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ORDINANCE NO. 2023-01

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2
3 AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
4 WINDERMERE, FLORIDA AMENDING THE EXISTING
5 NONCONFORMING DEVELOPMENT EXPANSION LIMITATION;
6 AMENDING ARTICLE X, DIVISION 10.01.00, OF THE TOWN OF
7 WINDMERERE LAND DEVELOPMENT CODE TO ALLOW THE
8 EXPANSION OF AN EXISTING NONCONFORMING STRUCTURE
9 WHEN SUCH EXPANSION DOES NOT INCREASE THE
10 NONCONFORMITY AND SUCH EXPANSION IS IN FULL
11 COMPLIANCE WITH CURRENT LAND DEVELOPMENT CODE
12 REQUIREMENTS; PROVIDING STANDARDS FOR EXISTING
13 NONCONFORMING STRUCTURES RELATED TO RECONSTRUCTION
14 AFTER PARTIAL OR FULL DEMOLITION, RECONSTRUCTION
15 AFTER A FIRE OR OTHER CALAMITY, RECONSTRUCTION WITHIN
16 THE 100-YEAR FLOOD ZONE, RECONSTRUCTION OF BOATHOUSES
17 AND DOCKS, AND OTHER CLARIFICATIONS AND UPDATES AS
18 PROVIDED HEREIN; PROVIDING FOR SEVERABILITY,
19 CODIFICATION AND AN EFFECTIVE DATE.

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

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22
23 **Section 1. Legislative Findings.** The Town Council of the Town of Windermere hereby makes
24 and declares the following findings and statements of legislative intent:

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26 1. The Town of Windermere places a high priority on maintaining the special
27 character of the town and encouraging responsible and quality development;

28
29 2. Within the town, there are several homes and other structures that are legal
30 nonconforming structures that are limited to a ten percent expansion and are restricted in their
31 ability to be renovated or expanded due to their nonconformity;

32
33 3. The Town Council receives and approves many variances requesting the
34 expansion of an existing nonconforming structure by more than the ten percent limitation but in
35 compliance with all other current requirements of the Town's Land Development Code;

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37 4. The consistent Town Council approval of variances to allow a greater than ten
38 percent expansion of an existing nonconforming structure but in compliance with all other
39 current requirements of the Town's Land Development Code is a strong indication of a need to
40 amend the Land Development Code to address the issue;

41
42 5. The Town Council considered the recommendation by the Town's Development
43 Review Board, and comments during the public hearing for this proposed ordinance and;

44
45 6. The Town Council has determined it is in the best interest of the Town to amend
46 Article X, Division 10.01.00, of the Town's Land Development Code to allow the expansion of

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47 an existing nonconforming structure that does not increase the nonconformity and is in full
48 compliance with current land development code requirements; provide standards for existing
49 nonconforming structures related to reconstruction after partial or full demolition, reconstruction
50 after a fire or other calamity, reconstruction within the 100-year flood zone, reconstruction of
51 boathouses and docks, and other clarifications and updates as provided herein

52
53 **Section 2. Land Development Code Amendment.** Article X, Division 10.01.00, of the Town's
54 Land Development Code is amended as follows:

55 **Sec. 10.01.01. Definitions.**

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56 The following words, terms and phrases, when used in this division, shall have the meanings ascribed to
57 them in this section, except where the context clearly indicates a different meaning:

58 *Nonconforming development* means development legally constructed in accordance with
59 regulations in place at the time of such construction or land that does not conform to the land use
60 regulations in article 31 and/or the development design and improvement standards of this Land
61 Development Code in article 41, and/or the future land use map.

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62 **Sec. 10.01.02. Continuation.**

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63 ~~Subject to the provisions in this division for terminating nonconforming~~ **Nonconforming**
64 ~~development, such development may, if otherwise lawful and in existence on the date of~~
65 ~~enactment of this Land Development Code, may~~ remain in use in its nonconforming state and
66 ~~may only~~ be expanded or improved consistent with the requirements within this Division of this
67 ~~Land Development Code, until the year 2000, but shall not be expanded or improved.~~

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68 **Sec. 10.01.03. Termination-Expansion or improvement of nonconforming development or**
69 **structure.**

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70 (a) ~~Generally,~~ **Nonconforming development or structures shall only be expanded or improved if**
71 ~~the expansion or improvement is fully compliant with the requirements of this Land~~
72 ~~Development Code, and the nonconforming condition is not increased as a result of the new~~
73 ~~construction. Nonconforming development is also subject to the following requirements:~~
74 ~~must be brought into full compliance with the use regulations in article 44 of this Land~~
75 ~~Development Code, and the development design and improvement standards in article VI of~~
76 ~~this Land Development Code, in conjunction with the following activities:~~

