ORDINANCE NO. 2026-02

AN ORDINANCE OF THE VILLAGE OF ESTERO, FLORIDA, CREATING A NEW ARTICLE II OF CHAPTER 7 OF THE VILLAGE CODE RELATED TO MANDATORY CONDOMINIUM AND COOPERATIVE INSPECTIONS; MAKING RELATED FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2022, the Florida Legislature created Florida Statutes § 553.899, entitled "Mandatory structural inspections for condominium and cooperative buildings"; and

WHEREAS, the Florida Legislature has amended this statute three times, the most recent by its adoption of HB 913 (2025), which the Governor signed into law, thus becoming Chapter Law 2025-175; and

WHEREAS, this Chapter Law amended subsection (11) of the statute which regulates the timing of milestone inspections; and

WHEREAS, in part, this amendment requires local governments to adopt an ordinance setting forth certain requirements regarding condo and cooperative milestone inspections and repairs associated therewith; and

WHEREAS, the provisions of this Ordinance have been recommended by the Village Attorney to comply with the new statutory mandate; and

WHEREAS, the Village Council of the Village of Estero finds that, given the statutory mandate, it is obligated to adopt this Ordinance.

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

Section 1. A new Article I of Chapter 7 (BUILDING CODE AND CONSTRUCTION) is hereby created and shall be titled GENERAL PROVISIONS. The Codifier shall codify current Code § 7-1 through and including § 7-6 in this new Article I.

Section 2. A new Article II of Chapter 7 (BUILDING CODE AND CONSTRUCTION) is hereby created as follows:

ARTICLE II – CONDOMINIUM AND COOPERATIVE MILESTONE INSPECTIONS

Sec. 7-20. – Definitions.

As used in this article, the following terms shall have the meanings:

Association means a condominium association as defined under F.S. Ch. 718, or a cooperative association as defined under F.S. Ch. 719, or as further defined herein. Unless expressly indicated otherwise, the term "owner" used in this article shall mean an association and not an individual unit owner.

Inspector means a Florida actively licensed architect or engineer, with experience in multi-story structural design, who is specifically insured for performing milestone inspection work at a rate of no less than $1,000,000 per occurrence/$2,000,000 aggregate coverage.

Milestone Inspection means a structural inspection of a building, including an inspection of load-bearing elements, primary structural members, and primary structural systems as those terms are defined by the Florida Building Code or the Florida Statutes, whichever definition is broader, by an Inspector for the purposes of attesting to the life safety and adequacy of the structural components of the building and, to the extent reasonably possible, determining the general structural condition of the building as it affects the safety of such building, including a determination of any necessary maintenance, repair, or replacement of any structural component of the building. The purpose of such inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code or the fire safety code.

Phase One Inspection or *Phase One Milestone Inspection* means performance of (a) a visual examination of habitable and non-habitable areas of a building, including the major structural components of a building, including but not limited to roofing, balconies, post tension slabs and anchorage, caulking, curtain walls, window installation, flashing, building cladding, foundations (settlement or subsidence), garages, pool decks, roof parapets, common areas, unconditioned spaces, accessible exterior areas, and flood and storm protective measures; (b) a historical analysis of existing construction documents, permits, inspections, and maintenance records; and (c) provide a qualitative assessment of the structural conditions of the building based on the examination and analysis of the above by an Inspector. For structures with balconies or other similar features, inspections shall include, at a minimum, 33 percent of the balconies, handrails or other similar components.

Phase Two Inspection or *Phase Two Milestone Inspection* means an inspection necessary to fully assess areas of structural distress in order to confirm that the building is structurally sound and safe for its intended use and to recommend a program for fully assessing and repairing distressed and damaged portions of the building, said inspection may involve destructive or nondestructive testing at the Inspector's direction. The Inspector may determine the extensiveness of the inspection or the limitation of the areas of inspection based on their experience, education, and training. When determining testing locations, the Inspector must give preference to locations that are the least disruptive and most easily repairable while still being representative of the structure.

Story means that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. A story is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

Substantial structural deterioration means substantial structural distress that negatively affects a building's general structural condition and integrity. The term does not include surface imperfections such as cracks, distortion, sagging, deflections, misalignment, signs of leakage, or

peeling of finishes unless the Inspector performing the phase one or phase two inspection determines that such surface imperfections are a sign of substantial structural deterioration.

Sec. 7-21. – Statutory mandate.

Pursuant to Florida Statutes § 553.899, a condominium association, as defined by Chapter 718, Florida Statutes, and a cooperative association, as defined by Chapter 719, Florida Statutes, must have a milestone inspection performed for each building that is three habitable stories or more in height by December 31 of the year in which the building reaches 25 years of age, based on the date the certificate of occupancy for the building was issued, and every ten (10) years thereafter.

Sec. 7-22. - Administration.

