

**AGENDA ITEM SUMMARY SHEET**  
**VILLAGE COUNCIL MEETING**  
**JANUARY 9, 2019**

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**Agenda Item:**

Second Reading: Ordinance No. 2018-20 (Re-numbered 2019-13) Repealing Development District Provisions of the Lee County Code Previously Adopted by Reference; and Providing an Effective Date

**Description:**

First reading of Ordinance No. 2018-20 was held on October 3, 2018. At the October 17, 2018 second reading/hearing, concerns were raised that by removing such provisions from the Village Code, the existence of these CDDs may be in jeopardy. The second reading/hearing was subsequently continued on two occasions. Village Legal Counsel has worked to get consensus amongst the various legal counsels of area CDDs.

**Recommended Action:**

Motion to adopt Ordinance No. 2019-13.

**Financial Impacts:**

None.

**Attachments:**

1. Memorandum dated January 3, 2019 from Derek Rooney, Assistant Village Attorney
2. Ordinance No. 2019-13

## ATTACHMENT 1

GRAY | ROBINSON  
ATTORNEYS AT LAW

1404 DEAN STREET  
SUITE 300  
FORT MYERS, FLORIDA 33901  
TEL 239-598-3601  
FAX 239-321-5334  
gray-robinson.com

BOCA RATON  
FORT LAUDERDALE  
FORT MYERS  
GAINESVILLE  
JACKSONVILLE  
KEY WEST  
LAKELAND  
MELBOURNE  
MIAMI  
NAPLES  
ORLANDO  
TALLAHASSEE  
TAMPA  
WEST PALM BEACH

239-598-3601

DEREK.ROONEY@GRAY-ROBINSON.COM

## MEMORANDUM

**TO:** Village Council  
**CC:** Steve Sarkozy, Village Manager  
**FROM:** Derek Rooney, Assistant Village Attorney  
**DATE:** January 3, 2019  
**SUBJECT:** Codification Repeal Round One Ordinances – Continued CDD Ordinance

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The following are updates to one ordinances continued by the Council for additional legal review.

Ordinance No. 2018-20 (renumbered 2019-13) An Ordinance Repealing Development District Provisions of the Lee County Code Previously Adopted by Reference

The provisions referenced in this ordinance related to the removal of several sections of the Village Code which describe numerous community development districts (“CDD”) established by Lee County. Concerns have been raised that by removing such provisions from the Village Code the existence of these CDDs may be in jeopardy. While the concern is understandable, the proposed ordinance will have no impact on the existence of any CDD.

Since this ordinance was first heard by the Council, this office has worked to get consensus amongst the various legal counsels of area CDDs. While responsive parties have agreed that the proposed ordinance does not negatively impact the existence or operation of these CDDs the Village Attorney had recommends continuing this item while awaiting addition responses. Some of the Village’s CDDs do not have active management or counsel retained and could not be reached. Due to other mitigating circumstances, namely Hurricane Michael, I was unable to maintain communications with some area CDD counsel, however after consulting with other area CDD counsel I have incorporated additional changes at their request including additional savings and ratification clauses to resolve any ambiguity regarding potential inadvertent impact on existing CDDs.

If you have any questions regarding the existing regulations or ordinances in question, please feel free to contact me directly.

ATTACHMENT 2

VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2019 - 13

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE  
VILLAGE OF ESTERO, FLORIDA, REPEALING  
DEVELOPMENT DISTRICT PROVISIONS OF THE LEE  
COUNTY CODE PREVIOUSLY ADOPTED BY  
REFERENCE; AND PROVIDING AN EFFECTIVE  
DATE.

WHEREAS, the Village of Estero was incorporated by referendum held on November 4, 2014; and

WHEREAS, the Charter of the Village of Estero ("Charter") at Section 11, "General Provisions," paragraph (5) "Transitional Ordinances and Resolutions," provides that all applicable lawful Lee 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 rescind certain provisions of the Lee County Code that fall into one of the following categories: non-ordinance provisions, provisions pre-empted to counties, provisions specifically related to county departments, officers, agencies or areas outside of Estero, provisions that would apply within Estero without the Village's adoption of same.

