

1 VILLAGE OF ESTERO, FLORIDA

2
3 ORDINANCE NO. 2019 - 26

4
5 AN ORDINANCE OF THE VILLAGE COUNCIL OF
6 THE VILLAGE OF ESTERO, FLORIDA, PROVIDING
7 FOR THE AUTHORITY TO ESTABLISH SPECIAL
8 ASSESSMENTS; ESTABLISHING PROCEDURES,
9 IMPOSITION AND COLLECTION OF SPECIAL
10 ASSESSMENTS; AUTHORIZING THE ISSUANCE OF
11 OBLIGATIONS SECURED BY SUCH ASSESSMENTS;
12 PROVIDING FOR SEVERABILITY; PROVIDING FOR
13 CODIFICATION; AND PROVIDING FOR AN
14 EFFECTIVE DATE.

15
16 RECITALS

17
18 WHEREAS, pursuant to Article VIII, Section 2, of the Florida Constitution and Section
19 166.021, Florida Statutes, municipalities may exercise their powers for municipal purposes and to
20 preserve the health, safety, and general welfare of its residents, except when expressly prohibited
21 by law; and

22
23 WHEREAS, special assessments provide a mechanism to finance the provision of
24 municipal services and public infrastructure; and

25
26 WHEREAS, Florida law recognizes a municipality’s home rule authority to impose
27 special assessments for public projects in addition to statutory processes for creating and collecting
28 assessments; and

29
30 WHEREAS, the Village Council hereby finds that this ordinance is in the best interest of
31 the public health, safety and welfare.

32
33 NOW, THEREFORE, BE IT ORDAINED by the Village Council of the Village of
34 Estero, Florida, as follows:

35
36 Section 1. The forgoing recitals are true and correct and are incorporated herein by this
37 reference.

38
39 Section 2. Providing for Special Assessments.

40
41 A new Chapter is hereby created in the Code of Laws and Ordinances, of the Village of
42 Estero, Florida, titled Finance and Taxation, and establishing as follows:

43
44 ARTICLE I. – IN GENERAL

45
46 [SECTIONS RESERVED]

47 ARTICLE II. – SPECIAL ASSESSMENTS

48

49 DIVISION 1. - GENERALLY

50

51 Sec. 1-01. - Definitions.

52 The following words, terms and phrases, when used in this article, shall have the meanings
53 ascribed to them in this section, except where the context clearly indicates a different meaning:

54 *Annual assessment resolution* means the resolution described in section 3-07 approving an
55 assessment roll for a specific fiscal year.

56 *Assessment* means a special assessment imposed by the village pursuant to this article to fund
57 the project cost of local improvements.

58 *Assessment area* means any of the special benefit areas created by resolution of the council
59 pursuant to section 2-01 that specially benefit from a local improvement.

60 *Assessment coordinator* means the person or entity designated by the council to be responsible
61 for coordinating assessments, or such person's designee.

62 *Assessment roll* means the special assessment roll relating to local improvements, approved
63 by a final assessment resolution pursuant to section 3-06 or an annual assessment resolution
64 pursuant to section 3-07.

65 *Assessment unit* means the unit or criteria utilized to determine the assessment for each parcel
66 of property, as set forth in the initial assessment resolution. The term "assessment unit" may
67 include, by way of example only, and not limitation, one or a combination of the following: front
68 footage, platted lots or parcels of record, land area, assessment area, equivalent residential
69 connections, permitted land use, trip generation rates, rights to future trip generation capavillage
70 under applicable concurrency management regulations, property value or any other physical
71 characteristic or reasonably expected use of the property that is related to the local improvement
72 to be funded from proceeds of the assessment.

73 *Capital cost* means all or any portion of the expenses that are properly attributable to the
74 acquisition, design, construction, installation, reconstruction, renewal or replacement (including
75 demolition, environmental mitigation and relocation) of local improvements and imposition of the
76 related assessments under generally accepted accounting principles; and including reimbursement
77 to the village for any funds advanced for capital cost and interest on any interfund or intrafund
78 loan for such purposes.

79 *Equalizing board* means the village council when sitting in such capavillage to hear and
80 consider any and all complaints as to the special assessments with the purpose of adjusting the
81 assessments on a basis of justice and right.

