

1 **SECTION 1. REPEAL AND REPLACEMENT.** Sections 37-601 through 37-605 of Article
2 XIV of the Town Land Development Code titled “WATER CONSERVATION RULES” are
3 hereby repealed and replaced with the language in Section 2, below.

4 **SECTION 2. APPROVAL OF ARTICLE XIV.** Article XIV of the Town Land Development
5 Code shall hereby read as follows:

6 **WATER CONSERVATION; YEAR-ROUND LANDSCAPE IRRIGATION MEASURES;
7 VARIANCES; ENFORCEMENT; PENALTIES**

8
9 **Section 37-601. - Intent and purpose**

10
11 It is the intent and purpose of this Article to implement procedures to protect the water resources
12 of the Town of Windermere and to promote water conservation through the efficient use of
13 landscape irrigation and consistency with the South Florida Water Management District’s
14 mandatory year-round landscape irrigation conservation measures under Chapter 40E-24, Florida
15 Administrative Code, (F.A.C.). This Article will increase water use efficiency; prevent and
16 curtail wasteful irrigation practices by providing mandatory landscape irrigation conservation
17 measures; and prohibit the operation of irrigation systems in a manner causing water to be
18 wasted.

19
20 **Section 37-602. – Definitions.** For the purpose of this Article, the following terms, phrases,
21 words and their derivatives shall have the meaning listed below. When not inconsistent with the
22 context, words used in the present tense also include the future, and words used in the singular
23 also include the plural. The word “shall” is always mandatory and not merely directory.

- 24
25 (1) “Address” means the “house number” (a numeric or alphanumeric designation) that,
26 together with the street name, describes the physical location of a specific property. This
27 includes “rural route” numbers, but excludes post office box numbers. If a lot number in
28 a mobile home park or similar community is used by the U.S. Postal Service to determine
29 a delivery location, the lot number shall be the property’s address. If a lot number in a
30 mobile home park or similar residential community is not used by the U.S. Postal Service
31 (e.g., the park manager sorts incoming mail delivered to the community’s address), then
32 the community’s main address shall be the property’s address. If a property has no
33 address, it shall be considered “even-numbered.”
34
35 (2) “Athletic Play Area” means all golf course fairways, tees, roughs, greens, and other
36 athletic play surfaces; including, football, baseball, soccer, polo, tennis, lawn bowling
37 fields, and rodeo, equestrian and livestock arenas.
38
39 (3) “Consumptive Use Permit” (CUP) means a permit issued pursuant to Chapter 40E-2,
40 F.A.C., authorizing the consumptive use of water.
41

- 1 (4) "District" means the South Florida Water Management District, a government entity
2 created under Chapter 373, Florida Statutes.
3
- 4 (5) "Even-Numbered Address" means an address ending in the number 0, 2, 4, 6 or 8; rights-
5 of-way or other locations with no address; or the letters A-M.
6
- 7 (6) "Existing Landscaping" means any landscaping which has been planted in the ground for
8 more than ninety (90) days.
9
- 10 (7) "Landscaping" means shrubbery, trees, lawns, sod, grass, ground covers, plants, vines,
11 ornamental gardens, and such other flora not intended for resale, which are situated in
12 such diverse locations as residential landscapes, recreation areas, cemeteries, public,
13 commercial, and industrial establishments, public medians, and rights-of-way, except
14 athletic play areas.
15
- 16 (8) "Landscape Irrigation" means the outside watering of shrubbery, trees, lawns, sod, grass,
17 ground covers, plants, vines, ornamental gardens, and such other flora not intended for
18 resale, which are planted and are situated in such diverse locations as residential
19 landscapes, recreation areas, cemeteries, public, commercial, and industrial
20 establishments, public medians, and rights-of-way, except athletic play areas.
21
- 22 (9) "Law Enforcement Official(s)" means Town of Windermere Police Officer, Code
23 Enforcement Officer, or other official as designated by the Town Manager.
24
- 25 (10) "Low Volume Hand Watering" means the watering of landscape by one person, with one
26 hose, fitted with a self-canceling or automatic shutoff nozzle.
27
- 28 (11) "Low Volume Irrigation" means the use of equipment and devices specifically designed
29 to allow the volume of water delivered to be limited to a level consistent with the water
30 requirement of the plant being irrigated, and to allow that water to be placed with a high
31 degree of efficiency in the root zone of the plant. The term also includes water used in
32 mist houses and similar establishments for plant propagation. Overhead irrigation and
33 flood irrigation are not included.
34
- 35 (12) "Micro-irrigation" means the application of small quantities of water on or below the soil
36 surface as drops or tiny streams of spray through emitter or applicators placed along a
37 water delivery line. Micro-irrigation includes a number of methods or concepts such as
38 bubbler, drip, trickle, mist or micro-spray, and subsurface irrigation.
39
- 40 (13) "New Landscaping" means any landscaping which has been planted and established for
41 ninety (90) days or less.
42
- 43 (14) "Odd-Numbered Address" means an address ending in the number 1, 3, 5, 7 or 9; or the
44 letters N-Z.
45

