

1  
2 **ORDINANCE NO. 2020-03**  
3

4 **AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA**  
5 **PERTAINING TO WATER CONSERVATION; REPEALING AND**  
6 **REPLACING SECTION 5.03.04 OF ARTICLE V OF THE TOWN'S**  
7 **LAND DEVELOPMENT CODE TO PROVIDE AN UPDATED WATER**  
8 **SHORTAGE PLAN CONSISTENT WITH THE REQUIREMENTS OF**  
9 **THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT;**  
10 **PROVIDING THE INTENT AND PURPOSE; PROVIDING**  
11 **DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING**  
12 **FOR THE DECLARATION OF WATER SHORTAGE OR WATER**  
13 **SHORTAGE EMERGENCY; PROVIDING FOR VARIANCES;**  
14 **PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES;**  
15 **PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL**  
16 **OF ALL CONFLICTING ORDINANCES; PROVIDING FOR**  
17 **SEVERABILITY AND AN EFFECTIVE DATE.**  
18

19 **WHEREAS**, the South Florida Water Management District (the "District") has the  
20 responsibility and exclusive authority under Chapter 373, Florida Statutes, for implementation of  
21 a water shortage plan.

22 **WHEREAS**, the District has promulgated and amended Chapter 40E-21, Florida  
23 Administrative Code (F.A.C.), which comprises the District's water shortage plan required under  
24 subsection 373.246(1), Florida Statutes, the purpose of which is to protect the water resources of  
25 the District from serious harm; to ensure equitable distribution of available water resources  
26 among all water users during times of shortage consistent with the goals of minimizing adverse  
27 economic, social and health related impacts; to provide advance knowledge of the means by  
28 which water apportionments and reductions will be made during times of shortage; and to  
29 promote greater security for water use permittees.

30 **WHEREAS**, Chapter 40E-21, F.A.C., applies to all users as defined in subsection 40E-  
31 21.051(3), F.A.C., including permitted and exempt users under Chapter 40E-2, F.A.C.  
32

1           **WHEREAS**, Rule 40E-21.421, F.A.C., seeks the cooperation and assistance of state,  
2 county, and municipal governmental officials, law enforcement officials, and police officers in  
3 the enforcement of the water shortage plan or any issued water shortage orders.

4           **WHEREAS**, Rule 40E-21.421, F.A.C., authorizes and encourages counties and  
5 municipalities throughout the District’s jurisdiction to adopt ordinances which provide for local  
6 enforcement of the water shortage plan or any issued water shortage orders.

7           **WHEREAS**, it is the desire of the Town Council of the Town of Windermere to adopt  
8 such an Ordinance in accordance with Rule 40E-21.421, F.A.C.

9           **WHEREAS**, the Town Council of the Town of Windermere finds and declares that the  
10 adoption of this Ordinance is in the public interest of the community.

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

12  
13           **SECTION 1. REPEAL AND REPLACEMENT.** Section 5.03.04 of Article V of the Town’s  
14 Land Development Code is hereby repealed and replaced with the language in Sections 2  
15 through 8, below.

16           **SECTION 2. INTENT AND PURPOSE.** It is the intent and purpose of this Ordinance to  
17 protect the water resources of the Town of Windermere from the harmful effects of  
18 overutilization during periods of water shortage by assisting the District in the implementation of  
19 its water shortage plan, or issued water shortage orders, under Chapter 40E-21, F.A.C.

20           **SECTION 3. DEFINITIONS.** For the purpose of this Ordinance, the following terms,  
21 phrases, words, and their derivatives shall have the meaning listed below. When not inconsistent  
22 with the context, words used in the present tense include the future, words in the plural include  
23 the singular, and words in the singular include the plural. The word “shall” is always mandatory  
24 and not merely directory.

1           (1)     “District” means the South Florida Water Management District, a government  
2 entity created under Chapter 373, Florida Statutes.

3           (2)     “Law Enforcement Officials” means Town of Windmerere Police Officer, Code  
4 Enforcement Officer, or other official designated by the Town Manager.

5           (3)     “User” means any person, individual, firm, association, organization, partnership,  
6 business trust, corporation, company, agent, employee or other legal entity whether natural or  
7 artificial, the United States of America, and the State and all political subdivisions, regions,  
8 districts, municipalities, and public agencies thereof, which directly or indirectly takes water  
9 from the water resource, including uses from private or public utility systems, uses under water  
10 use permits issued pursuant to Chapter 40E-2, F.A.C., or uses from individual wells or pumps.

