

VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2020 - 06

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, PROVIDING FOR THE AUTHORITY TO ESTABLISH SPECIAL ASSESSMENTS; ESTABLISHING PROCEDURES IMPOSITION AND COLLECTION OF SPECIAL ASSESSMENTS; AUTHORIZING THE ISSUANCE OF OBLIGATIONS SECURED BY SUCH ASSESSMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

RECITALS

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

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

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

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

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

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

Section 2. Providing for Special Assessments.

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

ARTICLE I. – IN GENERAL

[SECTIONS RESERVED]

ARTICLE II. – SPECIAL ASSESSMENTS

DIVISION 1. - GENERALLY

Sec. 1-01. - Definitions.

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

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

Assessment means a special assessment imposed by the Village pursuant to this article to fund the project cost of local improvements.

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

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

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

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

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

Equalizing board means the Planning and Zoning Board when sitting in such capacity to hear and consider any and all complaints as to the special assessments with the purpose of adjusting the assessments on a basis of justice and right.

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

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

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

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

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

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

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

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

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

107 *Project cost* means:

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

116 *Property appraiser* means the county property appraiser.

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

119 *Tax collector* means the county tax collector.

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

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

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

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

140 Sec. 1-02. - Interpretation.

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

144 Sec. 1-03. - General findings.

145 It is hereby ascertained, determined and declared that:

- 146 (1) Article VIII, Section 2 of the Florida Constitution, Chapter 166, Florida Statutes, and
147 the Charter of the Village grant to the Council all powers of local self-government to
148 perform Village functions and to render services for Village purposes in a manner not
149 inconsistent with general or special law, and such power may be exercised by the
150 enactment of Village ordinances.
- 151 (2) The assessments imposed pursuant to this article will be imposed by the Council, not
152 the property appraiser or tax collector. Any activity of the property appraiser or tax
153 collector under the provisions of this article shall be construed solely as ministerial.

154 Sec. 1-04. - Alternative method.

155 This article shall be deemed to provide an additional and alternative method for the imposition
156 and collection of assessments and shall be regarded as supplemental and additional to powers
157 conferred by other laws, and shall not be regarded as in derogation of any powers now existing or
158 which may hereafter come into existence. This article, being necessary for the welfare of the

inhabitants of the Village, particularly the owners of property located within the assessment areas, shall be liberally construed to affect the purposes hereof.

DIVISION 2. - ASSESSMENT AREAS

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

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

Sec. 2-02. - Landowner petition process.

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

DIVISION 3. - ASSESSMENTS AND RESOLUTIONS

Sec. 3-01. - Authority.

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

Sec. 3-02. - Initial assessment resolution.

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

- (1) Describe the property to be located within the proposed assessment area;
- (2) Describe the local improvement proposed for funding from proceeds of the assessments;
- (3) Estimate the project cost;
- (4) Describe the proposed method of apportioning the project cost among the parcels of property located within the proposed assessment area, such that the owner of any parcel of property can objectively determine the number of assessment units and the amount of the assessment;
- (5) Describe the provisions, if any, for acceleration and prepayment of the assessment;
- (6) Describe the provisions, if any, for reallocating the assessment upon future subdivision; and

- (7) Include specific legislative findings that recognize the fairness provided by the apportionment methodology.

Sec. 3-03. - Assessment roll.

- (a) The Village Manager or designee shall prepare a preliminary assessment roll that contains the following information:

- (1) A summary description of each parcel of property (conforming to the description contained on the tax roll) subject to the assessment;
- (2) The name of the owner of record of each parcel, as shown on the tax roll;
- (3) The number of assessment units attributable to each parcel;
- (4) The estimated maximum annual assessment to become due in any fiscal year for each assessment unit; and
- (5) The estimated maximum annual assessment to become due in any fiscal year for each parcel.

- (b) Copies of the initial assessment resolution and the preliminary assessment roll shall be on file with the Village Clerk and open to public inspection. The foregoing shall not be construed to require that the assessment roll be in printed form if the amount of the assessment for each parcel of property can be determined by use of a computer terminal available to the public.

Sec. 3-04. - Notice by publication.

After filing the assessment roll with the Village Clerk, as required by section 3-03(b), the Village Clerk shall publish once in a newspaper of general circulation within the Village a notice stating that at a public hearing of the Council will be held on a certain day and hour, not earlier than 20 calendar days following such publication, at which hearing the Council will receive written comments and hear testimony from all interested persons regarding creation of the assessment area and adoption of the final assessment resolution. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

Sec. 3-05. - Notice by mail.

In addition to the published notice required by section 3-04, the Village Clerk shall provide notice of the proposed assessment and public hearing by first class mail to the owner of each parcel of property subject to the assessment. The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the public hearing for such assessment to each property owner at such address as is shown on the tax roll on a date which shall not be more than 45 days prior to the date of mailing. Notice shall be deemed mailed upon delivery thereof to the possession of the U.S. Postal Service. The Village Clerk may provide proof of such notice by affidavit. Failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the assessment roll or release or discharge any obligation for the payment of an assessment imposed by the Council pursuant to this division.

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

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

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

Sec. 3-07. - Annual assessment resolution.

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

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

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

Sec. 3-09. - Lien of assessments.