- 1 (15) "Reclaimed Water" means wastewater that has received at least secondary treatment, and
2 basic disinfection and is reused after flowing out of a wastewater treatment facility as
3 defined by Rule 62-40.210, F.A.C.
4
- 5 (16) "User" means any person, individual, firm, association, organization, partnership,
6 business trust, corporation, company, agent, employee or other legal entity, whether
7 natural or artificial, the United States of America, and the State and all political
8 subdivisions, regions, districts, municipalities, and public agencies thereof, which directly
9 or indirectly takes water from the water resource, including uses from private or public
10 utility systems, uses under water use permits issued pursuant to Chapter 40E-2, F.A.C., or
11 uses from individual wells or pumps.
12
- 13 (17) "Wasteful and unnecessary" means allowing water to be dispersed without any practical
14 purpose to the water use; for example, excessive landscape irrigation, leaving an
15 unattended hose on a driveway with water flowing, allowing water to be dispersed in a
16 grossly inefficient manner, regardless of the type of water use; for example, allowing
17 landscape irrigation water to unnecessarily fall onto pavement, sidewalks and other
18 impervious surfaces; or allowing water flow through a broken or malfunctioning water
19 delivery or landscape irrigation system.
20
- 21 (18) "Water Resource" means any and all water on or beneath the surface of the ground,
22 including natural or artificial watercourses, lakes, ponds, or diffused surface water, and
23 water percolating, standing, or flowing beneath the surface of the ground.
24
- 25 (19) "Water Shortage" means when the District determines there is the possibility that
26 insufficient water will be available to meet the present and anticipated needs of the users,
27 or when conditions are such as to require a temporary reduction in total use within a
28 particular area to protect water resources from serious harm. A water shortage usually
29 occurs due to drought.
30
- 31 (20) "Water Shortage Emergency" means when the District determines the provisions listed in
32 Part II of Chapter 40E-21, F.A.C., are not sufficient to protect the public health, safety, or
33 welfare; the health of animals, fish, or aquatic life; a public water supply; or commercial,
34 industrial, agricultural, recreational, or other reasonable-beneficial uses.
35

36 **Section 37-603.- Application**

37
38 The provisions of this Article shall apply to each user providing landscape irrigation from all
39 water resources within the boundaries of the Town of Windermere. The provisions of this Article
40 shall not apply to athletic play areas or agricultural operations (including nurseries), and
41 irrigation accomplished using reclaimed water or saltwater.
42

43 Declaration of a water shortage condition and/or water shortage emergency within all or parts of
44 the Town of Windermere by the District's Governing Board or Executive Director shall
45 supersede this Article for the duration of the applicable declaration, in accordance with

1 Ordinance No. 2020-03.

2
3 Such a declaration would apply to all users using the water resource within the geographical
4 areas subject to a water shortage or water shortage emergency, as determined by the District,
5 whether from public or privately-owned water utility systems, private wells or private
6 connections with surface water bodies, but shall not apply to users using reclaimed water or
7 saltwater.
8

9 **Section 37-604. - Year-Round Permanent Landscape Irrigation Measures**

10 The following requirements or exceptions shall apply to all users, unless otherwise specified.

- 11
12
13 (1) Landscape irrigation shall be prohibited daily between the hours of 10:00 a.m. and 4:00
14 p.m., except as provided below.
15
16 (2) Irrigation of existing landscaping shall comply with the following provisions:
17
18 a. Even-numbered addresses and rights-of-way, or other locations without an address,
19 may accomplish necessary landscape irrigation only on Thursdays, and/or Sundays.
20
21 b. Odd-numbered addresses may accomplish necessary landscape irrigation only on
22 Wednesdays, and/or Saturdays.
23
24 (3) Irrigation of new landscaping shall comply with the following provisions:
25
26 a. New landscaping may be irrigated once on the day it is installed without regard to
27 the listed watering days and times. Irrigation of the soil immediately prior to the
28 installation of the new landscaping is allowed without regard to the listed watering
29 days and times.
30
31 b. A ninety day establishment period begins on the day new landscaping is installed.
32 The new landscaping shall be installed within a reasonable time from the date of
33 purchase, which may be demonstrated with a dated receipt or invoice.
34
35 c. Irrigation of new landscaping which has been in place for thirty days or less may be
36 accomplished on Monday, Tuesday, Wednesday, Thursday, Saturday, and/or
37 Sunday.
38
39 d. Irrigation of new landscaping which has been in place for thirty-one to ninety days
40 may be accomplished on Monday, Wednesday, Thursday, and/or Saturday.
41
42 e. Irrigation of the new landscaping is limited to areas containing only the new
43 landscaping. An entire zone of an irrigation system shall only be utilized for
44 landscape irrigation under this Article if the zone in question is for an area that
45 contains at least fifty percent new landscaping. If a zone contains less than fifty
46 percent new landscaping, or if the new landscaping is in an area that will not