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

**Section 1. Lee County Code Sections repealed.**

The following community development districts were established and amended by ordinances adopted by the Lee County Board of County Commissioners, pursuant to the provisions of Chapter 190, Florida Statutes, the "Uniform Community Development District Act of 1980" (the "Act"). The creation, amendment to, or termination of these community development districts can only occur pursuant to the procedures outlined in the Act. The following sections were included in the Code of Laws and Ordinances, of the Village of Estero, Florida by virtue of their inclusion in the Lee County Code. To the extent authorized by law and without affecting the existence, charters or powers of the community development districts listed below and without affecting the ordinances adopted by the Lee County Board of County Commissioners that established or amended the community development districts listed below,

the following sections of the Code of Laws and Ordinances, of the Village of Estero, Florida are hereby rescinded and repealed as ordinances of the Village of Estero:

Lee County Code Sec. 11¼-21. Authority for article; Sec. 11¼-22. Establishment of the River Ridge Community Development District; Sec. 11¼-23. Governance; Sec. 11¼-24. Ordinance No. 98-07 amendment; Secs. 11¼-25—11¼-30. Reserved; Sec. 11¼-31. Authority for article; Sec. 11¼-32. Establishment of the Bay Creek Community Development District; Sec. 11¼-33. Authorization for the exercise of optional powers; Sec. 11¼-34. District name; Sec. 11¼-35. Statutory provisions governing district; Sec. 11¼-41. District name; Sec. 11¼-42. Authority for article; Sec. 11¼-43. Establishment of community development district; Sec. 11¼-44. Statutory provisions governing district; Sec. 11¼-51. District name; Sec. 11¼-52. Authority for article; Sec. 11¼-53. Establishment of community development district; Sec. 11¼-54. Statutory provisions governing district; Sec. 11¼-55. Authorization for exercise of optional powers; Sec. 11¼-61. District name; Sec. 11¼-62. Authority for article; Sec. 11¼-63. Establishment of community development district; Sec. 11¼-64. Designation of initial board members; Sec. 11¼-65. Statutory provisions governing district; Sec. 11¼-66. Authorization to modify boundaries; Sec. 11¼-71. District name and legal description; Sec. 11¼-72. Authority for article; Sec. 11¼-73. Establishment of community development district; Sec. 11¼-74. Designation of initial members of the board of supervisors; Sec. 11¼-75. Initial powers of the community development district; Sec. 11¼-76. Statutory provisions governing the community development district; Sec. 11¼-77. Additional conditions imposed on the community development district; Sec. 11¼-91. District name; Sec. 11¼-92. Authority for ordinance; Sec. 11¼-93. Establishment of community development district; Sec. 11¼-94. Designation of initial board members; Sec. 11¼-95. Statutory provisions governing district; Sec. 11¼-96. Notice to subsequent property owners; Sec. 11¼-97. Authorization for exercise of special powers; Sec. 11¼-111. District name and legal description; Sec. 11¼-112. Authority for ordinance; Sec. 11¼-113. Establishment of community development district; Sec. 11¼-114. Designation of initial members of the board of supervisors; Sec. 11¼-115. Initial powers of the community development district; Sec. 11¼-116. Statutory provisions governing the community development district; Sec. 11¼-117. Additional conditions imposed on the community development district; Sec. 11¼-121. District name and legal description; Sec. 11¼-122. Authority for article; Sec. 11¼-123. Establishment of community development district; Sec. 11¼-124. Designation of initial members of the board of supervisors; Sec. 11¼-125. Initial powers of the community development district; Sec. 11¼-126. Statutory provisions governing the community development district; Sec. 11¼-127. Additional conditions imposed on the community development district; Sec. 11¼-128. Authorization for exercise of optional (special) powers; Sec. 11¼-129. Authorization to modify boundaries; Sec. 11¼-131. District name; Sec. 11¼-132. Authority for article; Sec. 11¼-133. Establishment of community development district; Sec. 11¼-134. Designation of initial board members; Sec. 11¼-135. Statutory provisions governing district; Sec. 11¼-136. Notice to subsequent purchasers; Sec. 11¼-137. Authorization for exercise of optional powers; Sec. 11¼-141. District name; Sec. 11¼-142. Authority for article; Sec. 11¼-143. Establishment of community development district; Sec. 11¼-144. Designation of initial board members; Sec. 11¼-145. Statutory provisions governing district; Sec. 11¼-146. Notice to subsequent purchasers; Sec. 11¼-151.

