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T.C. Mtg.

ORDINANCE NO. 2022-09

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDERMERE, FLORIDA AMENDING THE SWIMMING POOL SETBACK REQUIREMENTS FOR CANAL FRONT LOTS; AMENDING SECTION 7.02.03(A)(3) OF ARTICLE VII OF THE TOWN OF WINDMERERE LAND DEVELOPMENT CODE TO DEFINE CANAL-FRONT LOTS AND TO ALLOW SWIMMING POOLS AND THEIR ASSOCIATED DECKS ON CANAL FRONT LOTS TO BE SETBACK 35 FEET FROM THE NORMAL HIGH WATER ELEVATION OF THE CANAL SUBJECT TO SPECIFIC REQUIREMENTS AND CONDITONS PROVIDED HEREIN; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

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

Section 1. Legislative Findings. The Town Council of the Town of Windermere hereby makes and declares the following findings and statements of legislative intent:

1. The Town of Windermere places a high priority on protecting the water quality and environmental and recreational functions of the Butler Chain of Lakes, which is a designated Outstanding Florida Water by the State of Florida;

2. The Town of Windermere Land Development Code requires swimming pools and their associated decks to be located no closer than 50 feet from the normal high-water elevation on waterfront property;

3. There are limited areas of the town where properties are adjacent to a canal and have relatively shallow depths from the front property line to the normal high-water elevation of the canal;

4. The Town Council considered comments and recommendations provided during previous Town Council meetings, comments, and recommendation by the Town’s Development Review Board, and comments during the public hearing for this proposed ordinance to reduce the 50-foot setback for swimming pools and their associated decks for property that is adjacent to a canal subject to specific requirements and conditions and;

5. The Town Council has determined it is in the best interest of the Town to amend Section 7.02.03(a)(3) of Article VII of the Town’s Land Development Code to allow swimming pools and their associated decks to be located no closer than 35 feet to the normal high-water elevation of a canal only for those properties that are adjacent to a canal and meet certain requirements and conditions.

Section 2. Land Development Code Amendment. Section 7.02.03(a)(3) of Article VII of the Town’s Land Development Code is amended as follows:

45 Sec. 7.02.03(a)(3) For waterfront lots, all swimming pools, etc. and pool decks, shall be
46 located no closer than 50 feet to the normal high-water elevation of the water body.
47 However, for the canal front lots defined below, all swimming pools, etc. and pool
48 decks shall be located no closer than 35 feet to the normal high-water elevation of the
49 canal subject to compliance with the following requirements and conditions:

- 50 a. The following lots are canal-front lots subject to the reduced minimum 35-
51 foot setback from the normal high-water elevation:
- 52 i. Lots or Portion of Lots 1 through 20 and Lot 22 of Block “A” of the
53 Davis Shores subdivision recorded in Plat Book S, Page 123 of the
54 Public Records of Orange County, Florida; and
- 55 ii. Lots or Portion of Lots 4 through 7 of Block “B” of the Davis Shores
56 subdivision recorded in Plat Book S, Page 123 of the Public Records of
57 Orange County, Florida; and
- 58 iii. Lots or Portion of Lots 1 through 3 and 7 and 8 of the Davis Shores First
59 Replat subdivision as recorded in Plat Book W, Page 102 of the Public
60 Records of Orange County, Florida.
- 61 b. The canal front lot must have a seawall. If a seawall does not exist, then the
62 property owner must install a seawall, designed and permitted consistent
63 with Section 5.06.03 of the Town’s Land Development Code, and installed
64 [before the permit will be issued for the construction of the pool?].
- 65 c. As required by Section 7.01.03 of the Town’s Land Development Code for
66 all accessory buildings and structures, the swimming pool and pool deck
67 shall be included in the calculation of the maximum impervious surface ratio
68 and stormwater retention plan requirements of the Town’s Land
69 Development Code.
- 70 d. Existing trees located within 50 feet from the normal high-water elevation of
71 the canal shall not be removed for the construction of the swimming pool or
72 pool deck permitted unless designated as invasive consistent with Section
73 5.01.05 of the Land Development Code or meeting the criteria of Section
74 163.045, Florida Statutes.
- 75 e. There shall be no encroachment of the swimming pool or pool deck into the
76 100-year floodplain as designated on the effective Federal Emergency
77 Management Agency (FEMA) Flood Insurance Rate Map (FIRM) for the
78 Town.
- 79 f. There shall be no encroachment of the swimming pool or pool deck into
80 wetlands, and applicable wetland setbacks shall be maintained.
- 81 g. Pool screen enclosures shall not be permitted within 50 feet from the normal
82 high-water elevation of the canal.
- 83 h. The property owner must execute a hold harmless agreement, prepared by
84 the Town Attorney and in a form acceptable to the Town, that protects the
85 Town from liability or responsibility for the property owner’s damage or

