

AGENDA ITEM SUMMARY SHEET
VILLAGE COUNCIL MEETING
November 1, 2017

Agenda Item:

Ordinance 2017-11, an ordinance amending Ordinance 15-01 relating to the Planning and Zoning Board and Design Review Board.

Description:

Ordinance 15-01 was adopted on April 17, 2015 and established the Planning and Zoning Board and the Design Review Board including qualifications, terms of membership, duties and quorums. The Ordinance was amended once (Ordinance 15-07 adopted on May 15, 2015) to revise the membership of the Design Review Board to require that 1 member be a State registered architect (previously required 2 members).

The changes proposed in this Ordinance include the following:

- Revise Design Review Board (Sections 2 and 3) requiring 3 members be either a State-registered architect, engineer or landscape architect (in lieu of requiring one for each category).
- Add language (Section 4) relating to Ethics and Conflict of Interest for both the Planning and Zoning Board and Design Review Board and similar to the rules of the Village Council. The changes also address voting conflicts of interest by having a member step down from the dais and not participate in any manner in the case being heard before the Board meeting. Further, the conflicts will be considered by Council during any reappointment.

The changes will alleviate quorum issues that have occurred at past Design Review Board meetings and perceptions of conflicts of interest.

Recommended Action:

Pass first reading and schedule second reading and public hearing for November 15, 2017.

Financial Impact:

N/A.

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VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2017 - 11

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, FURTHER AMENDING ORDINANCE NO. 15-01, CHANGING THE QUALIFICATIONS FOR MEMBERSHIP OF THE DESIGN REVIEW BOARD; ADDING A NEW SECTION 4 REGARDING ETHICS AND CONFLICTS OF INTEREST; REVISING THE QUORUM REQUIREMENT FOR THE DESIGN REVIEW BOARD; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village of Estero adopted Ordinance No. 15-01 on April 17, 2015, which established the Village Planning and Zoning Board and the Village Design Review Board; and

WHEREAS, the Village Council amended Ordinance No. 15-01 in Ordinance No. 15-04 on May 20, 2015 (Ordinance No. 15-01, as thereby amended, is referred to herein as Ordinance No. 15-01); and

WHEREAS, given its experience with the said Land Use Boards since those dates, the Village has determined that it is in the best interest and welfare of the Village and its residents to further amend Ordinance No. 15-01.

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

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted and confirmed as being true, and the same are hereby incorporated as a part of this Ordinance.

Section 2. Further amending Section 3-2 of Ordinance No. 15-01. Section 3- 2 of Ordinance No. 15-01 is hereby further amended as follows:

Sec. 3-2. Organization; qualification of members.

(1) The Village Council shall appoint a chairman from among the appointed members of the Design Review Board to serve for one year terms and to preside at its meetings. The Design Review Board shall elect a vice-chairman for 1 year terms to preside

43 at its meetings in the absence of the chairman. The board shall formulate its rules and
44 regulations for the conduct of its business, which shall govern except as inconsistent with any
45 procedures established for it by the Village Council.

46 (2) The members of the board shall have the following qualifications:

47 (a) At least 4 members must be residents of the Village. All other members
48 shall either (i) own a business in the Village; (ii) own property in the Village; or (iii) work in
49 the Village;

50 (b) At least ~~1 member~~ 3 members of the board shall be either a state-registered
51 architect, ~~at least 1 member shall be~~ a state-registered engineer, ~~and at least 1 other member~~
52 ~~shall be~~ or a state-registered landscape architect. The remaining members of the board shall
53 be architects, landscape architects, professional engineers, professional land planners,
54 building contractors, or shall possess a similarly related professional background which is
55 ~~well-versed~~ knowledgeable in the ~~design land development and~~ building process. Vacancies
56 on the Design Review Board shall be filled pursuant to the administrative ordinances of the
57 Village of Estero. The Village Council may remove any member of the board from office
58 after notice and hearing, upon the affirmative vote of a majority of the Village Council
59 membership; and

60 (c) “No board member shall hold any other public office, appointed or
61 elective.”

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63 **Section 3. Amending Section 3-5 of Ordinance No. 15-01 to revise the quorum**
64 **requirement for the Design Review Board.** Section 3-5 of Ordinance 15-01 is hereby
65 amended as follows:

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67 Sec. 3-5. Meetings, quorum, records, staff.

