

VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2017 - 03

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, ESTABLISHING A BONUS DENSITY PROGRAM FOR CERTAIN PROPERTIES WHICH CONTRIBUTE FUNDS TO PURCHASE PUBLIC LANDS; PROVIDING FOR PURPOSE, APPLICABILITY, DEFINITIONS, MINIMUM REQUIREMENTS, PROCEDURES FOR APPROVAL, ESTABLISHMENT OF THE CONTRIBUTION AMOUNT, AND PAYMENT AND USE OF FUNDS COLLECTED; PROVIDING FOR SEVERABILITY; PROVIDING A GENERAL REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village of Estero Transitional Comprehensive Plan ("Comprehensive Plan") provides for bonus densities on properties which meet qualifications under the Transitional Land Development Code; and

WHEREAS, the Village of Estero desires to establish a program by which properties qualified under the Transitional Land Development Code ("LDC") which received County approval for bonus density prior to March 17, 2015, but which have not yet utilized the County bonus density program, may participate in a program for land acquisition for public open space, recreational or environmentally sensitive lands; and

WHEREAS, Objective 19.5 of the Future Land Use Element of the Comprehensive Plan recognizes the importance of ensuring that the Village's natural environment is protected, and that public access to greenways and waterfront areas especially should be supported, in order to enhance the character and quality of life of the community; and

WHEREAS, the policies included in Objective 19.5 provide, among other things, that the Village should incentivize the protection of Estero's natural resources; and

WHEREAS, Objective 19.6 of the Future Land Use Element of the Comprehensive Plan provides that the Village will support Estero's quality of life through the development of a broad array of community parks, public spaces and recreational facilities; and

WHEREAS, the policies included in Objective 19.6 provide, among other things, that the Village should work with private developments to expand public spaces, parks and recreational facilities through the use of incentives, LDC requirements, and other development tools; and

47 **WHEREAS**, the Village has determined that it is in the public interest that a Village
48 program for bonus density be established for the purpose of obtaining monetary contributions
49 to land acquisition for public open space, recreational or environmentally sensitive lands; and
50

51 **WHEREAS**, the Village Planning and Zoning Board, at a duly noticed public hearing
52 held on May 16, 2017 recommended that the bonus density program established herein is
53 consistent with the Village Transitional Comprehensive Plan and in the public interest; and
54

55 **WHEREAS**, the Village Council, at a duly noticed meeting held a first reading on this
56 ordinance on May 17, 2017 and passed the ordinance on first reading; and
57

58 **WHEREAS**, the Village Council held a duly noticed public hearing and second
59 reading on this ordinance on July 19, 2017, considered the recommendation of the Village
60 staff, the Village Planning and Zoning Board, and the comments of the public.
61

62 **NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero,
63 Florida:
64

65 **Section 1. Purpose and Intent.**
66

67 The purpose of this ordinance is to establish a method for allowing those landowners
68 of certain planned developments with bonus density approved by Lee County zoning
69 resolution prior to March 17, 2015 to make a monetary contribution to the Village for
70 land acquisition in lieu of a monetary contribution to an affordable housing program.
71 The funds contributed under this ordinance will be used for the Village's purchase of
72 lands to be maintained in public ownership and for public purposes to provide open
73 space, recreation, and preservation of environmentally sensitive lands.
74

75 **Section 2. Definitions.**
76

77 (a) The following words, terms and phrases, when used in this ordinance, have the
78 meanings ascribed to them in this ordinance, except where the context clearly indicates
79 a different meaning:
80

81 *Bonus density* means an increase in the density of development that can be carried out
82 on a parcel of land over and above the standard density range permitted by the
83 comprehensive plan for the land use category in which it is located.
84

85 *Environmentally sensitive land* means land or interests in land such as easements,
86 where the land is comprised of ecological communities native to Estero, with high
87 species diversity, and which contributes to the hydrologic integrity of significant
88 natural systems, or contributes substantially to recharge of the Floridian Aquifer.
89

90 *Open space land* means land owned by the Village for the use and enjoyment of the
91 public and maintained with minimal buildings or improvements.
92

93 *Recreational land* means lands owned by the Village and open to public use for
94 recreational purposes.

(b) Words or phrases used in this ordinance will be interpreted so as to give them the meanings they have in common usage and to give this ordinance its most reasonable application

Section 3. Applicability.

This ordinance applies to any planned development approved by Lee County zoning resolution prior to March 17, 2015 which authorizes bonus density units under the Lee County affordable housing bonus density program and in which vertical development has not commenced as of May 17, 2017.

Section 4. Procedure to approve bonus density.

Upon the request of the landowner(s) of the applicable planned development, the Director of Community Development shall make a written determination as to whether a zoning resolution meeting the requirements of this ordinance authorizes bonus density units, how many bonus density units are authorized under the zoning resolution, and the monetary contribution established by the zoning resolution per bonus density unit. Prior to the first local development order authorizing vertical construction for the qualifying planned development, the landowner(s) shall notify the Director of Community Development as to how many bonus density units will be used and their specific location in the planned development, which will be noted in the local development order. No local development order for vertical construction in which such bonus density will be used may be approved unless a Pattern Book demonstrating a unified design for the planned development also has been approved.

Section 5. Establishment of contribution amount.

The Village Council shall establish by Resolution, which may be amended from time to time, the fee contribution for each bonus density unit available under the bonus density program.

Section 6. Payment of the contribution; use of funds.

(a) The landowner shall pay the monetary contribution prior to the first development order that includes the use of the approved density bonus. Monetary contributions once made will not be refunded.

(b) The funds collected by the Village under the bonus density program shall be held in a separate account to be used only for the purchase of public land acquisition for open space, recreation or preservation of environmentally sensitive lands.

Section 7. Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

Section 8. Repeal.

All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the Village or any of its officials and in conflict with this ordinance are hereby repealed to the extent inconsistent herewith.

Section 9. Effective Date.

This ordinance shall take effect immediately upon adoption.

PASSED on first reading this 17th day of May, 2017.

PASSED AND ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this 19th day of July, 2017.

Attest:

VILLAGE OF ESTERO, FLORIDA

By: Kathy Hall
Kathy Hall, MMC, Village Clerk

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

Reviewed for legal sufficiency:

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

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