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**ORDINANCE NO. 2018-08**

**AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA  
PERTAINING TO HEALTH, SAFETY AND WELFARE; AMENDING  
THE TOWN'S CODE OF ORDINANCES TO REVISE SECTIONS 14-81,  
14-82, AND 14-83 PERTAINING TO PROPERTY MAINTENANCE;  
PROVIDING FOR SEVERABILITY, CODIFICATION AND AN  
EFFECTIVE DATE.**

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

**Section 1.** Approval of Revisions to the Code of Ordinances. Secs. 14-81, 14-82 and 14-83 are hereby revised as follows (strike through indicates deleted text, underline indicates added text):

**Sec. 14-81. - Imminent public health or safety threat, remedy by the town.**

(a) If the town manager determines that an imminent public health or safety threat exists because of:

- (1) An accumulation of trash, junk, debris, living and nonliving plant material, or stagnant water;
- (2) A hazardous tree;
- (3) The excessive growth of grass, weeds, brush, or other overgrowth; or
- (4) The keeping of fill on property;

the threat may be remedied by the town immediately without notice to the owner or, if applicable, the agent, custodian, lessee or occupant.

The town manager shall be the town official to determine whether, under the provisions of this division, an imminent public health or safety threat exists.

(b) After-the-fact notice will be provided by the town to the owner and, if applicable, the agent, custodian, lessee, or occupant no later than five work days after the abatement. After-the-fact notice shall be sent as set forth in section 14-82, and the owner and, if applicable, the agent, custodian, lessee or occupant shall have 15 days from the date of the notice is received ~~is received~~ to:

- (1) Reimburse the town; or
- (2) Appeal the town manager's determination that an imminent public health or safety threat existed on the property.

(Ord. No. 2008-08, § 1(g), 11-11-2008; Ord. No. 2009-04, § 1(g), 6-9-2009)

37 **Sec. 14-82. – Enforcement, notice, appeal.**

38 (a) *Violations.* Failure or refusal by the owner and/or, if applicable, the agent, custodian, lessee  
39 or occupant of property to comply with the requirements of sections 14-78, 14-79, and 14-80  
40 is a violation of this division. The existence of an imminent public health or safety threat on  
41 a property is a violation of this division.

42 (b) *Notice of violation.* Whenever the town manager or designee determines there is a  
43 violation of this division, the town manager shall serve, or cause to be served, a notice of  
44 violation on the owner and, if applicable, the agent, custodian, lessee, or occupant of the  
45 property. The notice of violation shall direct the owner and, if applicable, the agent,  
46 custodian, lessee, or occupant to terminate and abate the violation within ~~30~~ 15 calendar  
47 days of the date of the notice is received. If the notice of violation pertains to an imminent  
48 public health or safety threat abated by the town, the notice shall direct the owner and, if  
49 applicable, the agent, custodian, lessee, or occupant to pay to the town the cost of such  
50 abatement. If the notice of violation is sent or delivered to both the owner and the owner's  
51 agent, custodian, lessee, or occupant, they shall be jointly and severally responsible to  
52 remedy the violation.

53 (c) *Notice is received.* The notice of violation shall be sent by United States certified mail with a  
54 return receipt requested. Notice is received and deemed complete and sufficient on the date  
55 the owner or, if applicable, the agent, custodian, lessee, or occupant of the property initials  
56 or otherwise indicates receipt of the notice on the return receipt. In the event that certified  
57 mail delivery cannot be accomplished, and after reasonable search by the town for such  
58 owner or, if applicable, the agent, custodian, lessee, or occupant of the property, or if the  
59 notice is not accepted or is returned to the town, a physical posting of the “notice of  
60 violation” on the property shall be received and deemed complete and sufficient on the date  
61 the notice of violation is ~~received~~ posted.