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69 The board shall meet at least twice per month, at the call of the chairman, or more often
70 as may be required in order to consider applications pending without unnecessary delay. All
71 meetings shall be open to the public and the order of business and procedure to be followed
72 shall be prescribed within the rules and regulations to be adopted by the board, and pursuant
73 to Florida law. At least 7 days’ notice shall be proceed for any meeting, and an agenda for the
74 meeting shall be available to the public at least 7 days prior to the meeting. The Board, with
75 the assistance of the Village Clerk, shall keep a record of its proceedings, and shall file
76 approved minutes of its meetings with the Village Clerk within 30 days of any such meeting,
77 or as soon thereafter as practicable. Four members shall constitute a quorum, provided that
78 any quorum must include at least one member who is a state-registered architect, or a state-
79 registered engineer, or a state-registered landscape architect. If it is determined by the board
80 during the course of a hearing regarding a development application or other proceeding where
81 a final vote is to be taken, that, even though a quorum is present, the attendance of a member
82 who is a state-licensed architect, state-licensed engineer, or state-licensed landscape architect
83 would be helpful to aid the board in making such decision, the board may, on its own initiative,
84 continue the hearing until such time certain that the presence of such state-licensed professional

85 may be assured. The Village manager is authorized and empowered to appoint necessary staff
86 for the board, and the Village shall pay for all costs and expenses related to the operations of
87 the board as approved by the Village Council.
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89 **Section 4.** Adding new Section 4 to Ordinance No. 15-01, and Renumbering
90 existing sections accordingly.

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92 Section 4 of Ordinance No. 15-01 is hereby added as follows and sections 4, 5, and 6
93 are renumbered as sections 5, 6, and 7:
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95 **Section 4. Ethics and Conflicts of Interest.**

96 (1) All members of both the Planning and Zoning Board and the Design Review Board
97 shall strictly adhere to all ethics, conflicts of interest, and other Florida Statutes governing their
98 activities on such Boards, including, without limitation, all statutes, rules and regulations
99 relating to government in the sunshine, ethical requirements, and rules relating to voting
100 conflicts of interest.

101 (2) Such members shall also be subject to the rules of procedure and rules of conduct
102 for the Village Council adopted on May 15, 2017, as the same may be amended.

103 (3) Without limiting the generality of the foregoing, in addition to the requirements of
104 F.S. 112.313 regarding Standards of Conduct and F.S. 112.3143 regarding voting conflicts,
105 any such member with a voting conflict on any specific matter coming before either the
106 Planning and Zoning Board or the Design Review Board, in order to not be perceived as
107 influencing the remaining members of such board, (i) shall be required to step down from his
108 or her seat on the dais at the meeting, (ii) shall not, either verbally or non-verbally, participate
109 in the discussion of such matter or otherwise attempt to influence the decision of such board.
110 (iii) shall not provide any testimony to such Board on behalf of the applicant in such matter or
111 on behalf of any other interested party, and (iv) shall not participate in any other way, directly
112 or indirectly, in the deliberations of such Board.

113 (4) As set forth in F.S. 112.3143(b), whenever a member of such boards is being
114 considered by the Village Council for appointment or reappointment to such position, the
115 Village Council is required to consider the number and nature of voting conflicts which
116 previously involved such board member.

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118 **Section 5. Severability.** If any section, subsection, clause or provision of this
119 Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the
120 remainder shall not be affected by such invalidity.
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122 **Section 6. Effective Date.** This ordinance shall take effect immediately upon
123 adoption.
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127 **PASSED** on first reading this ____ day of _____, 2017.

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129 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,
130 Florida this ____ day of _____, 2017.

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132 Attest: **VILLAGE OF ESTERO, FLORIDA**

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135 By: _____ By: _____
136 Kathy Hall, MMC, Village Clerk James R. Boesch, Mayor

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139 Reviewed for legal sufficiency:

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142 By: _____
143 Burt Saunders, Esq., Village Attorney

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146	Vote:	AYE	NAY
147	Mayor Boesch	_____	_____
148	Vice Mayor Ribble	_____	_____
149	Councilmember Batos	_____	_____
150	Councilmember Errington	_____	_____
151	Councilmember Levitan	_____	_____
152	Councilmember McLain	_____	_____
153	Councilmember Wilson	_____	_____