

ORDINANCE NO. 2018-05

AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA, PERTAINING TO PUBLIC HEALTH, SAFETY AND WELFARE; REVISING ARTICLE III OF CHAPTER 11 OF THE TOWN'S CODE OF ORDINANCES TITLED "EROSION AND SEDIMENT CONTROL" TO INCLUDE THE DEFINITION OF WASTE AND REQUIREMENTS CONCERNING TEMPORARY WASTE CONTROLS; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

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

Section 1. Approval of Additions to the Code of Ordinances. Article III of Chapter 11 of the Code of Ordinances of the Town of Windermere is revised to include a new Sec. 11.42(t) and Sec. 11.44(a)11. as indicated by the addition of the underlined language:

**Article III
EROSION AND SEDIMENT CONTROL**

Sec. 11-40. Purpose and Intent.

- (a) Purpose and Intent. This Article addresses stormwater management in order to protect, maintain and enhance the health, safety and general welfare of the citizens of the Town. The intent of this Article is to protect surface water, groundwater and other natural resources by ensuring that stormwater runoff peak discharge rates, volumes and pollutant loadings are controlled as required by state or water management stormwater regulations and that precautions are taken to prevent erosion sedimentation, flooding and water pollution. The purpose of this Article is to minimize or eliminate sediment transport and deposition into the air and/or water within the Town and to ensure compliance with the Town's NPDES MS4 stormwater permit. Problems caused by erosion and sediment transport include adverse impacts to the environment, lower aesthetic values, regulatory penalties, and increased maintenance costs.

Sec. 11-41. Scope.

Any public entity, private person, firm, sole proprietorship, partnership, corporation, or other proposing a land disturbance activity within the Town shall first agree to the terms of this Article and shall apply to the Town for the approval of a stormwater pollution prevention plan that is specifically designed for any activity that is permitted through public works. This may include but is not limited to: typical construction sites, utilities/right-of-way public construction, roadway construction, waterway construction (seawall, dock, canal/lagoon construction), small residential building permits (e.g., driveways, pools, additions, major landscaping modifications). Land disturbing activities that do not require a permit must conduct those activities in a manner so that sediment is retained on-site and so that local, state and federal water quality standards are met prior to any offsite discharge.

Sec. 11-42. Definitions. For the purposes of this Article, the following terms, whether appearing in the singular or plural form, shall have the following meanings:

- (a) *Best management practice* means a practice or combination of practices that are the most effective, practical means of preventing or reducing the amount of pollution generated by a project to ensure that stormwater discharges do not cause or contribute to violations of state water quality standards found in chapter 62-302 of the Florida Administrative Code.
- (b) *Clearing* means the removal of vegetation from land, not including the mowing of grass.
- (c) *Construction* means any on-site activity which will result in the change of natural or existing drainage patterns, including alteration of existing contours, erection of buildings or other structures or land clearing.
- (d) *Development* means the construction, installation, demolition or removal of a structure, impervious surface or drainage facility; clearing, scraping, grubbing, killing or otherwise removing vegetation; adding, removing, exposing, excavating, leveling, grading, digging, furrowing, dumping, piling, dredging or otherwise significantly disturbing or altering soil, mud, sand or rock; or the modification or redevelopment of a site.
- (e) *Discharge* means the outflow of water from a project, site, aquifer, drainage basin or facility.
- (f) *Erosion control* means methods employed to prevent erosion. Examples include soil stabilization practices, temporary or permanent cover, and construction phasing.
- (g) *Exposed ground surface* means all areas of the construction site or active area where the vegetation (trees, shrubs, brush, grass, etc.) has been removed. This includes stockpile areas, borrow areas, and disposal areas within the construction site or active area.
- (h) *Final stabilization* means all soil disturbing activities at the site have been completed and that a uniform, perennial vegetation cover with a density of seventy (70) percent or better has been established for unpaved areas and areas not covered by permanent structures.
- (i) *Land disturbance activity* means any land change or activity that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the Town's jurisdiction, including clearing and grubbing, grading, excavation, transporting, and filling of land. Excludes emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land areas shall be shaped and stabilized in accordance with the Town's requirements as soon as practicable.
- (j) *Impervious surface* means a surface which is highly resistant to infiltration by water.

