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**ORDINANCE NO. 2019-09**

**AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA, AMENDING SEC. 5.01.05 OF DIVISION 5.01.00 OF THE TOWN'S LAND DEVELOPMENT CODE ENTITLED "TREES" TO INCORPORATE CHANGES MADE TO SECTION 163.045 OF THE FLORIDA STATUTES PERTAINING TO TREES THAT PRESENT A DANGER TO PERSONS OR PROPERTY; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

*Whereas*, the Town regulates the pruning, trimming, and removal of trees within the Town.

*Whereas*, the Legislature has adopted Chapter 2019-155, Laws of Florida, prohibiting local governments from requiring a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree presents a danger to persons or property, or requiring a property owner to replant such a tree.

*Whereas*, these changes were codified in Section 163.045 of the Florida Statutes.

*Whereas*, revisions are needed to the Town's Land Development Code to accommodate the statutory changes.

**BE IT ENACTED BY THE PEOPLE OF THE TOWN OF WINDERMERE:**

**Section 1. Recitals.** The recitals set forth above are true and correct and constitute the legislative findings of the Town Council.

**Section 2. Approval of Revisions to the Land Development Code.** Section 5.01.05 of Division 5.01.00 of Article V of the Town's Land Development Code is amended as follows (underline indicates added text):

Article V - RESOURCE PROTECTION STANDARDS

\* \* \*

DIVISION 5.01.00. – TREES

\* \* \*

Sec. 5.01.05. - Exceptions.

(a) The following are exempt from the provisions of this division:

- (1) Trees located in state-licensed, governmental and commercial plant or tree nurseries or botanical gardens in which the trees are planted for the sale or intended sale to the general public in the ordinary course of business.

- 43 (2) Trees in active commercial operation for bona fide agricultural purposes.  
 44 (3) Trees, which due to natural circumstances and reviewed by a licensed and  
 45 certified arborist, are no longer viable and are in danger of falling.  
 46 (4) Trees, which due to natural circumstances and reviewed by a licensed and  
 47 certified arborist are determined to be too close to existing structures so as to  
 48 endanger such structures.  
 49 (5) Trees that interfere with utility services, create unsafe vision clearance, or  
 50 constitute a safety hazard as determined by the town manager or his designee.  
 51 (6) Trees that occur in the location of planned or future public utility services or  
 52 public roads.  
 53 (7) Trees with a DBH of less than eight inches.  
 54 (8) Trees located within buildable area or yard area where a structure or  
 55 improvement is to be placed and it unreasonably restricts the permitted use of  
 56 the property.  
 57 (9) Trees on residential property if the property owner obtains documentation  
 58 from an arborist certified by the International Society of Arboriculture or a  
 59 Florida licensed landscape architect that a tree presents a danger to persons or  
 60 property. The town will not require (i) a notice, application, approval, permit,  
 61 fee or mitigation for the pruning, trimming, or removal of such tree, or (ii) a  
 62 property owner to replant such tree that was pruned, trimmed, or removed.  
 63 For action taken under this subsection (9), the town may require some or all of  
 64 the following documentation: the arborist's or the landscape architect's  
 65 identity and proof of certification; the arborist's or the landscape architect's  
 66 written report; pictures of the tree prior to any action to prune, trim or remove;  
 67 and a written description of the particular danger to persons or property  
 68 presented by the tree.  
 69 (b) Any property zoned or used for agriculture, which is effectively cleared of trees under the  
 70 above exemptions, shall not be eligible for changes to a more intensive land use for a  
 71 period of three years after the site is cleared.  
 72 (c) The following exempt trees are considered undesirable, invasive and shall be exempt  
 73 from the provisions of this division. No tree removal permit is required to remove the  
 74 following species:  
 75 (1) Australian Pine (Casuarina species);  
 76 (2) Brazilian Pepper or Christmasberry Tree (Schinus terebinthifloius);  
 77 (3) Cajeput Punk or Melaleuca Tree (Melaleuca quinquenervia/leucadendra);  
 78 (4) Chinaberry (Melia azedarach);  
 79 (5) Chinese Tallow Tree (Triadica sebiferum);  
 80 (6) Ear Tree (Enterlobium species);  
 81 (7) Eucalyptus (Eucalyptus);  
 82 (8) Mimose (Albizzia julibrissin);  
 83 (9) Paper Mulberry (Broussonetia papyrifera);  
 84 (10) Poisonwood or Florida Poison Tree (Metopium toxiferum);  
 85 (11) Silk Oak (Grevillea robusta);  
 86 (12) Any other tree defined as undesirable, noxious or invasive by the State of  
 87 Florida.

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 89 **Section 3. Inclusion in the Code.** It is the intent of the Town Council that the provisions of this  
 90 Ordinance shall become and be made a part of the Town's Land Development Code and that the

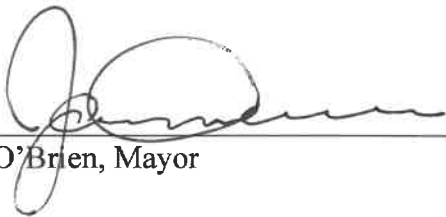
91 sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be  
92 changed to "section," "article," or such other appropriate word or phrase to accomplish such  
93 intentions.  
94

95 **Section 4. Severability.** If any section, sentence, clause or phrase of the Ordinance is held to be  
96 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no  
97 way affect the validity of the remaining portions of this Ordinance.  
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99 **Section 5. Effective Date.** This Ordinance shall become effective immediately upon its  
100 enactment.  
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102 **APPROVED AND ADOPTED** by the Town Council of the Town of Windermere on the 14<sup>th</sup>  
103 day of January, 2020.  
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107 Town of Windermere, Florida  
108 By: Town Council  
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112 By:   
113 Jim O'Brien, Mayor  
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117 Attest:

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121 \_\_\_\_\_  
122 Dorothy Burkhalter, MMC, FCRM  
123 Town Clerk  
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125 First Reading: December 18, 2019  
126 Second Reading: January 14, 2020  
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