vacation  
77           8.   Comprehensive Plan Amendment  
78           9.   Rezoning (including but not limited to applications for planned  
79 development rezoning, including amendments and deviations)  
80           10.   Unity of Title  
81           11.   Any other type of development project review as determined by the Village  
82 Manager or designee as being suitable in scope and complexity for  
83 treatment under the cost recovery system.

84           (b)   Persons who file any review request which necessitates outside fee consultant  
85 review and processing shall pay, prior to or at the time the review request is made,  
86 an initial preliminary deposit which shall be credited toward the fee charged for  
87 such review and processing, and shall pay additional deposits as may be required  
88 from time to time.

- (c) When the person pays the initial deposit, a financial account for said person's review request (the "project account") will be opened and maintained throughout the entire review process until the person receives a certificate of compliance or the community development department or other appropriate Village agent (depending on the nature and genesis of the application) determines that no further action is necessary for the review and processing of the review request. At either of which time the project account will be closed and any remaining funds therein shall be refunded to the person depositing same, no later than two months after the project account's closing date. The project account will be monitored on a periodic basis. Whenever the account balance is 20 percent or less of the original escrowed deposits, a supplemental deposit will be required before any further review or processing continues. The person making the initial deposit will be notified when a supplemental deposit will be required. The amount of the supplemental deposit will be 50 percent of the initial deposit. Several supplemental deposits may be necessary depending on the complexity of the review request.
- (d) The Village's outside fee consultants who are involved in the review and processing of the enumerated Cost Recovery review requests shall maintain records of the time expended and tasks conducted regarding each such request. A debit based upon the time expended and the adopted rates per hour, as approved by the Village Council, shall be charged against the project account. The resulting fees shall be adopted in a Cost Recovery Fee Schedule. It is the Village's intent that the charges reflect the costs of administering this program, which charge shall be based upon the actual effort involved for such administration.
- (e) The Cost Recovery Fee Schedule and the amount of the initial deposit for the different types of review requests per the Cost Recovery Fee Schedule shall be established by resolution of the Village Council, which may be amended from time to time. The Cost Recovery Fee Schedule shall be based on the adopted rates per hour of the Villages' outside fee consultants. In addition to the initial deposit, the applicant shall pay 10% of the initial deposit fee as an administrative charge for the costs of Village staff review of the application. It is the express intent of the Village Council of Estero, Florida, in enacting this cost recovery program that the Village's costs of outside fee consultant review and processing of review requests, as required or necessitated now or in the future by the village's ordinances, resolutions, policies, or procedures, shall be borne by the person initiating the review request.
- (f) Except as provided herein, any notification provided in this section for supplemental deposits from the Village of Estero to a person initiating a review request shall be deemed sufficient if made by a telephone call to such person or his or her agent with a confirming certified letter to follow. It shall be the duty of persons initiating review requests to provide on the filed review requests a continuously updated address and telephone number where said persons or their agents can be reached for purposes of such notification. If an attempt to notify a person initiating a review request or his or her agent is frustrated because such furnished phone numbers or addresses were not correct or up to date when the

notification attempt was made, such frustrated attempt shall be deemed sufficient notice for purposes of this section.

- (g) The cost recovery fees shall not apply to review requests which are originally initiated by or on behalf of the Village of Estero or another governmental entity so long as the initiating governmental entity does not charge the Village of Estero for its review, processing, and comment upon the Village of Estero's review requests of a similar type or nature.

**Section 3. Fixed Fees for Review of Certain Development Applications.**

- (a) There is hereby imposed a fixed fee for certain administrative costs to cover the Village's costs of administration of certain development applications, which fee shall not duplicate the cost recovery fee, and which fee or fees shall be established by resolution of the Village Council from time to time. The fixed fee shall be imposed for those applications including but not limited to building permits, contractor licensing, and code enforcement hearing fees.
- (b) Should the Village Manager determine that the Village's review of any development application will incur extraordinary costs not otherwise covered by the fixed fee, the Village Manager may require that the applicant pay a cost recovery fee instead of the fixed fee.
- (c) The fixed fees shall not apply to review requests which are originally initiated by or on behalf of the Village of Estero or another governmental entity so long as the initiating governmental entity does not charge the Village of Estero for its review, processing, and comment upon the Village of Estero's review requests of a similar type or nature.

**Section 4. Payment of Cost Recovery and Fixed Fees.** Any application filed with the Village of Estero after the first reading of this Ordinance shall be subject to the fees established under this Ordinance.

**Section 5. Conflicts.** All sections or parts of sections of the Village of Estero Code of Ordinances in conflict herewith are intended to be repealed to the extent of the conflict.

**Section 6. Severability.** If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

**Section 7. Effective Date.** This Ordinance shall be effective upon adoption at second reading.

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**PASSED** on first reading this 23<sup>rd</sup> day of September, 2015.

**PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,  
Florida this 7<sup>th</sup> day of October, 2015.

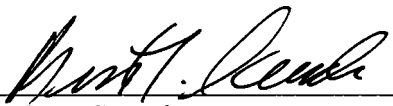
Attest:

**VILLAGE OF ESTERO, FLORIDA**

By:   
Kathy Hall, MMC  
Village Clerk

By:   
Nicholas Batos  
Mayor

Reviewed for legal sufficiency:

By:   
Burt Saunders, Esq.  
Village Attorney

Vote:	AYE	NAY
Mayor Batos	<u>✓</u>	<u>      </u>
Vice Mayor Levitan	<u>✓</u>	<u>      </u>
Councilmember Boesch	<u>Excused Absence</u>	<u>      </u>
Councilmember Brown	<u>✓</u>	<u>      </u>
Councilmember Errington	<u>✓</u>	<u>      </u>
Councilmember Ribble	<u>✓</u>	<u>      </u>
Councilmember Wilson	<u>✓</u>	<u>      </u>