

1 VILLAGE OF ESTERO, FLORIDA

2  
3 ORDINANCE NO. 2019 - 22

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5 AN ORDINANCE OF THE VILLAGE COUNCIL OF THE  
6 VILLAGE OF ESTERO, FLORIDA, FURTHER  
7 AMENDING ORDINANCE NO. 15-01 REGARDING  
8 APPEALS FROM THE VILLAGE PLANNING AND  
9 ZONING BOARD AND FROM THE DESIGN REVIEW  
10 BOARD; AMENDING ORDINANCE 15-01 TO  
11 REQUIRE WRITTEN RECOMMENDATIONS FROM  
12 THE VILLAGE MANAGER OR HIS DESIGNEE TO  
13 THE PLANNING AND ZONING BOARD AND  
14 DESIGN REVIEW BOARD; PROVIDING A  
15 SEVERABILITY CLAUSE; AND PROVIDING AN  
16 EFFECTIVE DATE.

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18 WHEREAS, the Village of Estero adopted Ordinance No. 15-01 on April 17, 2015,  
19 which established the Village Planning and Zoning Board and the Village Design Review  
20 Board; and

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22 WHEREAS, the Village Council amended Ordinance No. 15-01 in Ordinance No.  
23 15-04 on May 20, 2015 (Ordinance No. 15-01, as thereby amended, is referred to herein as  
24 Ordinance No. 15-01); and

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26 WHEREAS, given its experience with the said Land Use Boards since those dates,  
27 the Village has determined that it is in the best interest and welfare of the Village and its  
28 residents to further amend Ordinance No. 15-01.

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

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

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37 Section 2. Amending Sec. 2-9(2). Advisory capacity; exceptions.

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39 Section 2-9(2) of Ordinance No. 15-01 is hereby amended in regard to the Planning  
40 and Zoning Board to state as follows:

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42 Sec. 2-9(2). Advisory capacity; exceptions.

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44 The board shall review and approve, deny, or approve with conditions, administrative  
45 amendments and deviations relating to height of buildings and structures, variances and special  
46 exceptions. The village manager, or his designee, shall make a written recommendation to the

47 board of the action to be taken. In such instances, the decision of the board shall be reduced to  
48 writing in the form of a resolution, signed by the chairman of the board, and filed with the  
49 village clerk within 30 days of the signed resolution. Any party aggrieved by a decision of the  
50 board shall, prior to seeking judicial review, file with the village clerk within 30 days from the  
51 vote of the board a notice of appeal to the village council. Additionally, the village manager or  
52 his designee, may file a notice of appeal with the village clerk within 30 days from the board's  
53 decision. Further, the Village Council may, within 30 days from the board's decision, decide  
54 to take jurisdiction of the decision and rehear the application. Neither the village manager nor  
55 the village council shall be required to pay a fee. Upon the filing of a notice of appeal, or the  
56 village council taking jurisdiction, the village council shall as soon as is practicable hold a  
57 public hearing upon the matter and shall affirm, reverse or affirm with modifications the  
58 decision of the board. The hearing shall be conducted as a *de novo* hearing. Any person may  
59 speak at the appeal hearing, without the need of having appeared in the proceedings below.

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61 **Section 3. Amending Sec. 3-6. Appeals.**

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63 Section 3-6 of Ordinance No. 15-01 is hereby amended in regard to the Design Review  
64 Board to state as follows:

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66 Sec. 3-6. Appeals.

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68 Any person aggrieved by a decision of the board shall file a notice of appeal with the  
69 village clerk and pay the appeal fee as specified by the village within 30 days from the board's  
70 decision. The notice of appeal shall specify the action taken by the board and in what respect  
71 the appellant is aggrieved by such action, and the action which appellant desires the village  
72 council to take with respect to the decision of the board. Additionally, the village manager or  
73 his designee, may file a notice of appeal with the village clerk within 30 days from the board's  
74 decision. Further, the Village Council may, within 30 days from the board's decision, decide  
75 to take jurisdiction of the decision and rehear the application. Neither the village manager nor  
76 the village council shall be required to pay an appeal fee. Upon the filing of a notice of appeal,  
77 the village council shall as soon as is practicable hold a public hearing upon the matter and  
78 shall affirm, reverse or affirm with modifications the decision of the board. The hearing shall  
79 be conducted as a *de novo* hearing. Any person may speak at the appeal hearing, without the  
80 need of having appeared in the proceedings below.

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82 **Section 4. Amending Sec. 3-3. Review of plans and specifications for certain**  
83 **development orders and building permits.**

84

85 Section 3-3(2) of Ordinance No. 15-01 is hereby amended in regard to the Design  
86 Review Board to state as follows:

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88 Sec. 3-3. Review of plans and specifications for certain development orders and  
89 building permits.

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(2) The design review board shall review every application for a development order, including an application for a limited review development order, that has any impact on building appearance and design, landscaping, hardscaping, pedestrian and vehicular connectivity, open space, and the like, including but not limited to site plans, requests for administrative deviations other than those related to the height of buildings and structures, and any permit (i) to erect a building or structure, or (ii) for a ground mounted monument style sign, or (iii) to materially alter a front or side elevation of any existing building or structure in the village, excluding applications related to single-family dwellings other than applications related to front porches. The village manager, or his designee, shall provide the board with a written recommendation regarding the application considered by the board prior to the board's vote on the application.\* \* \*

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

**Section 6. Effective Date.** This ordinance shall take effect immediately upon adoption.

**PASSED** on first reading this 20<sup>th</sup> day of March, 2019.

**PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida this 24<sup>th</sup> day of April, 2019.

Attest: **VILLAGE OF ESTERO, FLORIDA**

By: Kathy Hall  
Kathy Hall, MMC, Village Clerk

By: Bill Ribble  
Bill Ribble, Mayor

Reviewed for legal sufficiency:

By: Nancy E. Stroud  
Nancy E. Stroud, Esq., Village Land Use Attorney

Vote:	AYE	NAY
Mayor Ribble	<u>✓</u>	_____
Vice Mayor Errington	<u>✓</u>	_____
Councilmember Batos	<u>✓</u>	_____
Councilmember Boesch	<u>✓</u>	_____
Councilmember Levitan	<u>✓</u>	_____
Councilmember McLain	<u>✓</u>	_____
Councilmember Wilson	<u>✓</u>	_____

Ellipses (\* \* \*) show that adopted text is omitted for brevity.