82 *Final assessment resolution* means the resolution described in section 3-06, which shall
83 confirm, modify or repeal the initial assessment resolution and which shall be the final proceeding
84 for the imposition of an assessment.

85 *Fiscal year* means the period commencing on October 1 of each year and continuing through
86 the next succeeding September 30, or such other period as may be prescribed by law as the fiscal
87 year for the village.

88 *Government property* means property owned by the United States of America, this state, a
89 county, a special district, a municipal corporation, or any of their respective agencies or political
90 subdivisions.

91 *Initial assessment resolution* means the resolution described in section 3-02, which shall be
92 the initial proceeding for the imposition of an assessment.

93 *Local improvement* means a capital improvement constructed or installed by the village for
94 the special benefit of a neighborhood or other local area.

95 *Obligations* means bonds or other evidence of indebtedness, including, but not limited to,
96 notes, commercial paper, capital leases or any other obligation issued or incurred to finance any
97 portion of the project cost of local improvements and secured, in whole or in part, by proceeds of
98 the assessments.

99 *Ordinance* means this Capital Improvement Special Assessment Ordinance.

100 *Pledged revenues* means, as to any series of obligations:

- 101 (1) The proceeds of such obligations, including investment earnings;
- 102 (2) Proceeds of the assessments pledged to secure the payment of such obligations; and/or
- 103 (3) Any other legally available non-ad valorem revenue pledged, at the council's sole
104 option, to secure the payment of such obligations, all as specified by the ordinance and/or
105 resolution authorizing such obligations.

106 *Project cost* means:

- 107 (1) The capital cost of a local improvement;
- 108 (2) The transaction cost associated with the obligations which financed the local
109 improvement;
- 110 (3) Interest accruing on such obligations for such period of time as the village deems
111 appropriate;
- 112 (4) The debt service reserve fund or account, if any, established for the obligations which
113 financed the local improvement; and
- 114 (5) Any other costs or expenses related thereto.

115 *Property appraiser* means the county property appraiser.

116 *Resolution of intent* means the resolution expressing the council's intent to collect assessments
117 on the ad valorem tax bill required by the Uniform Assessment Collection Act.

118 *Tax collector* means the county tax collector.

119 *Tax roll* means the real property ad valorem tax assessment roll maintained by the property
120 appraiser for the purpose of the levy and collection of ad valorem taxes.

121 *Transaction cost* means the costs, fees and expenses incurred by the village in connection with
122 the issuance and sale of any series of obligations, including, but not limited to:

- 123 (1) Rating agency and other financing fees;
- 124 (2) The fees and disbursements of bond counsel;
- 125 (3) The underwriters' discount;
- 126 (4) The fees and disbursements of the village's financial advisor;
- 127 (5) The costs of preparing and printing the obligations, the preliminary official statement,
128 the final official statement, and all other documentation supporting issuance of the
129 obligations;
- 130 (6) The fees payable in respect of any municipal bond insurance policy;
- 131 (7) Administrative, development, credit review, and all other fees associated with any
132 pooled commercial paper or similar interim financing program;
- 133 (8) Any private placement fees; and
- 134 (9) Any other costs of a similar nature incurred in connection with issuance of such
135 obligations.

136 *Uniform Assessment Collection Act* means F.S. § 197.3632, or any successor statutes
137 authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes,
138 and any applicable regulations promulgated hereunder.

139 Sec. 1-02. - Interpretation.

140 Unless the context indicates otherwise, the terms "hereof," "hereby," "herein," "hereto,"
141 "hereunder," and similar terms refer to this article. The term "hereafter" means after, and the term
142 "heretofore" means before, the effective date of this article

143 Sec. 1-03. - General findings.

144 It is hereby ascertained, determined and declared that:

145 (1) Article VIII, Section 2 of the Florida Constitution, F.S. ch. 166 and the Charter of the
146 village grant to the council all powers of local self-government to perform village
147 functions and to render services for village purposes in a manner not inconsistent with
148 general or special law, and such power may be exercised by the enactment of village
149 ordinances.

150 (2) The assessments imposed pursuant to this article will be imposed by the council, not the
151 property appraiser or tax collector. Any activity of the property appraiser or tax collector
152 under the provisions of this article shall be construed solely as ministerial.