- (k) *NPDES generic construction permit* is the permit pursuant to Section 402(p)(6) of the CWA, administered by the Florida Department of Environmental Protection (FDEP) and constitutes authorization to discharge stormwater associated with large and small construction activities to surface waters of the state, including through a municipal separate storm sewer system (MS4).
- (l) *Permanent cover* means final stabilization and includes landscaping (grass, mulch, etc.) and asphalt, concrete, etc.
- (m) *Qualified inspector* means a person as defined by the Florida Department of Environmental Protection (FDEP) that:
1. Has successfully completed and met all requirements necessary to be fully certified through the FDEP Stormwater, Erosion, and Sedimentation Control Inspector Training Program;
 2. Has successfully completed an equivalent formal training program; or
 3. That is qualified by other training or practical experience in the field of stormwater pollution prevention and erosion and sedimentation control.
- (n) *Sediment transport* means moving and/or depositing sediment.
- (o) *Sediment control* consists of methods employed to control sediment and prevent sedimentation impacts. Examples include sediment barriers such as silt fence and turbidity barriers, inlet protection devices, and runoff diversions.
- (p) *Stabilized* means the exposed ground surface after it has been covered by landscaping or permanent structures or other materials that prevent erosion from occurring.
- (q) *Standard stormwater, erosion and sediment control inspection report* is the weekly report required on a development site that records the performance of stormwater pollution prevention and erosion and sediment control measures to reduce pollution leaving a site. A sample inspection form template is provided by the Town for reference.
- (r) *Stormwater management system* means the designed features of a property which collect, convey, channel, hold, inhibit or divert the movement of stormwater to ensure its proper treatment and storage.
- (s) *Stormwater pollution prevention plan (SWPPP)* is a joint stormwater and erosion and sediment control plan that is a document that when implemented, eliminates or minimizes soil erosion on a parcel of land and prevents off-site stormwater impacts.
- (t) Waste from construction sites includes (but is not limited to) discarded building materials, concrete truck washout, chemicals, litter and sanitary waste that may cause adverse impacts to water quality.

Sec. 11-43. Responsibility for Administration.

The Town of Windermere, through its public works department or as otherwise directed by the Town manager, shall administer, implement, and enforce the provisions of this Article.

Sec. 11-44. Site Plan and Applicable Building Permits Requirements.

All site development plans, subdivision plans, and building permits which will cause land disturbance activity will be designed with sound engineering practices and will reference the Florida Development Manual: A Guide to Sound Land and Water Management (DEP 1988) and the State of Florida's Erosion and Sediment Control Manual for Designer and Reviewers (DEP/DOT/UCF, et al 2007).

(a) All submitted site plans, subdivision plans, and applicable building permits will include an erosion and sediment control component which shall include at a minimum:

1. Project description, location, total area disturbed, and limits of construction;
2. Proximity to wetlands, canals, waterbodies or any other environmentally sensitive areas;
3. Wetland impacts (if any);
4. Proposed stormwater management system and location of receiving outfall or waterbody;
5. Sequence of construction;
6. Construction entrance;
7. Stockpile location (if needed);
8. Fill material (if needed), including quantity and storage location - all detailed Best Management Practices (BMPs) on the submitted site plan or work plan;
9. Inspection by a qualified inspector, and maintenance plan, including name and twenty-four-hour contact information for the designated responsible person; and
10. Dewatering plan (if needed). Coverage under the DEP's Discharge of Produced Ground Water from any Non-Contaminated Site Activity set forth in Chapter 62-621.300(2), F.A.C. is required for dewatering activities.
11. Temporary waste controls are being maintained onsite and pursuant to the definition for *Waste* in Section 11-42 of this ordinance. This includes but not limited to, sanitary service; storm sewer or open drainage/runoff control; chemical control (if required); and refuse/waste collection for discarded building materials.

(b) General provisions:

1. Erosion and sediment control best management practices shall be used during construction to retain sediment on site. Land which has been cleared for development and upon which construction will not begin within thirty (30) days shall be protected from erosion and sedimentation by adequate methods acceptable to the Town. Wetlands and other water bodies shall not be used as sediment traps during or after development.
2. Applicants for submitted site plans, subdivision plans, and applicable building permits agrees to the terms of this Article as part of permit, subdivision, or site plan approval process.
3. Applicant will install and maintain proper construction waste management Best Management Practices (BMPs) throughout the construction site for the life of the project.
4. Applicant will take actions to limit the amount of disturbed area and will conduct business to limit the duration of the land disturbance by phasing construction and stabilizing areas as soon as possible.
5. BMPs are implemented prior to or as the first step to land disturbance.
6. Town inspection is required prior to land disturbance.
7. Erosion and sediment controls are installed and maintained properly to eliminate off site impacts until final stabilization is reached.
8. If the site requires a NPDES generic construction permit, the applicant submits a copy of the signed NOI to the Town.
9. A properly designed and implemented NPDES generic construction permit SWPPP will suffice for compliance with this section and must be submitted for approval by developmental services.
10. The SWPPP must be kept on site during construction activities and made available to Town inspectors, when requested.
11. Inspections are required weekly and within twenty-four (24) hours after a 0.5 inch rain event.
12. Applicant designates a qualified inspector to inspect site for erosion and sediment control and stormwater pollution prevention performance and records condition of controls in a standard stormwater, erosion and sediment control inspection report.
13. Weekly inspection reports are required to be kept on site for the duration of construction activities.