86 negative impacts as a result of the setback being less than 50 feet. The
87 executed hold harmless agreement must be submitted by the property owner
88 to the Town prior to the issuance of the building permit for the swimming
89 pool and pool deck, will be recorded by the Town in the public records of
90 Orange County at the property owner's cost, and will run with the land.

91 **Section 3. Codification.** Section 2 of this Ordinance shall be codified and made part of the
92 Town of Windermere Land Development Code.


93 **Section 4. Conflicts.** In the event of a conflict or conflicts between this ordinance and other
94 ordinances, this ordinance controls to the extent of the conflict.


95 **Section 5. Severability.** The provisions of this Ordinance are declared to be separable and if
96 any section, paragraph, sentence or word of this Ordinance or the application thereto any person
97 or circumstance is held invalid, that invalidity shall not affect other sections or words or
98 applications of this Ordinance. If any part of this Ordinance is found to be preempted or
99 otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent
100 permitted by the severance of such preempted or superseded part.

101 **Section 6. Effective Date.** This Ordinance shall become effective upon adoption at its second
102 reading.

103 **ENACTED** this 14th day of November 2022, at a regular meeting of the Town Council
104 of the Town of Windermere, Florida.

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

115 Attest:
116 
117 **VOID ID**
118 _____
119 Dorothy Burkhalter, MMC, FCRM
120 Town Clerk

121
122 First reading: October 11, 2022
123 Second reading: November 14, 2022
124 Advertised: November 3, 2022

Serial Number
22-04084W

WEST ORANGE Times

REC'D NOV 09 2022

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

COUNTY OF ORANGE

STATE OF FLORIDA

Before the undersigned authority personally appeared Lindsey Padgett 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 November 14, 2022 Ordinance 2022-09

in the Court, was published in said newspaper by print in the issues of 11/3/2022

Affiant further says that the West Orange Times complies with all legal requirements for publication in chapter 50, Florida Statutes.

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




Lindsey Padgett

Sworn to and subscribed, and personally appeared by physical presence before me,

3rd day of November, 2022 A.D.

by Lindsey Padgett who is personally known to me.



Notary Public, State of Florida
(SEAL)

Kimberly S. Martin
Comm.:HH 282034
Expires: July 25, 2026
Notary Public - State of Florida

NOTICE OF PUBLIC HEARING TO ADOPT ORDINANCE 2022-09

The Town of Windermere, Florida, proposes to adopt Ordinance 2022-09. The Town Council of Windermere, Florida, will hold a public hearing at the Town Hall located at 520 Main Street, Windermere, Florida, on MONDAY, NOVEMBER 14, 2022, 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 2022-09, the title of which reads as follows:

ORDINANCE NO. 2022-09

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDERMERE, FLORIDA AMENDING THE SWIMMING POOL SETBACK REQUIREMENTS FOR CANAL FRONT LOTS; AMENDING SECTION 7.02.03(A)(3) OF ARTICLE VII OF THE TOWN OF WINDMERERE LAND DEVELOPMENT CODE TO DEFINE CANAL-FRONT LOTS AND TO ALLOW SWIMMING POOLS AND THEIR ASSOCIATED DECKS ON CANAL FRONT LOTS TO BE SETBACK 35 FEET FROM THE NORMAL HIGH WATER ELEVATION OF THE CANAL SUBJECT TO SPECIFIC REQUIREMENTS AND CONDITONS PROVIDED HEREIN; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

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

This ordinance is available at the Town Clerk's Office, 614 Main Street, Windermere, Florida, for inspection. Due to Covid-19, in person appointments are required. Please contact Dorothy Burkhalter, Town Clerk, Town of Windermere, at 407-876-2563, ext. 5323 for an appointment or if there are any questions/concerns.

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.

November 3, 2022 22-04084W