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VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2015 - 14

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, ADOPTING CHAPTER 162, FLORIDA STATUTES, PROVIDING FOR MUNICIPAL CODE ENFORCEMENT; ESTABLISHING ENFORCEMENT PROCEDURES AND AUTHORITIES; AMENDING CONFLICTING PROVISIONS OF CODE; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Part I of Chapter 162, Florida Statutes, “The Local Government Code Enforcement Boards Act,” the Village Council is authorized, at its option, to create and appoint a Village of Estero Code Enforcement Board, to provide for the enforcement of municipal codes; and

WHEREAS, Part I of Chapter 162, Florida Statutes, also authorizes the appointment of a Special Magistrate to act in conjunction or in lieu of a code enforcement board; and

WHEREAS, Chapter 162, Part II, Florida Statutes, provides for a “Supplemental Code Enforcement Procedure” whereby duly designated Code Enforcement Officers are authorized to issue citations or notices to appear 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 or ordinance; and

WHEREAS, Chapter 162, Florida Statutes, does not preclude the Village from combining any of the features of Part I and Part II of Chapter 162, nor does it prohibit the Village from enforcing its codes or ordinances by such other means of enforcement as provided by general law or as may lie within the home rule powers of the Village; and

WHEREAS, the Charter of the Village of Estero, established by Chapter 2014-249, Laws of Florida, provides in Section 11(5) thereto that all applicable ordinances of Lee County contained in the Code of Laws and Ordinances of Lee County, Florida (“Lee County Code”) shall, until otherwise affected by the Village Council of the Village of Estero (“Council”), constitute the Code of Laws and Ordinances of the Village of Estero (“Estero Code”); and

WHEREAS, the Lee County Code, now Estero Code, already provides certain code enforcement procedures best suited to the needs of Lee County; and

45 **WHEREAS**, the Council has determined that maintaining the provisions of certain
46 legacy provisions of the Estero Code relating to code enforcement in Lee County no longer
47 serves the public interest and should be revised to best serve the needs to the Village; and
48

49 **WHEREAS**, pursuant to Chapter 166, Florida Statutes, the Council has all powers of
50 self-government not inconsistent with general or special law, including the power and
51 authority to adopt ordinances providing for the public health, safety and welfare of the
52 residents of the Village of Estero.
53

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

56
57 **Section 1.** **Recitals.** The above stated recitals are hereby adopted and confirmed as
58 being true, and the same are hereby incorporated as a part of this Ordinance.
59

60 **Section 2.** **Code Enforcement.**

61
62 Section 1-1. State Law Implemented
63

64 The Village of Estero hereby implements the municipal code enforcement authority
65 provided by Chapter 162, Parts I and II, Florida Statutes, as may be amended from time to
66 time by act of the Legislature. The remainder of this Article is intended to supplement the
67 provisions of Chapter 162 locally.
68

69 Section 1-2. Applicability
70

71 The provisions of this Article shall apply to and be enforced in all incorporated areas
72 of the Village of Estero as the primary method enforcing the Code of Laws and Ordinances
73 of the Village of Estero, Florida including its land development regulations. Nothing
74 contained in this Article shall prohibit the Village from enforcing its codes or ordinances by
75 any other means.
76

77 Section 1-3. Code Enforcement Officials
78

79 The Village hereby establishes the following positions and offices for the provision of
80 code enforcement within the Village of Estero:

81 “Code Enforcement Officer” means any designated employee or agent of the Village
82 whose duty it is to enforce the codes and ordinances of the Village and whose authority is
83 synonymous with designated code enforcement officers or code inspectors as provided in
84 Chapter 162, Florida Statutes.

85 “Special Magistrate” means any person designated by the Village Council to hold
86 hearings as provided by Section 162.03, Florida Statutes. Any such magistrate must be at a
87 minimum an attorney in good standing with the Florida Bar or retired judge or magistrate.
88
89
90

91 Section 1-4. Enforcement Procedure

- 92
- 93 1. Finding of Violation. Upon the finding of a code violation by Code Enforcement
- 94 Officer, the Officer shall have the authority to issue and prosecute notices of
- 95 violation, citations, summons or notices to appear as necessary and authorized as
- 96 provided by code and general law.
- 97 2. Venue. Except in civil actions to enforce Village codes and ordinances, or where a
- 98 citation or notice appear requires a violator's appearance in county court, violators
- 99 shall appear before the Village's duly appointed code enforcement board or special
- 100 magistrate. The rules of procedure for any hearing before either a code enforcement
- 101 board or special magistrate shall be established by resolution of the Village Council.
- 102 3. Penalties. The issuance and determination of fines, costs, and liens amounts shall be
- 103 in the discretion of the code enforcement board or special magistrate as provided by
- 104 general law. The Village Council may, however, establish a standard fine schedule
- 105 for the issuance of citations.

106

107 **Section 3. Amending Conflicting Provisions of Code.**

108

109 The following provisions of the Estero Code are deleted in their entirety and reserved

110 for future use as follows:

- 111 1. Chapter 1 – Administration, Article VI – Code Enforcement Board
- 112 2. Chapter 1 – Administration, Article XI, Public Nuisance Abatement
- 113 3. Land Development Code, Chapter 1 – General Provisions; Section 1-6
- 114 4. Land Development Code, Chapter 2, Article VII – Hearing Examiner
- 115

116 **Section 4. Codification.** The Village Council intends that this Ordinance be made part

117 of the Code of Laws and Ordinances, of the Village of Estero, Florida; and that sections of

118 this Ordinance can be renumbered or re-lettered to the appropriate word or phrase to

119 accomplish codification, and regardless of whether this Ordinance is ever codified, the

120 Ordinance can be renumbered or re-lettered and typographical errors and clarification of

121 ambiguous wording that do not affect the intent can be corrected with the authorization of the

122 Village Manager without the need for a public hearing.

123

124 **Section 5. Conflict with other Ordinances.** The provisions of this Article shall

125 supersede any provisions of existing ordinances in conflict herewith to the extent of said

126 conflict.

127

128 **Section 6. Severability.** In the event that any portion of this ordinance is for any reason

129 held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be

130 deemed a separate, distinct and independent provision, and such holding shall not affect the

131 validity of the remaining portions of this ordinance.

132

133 **Section 7. Effective Date.** This Ordinance shall take effect immediately upon its

134 adoption by the Village Council.

137 **PASSED** on first reading this 23rd day of September, 2015

138

139 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of
140 Estero, Florida this _____ day of October, 2015.

141

142 Attest: **VILLAGE OF ESTERO, FLORIDA**

143

144

145 By: _____ By: _____

146 Kathy Hall, MMC
147 Village Clerk

Nicholas Batos
Mayor

148

149

150 Reviewed for legal sufficiency:

151

152

153 By: _____

154 Burt Saunders, Esq.
155 Village Attorney

156

157 Vote: AYE NAY

158 Mayor Batos _____

159 Vice Mayor Levitan _____

160 Councilmember Boesch _____

161 Councilmember Brown _____

162 Councilmember Errington _____

163 Councilmember Ribble _____

164 Councilmember Wilson _____