District name; Sec. 11¼-152. Authority for article; Sec. 11¼-153. Establishment of community development district; Sec. 11¼-154. Designation of initial board members; Sec. 11¼-155. Statutory provisions governing district; Sec. 11¼-156. Notice to subsequent purchasers; Sec. 11¼-171. District name; Sec. 11¼-172. Authority; Sec. 11¼-173. Establishment of community development district; Sec. 11¼-174. Designation of initial board members; Sec. 11¼-175. Statutory provisions governing district; Sec. 11¼-176. Authorization for exercise of special powers; Sec. 11¼-177. Notice to subsequent purchasers; Sec. 11¼-191. District name and legal description; Sec. 11¼-192. Authority; Sec. 11¼-193. Establishment of community development district; Sec. 11¼-194. Designation of initial members of the board of supervisors; Sec. 11¼-195. Initial powers of the community development district; Sec. 11¼-196. Statutory provisions governing the community development district; Sec. 11¼-197. Additional conditions imposed on the community development district; Sec. 11¼-201. District name and legal description; Sec. 11¼-202. Authority for article; Sec. 11¼-203. Establishment of community development district; Sec. 11¼-204. Designation of initial members of the board of supervisors; Sec. 11¼-205. Initial powers of the community development district; Sec. 11¼-206. Statutory provisions governing the community development district; Sec. 11¼-207. Additional conditions imposed on the community development district; Sec. 11¼-208. Authorization for exercise of optional (special) powers; Sec. 11¼-211. District name and legal description; Sec. 11¼-212. Authority for article; Sec. 11¼-213. Establishment of community development district; Sec. 11¼-214. Designation of initial members of the board of supervisors; Sec. 11¼-215. Initial powers of the community development district; Sec. 11¼-216. Statutory provisions governing the community development district; Sec. 11¼-217. Additional conditions imposed on the community development district; Sec. 11¼-231. District name; Sec. 11¼-232. Authority for article; Sec. 11¼-233. Establishment of community development district; Sec. 11¼-234. Designation of initial board members; Sec. 11¼-235. Statutory provisions governing district; Sec. 11¼-236. Notice to subsequent purchasers; Sec. 11¼-251. District name; Sec. 11¼-252. Authority for article; Sec. 11¼-253. Establishment of community development district; Sec. 11¼-254. Designation of initial board members; Sec. 11¼-255. Statutory provisions governing district; Sec. 11¼-256. Notice to subsequent purchasers; Sec. 11¼-261. District name; Sec. 11¼-262. Authority for article; Sec. 11¼-263. Establishment of community development district; Sec. 11¼-264. Designation of initial board members; Sec. 11¼-265. Statutory provisions governing district; Sec. 11¼-266. Notice to subsequent purchasers; Sec. 11¼-271. District name; Sec. 11¼-272. Authority for article; Sec. 11¼-273. Establishment of community development district; Sec. 11¼-274. Designation of initial board members; Sec. 11¼-275. Statutory provisions governing district; Sec. 11¼-276. Notice to subsequent purchasers; Sec. 11¼-281. District name; Sec. 11¼-282. Authority for article; Sec. 11¼-283. Establishment of community development district; Sec. 11¼-284. Designation of initial board members; Sec. 11¼-285. Statutory provisions governing district; Sec. 11¼-286. Notice to subsequent purchasers; Sec. 11¼-291. District name; Sec. 11¼-292. Authority for article; Sec. 11¼-293. Establishment of community development district; Sec. 11¼-294. Designation of initial board members; Sec. 11¼-295. Statutory provisions governing district; Sec. 11¼-296. Notice to subsequent purchasers; Sec. 11¼-301. District name; Sec. 11¼-302. Authority for article; Sec. 11¼-303. Establishment of community development district; Sec. 11¼-304. Designation of initial board members; Sec. 11¼-305. Statutory