153 Sec. 1-04. - Alternative method.

154 This article shall be deemed to provide an additional and alternative method for the imposition
155 and collection of assessments and shall be regarded as supplemental and additional to powers
156 conferred by other laws, and shall not be regarded as in derogation of any powers now existing or
157 which may hereafter come into existence. This article, being necessary for the welfare of the
158 inhabitants of the village, particularly the owners of property located within the assessment areas,
159 shall be liberally construed to affect the purposes hereof.

160 DIVISION 2. - ASSESSMENT AREAS

161 Sec. 2-01. - Creation of assessment areas.

162 The village council is hereby authorized to create assessment areas by resolution. Each
163 assessment area shall encompass only that property specially benefited by the local improvements
164 proposed for funding from the proceeds of assessments to be imposed therein. The resolution
165 creating each assessment area shall include brief descriptions of the proposed local improvements,
166 a general description of the property to be included within the assessment area, and specific
167 legislative findings that recognize the special benefit to be provided by each proposed local
168 improvement to property within the assessment area.

169 Sec. 2-02. - Landowner petition process.

170 At its option, the council may establish a process pursuant to which the owners of property
171 may petition for creation of an assessment area to fund local improvements. Notwithstanding any
172 petition process established pursuant to this section, the council shall retain the authority to create
173 assessment areas without a landowner petition.

174 DIVISION 3. - ASSESSMENTS AND RESOLUTIONS

175 Sec. 3-01. - Authority.

176 The council is hereby authorized to impose assessments against property located within an
177 assessment area to fund the project cost of local improvements. The assessments shall be computed
178 in a manner that fairly and reasonably apportions the project cost among the parcels of property
179 within the assessment area, based upon objectively determinable assessment units.

180 Sec. 3-02. - Initial assessment resolution.

181 The initial proceeding for creation of an assessment area and imposition of an assessment shall
182 be the council's adoption of an initial assessment resolution. The initial assessment resolution shall:

- 183 (1) Describe the property to be located within the proposed assessment area;
184 (2) Describe the local improvement proposed for funding from proceeds of the assessments;

- 185 (3) Estimate the project cost;
- 186 (4) Describe the proposed method of apportioning the project cost among the parcels of
- 187 property located within the proposed assessment area, such that the owner of any parcel
- 188 of property can objectively determine the number of assessment units and the amount
- 189 of the assessment;
- 190 (5) Describe the provisions, if any, for acceleration and prepayment of the assessment;
- 191 (6) Describe the provisions, if any, for reallocating the assessment upon future subdivision;
- 192 and
- 193 (7) Include specific legislative findings that recognize the fairness provided by the
- 194 apportionment methodology.

195 Sec. 3-03. - Assessment roll.

- 196 (a) The village manager or designee shall prepare a preliminary assessment roll that contains the
- 197 following information:
 - 198 (1) A summary description of each parcel of property (conforming to the description
 - 199 contained on the tax roll) subject to the assessment;
 - 200 (2) The name of the owner of record of each parcel, as shown on the tax roll;
 - 201 (3) The number of assessment units attributable to each parcel;
 - 202 (4) The estimated maximum annual assessment to become due in any fiscal year for each
 - 203 assessment unit; and
 - 204 (5) The estimated maximum annual assessment to become due in any fiscal year for each
 - 205 parcel.
- 206 (b) Copies of the initial assessment resolution and the preliminary assessment roll shall be on file
- 207 with the village clerk and open to public inspection. The foregoing shall not be construed to
- 208 require that the assessment roll be in printed form if the amount of the assessment for each
- 209 parcel of property can be determined by use of a computer terminal available to the public.

210 Sec. 3-04. - Notice by publication.

211 After filing the assessment roll with the village clerk, as required by section 3-03(b), the

212 village clerk shall publish once in a newspaper of general circulation within the village a notice

213 stating that at a public hearing of the council will be held on a certain day and hour, not earlier

214 than 20 calendar days following such publication, at which hearing the council will receive written

215 comments and hear testimony from all interested persons regarding creation of the assessment area

216 and adoption of the final assessment resolution. The published notice shall conform to the

217 requirements set forth in the Uniform Assessment Collection Act.