62 (d) The notice of violation required by this Section shall contain the following:

- 63 (1) Name(s) and address(es) of the owner(s) of the property, according to the address listed  
64 in the Orange County tax collector’s office for tax notices or to the address listed on the  
65 property appraiser’s website.  
66 (2) Location of the property on which the violation exists.  
67 (3) A statement by the Town Manager or a designee that a violation of this Chapter, as  
68 described in the notice, has been determined to exist on the property, which violation  
69 constitutes a public nuisance.  
70 (4) A description of the condition which causes the property to be in violation.  
71 (5) A requirement that the record owner of the property remedy the violation within 15 days  
72 from the date of the notice, failing which the Town will remedy the condition and assess  
73 against the record owner the costs thereof plus an administrative charge.  
74 (6) A statement that, if the costs and administrative charge are not paid within 20 days of  
75 invoice date, a lien will be placed on the property which is enforceable by foreclosure or  
76 a special assessment being placed on the tax bill.  
77 (7) A schedule of the charges which may be assessed against the record owner if the Town  
78 has to remedy the violation.  
79 (8) An estimate of the total cost, based on the schedule of charges, if the violation is  
80 remedied by the Town. Such estimate is not to be interpreted or construed as the final

81 cost which may be assessed, but only as a good-faith approximation of such cost. The  
82 final assessable cost may be greater or lesser than the estimate.  
83 (9) A statement that the record owner of the property may, within 15 days from the date of  
84 the notice, submit a written appeal to the Town Clerk, from the determination of a public  
85 nuisance, which must contain all reasons, evidence, and argument that the cited  
86 condition does not constitute a violation.

87 Within 15 days from the date of the notice, the owner of the property may appeal the  
88 determination of nuisance by submitting a written appeal and request for a hearing before the  
89 Town Council to show that the condition does not constitute a public nuisance. Such appeal  
90 shall be addressed to the Town Clerk and shall state the name of the property owner, the location  
91 of the cited property and the specific grounds upon which the owner relies in order to show that  
92 the cited condition does not constitute a public nuisance.

93 ~~Form of notice. The notice shall be in substantially the following form:~~

<del>Notice of Violation</del>
<del>Name of owner:</del>
=====
<del>Address of owner:</del>
=====
<del>Name of agent, custodian, lessee, or occupant (if applicable):</del>
=====
<del>Address of agent, custodian, lessee, or occupant (if applicable):</del>
=====
<del>Our records indicate that you are the owner, agent, custodian, lessee or occupant of the following property</del>

~~in the Town of Windermere, Florida:~~

~~{Description of property}~~

~~An inspection of this property discloses, and I have found and determined, that a public nuisance exists on this property. This public nuisance violates chapter 14, article III, division 2 of the Code of Ordinances of the Town of Windermere, Florida in that:~~

~~{Description of the violation in this section}~~

~~You are hereby notified that if, within 20 days from the date this notice is received:~~

~~a. The violation described above is not remedied and abated; or~~

~~b. This violation notice has not been timely appealed, as set forth in section 14-83 of the town's Code of Ordinances. The town will cause the violation to be remedied, and the costs incurred by the town in connection with the cleanup will be assessed against the property.~~

~~To appeal this notice of violation, you must file your notice of appeal no later than 15 days after receipt of this notice.~~

~~Town of Windermere~~

~~By: \_\_\_\_\_~~

~~Title: \_\_\_\_\_~~

94 ~~If the notice is an after the fact notice of an imminent public health or safety threat, the~~  
95 ~~bracketed portions shall be deleted and, in their place, the information required in section 14-85~~

96 ~~regarding levy of assessment on the property for the costs of abatement incurred by the town~~  
97 ~~shall be substituted.~~

98 (Ord. No. 2008-08, § 1(h), 11-11-2008; Ord. No. 2009-04, § 1(h), 6-9-2009)

99 **Sec. 14-83. - Appeals.**

100 (a) *Action after notice; time limit.* Within 15 days ~~from the date of the notice after notice is~~  
101 ~~received~~, the owner or, if applicable, the agent, custodian, lessee, or occupant of the property  
102 may appeal to the town council that a notice of violation is not warranted for the property or  
103 that the property did not pose an imminent public health or safety threat that required  
104 immediate cleanup.