- (a) Upon adoption of the annual assessment resolution for each fiscal year, assessments to be collected under the Uniform Assessment Collection Act shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall

be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected upon adoption by the Council of the annual assessment resolution and shall attach to the property included on the assessment roll as of prior to January 1, the lien date for ad valorem taxes.

- (b) Upon adoption of the final assessment resolution, assessments to be collected under any alternative method of collection provided in section 4-02 shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected on the date notice thereof is recorded in the official records of the Village or the Official Records of Lee County, Florida.

Sec. 3-10. - Revisions to assessments.

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

Sec. 3-11. - Procedural irregularities.

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

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

- (a) No act of error or omission on the part of the Council, the Village Clerk, property appraiser, tax collector, clerk, or their respective deputies or employees, shall operate to release or discharge any obligation for payment of any assessment imposed by the Council under the provisions of this division.
- (b) The Village Manager or designee may correct the number of assessment units attributed to a parcel of property at any time. Any such correction, which reduces an assessment, shall be considered valid from the date on which the assessment was imposed if approved by the Council and shall in no way affect the enforcement of the assessment imposed under the provisions of this division. Any such correction which increases an assessment or imposes an assessment on omitted property shall first require notice to the affected owner in the manner

described in section 3-05, providing the date, time and place that the Council will consider confirming the correction and offering the owner an opportunity to be heard.

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

DIVISION 4. - COLLECTION OF ASSESSMENTS

Sec. 4-01. - Method of collection.

- (a) Unless directed otherwise by the Council, assessments (other than assessments imposed against government property) shall be collected pursuant to the Uniform Assessment Collection Act, and the Village shall comply with all applicable provisions thereof, including, but not limited to:

- (1) Entering into a written agreement with the property appraiser, the tax collector, or both for reimbursement of necessary expenses to the extent required by law or deemed appropriate by the assessment coordinator; and
- (2) Adopting a resolution of intent. The resolution of intent may be adopted either prior to or following the initial assessment resolution; provided, however, that the resolution of intent must be adopted prior to January 1 (or March 1 with consent of the property appraiser and tax collector) of the year in which the assessments are first collected on the ad valorem tax bill.

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

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

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

- (1) The Village shall provide assessment bills by first class mail to the owner of each affected parcel of property, other than government property. The bill or accompanying explanatory material shall include:
 - a. A brief explanation of the assessment;
 - b. A description of the assessment units used to determine the amount of the assessment;
 - c. The number of assessment units attributable to the parcel;
 - d. The total amount of the parcel's assessment for the appropriate period;
 - e. The location at which payment will be accepted;
 - f. The date on which the assessment is due; and

g. A statement that the assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

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

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

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

(4) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the Village may be the purchaser to the same extent as an individual person or corporation. The Village may join in one foreclosure action the collection of assessments against any or all property assessed in accordance with the provisions hereof. All delinquent property owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the Village and its agents, including reasonable attorney fees, in collection of such delinquent assessments and any other costs incurred by the Village as a result of such delinquent assessments, including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to the costs of the action.

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

a. Notice is provided to the owner in the manner required by law and this division; and

b. Any existing lien of record on the affected parcel for the delinquent assessment is supplanted by the lien resulting from certification of the assessment roll to the tax collector.

Sec. 4-03. - Responsibility for enforcement.

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

392 Sec. 4-04. - Government property.

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

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

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

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

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

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

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

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

424 DIVISION 5. - ISSUANCE OF OBLIGATIONS

425 Sec. 5-01. - General authority.

426 (a) Upon adoption of the final assessment resolution imposing assessments to fund a local
427 improvement or such other time as determined by the Council, the Council shall have the

power and is hereby authorized to provide by resolution, at one time or from time to time in series, for the issuance of obligations to fund the project cost thereof.

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

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

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

Sec. 5-03. - Variable rate obligations.

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

Sec. 5-04. - Temporary obligations.

Prior to the preparation of definitive obligations of any series, the Council may, under like restrictions, issue interim receipts, interim certificates, or temporary obligations, exchangeable for definitive obligations when such obligations have been executed and are available for delivery. The Council may also provide for the replacement of any obligations which shall become mutilated, destroyed or lost. Obligations may be issued without any other proceedings

or the happening of any other conditions or things than those proceedings, conditions or things that are specifically required by this division.

Sec. 5-05. - Anticipation notes.

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

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

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

Sec. 5-07. - Trust funds.

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

Sec. 5-08. - Remedies of holders.

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

Sec. 5-09. - Refunding obligations.

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

Section 3. Severability.

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

Section 4. Codification.

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

Section 5. Effective Date.

This Ordinance shall take effect immediately upon adoption.

PASSED on first reading this 22nd day of July, 2020.

PASSED AND ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this 9th day of September, 2020.

Attest:

VILLAGE OF ESTERO, FLORIDA

By: 
Steve Sarkozy, Village Clerk

By: 
Bill Ribble, Mayor

549 Reviewed for legal sufficiency:

550

551

552 By: 

553 Burt Saunders, Esq., Village Attorney

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555 Vote: AYE NAY

556 Mayor Ribble X _____

557 Vice Mayor Errington X _____

558 Councilmember Batos X _____

559 Councilmember Boesch X _____

560 Councilmember Levitan X _____

561 Councilmember McLain X _____

562 Councilmember Wilson X _____

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