218 Sec. 3-05. - Notice by mail.

219 In addition to the published notice required by section 3-04, the village clerk shall provide

220 notice of the proposed assessment and public hearing by first class mail to the owner of each parcel

221 of property subject to the assessment. The mailed notice shall conform to the requirements set

222 forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days

223 prior to the public hearing for such assessment to each property owner at such address as is shown

224 on the tax roll on a date which shall not be more than 45 days prior to the date of mailing. Notice

225 shall be deemed mailed upon delivery thereof to the possession of the U.S. Postal Service. The

226 village clerk may provide proof of such notice by affidavit. Failure of the owner to receive such

227 notice due to mistake or inadvertence shall not affect the validity of the assessment roll or release

228 or discharge any obligation for the payment of an assessment imposed by the council pursuant to

229 this division.

230 Sec. 3-06. - Adoption of final resolution.

231 At the time named in such notice, or such time to which an adjournment or continuance may
232 be taken, the council shall receive written and oral testimony of affected property owners as to the
233 propriety and advisability of making the improvements and funding them with special assessments.
234 Council may then, or at any subsequent meeting of the council, make a final decision on whether
235 to levy the special assessments. Thereafter, council shall meet as an equalizing board to hear and
236 consider all complaints as to the special assessments and shall adjust and equalize the assessments
237 on the basis of justice and right. When so equalized, council may then adopt the final assessment
238 resolution which shall:

- 239 (1) Create or affirm the assessment area;
- 240 (2) Confirm, modify or repeal the initial assessment resolution with such amendments, if
241 any, as may be deemed appropriate by the council;
- 242 (3) Establish the maximum amount of the assessment for each assessment unit;
- 243 (4) Approve the assessment roll, with such amendments as it deems just and right; and
- 244 (5) Determine the method of collection.

245 Sec. 3-07. - Annual assessment resolution.

246 Except as provided in section 4-02, during its budget adoption process, the council shall adopt
247 an annual assessment resolution for each fiscal year in which assessments will be imposed to
248 approve the assessment roll for such fiscal year. The final assessment resolution shall constitute
249 the annual assessment resolution for the initial fiscal year. The assessment roll shall be prepared
250 in accordance with the initial assessment resolution, as confirmed or amended by the final
251 assessment resolution. If the proposed assessment for any parcel of property exceeds the maximum
252 amount established in the notice provided pursuant to section 3-05 or if an assessment is imposed
253 against property not previously subject thereto, the council shall provide notice to the owner of
254 such property in accordance with sections 3-04 and 3-05 and conduct a public hearing prior to
255 adoption of the annual assessment resolution. Failure to adopt an annual assessment resolution
256 during the budget adoption process for a fiscal year may be cured at any time.

257 Sec. 3-08. - Effect of assessment resolutions.

258 The adoption of the final assessment resolution shall be the final adjudication of the issues
259 presented (including, but not limited to, the apportionment methodology, the rate of assessment,
260 the adoption of the assessment roll and the levy and lien of the assessments), unless proper steps
261 are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of
262 council adoption of the final assessment resolution. Except as provided in section 4-02, the
263 assessments for each fiscal year shall be established upon adoption of the annual assessment
264 resolution. The assessment roll, as approved by the annual assessment resolution, shall be certified
265 to the tax collector, or such other officials as the council, by resolution, deems appropriate.

266 Sec. 3-09. - Lien of assessments.

- 267 (a) Upon adoption of the annual assessment resolution for each fiscal year, assessments to be
268 collected under the Uniform Assessment Collection Act shall constitute a lien against assessed
269 property equal in rank and dignity with the liens of all state, county, district or municipal taxes
270 and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall
271 be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed
272 perfected upon adoption by the council of the annual assessment resolution and shall attach to
273 the property included on the assessment roll as of prior to January 1, the lien date for ad
274 valorem taxes.
- 275 (b) Upon adoption of the final assessment resolution, assessments to be collected under any
276 alternative method of collection provided in section 4-02 shall constitute a lien against

277 assessed property equal in rank and dignity with the liens of all state, county, district or
278 municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law,
279 such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien
280 shall be deemed perfected on the date notice thereof is recorded in the official records of the
281 village or the Official Records of Lee County, Florida.