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- 77 (1) ~~If a nonconforming development or structure is voluntarily fully or partially~~
78 ~~demolished, any reconstruction must meet all requirements of this Land Development~~
79 ~~Code. The gross floor area of the development or structure is expanded by more than~~
80 ~~ten percent. Repeated expansions of a development, constructed over any period of~~
81 ~~time commencing with the effective date of this Land Development Code, shall be~~
82 ~~combined in determining whether this threshold has been reached.~~
- 83 (2) ~~Reconstruction of the a nonconforming principal structure after the structure has been~~
84 ~~substantially destroyed by fire or other calamity must be consistent with all~~
85 ~~requirements of this Land Development Code. A structure is substantially destroyed if~~
86 ~~the cost of reconstruction is 50 percent or more of the fair market value of the structure~~
87 ~~before the fire or other calamity. If there are multiple principal structures on a site, the~~
88 ~~cost of reconstruction shall be compared to the combined fair market value of all the~~
89 ~~structures.~~
- 90 (3) ~~It is the intent of this Land Development Code to permit these nonconformities that~~
91 ~~existed on June 10, 1975, to continue until they are removed, but not to encourage their~~
92 ~~survival. Those few structures shall not be enlarged upon, expanded or extended.~~
93 ~~Owners of such properties must apply in writing to the town by January 1, 1993, for~~
94 ~~recognition of their status, providing such proof, as is available, of their existence in a~~
95 ~~nonconforming status as of June 10, 1975.~~
- 96 (3) ~~Any nonconforming property that existed on June 10, 1975, but has changed its usage~~
97 ~~to a single-family residence shall not be permitted to revert back to duplex usage.~~

98 (b) *Special provisions for specific nonconformities.*

- 99 (1) *Nonconformity with the stormwater management requirements of this Land*
100 *Development Code. In addition to the activities listed in subsection (a) of this section,*
101 *an existing development that does not comply with the stormwater management*
102 *requirements of this Land Development Code must be brought into full compliance*

103 when the use of the development is intensified, resulting in an increase in stormwater
104 runoff or added concentration of pollution in the runoff.

105 (2) ~~Nonconformity with floodplain requirements of the Floodplain Management~~
106 ~~Ordinance of Chapter 16, Code of Ordinances. Any structure or development that does~~
107 ~~not meet the requirements of the Floodplain Management Ordinance in Chapter 16,~~
108 ~~Code of Ordinances, shall be subject to requirements of Chapter 16, Code of~~
109 ~~Ordinances, to come into compliance.~~

110 (3) ~~Nonconforming boathouses and docks. Boathouses and docks that do not meet the~~
111 ~~requirements of Section 7.02.05 of this Land Development Code are subject to the~~
112 ~~requirements for repairs and reconstruction under Orange County's ordinances~~
113 ~~regulating, restricting, and otherwise addressing boat dock construction, as such~~
114 ~~ordinances may be amended from time-to-time.~~

115 (4) ~~Nonconforming with the parking and loading requirements of this Land~~
116 ~~Development Code. In addition to the activities listed in subsection (a) of this section,~~
117 ~~Full compliance with the requirements of this Land Development Code shall be~~
118 ~~required where the seating capacity or other factor controlling the number of parking or~~
119 ~~loading spaces required by this Land Development Code is increased by ten percent or~~
120 ~~more.~~

121 (5) ~~Nonconforming signs.~~

122 a. ~~Defined.~~ Any sign within the town on the effective date of this Land Development
123 Code or a sign existing within any area annexed to the town after the effective
124 date of this Land Development Code, and except for subdivision signs erected
125 prior to 1990, which is prohibited by, or does not conform to the requirements of,
126 this Land Development Code; except that signs that are within ten percent of the
127 height and size limitations of this Land Development Code, and that in all other
128 respects conform to the requirements of this Land Development Code, shall be
129 deemed to be in conformity with this Land Development Code.

130 b. ~~Amortization.~~

131 1. ~~Alternative A.~~

132 (i) All nonconforming signs with a replacement cost of less than \$100.00, and all
133 signs prohibited by division 8.02.00, prohibited signs, of this Land
134 Development Code, shall be removed or made to conform within 60 days of
135 the enactment of this Land Development Code.

136 (ii) All other nonconforming signs shall be removed or altered to be conforming
137 within seven years of the effective date of this Land Development Code,
138 unless an earlier removal is required by subsection (a) or (b)(3)b.2(ii)C of this
139 section.

140 2. ~~Alternative B.~~

141 (i) All nonconforming signs with a replacement cost of less than \$100.00, and all
142 signs prohibited by division 8.02.00, prohibited signs, of this Land
143 Development Code, shall be removed or made to conform within 60 days of
144 the enactment of this Land Development Code.