The community development department shall serve as the local enforcement agency for the purposes of this article.

Sec. 7-23. Registration.

A. In order to determine the inventory of structures in the village, the owners of all existing commercial and residential buildings being operated as an association, and which are subject to the milestone inspection provisions of Florida Statutes § 553.899 and § 7-21, shall register with the community development department by July 1st 2026.

B. Registration will require each owner to identify at a minimum:

(1) *Property type.*

i. *Condominium*: A form of ownership of real property which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements, or as defined under Florida Statutes § 718.103(11).

ii. *Cooperative*: That form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property, or as defined under Florida Statutes § 719.103(12).

iii. *Other Ownership*: The building and unit ownership does not qualify as either a Condominium under Chapter 718, Florida Statutes, or a Cooperative under Chapter 719, Florida Statutes.

(2) *Number of Stories.*

i. Identify if the building is three habitable stories tall or higher.

ii. Identify if the building is less than three habitable stories tall.

(3) *Association Information.* Where applicable, each owner shall disclose the contact information for the association including the registered agent or party responsible for receiving legal notices.

(4) *Board Information.* Where applicable, each building shall disclose the contact information for the president of the association's governing board.

(5) *Year of Construction.*

i. Where the property consists of multiple buildings, identify the year(s) construction was completed on each building.

ii. Where the property consists of only one building, identify the year construction was completed on the building.

(6) *Type of Construction.* Identify the type of construction for the buildings.

(7) *Date of Occupancy.*

i. Identify if the building (or each building on a multi-building property) received its initial certificate of occupancy prior to July 1st 1992.

ii. Identify what year the building (or each building on a multi-building property) received its initial certificate of occupancy.

(8) *Number of residential units.*

i. Identify total number of units in the building.

ii. If the property consists of more than one building, identify the number of units per building.

(9) *Additional features of the complex.*

C. In the event any structure which is not operated as an association is subsequently converted to an association, the owner is required to register within 72 hours of providing the notice of conversion to the tenants pursuant to Florida Statutes § 718.608 or Florida Statutes § 719.608.

D. Any new building which is to be operated as an association shall be registered by the owner within 30 days of the issuance of the certificate of occupancy.

E. Upon submission of the registration, the village building official will review the submission and use the information provided in application of the law.

Sec. 7-24. - Notice of Milestone Inspection.

A. Upon determining that a building must have a milestone inspection, the building official shall provide written notice to the association by certified mail, return receipt requested and e-mail (where e-mail contact information has been provided) that such an inspection is required.

B. The notice shall provide the association with the date by which the building's milestone inspection must be completed.

Sec. 7-25. - Inspections.

A. *Phase One Inspections.* Within 180 days after receiving the written notice, the association must complete phase one of the milestone inspection. Completion of a phase one milestone

inspection occurs when the inspector who performed the phase one inspection submits the inspection report to the community development department through the department's permitting system or other means authorized in writing by the building official, or his or her designee. With respect to the phase I inspection, the inspector must:

(1) Indicate whether a Phase Two Inspection, as provided in Section 7-20, or Florida Statutes § 553.899(7)(b), whichever is more stringent, is required.

(2) Prepare and submit an inspection report to the Village through the community development department's permitting system.

B. *Phase Two Inspections.* A phase two milestone inspection must be performed if any substantial structural deterioration is identified during the phase one milestone inspection. An inspector who completes a phase two milestone inspection shall prepare and submit an inspection report pursuant to this article.

Sec. 7-26. - Inspection Report.

A. *Submission.* Upon completion of a phase one or phase two milestone inspection, the inspector who performed the inspection must submit a sealed copy of the inspection report with a separate summary of, at minimum, the material findings, and recommendations in the inspection report to the association and the village building official.

B. *Terminology.* Any terminology providing a rating, grade, or status of a component, system, or structure shall be explained in sufficient detail to justify the rating or status.

C. *Contents.*

(1) The phase one inspection report must contain or address, at a minimum, all of the following:

a. Contain the seal and signature, or the electronic signature, of the inspector who performed the inspection, the date(s) on which the inspection occurred, and the date of the final report.

b. The property and management information, including but not limited to the name and contact information for the association and any separate management company. The report shall also identify the current members of the association's board and each member's contact information.

c. Indicate the manner and type of inspection forming the basis for the inspection report.

d. Provide a general condition rating and any specific detail observations, along with any recommendations for each inspection category listed in the inspection criteria, including but not limited to: foundations, roof/roofing systems, bearing walls, floor systems, framing systems, windows, wall openings, railings, stairs, and balconies.

e. Identify any substantial structural deterioration, within a reasonable professional probability based on the scope of the inspection, describe the extent of such deterioration, and identify any recommended repairs for such deterioration.

f. Include color photographs with sufficient resolution to convey the conditions at the time of the inspection and identify any recommended repairs.

g. State whether unsafe or dangerous conditions, as those terms are defined in the Florida Building Code, were observed.

h. Recommend any remedial or preventive repair for any items that are damaged but are not substantial structural deterioration.

i. Provide an overall qualitative structural assessment of the building.

j. Identify and describe any items requiring further inspection.

k. Indicate if a phase two inspection, or other subsequent inspections are required, necessary, or recommended.

l. Include a copy of the certificate of insurance specifically providing coverage for the inspector, and their company if applicable.

m. Include a copy of the inspector's license and three references from prior multi-story projects and a self-qualification letter from the inspector stating her or his professional experience with the design and inspection of similar structures.

