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ORDINANCE NO. 2015-03

AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA, PERTAINING TO LAND DEVELOPMENT; REVISING SECTION 5.06.03 OF DIVISION 5.06.00 OF THE TOWN OF WINDERMERE'S LAND DEVELOPMENT CODE ENTITLED "LAKESHORE PROTECTION" TO REVISE THE PROCESS FOR OBTAINING A SEAWALL PERMIT TO ALLOW THE TOWN MANAGER TO REVIEW AND ISSUE SUCH PERMIT RATHER THAN REQUIRE REVIEW AND APPROVAL BY THE DEVELOPMENT REVIEW BOARD AND THE TOWN COUNCIL; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE TOWN OF WINDERMERE

Section 1. Amendments to the Town of Windermere's Land Development Code. Section 5.06.03 of the Town of Windermere's Land Development Code is hereby revised as indicated by the following strike-through and underlined language:

Sec. 5.06.03. - Requirements.

- (a) All persons desiring to perform or cause to be performed any shoreline alteration involving the alteration, clearance, fill or construction of a seawall, which involves changes to the shoreline or waterfront vegetation shall be required to obtain a permit from the town unless exempt by these regulations. The permit shall be submitted to the town manager ~~and handled as are other permits pursuant to article XI of this Land Development Code. The development review board shall review the application with final approval by the town council.~~
- (b) The town ~~council~~ manager shall be empowered to grant a permit only if the applicant demonstrates that this shoreline or waterfront clearing or alteration will not be adverse to the public purposes and benefits of maintaining lake water quality and fish and wildlife habitat and reducing nutrient loading by maintaining shoreline and waterfront vegetation necessary for the health and viability of a lake system. The applicant must further demonstrate that the proposed removal of vegetation will not degrade water quality below the standards set forth in F.A.C. ch. 17. Each applicant for a shoreline alteration permit shall submit a site plan, photographs and materials containing information and addressing the following items:
- (1) The percentage, area and types of shoreline and waterfront vegetation proposed to be removed and to be maintained;
 - (2) A plan showing any proposed changes in shoreline contour to include existing and proposed topographic elevations. Also included shall be the quantities of material to be removed and filled in cubic yards;

- 47 (3) A plan showing the proposed method for controlling erosion, filtering run-off and
48 reducing nutrient concentration;
- 49
50 (4) The means for minimizing and controlling erosion;
- 51
52 (5) The means for stabilizing soils at and below the normal high-water elevation;
- 53
54 (6) The justification for the replacement vegetation and its ability to protect and
55 improve water quality. All mechanically cleared or trimmed vegetation shall be
56 removed from the lake and the normal high-water elevation within 24 hours of
57 clearing or trimming. Failure to do so will constitute a violation of these
58 regulations; and
- 59
60 (7) The reasons for such request and an explanation of the hardship expected if a
61 permit is not granted.
- 62
63 (c) If the town manager determines that any alteration or filling is occurring or has
64 occurred without prior approval or is not in accordance with these regulations or
65 approved permit, a written notice of violation shall be issued promptly to the property
66 owner. The notice of violation shall include the description of the property involved,
67 the provisions of these regulations or other applicable regulations which have been
68 violated, and the remedial action to be taken. Such remedial action may include
69 restoration to the existing conditions, revegetation of the shoreline or waterfront,
70 application for permit, payment of permit fees or other action consistent with these
71 regulations. If any person commences any shoreline alteration or the removal of any
72 shoreline or waterfront vegetation before obtaining the necessary permit, he shall be
73 subject to a penalty of triple the permit fees. If any person fails to apply for the
74 necessary permit within 30 days of receipt of written notice of violation, such person
75 shall also be subject to an additional penalty of triple the permit fees for each month
76 or portion thereof occurring, commencing 30 days from the date of receipt of written
77 notice of violation and continuing until proper application for the necessary permit is
78 made.
- 79
80 (d) The town ~~council~~ manager may include such provisions, terms and conditions in any
81 permit issued hereunder as it may determine reasonable and necessary. Any permit
82 issued hereunder may be revoked by the town for violation or noncompliance with
83 the provisions of said permit, this article, and general or special law, mistake of fact,
84 or mistake of law.
- 85
86 (e) The permit fee for applications for shoreline or waterfront vegetation removal shall be
87 as established by the town council and on file in the town clerk's office to cover the
88 administrative cost of processing such application and for inspection to ensure the
89 clearing, if approved, is done in accordance with the permit and these regulations.
- 90
91 (f) Nothing in the regulations set forth in subsections (a) through (e) of this section is
92 intended to relieve a property owner or contractor of any obligation under state law or

93 county regulations to obtain required permits from the state department of
94 environmental regulation, department of natural resources or other governmental
95 authorities having jurisdiction, when applicable.
96

97 (g) Exemptions. These regulations and the requirement to obtain a permit hereunder shall
98 not apply to the following:
99

100 (1) Any person or property owner hand clearing less than 20 percent or 30 feet,
101 whichever is greater, of lands at or below the normal high-water elevation.
102

103 (2) Emergency repairs on public or private projects necessary for the preservation of
104 life, health or property, where taken to implement and accomplish the beneficial
105 purposes of these regulations as set forth herein under such circumstances where
106 it would be impractical to obtain approval from the ~~board~~ town manager prior to
107 making such emergency repairs.
108

109 (3) Maintenance of publicly or privately owned portions of a structural stormwater or
110 drainage control system which does not constitute major construction or
111 rebuilding.
112

113 (4) Any person or property owner clearing shoreline vegetation which is within the
114 physical confines of a dock, gazebo or boathouse construction approved by the
115 town.
116

117 (5) Lawn mowing, trimming of vegetation, and other lawn maintenance activities
118 which will not result in the clearance of shoreline vegetation.
119

120 (6) All cleared or trimmed vegetation shall be removed from the lake and/or lakefront
121 for off-site disposal. Any permit issued may be revoked by the town for violation
122 or noncompliance with the provisions of said permit, these regulations, mistake of
123 fact or conflict with other town county or state regulations.
124

125 (7) The changing of any shoreline by digging or adding fill, which alters or changes
126 the shoreline or existing topography of the shoreline or waterfront of any water
127 body within the town shall be prohibited, unless done in accordance with an
128 approved shoreline alteration permit. A permit shall also be required to pump or
129 withdraw sand or any other material from lake bottoms.
130

131 (8) A property owner whose shoreline has previously been cleared where the clearing
132 is continuous maintained. If shoreline vegetation is allowed to reestablish, this
133 exemption from permitting shall not apply.
134

135 (9) The county boat ramp ordinance applies to any construction or alteration of
136 private boat ramps in town. However, boat ramp construction and alteration of
137 private boat ramps is allowed only if approved by permit issued by the town upon
138 authorization from the town council.

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(10) Liberal construction. The provisions of this article shall be liberally construed to the effect of its purpose.

Section 2. Severability. If any provision or portion of this ordinance is declared by a court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full effect.

Section 3. Codification. The provisions of this Ordinance shall become and be made a part of the town's Code of Ordinances.


Section 4. Effective Date. This Ordinance takes effect immediately upon its enactment.

ENACTED this 14th day of April, 2015, at a regular meeting of the Town Council of the Town of Windermere, Florida.

Town of Windermere, Florida
by: Town Council

by: 
Gary Bruhn, Mayor

Attest:


Dorothy Burkhalter, CMC
Town Clerk

First reading: March 24, 2015
Second reading: April 14, 2015