282 Sec. 3-10. - Revisions to assessments.

283 If any assessment made under the provisions of this division is either in whole or in part
284 annulled, vacated or set aside by the judgment of any court, or if the council is satisfied that any
285 such assessment is so irregular or defective that the same cannot be enforced or collected, or if the
286 council has failed to include any property on the assessment roll which property should have been
287 so included, the council may take all necessary steps to impose a new assessment against any
288 property benefited by the local improvement, following, as nearly as may be practicable, the
289 provisions of this division and, in the case such second assessment is annulled, the council may
290 obtain and impose other assessments until a valid assessment is imposed.

291 Sec. 3-11. - Procedural irregularities.

292 Any irregularity in the proceedings in connection with the levy of any assessment under the
293 provisions of this division shall not affect the validity of the same after the approval thereof, and
294 any assessment as finally approved shall be competent and sufficient evidence that such
295 assessment was duly levied, that the assessment was duly made and adopted, and that all other
296 proceedings adequate to such assessment were duly had, taken and performed as required by this
297 division; and no variance from the directions hereunder shall be held material unless it be clearly
298 shown that the party objecting was materially injured thereby. Notwithstanding the provisions of
299 this section, any party objecting to an assessment imposed pursuant to this division must file an
300 objection with a court of competent jurisdiction within the time periods prescribed herein.

301 Sec. 3-12. - Correction of errors and omissions.

302 (a) No act of error or omission on the part of the council, the village clerk, property appraiser, tax
303 collector, clerk, or their respective deputies or employees, shall operate to release or discharge
304 any obligation for payment of any assessment imposed by the council under the provisions of
305 this division.

306 (b) The village manager or designee may correct the number of assessment units attributed to a
307 parcel of property at any time. Any such correction, which reduces an assessment, shall be
308 considered valid from the date on which the assessment was imposed if approved by the
309 council and shall in no way affect the enforcement of the assessment imposed under the
310 provisions of this division. Any such correction which increases an assessment or imposes an
311 assessment on omitted property shall first require notice to the affected owner in the manner
312 described in section 3-05, providing the date, time and place that the council will consider
313 confirming the correction and offering the owner an opportunity to be heard.

314 (c) After the assessment roll has been delivered to the tax collector in accordance with the
315 Uniform Assessment Collection Act, any changes, modifications or corrections thereto shall
316 be made in accordance with the procedures applicable to errors and insolvencies for ad
317 valorem taxes.

318 DIVISION 4. - COLLECTION OF ASSESSMENTS

319 Sec. 4-01. - Method of collection.

320 (a) Unless directed otherwise by the council, assessments (other than assessments imposed
321 against government property) shall be collected pursuant to the Uniform Assessment

322 Collection Act, and the village shall comply with all applicable provisions thereof, including,
323 but not limited to:

324 (1) Entering into a written agreement with the property appraiser and/or the tax collector for
325 reimbursement of necessary expenses to the extent required by law or deemed appropriate
326 by the assessment coordinator; and

327 (2) Adopting a resolution of intent. The resolution of intent may be adopted either prior to or
328 following the initial assessment resolution; provided, however, that the resolution of
329 intent must be adopted prior to January 1 (or March 1 with consent of the property
330 appraiser and tax collector) of the year in which the assessments are first collected on the
331 ad valorem tax bill.

332 (b) Any hearing or notice required by this division may be combined with any other hearing or
333 notice required by the Uniform Assessment Collection Act. Costs and expenses of collection
334 of assessments may be included annually as part of the assessments and be collected in the
335 manner provided herein.

336 Sec. 4-02. - Alternative method of collection.

337 In lieu of using the Uniform Assessment Collection Act, the village may elect to collect the
338 assessment by any other method that is authorized by law or provided by this section as follows:

339 (1) The village shall provide assessment bills by first class mail to the owner of each affected
340 parcel of property, other than government property. The bill or accompanying
341 explanatory material shall include:

- 342 a. A brief explanation of the assessment;
- 343 b. A description of the assessment units used to determine the amount of the
344 assessment;
- 345 c. The number of assessment units attributable to the parcel;
- 346 d. The total amount of the parcel's assessment for the appropriate period;
- 347 e. The location at which payment will be accepted;
- 348 f. The date on which the assessment is due; and
- 349 g. A statement that the assessment constitutes a lien against assessed property equal in
350 rank and dignity with the liens of all state, county, district or municipal taxes and
351 other non-ad valorem assessments.