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145 (ii) Unless an earlier removal is required by subsection (a) or (b)(3)b.2(ii)C of this
 146 section, all other nonconforming signs may be maintained for the longer of the
 147 following periods:

- 148 A. Two years from the date upon which the sign became illegal
 149 under this Land Development Code;
- 150 B. A period of three to seven years from the installation date or
 151 most recent renovation date that preceded the enactment of
 152 this Land Development Code according to the amortization
 153 table in this subsection. If the date of the more recent
 154 renovation is chosen as the starting date of the amortization
 155 period, the period of amortization shall be calculated
 156 according to the cost of the renovation and not according to
 157 the original cost of the sign;

Sign Cost or Permitting	Years Renovation from Installation Cost or Renovation Date
\$101.00 to \$1,000.00	3 years
\$1,001.00 to \$3,000.00	4 years
\$3,001.00 to \$10,000.00	5 years
More than \$10,000.00	7 years

- 158 C. Any owner of a sign who requests an amortization period
 159 longer than two years shall, within one year from the date of
 160 enactment of these regulations, file with the town manager a
 161 statement setting forth the cost of the sign, the date of
 162 erection, or the cost and date of most recent renovation and a
 163 written agreement to remove the sign at or before the
 164 expiration of the amortization period applicable to the sign; or
 165
- 166 D. The development review board may grant a variance from the
 167 terms of the foregoing amortization schedule for up to one
 168 additional year where it finds such additional period of time is
 169 necessary in order to avoid unnecessary hardship not caused
 170 by the petitioner, and such variance is not contrary to the
 171 public interest. Multiple one-year extensions may be granted
 172 where warranted, but may only be granted one year at a time.

173 (c) *Continuation of nonconforming signs.* Subject to the limitation imposed by the amortization
 174 schedule above, and subject to the restrictions in subsection (a) or (b)(3)b.2(ii)A and B of
 175 this section, a nonconforming sign may be continued and shall be maintained in good
 176 condition as required by this Land Development Code. but it shall not be:

- 177 (1) Structurally changed to another nonconforming sign, but its pictorial content may be
 178 changed.
- 179 (2) Structurally altered to prolong the life of the sign, except to meet safety requirements.
- 180 (3) Altered in any manner that increases the degree of nonconformity.
- 181 (4) Expanded.

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- 182 (5) Reestablished after damage or destruction if the estimated cost of reconstruction
183 exceeds 50 percent of the appraised replacement cost as determined by the town
184 manager.
- 185 (6) Continued in use when a conforming sign or sign structure shall be erected on the same
186 parcel or unit.
- 187 (7) Continued in use when the structure housing the occupancy is demolished or requires
188 renovations the cost of which exceeds 50 percent of the assessed value of the structure.
- 189 (8) Continued in use after the structure housing the occupancy has been vacant for six
190 months or longer.
- 191 Should any of the conditions in this subsection (c) be violated, the sign shall be removed within
192 60 days.
- 193 (d) *Nonconforming signs along federal highways.* If it is determined that nonconforming signs
194 along a federal interstate or primary aid highway may not be removed pursuant to the above
195 provisions, the town council shall develop a plan for their expeditious removal in-
196 accordance with state and federal law.

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

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

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

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

209 ENACTED this 13th day of June, 2023, at a regular meeting of the Town
210 Council of the Town of Windermere, Florida.

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Town of Windermere, Florida
by: Town Council

by: 
Jim O'Brien, Mayor



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Attest:



Dorothy Burkhalter, MMC, FCRM
Town Clerk

First reading: May 9, 2023
Second reading: June 13, 2023
Advertised: June 1, 2023

Serial Number
23-02048W

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 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 June 13, 2023, 7 PM Ordinance 2023-01

in the Court, was published in said newspaper by print in the issues of 6/1/2023

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.

NOTICE OF PUBLIC HEARING TO ADOPT ORDINANCE 2023-01
The Town of Windermere, Florida, proposes to adopt Ordinance 2023-01. The Town Council of Windermere, Florida, will hold a public hearing at the Town Hall located at 520 Main Street, Windermere, Florida, on Tuesday, June 13, 2023, 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 2023-01, the title of which reads as follows:

ORDINANCE NO. 2023-01
AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDERMERE, FLORIDA AMENDING THE EXISTING NONCONFORMING DEVELOPMENT EXPANSION LIMITATION; AMENDING ARTICLE X, DIVISION 10.01.00, OF THE TOWN OF WINDERMERE LAND DEVELOPMENT CODE TO ALLOW THE EXPANSION OF AN EXISTING NONCONFORMING STRUCTURE WHEN SUCH EXPANSION DOES NOT INCREASE THE NONCONFORMITY AND SUCH EXPANSION IS IN FULL COMPLIANCE WITH CURRENT LAND DEVELOPMENT CODE REQUIREMENTS; PROVIDING STANDARDS FOR EXISTING NONCONFORMING STRUCTURES RELATED TO RECONSTRUCTION AFTER PARTIAL OR FULL DEMOLITION, RECONSTRUCTION WITHIN THE 100-YEAR FLOOD ZONE, RECONSTRUCTION OF BOATHOUSES AND DOCKS, AND OTHER CLARIFICATIONS AND UPDATES AS 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 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. 7.

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.

Dorothy Burkhalter, MMC, PCRM
Town Clerk

June 1, 2023

23-02048W


Lindsey Padgett

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

1st day of June, 2023 A.D.

by Lindsey Padgett who is personally known to me.



Notary Public, State of Florida
(SEAL)



REC'D JUN 05 2023