

ORDINANCE NO. 25-17

AN ORDINANCE OF THE VILLAGE OF ESTERO, FLORIDA, CREATING § 5-414 (REGARDING PERIMETER LANDSCAPE BUFFERS) AND AMENDING § 2-502 (REGARDING SITE DEVELOPMENT OBLIGATIONS) OF THE VILLAGE LAND DEVELOPMENT CODE; MAKING RELATED FINDINGS; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Village, from time to time, grants development orders for the development of land; and

WHEREAS, the Village occasionally experiences significant delays in approved projects actually beginning, and consistently progressing through, the construction process; and

WHEREAS, such delays, which can span many years, often create significant negative impacts upon the Village, to include cleared parcels being left open and unimproved which promotes illegal activities, growth of weeds, excessive and turbid stormwater runoff, and visual blight viewed from adjoining roads and developed properties; and

WHEREAS, while the Village Council acknowledges large development projects often have complex financing arrangements and require significant permitting and construction coordination obligations, it also finds that the Village's land development regulations should provide an appropriate balance between the need of a developer to address its financing and permitting obligations and the need to prevent the negative impacts of approved development projects not moving forward; and

WHEREAS, the Village Council finds that the revisions to the Village's Land Development Code set forth in this Ordinance will help to create a better balance between these interests; and

WHEREAS, the Village Council finds that it is in the best interests of the Village of Estero, its citizens, visitors, 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. Section 5-414 of the Village Land Development Code is hereby created to read as follows:

5-414. – Perimeter Landscape Buffer Installation.

A. Notwithstanding any provision of this code, including § 2-502(A)(3) or any development order to the contrary, in the event the owner of any parcel of property which has (directly or through an authorized agent) been granted a development order fails to begin and

maintain active construction of the approved project after six months from the date the development order is approved, the owner shall be obligated to install (complete with irrigation system) and maintain (including mowing, trimming and irrigating) all landscape buffers along the outer perimeter of the parcel as are required by § 5-406 and the development order.

- B. All development orders may include a requirement that a site improvement bond be provided by the applicant to ensure all landscape buffer improvements are installed and maintained in accordance with this section.
- C. All development orders shall be deemed to have this provision incorporated by reference.
- D. The director shall have the authority to temporarily waive enforcement of the obligation set forth in subsection (A) above where, in the director's sole judgment, good cause exists to do so. Any such waiver shall be in writing, and shall only be in effect for the waiver period granted by the director. Upon expiration of the waiver period, the obligation shall thereafter be enforced. Good cause shall include the village's failure to issue construction permits where complete permit applications and fees have been filed and accepted by the village.
- E. For purposes of this section, the term "actively constructing" shall mean engaging in infrastructure installation and vertical construction of the relevant project or project phase (if the development order provides the project is to be constructed in phases) with no break in work longer than two weeks.

Section 2. Subsection (A)(3) (post-decision-making action) of § 2-502 (Site Development) of the Village Land Development Code is hereby amended to read as follows:

2-502. – Site Development.

A. Development Order.

[subdivisions 1 and 2 unchanged]

3. *Post Decision-Making Action.*

- A. The Director shall issue a development order approval letter and will stamp the approved development order drawings with an appropriate development order approval stamp.
- B. Except where tolling due to emergency is required by Florida Statutes § 252.363, a development order shall automatically expire if the development authorized by the development order is not constructed or substantially commenced within two years after the date of the approval, or for the life of the surety or performance bond if

the bond is for a period of less than two years, or unless an extension of this time period is authorized by the PZDB. Two one-year extensions may be granted provided the extension is requested in writing demonstrating good cause prior to the expiration of the development order.

- C. In order for a development order to remain valid and active, significant construction activity shall commence within the duration of the development order and the construction of the project to build-out shall be actively pursued. Active pursuit of construction of a project to build-out is defined as continuous construction of the required infrastructure improvements shown and specified in the development order or buildings comprising the project. Actions to secure a permit, land clearing activity and construction of facilities deemed ancillary to the project by the Director will not be considered sufficient to satisfy the "active pursuit" criteria set forth in this section. If a project, including a phased project, is under construction and has not completed at least 50 percent of the permitted development (measured by lots, dwelling units, square feet or other applicable measurements of intensity as applicable) when the development order duration period has elapsed, the developer shall obtain a development order extension. For development order projects where there has been a foreclosure action, a deed given in-lieu of foreclosure, or title has been transferred pursuant to court ordered sale, and where there is a question of active pursuit of the construction under the development order, the new owner shall resume construction of the project within 24 months from the date when the title to the property changes pursuant to the foreclosure, deed in-lieu of foreclosure or court sale. Once restarted, construction shall continue to build-out without any periods of construction inactivity which exceed 18 months.
- D. A development order's concurrency certificate is only effective for three years from the approval.
- E. The issuance of a development order shall constitute village authorization for the applicant to begin those site development activities specifically approved in the development order. Pursuant to Florida Statutes § 166.033, a village development order is not conditioned on an applicant's receipt of any applicable state and federal permits, and the village shall have no liability for development activities conducted prior to the applicant having obtained any such permits.
- F. A development order may be modified as follows:
 - 1. *Amendments.* An application for an amendment to a development order is one that does not qualify as a minor (administrative) change and that does not substantially modify the schedule of development as originally approved under an approved development order or, in the case of a planned development, is in substantial compliance with the approved Master Concept Plan. The PZDB, at a quasi-judicial public hearing, shall review and approve, deny, or approve with conditions any minor amendment.

2. *Minor (Administrative) Changes.* The Director shall review and decide on minor (administrative) changes, limited to changes that the Director finds:
 - (a) Address technical considerations that could not reasonably be anticipated during the development order approval process; or
 - (b) Would not:
 - i. Materially alter the drainage, streets, or other engineering design;
 - ii. Adversely impact the management of storm water quality or storm water quantity;
 - iii. Substantially affect the terms of the original approval; or
 - iv. Result in significant adverse impacts on the surrounding lands or the Village at large; and
 - v. Be the result of a violation revealed during final inspection.

- G. All other modifications of development order approval may be made only in accordance with the procedures and standards for its original approval.
- H. A development order runs with the land and is transferable to the subsequent owner of the property covered by the development order. Within 30 days after the transfer, a new owner shall submit to the Village proof of ownership of the property, a list of all owners, and a signed affidavit that the new owner has full authority to secure subsequent approvals and to impose covenants and restriction required by the development order.

Section 3. Subsection (B)(3)(B) (post-decision-making action) of § 2-502 (Site Development) of the Village Land Development Code is hereby amended to read as follows:

- B. A limited development order shall automatically expire if the development authorized by the limited development order is not constructed or substantially commenced within two years after the date of the approval.

Section 4. Effective Date of Enforcement. Pursuant to § 28 of Florida Chapter Law 2025-190, the amendments to § 2-502(A)(3)(B), § 2-502(B)(3)(B), and § 5-414 created by this Ordinance shall not be enforced prior to October 1st 2027 unless subsequent state law permits

earlier enforcement. Otherwise, the amendments created by this Ordinance shall be enforced on the Ordinance's Effective Date.

Section 5. 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 6. 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 7. The Codifier shall codify the substantive amendments to the Estero Village Land Development Code contained in Sections 1 through 3 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 8. 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 9. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon adoption.

ADOPTED ON FIRST READING on the **17th day of December, 2025**, by the Village Council of the Village of Estero, Florida.

ADOPTED ON SECOND AND FINAL READING on the **21st day of January, 2026**, 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