

VILLAGE OF ESTERO, FLORIDA

RESOLUTION NO. 2022 - 18

A RESOLUTION OF THE VILLAGE COUNCIL OF THE
VILLAGE OF ESTERO, FLORIDA, AMENDING VILLAGE
COUNCIL AND ADVISORY BOARD RULES OF
PROCEDURE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Estero Village Council is the duly elected governing body for the Village of Estero; and

WHEREAS, Section 8 (a) of the Village Charter establishes that the Estero Village County shall have the power to set additional written standards of conduct for its members beyond those specified in the charter; and

WHEREAS, the Village Council established Rules of Procedure for its elected officials and certain advisory board members in Resolution No. 2017-12, and

WHEREAS, the Village Council desires to amend the Rules of Procedure to establish policies for remote attendance at council meetings and excuses for absences,

NOW, THEREFORE, be it resolved by the Village Council of the Village of Estero, Florida:

Section 1. The Rules of Procedure set out in Resolution No. 2017-12 are hereby amended to establish policies for remote attendance at council meetings and for excuses for absences as set forth, attached hereto, and incorporated by reference herein by "Exhibit A". Such policies govern the proceedings of the Estero Village Council and all other Village of Estero advisory boards, except as to those advisory boards having their own Council-approved Rules of Procedure.

Section 2. This Resolution shall take effect immediately upon adoption.

ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this 6th day of July, 2022.

Attest:

By:


Carol Sacco, Village Clerk

VILLAGE OF ESTERO, FLORIDA

By:


Katy Errington, Mayor

Reviewed for legal sufficiency:

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By: Robert D. Pritt
Robert D. Pritt, Interim Village Attorney

Attachment A

VILLAGE OF ESTERO—RULES OF PROCEDURE

Remote Attendance/Absence Policies

(Final-7-6-22) **Purpose:** This Policy addresses alternatives to a Council Member's physical presence at Council meetings. It is an addendum to Council's Rules of Procedure previously adopted in 2017. To the extent of any conflict with the current Rules of Procedure, this Policy will prevail.

Physical Non-Attendance; Generally: The policy of Florida as set out in general law and as reflected in the Village of Estero Charter strongly indicates that local government officials are expected to be diligent in their offices, which includes being physically present at meetings, and voting unless there is a conflict.

As to physical attendance the Village Charter states that a Member's office may be forfeited if the Member "**misses three consecutive regularly scheduled council meetings, unless excused by the council**". The Charter is silent as to what constitutes an excused absence but assigns to Council the determination of circumstances for which a Member's office may be forfeited, including inability to perform the duties of office.

State law leaves the decision up to the Council's "sound discretion".

Following are Council's general policies for Remote Attendance and for Excused Absences, and factors to consider.

1. **Remote attendance.** The Florida Attorney General has allowed a limited category of exceptions, for "unusual" or "special circumstances", recognizing that with electronic devices (first the telephone, now videoconferencing) there is a way for officials to participate remotely, if they cannot attend a meeting in person. If members are allowed to attend remotely, they are considered present for all purposes, and thus, it is not an absence.

Remote Attendance Policy: When a Member wishes to attend a meeting remotely (recognizing that remote attendance is disfavored) the Council will apply the following considerations:

1. Whether the remote means allows the member to hear and to be heard by all who are physically present. If the remote feed is insufficient or lost, the member will not be considered present for such period.
2. Whether the request was made a reasonable time prior to the meeting, normally at a previous meeting.
3. Whether the reason stated is an "unusual" or a "special" circumstance.
 - a. Mere inconvenience or preference to attend remotely are not unusual or special circumstances.
 - b. Illness, especially serious or contagious, may be an "unusual" or "special" circumstance. However, if it is such that it is likely to

be long-term, or is repetitious, it may no longer be “unusual” and may be grounds for removal for inability to perform the duties of the office.

- c. A Personal or family emergency may qualify.
- d. Unavoidable conflict in schedule, that keeps the Member at a remote location may qualify, so long as the conflicting schedule is work-related or official duty related.
- e. A rule of thumb is that a request to attend remotely will not be granted for more than three meetings in a calendar year.

2. **Absence; Excuses for Absence Policy.** When a Member wishes to have an excusable absence, recognizing that absences are disfavored, Council will apply the following considerations:

- a. Whether an absence is excusable is left to the sound discretion of the Council (bearing in mind that the highest responsibility of elected and appointed officials is physical attendance at meetings), and that the strict Sunshine Laws prohibit members from communicating with each other on Council business outside of meetings.)
- b. Absence, and the determination as to whether it is excused, normally occurs at Roll Call, but could also apply if a Member leaves the chamber during a meeting. (It is a violation of the Florida Ethics Code for a Member to absent oneself to avoid a vote or a declaration of conflict).
- c. In making a determination as to whether a Member’s absence may be excused Council will consider by vote the following:
 - i. Mere inconvenience or preference not to attend are not excusable reasons.
 - ii. Illness, especially contagious or serious, may be an excusable reason. However, if it is such that it is likely to be long-term, or is repetitious, it may be grounds for forfeiture of office for inability to perform the duties of the office.
 - iii. A Personal or family emergency may qualify.
 - iv. Unavoidable conflict in schedule may qualify, so long as the conflicting schedule is work-related or official duty-related and does not repeat.
 - v. A rule of thumb is that a request to be excused will not be granted for more than three meetings in a calendar year.