11          (4)     “Water Resource” means any and all water on or beneath the surface of the  
12 ground, including natural or artificial water courses, lakes, ponds, or diffused surface water, and  
13 water percolating, standing, or flowing beneath the surface of the ground.

14          (5)     “Water Shortage” means when the District determines there is the possibility that  
15 insufficient water will be available to meet the present and anticipated needs of the users, or  
16 when conditions are such as to require temporary reduction in total use within a particular area to  
17 protect water resources from serious harm.

18          (6)     “Water Shortage Emergency” means when the District has determined that the  
19 provisions listed in Part II of Chapter 40E-21, F.A.C., are not sufficient to protect the public  
20 health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or  
21 commercial, industrial, agricultural, recreational, or other reasonable beneficial uses.

22 **SECTION 4.     APPLICABILITY.** The provisions of this Ordinance shall apply to each  
23 user, as defined in Section 3(3), using the water resource, as defined in Section 3(4), within the

1 geographical areas subject to the water shortage condition or water shortage emergency, as  
2 defined in Section 3(6), as determined by the District, whether from publicly or privately-owned  
3 water utility systems, private wells, or private connections with surface water bodies. This  
4 Section shall not apply to users using reclaimed water or saltwater.

5 **SECTION 5. DECLARATION OF WATER SHORTAGE OR WATER SHORTAGE**  
6 **EMERGENCY**  
7

8 (1) A declaration of a water shortage condition and/or water shortage emergency in  
9 accordance with Part II of Chapter 40E-21, F.A.C., within all or parts of the Town of  
10 Windermere by the District's Governing Board or Executive Director, shall invoke the  
11 provisions of this Ordinance.

12 (2) A water shortage, as defined in Section 3(5), or water shortage emergency order  
13 shall supersede mandatory year-round water irrigation measures until the more restrictive  
14 measure is rescinded by the District.

15 (3) Upon the District issuing a water shortage order, all water use restrictions or other  
16 measures adopted by the District applicable to Town of Windermere, or any portion thereof,  
17 shall be subject to enforcement action by the Town of Windermere officials pursuant to Section  
18 7 of this Ordinance. Any violation of Chapter 40E-21, F.A.C., or any order issued pursuant  
19 thereto, shall be a violation of this Ordinance.

20 **SECTION 6. VARIANCES.** The Town of Windermere recognizes all variances issued by  
21 the District pursuant to Rule 40E-21.275, F.A.C.

22 **SECTION 7. ENFORCEMENT.** The Town of Windermere authorizes law enforcement  
23 officials having jurisdiction in the area governed by this Ordinance to enforce the provisions of  
24 this Ordinance. In addition, the Town Manager may delegate this Ordinance's enforcement  
25 responsibility to agencies and departments within the Town of Windermere government.

1 **SECTION 8. PENALTIES.**

2 (1) Violation of any provision of this Ordinance shall be subject to the following  
3 penalties:

- 4 a. First violation, a written warning.
- 5 b. Second violation, a fine not to exceed \$25.00.
- 6 c. Subsequent violations, a fine not to exceed \$500.00.

7  
8 (2) Each day a violation of this Ordinance occurs shall be a separate offense. Law  
9 enforcement officials, and others as delegated, may provide violators with no more than one (1)  
10 written warning. In addition to civil penalties the Town of Windermere may take any other  
11 appropriate legal action, including but not limited to injunctive action to enforce the provisions  
12 of this Ordinance.

13 **SECTION 9. CODIFICATION.** The provisions of this Ordinance shall become and be  
14 made a part of the Town’s Code of Ordinances and that the sections of this Ordinance may be  
15 renumbered or re-lettered and the word “ordinance” may be changed to “section,” “article,” or  
16 such other appropriate word or phrase to accomplish such intentions.

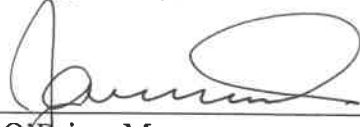
17 **SECTION 10. REPEAL OF CONFLICTING ORDINANCES.** Any ordinances or  
18 regulations in conflict with this Ordinance are hereby repealed to the extent of the conflict in  
19 favor of this Ordinance.