105 (b) *Content of appeal.* The owner or, if applicable, the agent, custodian, lessee or occupant of  
106 the property must appeal the notice of violation by written notice to the town manager. The  
107 written notice must be accompanied by a reasonable filing fee, as determined by the town  
108 manager, and shall be either hand delivered to the town manager, or mailed to the town  
109 manager and postmarked, within the 15-day period ~~from the date of the notice after notice is~~  
110 ~~received~~. Upon timely receipt, the town manager will schedule the appeal for a public  
111 hearing before the town council. At the public hearing, the appellant shall be afforded due  
112 process and may present such evidence as is probative of the appellant's case. The town  
113 manager or other town staff shall present such evidence as is probative of the alleged  
114 violation. Members of the public shall be afforded the opportunity to present germane  
115 testimony and evidence. Thereafter, the hearing shall be closed and the town council shall  
116 rule on the appeal.

117 (c) *Unsuccessful appeal.* If the appeal is unsuccessful, the property must be cleaned up and the  
118 violation remedied and removed within 15 days from the date of the town council's  
119 decision.

120 (Ord. No. 2008-08, § 1(i), 11-11-2008; Ord. No. 2009-04, § 1(i), 6-9-2009)

121

122 **Section 2. Inclusion in the Code.** It is the intent of the Town Council that the provisions of this  
123 Ordinance shall become and be made a part of the Town's Code of Ordinances and that the  
124 sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be  
125 changed to "section," "article," or such other appropriate word or phrase to accomplish such  
126 intentions.

127 **Section 3. Severability.** If any section, sentence, clause or phrase of the Ordinance is held to be  
128 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no  
129 way affect the validity of the remaining portions of this Ordinance.

130

131 **Section 4. Effective Date.** This Ordinance shall become effective immediately upon its  
132 enactment.

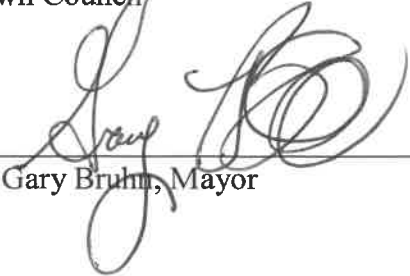
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134 **APPROVED AND ADOPTED** by the Town Council of the Town of Windermere on the 13<sup>th</sup>  
135 day of November, 2018.

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Town of Windermere, Florida

By: Town Council

By:   
Gary Bruhn, Mayor

Attest:

  
Dorothy Burkhalter, MMC, FCRM  
Town Clerk

First Reading: October 9, 2018  
Second Reading: November 13, 2018



Serial Number  
18-05482W

# WEST ORANGE Times

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

COUNTY OF ORANGE

S.S.

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 13, 2018 Ordinance 2018-08

in the Court, was published in said newspaper in the

issues of 11/1/2018

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.

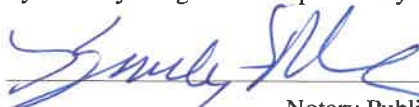
\*This Notice was placed on the newspaper's website and floridapublicnotices.com on the same day the notice appeared in the newspaper.

  
Lindsey Padgett

Sworn to and subscribed before me this

1st day of November, 2018 A.D.

by Lindsey Padgett who is personally known to me.



Notary Public, State of Florida  
(SEAL)

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

**NOTICE OF PUBLIC HEARING TO ADOPT ORDINANCE 2018-08**  
The Town of Windermere, Florida, proposes to adopt Ordinance 2018-08. The Town Council of Windermere, Florida, will hold a public hearing at the Town Hall located at 520 Main Street, Windermere, Florida, on Tuesday, November 13, 2018, 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 2018-08, the title of which reads as follows:

**ORDINANCE NO. 2018-08**  
**AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA PERTAINING TO HEALTH, SAFETY AND WELFARE; AMENDING THE TOWN'S CODE OF ORDINANCES TO REVISE SECTIONS 14-81, 14-82, AND 14-83 PERTAINING TO PROPERTY MAINTENANCE; PROVIDING FOR SEVERABILITY, CODIFICATION 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. 5323.

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 1, 2018

18-05482W