provisions governing district; Sec. 11¼-306. Notice to subsequent purchasers; Sec. 11¼-311. District name; Sec. 11¼-312. Authority for article; Sec. 11¼-313. Establishment of community development district; Sec. 11¼-314. Designation of initial board members; Sec. 11¼-315. Statutory provisions governing district; Sec. 11¼-316. Notice to subsequent purchasers; Sec. 11¼-321. District name; Sec. 11¼-322. Authority for article; Sec. 11¼-323. Authorization for exercise of special powers; Sec. 11¼-324. Establishment of community development district; Sec. 11¼-325. Designation of initial board members; Sec. 11¼-326. Statutory provisions governing district; Sec. 11¼-327. Notice to subsequent purchasers; Sec. 11¼-330. Short title; Sec. 11¼-332. Name; Sec. 11¼-333. Location; Sec. 11¼-334. Ownership; Sec. 11¼-335. General goals of development; Sec. 11¼-336. General plan of development; Sec. 11¼-337. Interpretation of community plan; Sec. 11¼-338. Permitted variations; Sec. 11¼-339. Reserve area; Sec. 11¼-340. Fractionalization of tracts; Sec. 11¼-341. General; Sec. 11¼-342. Specific definitions; Sec. 11¼-343. General conditions and procedures; Sec. 11¼-344. Procedures for area master plan approval; Sec. 11¼-345. Procedures for final plan and plat approvals; Sec. 11¼-346. Procedures for parcel plan approval; Sec. 11¼-347. Procedures for site plan approval; Sec. 11¼-348. Purpose; Sec. 11¼-349. Creation of a Uniform Community Development District; Sec. 11¼-350. Water system; Sec. 11¼-351. Sewer system; Sec. 11¼-352. Surface water management; Sec. 11¼-353. Utilities; Sec. 11¼-354. Energy; Sec. 11¼-355. Streets; Sec. 11¼-356. Purpose; Sec. 11¼-357. Agricultural uses; Sec. 11¼-358. Alcoholic beverages; Sec. 11¼-359. Animals in residential areas; Sec. 11¼-360. Cluster developments; Sec. 11¼-361. Essential infrastructure facilities; Sec. 11¼-362. Excavations; Sec. 11¼-363. Fences, walls and hedges; Sec. 11¼-364. Guest houses; Sec. 11¼-365. Major recreational equipment and commercial vehicles in residential areas; Sec. 11¼-366. Model units; Sec. 11¼-367. Oil and gas resources; Sec. 11¼-368. Setbacks; Sec. 11¼-368.1. Unaddressed uses; Sec. 11¼-368.2. Zero lot line development; Sec. 11¼-369. Purpose; Sec. 11¼-370. Designation of use; Sec. 11¼-371. Conservation Area District; Sec. 11¼-372. Golf Course District; Sec. 11¼-373. Residential districts (general); Sec. 11¼-374. Commercial districts (general); Sec. 11¼-374.1. Utility District and Park/Utility District; Sec. 11¼-375. Purpose; Sec. 11¼-376. Landscaping; Sec. 11¼-377. Signs; Sec. 11¼-378. Administration; Sec. 11¼-379. Appeals from decision of administrative official; Sec. 11¼-380. Fees; and Sec. 11¼-381. Civil and criminal enforcement.

The adoption of this Ordinance does not affect the validity or the establishment of any community development district or other special district, or the validity of these provisions within the Code of Laws and Ordinances of Lee County, Florida.

## **Section 2. Ratification.**

The Village hereby ratifies and confirms the establishment, creation and existence of all community development districts within the Village of Estero established by Lee County, including all amendments thereto and any consents provided by Lee County.

**Section 3.      Effective Date.**

This Ordinance shall become effective immediately upon its adoption.

**PASSED** on first reading this 3<sup>rd</sup> day of October, 2018.

**PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,  
Florida this 9<sup>th</sup> day of January, 2019.

Attest:

**VILLAGE OF ESTERO, FLORIDA**

By: \_\_\_\_\_  
Kathy Hall, MMC, Village Clerk

By: \_\_\_\_\_  
James R. Boesch, Mayor

Reviewed for legal sufficiency:

By: \_\_\_\_\_  
Burt Saunders, Esq., Village Attorney

Vote:	AYE	NAY
Mayor Boesch	_____	_____
Vice Mayor Ribble	_____	_____
Councilmember Batos	_____	_____
Councilmember Errington	_____	_____
Councilmember Levitan	_____	_____
Councilmember McLain	_____	_____
Councilmember Wilson	_____	_____