14. Maintenance activities that are necessary to correct BMP failures must be implemented before the next rain event and in no case later than twenty-four (24) hours from being identified on the inspection report.
15. Any off-site impacts will be corrected (sediment removed from roadways, storm inlets, storm pipes, canals, etc.) by applicant immediately.
16. Applicant will develop contingency plans for Town approval which deals with all weather conditions, including severe rain events which may occur repeatedly during the summer months.

Sec. 11-45. Exemptions.

Minor landscaping or minor repairs or improvements on single-family residential lots shall be exempt from the requirements of this Article, unless in the opinion of the Town such undertakings are likely to constitute a land disturbance activity. Should an exempt action be found to result in a land disturbance activity by the Town, the owner shall be required to comply with this Article.

Sec. 11-46. Authority and Enforcement.

- (a) The Town must comply with the federal NPDES MS4 permit, which requires the Town to eliminate or minimize the amount of pollutants entering the Town's storm sewer system and waterbodies.
- (b) Stop-work order; revocation of permit. In the event that any person holding a site development permit pursuant to this Article violates the terms of the permit, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working within the Town limits, so as to be materially detrimental to the public welfare or injurious to property or improvements within the Town's jurisdiction, the Town may suspend or revoke the site development permit. Any person responsible for pollutant discharge into any natural waters or stormwater systems and who fails to correct any prohibited condition or discontinue any prohibited activity at the Town's request shall be responsible to pay the necessary expenses incurred by the Town in carrying out the pollution abatement, including any expenses incurred in testing, measuring, sampling, collecting, removing, containing, treating, and disposing of the pollutant materials.
- (c) Violation and penalties. It shall be unlawful for any person, firm, corporation, or agent to violate or fail to comply with any provisions of the regulations of this Article, or construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this Article, and such violation shall be enforced as follows:
 1. The issuance of a citation in accordance with the provisions of Town code; or

2. Enforcement by other means including, but not limited to: a summons; a notice to appear in the county or circuit court; an action before the code enforcement board; or a civil action for injunctive relief.

Nothing herein contained shall prevent the Town manager or his designee from taking such other lawful actions as is necessary to prevent or remedy any violation of this Article.

Section 2. Inclusion in the Code. It is the intent of the Town Council that the provisions of this Ordinance shall become and be made a part of the Town Code and that the sections of this Ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to “section,” “article,” or such other appropriate word or phrase to accomplish such intentions.

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


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

APPROVED AND ADOPTED by the Town Council of the Town of Windermere on the 13th day of November, 2018.

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
18-05479W

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

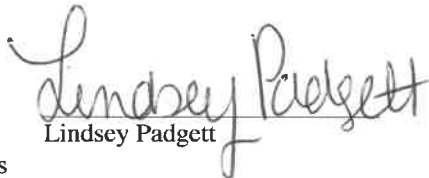
in the matter of Public Hearing on November 13, 2018 Ordinance 2018-05

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.

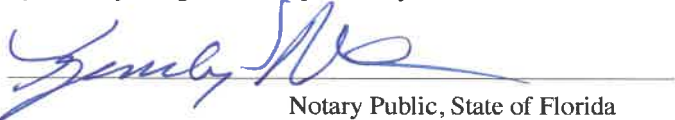
*This Notice was placed on the newspaper's website and floridapublicnotices.com on the same day the notice appeared in the newspaper.


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



Kimberly S. Martin (SEAL)
COMMISSION # GG232793
EXPIRES: July 25, 2022
Bonded Thru Aaron Notary

NOTICE OF PUBLIC HEARING TO ADOPT ORDINANCE 2018-05
The Town of Windermere, Florida, proposes to adopt Ordinance 2018-05. 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 2018-05, the title of which reads as follows:

ORDINANCE NO. 2018-05

AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA, PERTAINING TO PUBLIC HEALTH, SAFETY AND WELFARE; REVISING ARTICLE III OF CHAPTER 11 OF THE TOWN'S CODE OF ORDINANCES TITLED "EROSION AND SEDIMENT CONTROL" TO INCLUDE THE DEFINITION OF WASTE AND REQUIREMENTS CONCERNING TEMPORARY WASTE CONTROLS; 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

18-05479W