(2) A phase two inspection report shall contain at a minimum the following:

a. All of the content required for a phase one report listed above.

b. Provide references to the phase one inspection report for each item requiring additional examination.

c. Identify the type and manner of inspections performed.

d. Identify any testing performed and the results of any testing.

e. Identify any additional inspections or testing that should be performed because of the inspection and provide a recommended timeline for completion.

Sec. 7-27. - Association Distribution, Posting, and Publishing Obligations.

The association must comply with the distribution, posting, and publication requirements set forth in Chapter 553, Florida Statutes.

Sec. 7-28. - Repairs; Corrective Action Report.

A. Based on the recommendations in the phase one report, any repairs determined to be required by the inspector must be permitted within six (6) months and the repairs must be completed within 18 months. The permit application shall include a direct reference to the phase one inspection report and the page and item or paragraph number of the repair being permitted. A copy of the inspection report page marking the noted repair item shall be submitted with the permit application.

B. Based on the recommendations in the phase two report, all required repairs must be permitted in 90 days and completed within one year. The permit application shall include a direct reference to the phase two inspection report including the page and item or

paragraph number of the repair being permitted. A copy of the inspection report page marking the noted repair item shall be submitted with the permit application.

C. Following the completion of any repairs from either the phase one or phase two inspection report, the inspector and association shall sign a completion of corrective action report to the community development department through the village's permitting system.

Sec. 7-29. - Extensions.

A. *Phase Two Inspections.* The building official may issue an extension of not more than 60 days to submit the phase two milestone inspection report upon a written extension request from the inspector performing the inspection. Such request must contain a signed and sealed statement from the inspector that the building may continue to be occupied while undergoing inspection and provide the reason the extension is needed.

B. *Permit Applications.* The building official may issue an extension of not more than 60 days to obtain any necessary permits related to repairs or work based on a phase one inspection or phase two inspection upon a written extension request from an engineer or architect. Such request must contain a signed and sealed statement from the engineer or architect that the building may continue to be occupied while undergoing the applicable required milestone inspection repairs and shall provide the reason the extension is needed.

Sec. 26-141. Unsafe Structures; Duty to Report; Condemnation; Liens.

A. In the event a structure is determined to be unsafe for habitation, including but not limited to a danger of collapse, during the phase one or phase two inspection, the inspector shall notify the association within 12 hours of the determination. The association shall notify owners based on the instruction of the inspector. In no event shall the notice to owners exceed 24 hours after the association receipt of the notice of the unsafe condition.

B. The inspector must report findings that a structure is unsafe for habitation including but not limited to a danger of collapse to the village's building official and the village fire marshall within 24 hours of the determination.

Section 3. For purposes of codification of any existing section of the Estero Village Code herein amended, words **underlined** represent additions to original text, words ~~**stricken**~~ are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 4. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the

remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Village Council would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 5. The Codifier shall codify the substantive amendments to the Estero Village Code and Village Land Development Code contained in Sections 1 through 2 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 6. Pursuant to Florida Statutes § 166.041(4)(a), prior to the date the public notice of the public hearing for this Ordinance was published, the Village prepared and posted on its website a business impact estimate which included: a) a summary of the Ordinance, a statement of the public purpose to be served by the Ordinance, b) an estimate of the direct economic impact of the Ordinance on private, for-profit businesses in the Village, c) an estimate of direct compliance costs that businesses may reasonably incur due to the Ordinance, d) identification of any new charge or fee on businesses created by the Ordinance or for which businesses will be financially responsible, e) an estimate of the Village's regulatory costs and of revenues from any new charges or fees imposed on businesses to cover such costs, and f) a good faith estimate of the number of businesses likely to be impacted by the Ordinance.

Section 7. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon adoption.

ADOPTED ON FIRST READING on the **1st day of April, 2026**, by the Village Council of the Village of Estero, Florida.

ADOPTED ON SECOND AND FINAL READING on the **15th day of April, 2026**, by the Village Council of the Village of Estero, Florida.

VILLAGE OF ESTERO, FLORIDA

Attest:

By: _____
Carol Sacco, CMC, Village Clerk

By: _____
Joanne Ribble, Mayor