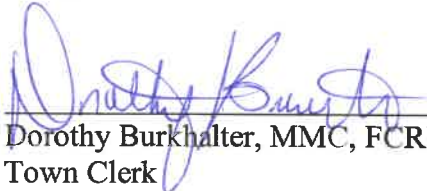
20 **SECTION 11. SEVERABILITY.** If any Section, subsection, sentence, clause, or phrase of  
21 this Ordinance is held to be invalid or unconstitutional, by any court of competent jurisdiction,  
22 then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

23 **SECTION 12. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon  
24 adoption.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

**APPROVED AND ADOPTED** by the Town Council of the Town of Windermere on the 14<sup>th</sup>  
day of July, 2020.

Town of Windermere, Florida  
By: Town Council  
By:   
Jim O'Brien, Mayor

Attest:  
  
Dorothy Burkhalter, MMC, FCRM  
Town Clerk

First Reading: June 9, 2020  
Advertised: July 2, 2020  
Second Reading: July 14, 2020



Serial Number  
20-02365W

# WEST ORANGE Times

West Orange Times  
Published Weekly  
Winter Garden , Orange County, Florida

COUNTY OF ORANGE

STATE OF FLORIDA

Before the undersigned authority personally appeared Cyndi Gustafson who on oath says that he/she is Publisher's Representative of the West Orange Times a weekly newspaper published at Winter Garden , Orange County, Florida; that the attached copy of advertisement,

being a Notice of Public Hearing

in the matter of Meeting on July 14, 2020 at 6:00 pm Ordinance 2020-03

in the Court, was published in said newspaper in the issues of 7/2/2020

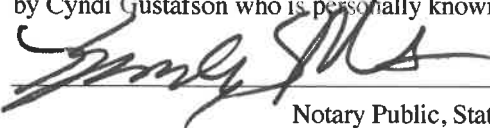
Affiant further says that the said West Orange Times is a newspaper published at Winter Garden , Orange County, Florida, and that said newspaper has heretofore been continuously published and has been entered as periodicals matter at the Post Office in Winter Garden in said Orange County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

\*This Notice was placed on the newspaper's website and floridapublicnotices.com on the same day the notice appeared in the newspaper.

  
Cyndi Gustafson

Sworn to and subscribed, and personally appeared by physical presence before me,  
2nd day of July, 2020 A.D.

by Cyndi Gustafson who is personally known to me.



Notary Public, State of Florida  
(SEAL)

**Kimberly S. Martin**  
COMMISSION # GG232793  
EXPIRES: July 25, 2022  
Bonded Thru Aaron Notary



**NOTICE OF PUBLIC HEARING TO ADOPT ORDINANCE 2020-03**  
The Town of Windermere, Florida, proposes to adopt Ordinance 2020-03. The Town Council of Windermere, Florida, will hold a public hearing at the Town Hall located at 520 Main Street, Windermere, Florida, on Tuesday, July 14, 2020, at 6:00 P.M. (or as soon thereafter as the matter may be considered) to hold a public hearing on and to consider passage of the proposed Ordinance 2020-03, the title of which reads as follows:

**ORDINANCE NO. 2020-03**

**AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA PERTAINING TO WATER CONSERVATION; REPEALING AND REPLACING SECTION 5.03.04 OF ARTICLE V OF THE TOWN'S LAND DEVELOPMENT CODE TO PROVIDE AN UPDATED WATER SHORTAGE PLAN CONSISTENT WITH THE REQUIREMENTS OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT; PROVIDING THE INTENT AND PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR THE DECLARATION OF WATER SHORTAGE OR WATER SHORTAGE EMERGENCY; PROVIDING FOR VARIANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

Interested parties may appear at the meeting and be heard with respect to the proposed annexation.

This ordinance is available at the Town Clerk's Office, 614 Main Street, Windermere, Florida, for inspection during normal business hours of Mon-Fri 8:00 a.m. - 5:00 p.m. If any questions, please contact Dorothy Burkhalter, Town Clerk, Town of Windermere, at 407-876-2563, ext. 23.

Persons with disabilities needing assistance to participate in this proceeding should contact the Town Clerk at least 48 hours before the meeting.

Persons are advised, pursuant to Section 286.0105 of the Florida Statutes, that, if they decide to appeal any decision made by the Town Council at this public hearing, they may need to ensure that a verbatim record of the proceeding is made, which record should include testimony and evidence upon which an appeal is based.

July 2, 2020

20-02365W