1 typically be irrigated by an irrigation system, only the individual new plantings are
2 eligible for additional irrigation. Targeted watering may be accomplished by low
3 volume hand watering, or any appropriate method which isolates and waters only
4 the new landscaping.
5

6 (4) Irrigation systems may be operated outside restricted days and/or times for cleaning,
7 maintenance, and repair with an attendant on-site in the area being tested. Landscape
8 irrigation systems may routinely be operated for such purposes no more than once per
9 week, and the run time for any one test should not exceed ten minutes per zone.
10

11 (5) Landscape irrigation for the purpose of watering-in fertilizers, insecticides, pesticides,
12 fungicides, and herbicides, where such watering-in is required by the manufacturer, or by
13 federal, state or local law, shall be allowed under the following conditions:
14

15 a. Such watering-in shall be limited to one application in the absence of specific
16 alternative instructions from the manufacturer; and
17

18 b. Such watering-in shall be accomplished during normal watering days and times
19 listed above unless a professional licensed applicator has posted a temporary sign
20 containing the date of application and the date(s) of needed watering-in activity.
21

22 (6) Any plant material may be watered using low volume irrigation, micro-irrigation, low
23 volume hand watering methods, rain barrels, cisterns, or other similar rain-harvesting
24 devices without regard to the listed watering days or times.
25

26 (7) In addition to the specific listed measures, all wasteful and unnecessary water use is
27 prohibited.
28

29 (8) In the event the District imposes restrictions on landscape irrigation for new and existing
30 installations which are more restrictive than those imposed by this Article, such as under
31 the declaration of a water shortage or water shortage emergency, the more restrictive
32 regulations shall apply for the applicable duration of the more restrictive regulations.
33

34 (9) It shall be the duty of each user to keep informed as to the landscape irrigation
35 conservation measures within this Article, which affect each particular water use.
36

37 **Section 37-605. - Additional Measures.** Any user who purchases and installs an automatic
38 landscape irrigation system shall properly install, maintain, and operate technology that inhibits
39 or interrupts operation of the system during periods of sufficient moisture in accordance with
40 Section 373.62, Florida Statutes and this Article.
41

42 **Section 37-606. - Variance Relief**
43

44 (1) Any user affected by this Article may apply for a variance to the Town Manager, or their
45 designee. A variance from specific day or days identified in this Article may be granted if
46 strict application of the restrictions would lead to unreasonable or unfair result, provided

1 the applicant demonstrates with particularity that compliance with the schedule will result
2 in substantial economic, health, or other hardship on the applicant, or those the applicant
3 serves. Relief may be granted only upon a demonstration that such hardship exists, is
4 peculiar to the person or the affected property, is not self-imposed, and further
5 demonstrates that granting the variance would be consistent with the general intent and
6 purpose of this Article.

- 7
- 8 (2) Examples of circumstances for a variance include, but are not limited to:
- 9
- 10 a. Two (2) or more properties which share a common source of water;
 - 11
 - 12 b. A public or private water system experiencing or anticipating distribution problems;
 - 13
 - 14 c. A user maintains an irrigation system that uses soil moisture sensors or weather-
15 based irrigation controllers; or
 - 16
 - 17 d. Where a contiguous property is divided into different zones, a variance may be
18 granted so that each zone may be irrigated on days different than other zones of the
19 property.
- 20

21 However, no single zone may be irrigated more than two days per week.

- 22
- 23 (3) Upon receipt of an application for variance from the requirements of this Article, the
24 Town Manager or designee shall render a decision on the variance within ten business
25 days. Denials of variance relief may be appealed to the Town Council within ten business
26 days of the user's receipt of the notice of denial. Any notice of denial or subsequent
27 appeal shall be sent by certified mail, return receipt requested.
- 28
- 29 (4) A variance application and/or granting a variance under provisions of this Article shall
30 operate prospectively, shall not stay or abate the enforcement of the provisions of this
31 Article, and shall not affect any prior or pending enforcement actions against the affected
32 person that have been initiated pursuant to the provisions of this Article.
- 33
- 34 (5) If a variance is granted, the user shall be required to post a notice at each parcel to which
35 the variance pertains.
- 36
- 37 (6) A variance is invalid if it has expired or if the user or its agent violates the terms of the
38 variance.
- 39
- 40 (7) Recognition of District Variances. The Town of Windermere recognizes and adopts all
41 irrigation variances or waivers issued by the District.
- 42

43 **Section 37-607. – Enforcement.** Every law enforcement official having jurisdiction in the area
44 governed by this Article shall, in connection with all other duties imposed by law, diligently
45 enforce the provisions of this Article by issuance of a citation, summons, or notice to appear in
46 county court, or by filing an action in civil court for injunctive relief. The Town Manger may

1 also delegate enforcement responsibility for this Article to other departments of the Town
2 government in the service areas governed by this Article, in accordance with state and local law.