352 An annual assessment resolution shall not be required for assessments collected pursuant
353 to this section.

354 (2) A general notice of the lien resulting from imposition of the assessments shall be recorded
355 in the official records of the village or the Official Records of Lee County, Florida.
356 Nothing herein shall be construed to require that individual liens or releases be filed in
357 the Official Records of Lee County.

358 (3) The village shall have the right to appoint or retain an agent to foreclose and collect all
359 delinquent assessments in the manner provided by law. An assessment shall become
360 delinquent if it is not paid within 30 days from the due date. The village or its agent shall
361 notify any property owner who is delinquent in payment of an assessment. Such notice
362 shall state in effect that the village or its agent will initiate a foreclosure action and cause
363 the foreclosure of such property subject to a delinquent assessment in a method now or
364 hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as
365 provided by law.

366 (4) All costs, fees and expenses, including reasonable attorney fees and title search expenses,
367 related to any foreclosure action as described herein shall be included in any judgment or

368 decree rendered therein. At the sale pursuant to decree in any such action, the village may
369 be the purchaser to the same extent as an individual person or corporation. The village
370 may join in one foreclosure action the collection of assessments against any or all property
371 assessed in accordance with the provisions hereof. All delinquent property owners whose
372 property is foreclosed shall be liable for an apportioned amount of reasonable costs and
373 expenses incurred by the village and its agents, including reasonable attorney fees, in
374 collection of such delinquent assessments and any other costs incurred by the village as
375 a result of such delinquent assessments, including, but not limited to, costs paid for draws
376 on a credit facility and the same shall be collectible as a part of or in addition to the costs
377 of the action.

378 (5) In lieu of foreclosure, any delinquent assessment and the costs, fees and expenses
379 attributable thereto may be collected pursuant to the Uniform Assessment Collection Act;
380 provided, however, that:

- 381 a. Notice is provided to the owner in the manner required by law and this division; and
- 382 b. Any existing lien of record on the affected parcel for the delinquent assessment is
383 supplanted by the lien resulting from certification of the assessment roll to the tax
384 collector.

385 Sec. 4-03. - Responsibility for enforcement.

386 The village and its agent, if any, shall maintain the duty to enforce the prompt collection of
387 assessments by the means provided herein. The duties related to collection of assessments may be
388 enforced at the suit of any holder of obligations in a court of competent jurisdiction by mandamus
389 or other appropriate proceedings or actions.

390 Sec. 4-04. - Government property.

391 (a) If assessments are imposed against government property, the village shall provide assessment
392 bills by first class mail to the owner of each affected parcel of government property. The bill
393 or accompanying explanatory material shall include:

- 394 (1) A brief explanation of the assessment;
- 395 (2) A description of the assessment units used to determine the amount of the assessment;
- 396 (3) The number of assessment units attributable to the parcel;
- 397 (4) The total amount of the parcel's assessment for the appropriate period;
- 398 (5) The location at which payment will be accepted; and
- 399 (6) The date on which the assessment is due.

400 (b) Assessments imposed against governmental property shall be due on the same date as
401 assessments against other property within the assessment area and, if applicable, shall be
402 subject to the same discounts for early payment.

403 (c) An assessment shall become delinquent if it is not paid within 30 days from the due date. The
404 village shall notify the owner of any government property that is delinquent in payment of its
405 assessment. Such notice shall state in effect that the village will initiate a mandamus or other
406 appropriate judicial action to compel payment.

407 (d) All costs, fees and expenses, including reasonable attorney fees and title search expenses,
408 related to any mandamus or other action as described herein shall be included in any judgment
409 or decree rendered therein. All delinquent owners of government property against which a
410 mandamus or other appropriate action is filed shall be liable for an apportioned amount of
411 reasonable costs and expenses incurred by the village, including reasonable attorney fees, in
412 collection of such delinquent assessments and any other costs incurred by the village as a
413 result of such delinquent assessments, including, but not limited to, costs paid for draws on a

414 credit facility and the same shall be collectible as a part of or in addition to the costs of the
415 action.

416 (e) As an alternative to the foregoing, an assessment imposed against government property may
417 be collected on the bill for any utility service provided to such governmental property. The
418 council may contract for such billing services with any utility provider.

