ORDINANCE NO. 2026-03

AN ORDINANCE OF THE VILLAGE OF ESTERO, FLORIDA, AMENDING § 9-503 OF THE VILLAGE LAND DEVELOPMENT CODE RELATED TO NON-CONFORMING LOTS; MAKING RELATED FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, section 9-5 of the Village's Land Development Code (LDC) addresses the topic of non-conforming lots; and

WHEREAS, when the Village incorporated and created its initial LDC, the Village adopted language from the Lee County Code; and

WHEREAS, Village staff has identified a provision of § 9-503 (addressing construction on non-conforming lots) which creates confusion as to how it is interpreted; and

WHEREAS, specifically, this section contains a provision referencing the need to comply with "due process" but no real process is set forth, and the Village Attorney has confirmed that the Village is always subject to the Constitutional Due Process Clause and so the provision at issue is unnecessary and could create confusion in any future litigation involving the provision; and

WHEREAS, in light of the foregoing, the Village staff and Village Attorney have recommended that this provision be removed from the code; and

WHEREAS, prior to final adoption of this Ordinance on second reading, the Village Council has considered the input of the Village's Planning, Zoning and Design Board; and

WHEREAS, the Village Council of the Village of Estero finds that it is in the Village's best interests to adopt this Ordinance.

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

Section 1. Section 9-503 of the Village of Estero Land Development Code is hereby amended as follows:

9-503. Construction of Single-Family Dwelling.

A. A single-family residence may be constructed on a nonconforming lot of record that does comply with the density requirements of the comprehensive plan, as long as the lot:

1. Was lawfully created prior to June 1962 and the following conditions are met:

A. Lots existing in the AG zoning district require a minimum width of 75 feet, a minimum depth of 100 feet, and a lot area not less than 7,500 square feet.

B. Lots existing in any other zoning district which permits the construction of single-family residence require a minimum of 40 feet in width and 75 feet in depth, and a lot area not less than 4,000 square feet.

2. Is part of a plat approved by the Village Council, or the Lee County Board of County Commissioners before Village incorporation and lawfully recorded in the public records of the Village or County after June 1962.

B. Notwithstanding any other provision of this LDC, any entity owning property or entering or participating in a contract for purchase agreement of property, which property is not in compliance with the standard density requirements of the comprehensive plan, will be allowed to construct one single-family residence on said property, provided that:

1. *Date Created.*

A. The lot or parcel must have been created and recorded in the official Plat Books of Lee County prior to December 21, 1984, and the configuration of said lot has not been altered;

B. A legal description of the lot or parcel was lawfully recorded in the Official Record books of the Clerk of Circuit County prior to December 21, 1984; or

C. The lot was lawfully created after December 21, 1984, and the lot area was created in compliance with the Lee Plan as it existed at that time.

2. *Minimum Lot Requirements*. In addition to meeting the requirements set forth above, the lot or parcel must:

A. Have a minimum of 4,000 square feet of area if it was created prior to June 27, 1962;

B. Have a width of not less than 50 feet and an area of not less than 5,000 square feet if part of a subdivision recorded in the official Plat Books of Lee County after June 27, 1962, and prior to December 21, 1984;

C. Have a minimum of 7,500 square feet in area if it was created on or after June 27, 1962, and prior to December 21, 1984, if not part of a subdivision recorded in the official Plat Books of Lee County;

D. Have been in conformance with the zoning regulations in effect at the time the lot or parcel was recorded if it was created after December 21, 1984; or

E. Have been approved as part of a Planned Unit Development or Planned Development.

3. *Access and Drainage.*

A. In addition to meeting the requirements set forth above:

1. The road that the lot or parcel fronts on must have been constructed and the lot must be served by drainage swales or equivalent drainage measures. The road must have, at a minimum, a graded surface of shell, mark, gravel base rock, or other compacted fill material, suitable for year-round use; or

2. The lot or parcel must be located within a subdivision which was approved under F.S. ch. 177, as long as the subdivision improvements have been made or security for their completion has been posted by the subdivider.

Section 2. 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 3. 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 4. The Codifier shall codify the substantive amendments to the Estero Village Land Development Code contained in Section 1 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 5. 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 6. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon adoption.

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

ADOPTED ON SECOND AND FINAL READING on the **6th day of May, 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