

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

50
51 **Section 2. Amendments to Chapter 14, Section 14-377.** Section 14-377 of
52 Chapter 14 of the Transitional Land Development Regulations is amended by deleting
53 Subsection (7) thereof, and renumbering Subsection 8 to Subsection 7, as follows:

54
55 “Sec. 14-377. Exemptions from article.

56
57 (a) This article does not apply to the following:

58
59 (Subsections (1) through (6) remain the same)

60
61 ~~(7) The removal of protected trees on a lot zoned for single family~~
62 ~~residential use or being used lawfully as a single family residence or mobile home where~~
63 ~~the residence or proposed residence is located on a lot no greater than five acres in area.~~
64 ~~However this exemption does not apply on the coastal islands listed in subsection (c)~~
65 ~~below.~~

66
67 ~~(8)~~ (7) The removal of protected trees, other than a tree worthy of
68 preservation, on the premises of a licensed plant or tree nursery or tree farm where such
69 trees are intended for sale in the ordinary course of the licensee’s business.”

70
71 **Section 3. Amendment to Section 14-411 of Chapter 14 of the Transitional Land**
72 **Use Regulations.**

73
74 Section 14-411 of Chapter 14 of the Transitional Land Development Regulations is
75 hereby amended, as follows:

76
77 “Section 14-411. – Permit Required.

78
79 No person, organization, society, association, corporation or any agent or
80 representative thereof, shall deliberately cut down, remove, relocate, defoliate through
81 the use of chemicals or other methods, or otherwise damage any tree that is protected
82 under this article and located in the ~~unincorporated areas of the county~~ Village of Estero,
83 without first obtaining a permit as provided in this article. For all purposes of this Article,
84 the term administrator as used in this article shall mean the Director of Community
85 Development of the Village of Estero or his or her designee.”

86
87 **Section 4. Amendments to Section 14-412 of Chapter 14 of the Transitional Land**
88 **Use Regulations.**

89
90 Section 14-412 is amended to modify subsection (g) and add a new subsection (i), as
91 follows:

93 “(g) *Approval or denial.* Based on the information contained in the application,
94 and after investigation of the application, the administrator shall approve or deny the
95 application, and, if approved, the administrator is the party so designated by ~~the Board of~~
96 ~~County Commissioners~~ the Village of Estero Council to issue the permit for a period not
97 to exceed ~~one year~~ 180 days and to collect the permit fee.”

98 * * *

99
100
101 (i) *Tree Removal from Single-Family Lots.* In addition to the foregoing
102 requirements set forth in Subsections (a) through (h) of this Section 14-412, as
103 amended, and notwithstanding anything to the contrary in such subsections, the
104 following provisions apply to the removal of protected trees on a lot zoned for single-
105 family residential use or being lawfully used as a single-family residence or mobile
106 home where the residence is located on a lot no greater than five acres in area:

107
108 (1) In addition to the application required under subsection (c) above, the
109 owner of the single-family residence shall provide evidence, satisfactory to the
110 administrator, of the ownership of the tree(s) to be removed based on their location
111 on the site plan to be filed therewith, which site plan shall be required regardless of
112 the number of trees to be removed. Where there is uncertainty as to the ownership of
113 the tree(s) to be removed, the owner and all abutting owners that might claim
114 ownership of such tree(s) shall provide written permission for such removal as a part
115 of the application;

116
117 (2) Any protected tree that is removed from the street-facing side of a
118 single-family residential lot shall be replaced by another protected tree meeting the
119 size and height requirements of this Code. To the extent reasonably possible, the
120 replacement tree(s) shall be planted on the same street-facing side as those tree(s)
121 removed. If such location for replacement is not physically possible due to the
122 configuration of the lot and the inability to replant at or near the location of the
123 removed tree(s), the application shall be conditioned on replacement on either (a)
124 another side of the same lot or (b) on other nearby land with the written permission
125 of the owner(s) of such nearby land. For purposes hereof, the term “nearby land”
126 shall mean land within a ¼ mile of the nearest boundary of the lot from which the
127 tree(s) are to be removed.

128
129 (3) With respect to the criteria for granting approval for a tree removal
130 permit as set forth in subsection (d), whenever reasonably possible, the applicant must
131 have taken all reasonable efforts, prior to applying for such application for removal,
132 to mitigate any conflict that exists between the tree(s) and the nearby streets,
133 sidewalks, driveways, public utilities, or similar improvements. Such efforts shall
134 include root pruning and other reasonable means to prevent or mitigate such conflicts.
135 Where mitigation efforts have been attempted or if mitigation is unlikely to result in
136 a favorable outcome, then the applicant shall provide a written certification from an
137 ISA certified arborist to the administrator stating that mitigation efforts have been
138 tried unsuccessfully, or mitigation efforts will not be reasonably available to save such

139 tree(s) from removal, and in the opinion of such arborist, removal is the only
140 reasonable means for such tree(s) under such circumstances, and therefor fully meets
141 the criteria for the granting of such a permit. For purposes of such criteria the safety
142 of the public and existing buildings and structures shall be of paramount importance,
143 while the economic impact to the applicant of possible disruption of public utility
144 services or the necessity to re-route such public utility services, while important, shall
145 be of secondary concern to the administrator in making a decision to grant such a
146 removal permit. In such cases, reasonable relocation of the public utilities may be
147 required by the administrator as an alternative to removal, so long as the public safety
148 is not impacted.

149
150 (4) Whenever a tree removal permit shall be granted, the applicant shall
151 be required as a condition thereof to grind the stump of the tree(s) removed to the
152 surrounding ground level, and to provide the administrator with an acceptable re-
153 beautification plan for the area surrounding the stump showing the landscaping and
154 plantings to be planted in place of such tree(s).”

155
156 **Section 5. Severability.** If any section, subsection, clause or provision of this
157 Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the
158 remainder shall not be affected by such invalidity.

159
160 **Section 6. Conflicts.** All sections or parts of sections of the Village ordinances in
161 conflict herewith are intended to be rescinded and repealed to the extent of such conflict.

162
163 **Section 7. Effective Date.** This Ordinance shall be effective immediately upon
164 adoption at its passage on second reading.

165
166 **PASSED** on first reading this _____ day of _____, 2018.

167
168 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida
169 this _____ day of _____, 2018.

170
171 Attest: **VILLAGE OF ESTERO, FLORIDA**

172
173
174 By: _____ By: _____
175 Kathy Hall, MMC, Village Clerk James R. Boesch, Mayor

176
177
178 Reviewed for legal sufficiency:

179
180
181 By: _____
182 Nancy Stroud, Esq., Village Land Use Attorney

	Vote:	AYE	NAY
187	Vote:		
188	Mayor Boesch	_____	_____
189	Vice Mayor Ribble	_____	_____
190	Councilmember Batos	_____	_____
191	Councilmember Errington	_____	_____
192	Councilmember Levitan	_____	_____
193	Councilmember McLain	_____	_____
194	Councilmember Wilson	_____	_____