419 Sec. 4-05. - Levy and collection of assessments.

420 The village may retain, and assign such responsibilities to, such persons or entities as it deems
421 appropriate to implement the provisions of this division and to levy and collect assessments.

422 DIVISION 5. - ISSUANCE OF OBLIGATIONS

423 Sec. 5-01. - General authority.

424 (a) Upon adoption of the final assessment resolution imposing assessments to fund a local
425 improvement or such other time as determined by the council, the council shall have the
426 power and is hereby authorized to provide by resolution, at one time or from time to time
427 in series, for the issuance of obligations to fund the project cost thereof.

428 (b) The principal of and interest on each series of obligations shall be payable from pledged
429 revenues. At the option of the council, the village may agree, by resolution, to budget and
430 appropriate funds to make up any deficiency in the reserve account established for the
431 obligations or in the payment of the obligations from other non-ad valorem revenue
432 sources. The council may also provide, by resolution, for a pledge of or lien upon proceeds
433 of such non-ad valorem revenue sources for the benefit of the holders of the obligations.
434 Any such resolution shall determine the nature and extent of any pledge of or lien upon
435 proceeds of such non-ad valorem revenue sources.

436 Sec. 5-02. - Terms of the obligations.

437 The obligations shall be dated, shall bear interest at such rate or rates, shall mature at such
438 times, and may be made redeemable before maturity, at the option of the village, at such price
439 or prices and under such terms and conditions, all as may be fixed by the council. Said
440 obligations shall mature not later than 40 years after their issuance. The council shall determine
441 by resolution the form of the obligations, the manner of executing such obligations, the
442 denominations of such obligations, the places of payment of the principal and interest, which
443 may be at any bank or trust company within or outside of the state, and such other terms and
444 provisions of the obligations as it deems appropriate. The obligations may be sold at public or
445 private sale for such prices as the council shall determine by resolution. The obligations may
446 be delivered to any contractor to pay for construction of the local improvements or may be sold
447 in such manner and for such price as the council may determine by resolution to be for the best
448 interests of the village.

449 Sec. 5-03. - Variable rate obligations.

450 At the option of the council, obligations may bear interest at a variable rate. In such event,
451 the village shall adopt a resolution to designate the interest rate used to compute the annual
452 assessments; provided, however, that if the resolution authorizing issuance of the obligations
453 establishes a maximum rate of interest, the rate of interest used to compute the annual
454 assessments shall not exceed such maximum rate. If, for any fiscal year, the actual rate of
455 interest on the obligations is less than the rate of interest to compute the annual assessments,
456 the excess amounts shall be used to prepay obligations or credited to a future annual
457 assessment, as provided by resolution of the council. If, for any fiscal year, the actual rate of
458 interest on the obligations exceeds the rate of interest used to compute the annual assessments,
459 such deficiency may be imposed as a surcharge on the next annual installment.

460 Sec. 5-04. - Temporary obligations.

461 Prior to the preparation of definitive obligations of any series, the council may, under like
462 restrictions, issue interim receipts, interim certificates, or temporary obligations, exchangeable
463 for definitive obligations when such obligations have been executed and are available for
464 delivery. The council may also provide for the replacement of any obligations which shall
465 become mutilated, destroyed or lost. Obligations may be issued without any other proceedings
466 or the happening of any other conditions or things than those proceedings, conditions or things
467 that are specifically required by this division.

468 Sec. 5-05. - Anticipation notes.

469 In anticipation of the sale of obligations, the council may, by resolution, issue notes and
470 may renew the same from time to time. Such notes may be paid from the proceeds of the
471 obligations, the proceeds of the assessments, the proceeds of the notes and such other legally
472 available monies as the council deems appropriate by resolution. Said notes shall mature within
473 five years of their issuance and shall bear interest at a rate not exceeding the maximum rate
474 provided by law. The council may issue obligations or renewal notes to repay the notes. The
475 notes shall be issued in the same manner as the obligations.