3
4 **Section 37-608. – Penalties.** Any user who violates any provision of this Article shall also be
5 subject to the Town of Windermere remedies as authorized by Section 5.03.04 of Article V as
6 may be amended, or as otherwise then allowed by law.

7
8 (1) Wasteful and unnecessary water use violations that are irreparable or irreversible in
9 nature which shall include without limitations, a broken irrigation system and/or water
10 pipe that allows water to flow from a broken sprinkler head, outdoor faucet, or other
11 malfunctioning plumbing or irrigation system component, or other water system
12 malfunction that continuously disperses a high quantity of water, shall be subject to code
13 enforcement special magistrate actions as provided in the Town’s Code of Ordinance and
14 Land Development Code.

15
16 (2) Each day a violation occurs is a separate offense. The Town of Windermere, in addition
17 to code enforcement special magistrate actions or criminal sanctions, may take any other
18 appropriate legal action, including, emergency injunctive action.

19
20 (3) Notice of alleged violations shall be provided to the alleged violator by a local law
21 enforcement official(s), code inspector or any other person designated by the Town
22 Manager, by certified mail, return receipt requested, to the owner of the property in
23 question at the address listed with the tax collector's office for tax notices, or property
24 appraiser’s records. If notice is provided by certified mail and returned unclaimed or
25 refused, notice may be provided by posting same in a conspicuous location at the subject
26 property.

27
28 **SECTION 3. CODIFICATION.** The provisions of this Ordinance shall become and be
29 made a part of the Town’s Code of Ordinances and that the sections of this Ordinance may be
30 renumbered or re-lettered and the word “ordinance” may be changed to “section,” “article,” or
31 such other appropriate word or phrase to accomplish such intentions.

32 **SECTION 4. REPEAL OF CONFLICTING ORDINANCES.** Any ordinances or
33 regulations in conflict with this Ordinance are hereby repealed to the extent of the conflict in
34 favor of this Ordinance.

35 **SECTION 5. SEVERABILITY.** If any Section, subsection, sentence, clause, or phrase of
36 this Ordinance is held to be invalid or unconstitutional, by any court of competent jurisdiction,
37 then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

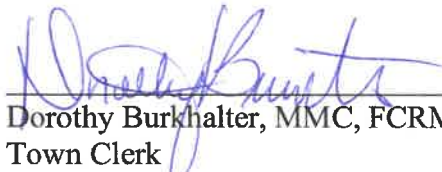
1 **SECTION 6. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon
2 adoption.

3 **APPROVED AND ADOPTED** by the Town Council of the Town of Windermere on
4 the 14th day of July, 2020.

5 Town of Windermere, Florida
6 By: Town Council

7
8
9 By: 
10 Jim O'Brien, Mayor

11
12
13 Attest:

14 
15
16
17 Dorothy Burkhalter, MMC, FCRM
18 Town Clerk

19
20 First Reading: June 9, 2020
21 Advertised: July 2, 2020
22 Second Reading: July 14, 2020
23



Serial Number
20-02367W

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 Public Hearing on July 14, 2020 at 6:00 pm Ordinance 2020-04

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

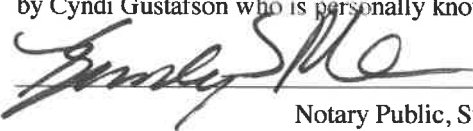
Affiant further says that the said West Orange Times is a newspaper published at Winter Garden , Orange County, Florida, and that said newspaper has heretofore been continuously published and has been entered as periodicals matter at the Post Office in Winter Garden in said Orange County, Florida, for 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 2020-04
The Town of Windermere, Florida, proposes to adopt Ordinance 2020-04. 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 2020-04, the title of which reads as follows:

ORDINANCE NO. 2020-04
AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA PERTAINING TO WATER CONSERVATION; REPEALING AND REPLACING ARTICLE XIV OF THE TOWN'S LAND DEVELOPMENT CODE TITLED "WATER CONSERVATION RULES" TO PROVIDE FOR UPDATED WATER CONSERVATION RULES CONSISTENT WITH THE REQUIREMENTS OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT AND TO BE TITLED "WATER CONSERVATION; YEAR-ROUND LANDSCAPE IRRIGATION MEASURES; VARIANCES; ENFORCEMENT; PENALTIES"; PROVIDING THE INTENT AND PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR THE DECLARATION OF A 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

20-02367W