476 Sec. 5-06. - Taxing power not pledged.

477 Obligations issued under the provisions of this division shall not be deemed to constitute
478 a general obligation or pledge of the full faith and credit of the village within the meaning of
479 the Constitution of the State, but such obligations shall be payable only from pledged revenues
480 in the manner provided herein and by the resolution authorizing the obligations. The issuance
481 of obligations under the provisions of this division shall not directly or indirectly obligate the
482 village to levy or to pledge any form of ad valorem taxation whatever therefore. No holder of
483 any such obligations shall ever have the right to compel any exercise of the ad valorem taxing
484 power on the part of the village to pay any such obligations or the interest thereon or to enforce
485 payment of such obligations or the interest thereon against any property of the village, nor shall
486 such obligations constitute a charge, lien or encumbrance, legal or equitable, upon any property
487 of the village, except the pledged revenues.

488 Sec. 5-07. - Trust funds.

489 The pledged revenues received pursuant to the authority of this division shall be deemed
490 to be trust funds, to be held and applied solely as provided in this division and in the resolution
491 authorizing issuance of the obligations. The village or its designee may invest such pledged
492 revenues in the manner provided by the resolution authorizing issuance of the obligations. The
493 pledged revenues upon receipt thereof by the village shall be subject to the lien and pledge of
494 the holders of any obligations of any entity other than the village providing credit enhancement
495 on the obligations.

496 Sec. 5-08. - Remedies of holders.

497 Any holder of obligations, except to the extent the rights herein given, may be restricted
498 by the resolution authorizing issuance of the obligations, may, whether at law or in equity, by
499 suit, action, mandamus or other proceedings, protect and enforce any and all rights under the
500 laws of the state or granted hereunder or under such resolution, and may enforce and compel
501 the performance of all duties required by this part, or by such resolution, to be performed by
502 the village.

503

504 Sec. 5-09. - Refunding obligations.

505 The village may, by resolution of the council, issue obligations to refund any obligations
506 issued pursuant to this division, or any other obligations of the village theretofore issued to
507 finance the project cost of a local improvement, and provide for the rights of the holders hereof.
508 Such refunding obligations may be issued in an amount sufficient to provide for the payment
509 of the principal of redemption premium, if any, and interest on the outstanding obligations to
510 be refunded, and to provide for any costs of issuance related thereto. If the issuance of such
511 refunding obligations results in an annual assessment that exceeds the estimated maximum
512 annual assessments set forth in the notice provided pursuant to section 3-05, the council shall
513 provide notice to the affected property owners and conduct a public hearing in the manner
514 required by division 3 of this article.

515

516 **Section 3. Severability.**

517

518 In the event that any portion of this ordinance is for any reason held invalid or
519 unconstitutional by any court of competent jurisdiction, such portion shall be deemed a
520 separate, distinct and independent provision, and such holding shall not affect the validity of
521 the remaining portions of this ordinance.

522

523 **Section 4. Codification.**

524

525 The Village Council intends that this Ordinance be made part of the Code of the Laws
526 and Ordinances, of the Village of Estero, Florida; and that the sections of this Ordinance can
527 be renumbered or re-lettered to the appropriate word or phrase to accomplish codification, and
528 regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or re-
529 lettered and typographical errors and clarification of ambiguous wording that do not affect the
530 intent can be corrected with the authorization of the Village Manager without the need for a
531 public hearing.

532

533 **Section 5. Effective Date.**

534

535 This Ordinance shall take effect immediately upon adoption.

536

537 **PASSED** on first reading this 10th day of July, 2019.

538

539 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,
540 Florida this ____ day of _____, 2019.

541

542 Attest:

VILLAGE OF ESTERO, FLORIDA

543

544

545 By: _____
546 Kathy Hall, MMC, Village Clerk

By: _____
Bill Ribble, Mayor

547

548 Reviewed for legal sufficiency:

549

550

551 By: _____

552 Burt Saunders, Esq., Village Attorney

553

554	Vote:	AYE	NAY
-----	-------	-----	-----

555	Mayor Ribble	_____	_____
-----	--------------	-------	-------

556	Vice Mayor Errington	_____	_____
-----	----------------------	-------	-------

557	Councilmember Batos	_____	_____
-----	---------------------	-------	-------

558	Councilmember Boesch	_____	_____
-----	----------------------	-------	-------

559	Councilmember Levitan	_____	_____
-----	-----------------------	-------	-------

560	Councilmember McLain	_____	_____
-----	----------------------	-------	-------

561	Councilmember Wilson	_____	_____
-----	----------------------	-------	-------