



**CITY COMMISSION AGENDA  
CITY HALL COMMISSION CHAMBERS  
300 W. Plant Street**

**REGULAR MEETING**

**AUGUST 14, 2008**

**6:30 P.M.**

**CALL TO ORDER**

Determination of a Quorum

Invocation and Pledge of Allegiance

**1. APPROVAL OF MINUTES**

Regular meeting of July 24, 2008

**2. FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 08-41**: AN ORDINANCE OF THE CITY OF WINTER GARDEN AMENDING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE II, PENSION PLAN FOR GENERAL EMPLOYEES, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING SECTION 54-26, DEFINITIONS; AMENDING SECTION 54-35, OPTIONAL FORMS OF BENEFITS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE **with the second reading and public hearing on September 10, 2008** – City Manager Bollhoefer

B. **Ordinance 08-42**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, ESTABLISHING VOTING DISTRICT BOUNDARIES; ADOPTING THE REPORT OF THE DISTRICTING COMMISSION, INCLUDING THE MAP AND DESCRIPTION OF PROPOSED ELECTION DISTRICTS FILED WITH THE CITY BY THE DISTRICTING COMMISSION ESTABLISHED PURSUANT TO SECTION 25 OF THE CITY CHARTER; ENACTING THE DISTRICT BOUNDARIES PROPOSED BY SUCH REPORT; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE **with the second reading and public hearing on September 10, 2008** – *(Continued from July 24, 2008)* – City Manager Bollhoefer

**3. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

A. **Ordinance 08-40**: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING ARTICLE V OF CHAPTER 2 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING MUNICIPAL ELECTIONS; PROVIDING FOR CONSISTENCY WITH RECENT CHARTER AMENDMENTS; PROVIDING REGISTRATION PROCEDURES FOR CANDIDATES, ELECTION DUTIES OF CITY CLERK AND ADOPTION FOR CERTAIN PROVISIONS OF THE FLORIDA ELECTION CODE; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE – City Clerk Golden

- B. **Ordinance 08-43**: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA; RELATING TO THE PROVISION OF FIRE RESCUE SERVICES, FACILITIES, AND PROGRAMS THROUGHOUT THE INCORPORATED AREAS OF WINTER GARDEN, FLORIDA; AUTHORIZING THE IMPOSITION AND COLLECTION OF FIRE RESCUE ASSESSMENTS AGAINST PROPERTY; PROVIDING CERTAIN DEFINITIONS INCLUDING A DEFINITION FOR THE TERM "FIRE RESCUE ASSESSMENT"; ESTABLISHING A PROCEDURE FOR IMPOSING FIRE RESCUE ASSESSMENTS; PROVIDING THAT FIRE RESCUE ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF ASSESSMENT ROLL; PROVIDING THAT THE LIEN FOR A FIRE RESCUE ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, UPON PERFECTION SHALL ATTACH TO THE PROPERTY ON THE PRIOR JANUARY 1, THE LIEN DATE FOR AD VALOREM TAXES; PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT, OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES, AND CLAIMS; AUTHORIZING THE IMPOSITION OF INTERIM ASSESSMENTS; PROVIDING AUTHORIZATION FOR EXEMPTIONS AND HARDSHIP ASSISTANCE; PROVIDING A PROCEDURE FOR THE COLLECTION OF FIRE RESCUE ASSESSMENTS; PROVIDING A MECHANISM FOR THE IMPOSITION OF ASSESSMENTS ON GOVERNMENT PROPERTY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE – City Manager Bollhoefer

4. **REGULAR BUSINESS**

- A. Request by Winter Garden Heritage Foundation and Garden Theatre to hold a music festival October 3, 4 and 5, 2008 on Plant Street from Woodland to Lakeview – Recreation Director Conn
- B. Request for reappointment to the General Employees Pension Board Member by Theo Graham whose term expires September 30, 2008 – City Clerk Golden
- C. Recommendation to approve a developer’s agreement with Shoppes at Lake Butler, LLC for a church and day care facility at 4008 Winter Garden-Vineland Road aka CR 535 (vacant Winn-Dixie grocery store) – Planning Director Williams
- D. Recommendation to approve a site plan, with conditions, for Shoppes at Lake Butler, LLC at the corner of CR 535 and West Orange Country Club Boulevard – Planning Director Williams
- E. Recommendation to approve a site plan, with conditions, for Crown Point Business Park Lot 5 for an office/warehouse – Planning Director Williams
- F. Recommendation to approve a site plan, with conditions, for Park and Plant Office Building for an office building on the southwest corner – Planning Director Williams
- G. **Resolution 08-13**: A RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA, RELATING TO THE PROVISION OF FIRE RESCUE SERVICES, FACILITIES AND PROGRAMS IN THE CITY OF WINTER GARDEN, FLORIDA; DESCRIBING THE METHOD OF ASSESSING FIRE RESCUE ASSESSED COSTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY OF WINTER GARDEN; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; PROVIDING A VACANCY ADJUSTMENT PROCEDURE; AND PROVIDING AN EFFECTIVE DATE – City Manager Bollhoefer

5. **MATTERS FROM CITIZENS** *(Limited to 3 minutes per speaker)*
6. **MATTERS FROM CITY ATTORNEY** – Kurt Ardaman
7. **MATTERS FROM CITY MANAGER** – Mike Bollhoefer
  - A. Total population of each proposed new district boundary and their projected population growth
  - B. Police Chief Brennan report on Daniels Road speed limit
  - C. Status on a possible referendum to amend the Charter to allow candidates to run for any district regardless of where they reside
8. **MATTERS FROM MAYOR AND COMMISSIONERS**

**ADJOURN** to a regular City Commission meeting on August 28, 2008 at 6:30 p.m. in City Hall Commission Chambers, 300 W. Plant Street, 1st floor

Please Note: In accordance with Florida Statutes 286.0105: Any person who desires to appeal any decision at this meeting will need a record of the proceedings and for this purpose may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is based, which such written record is not provided by the City of Winter Garden.

Also, in accordance with Florida Statute 286.26: Persons with disabilities needing assistance to participate in any of these proceedings should contact the Office of the City Clerk, 300 W. Plant Street, Winter Garden, FL 34787, (407) 656-4111 x 2254 48 hours in advance of the meeting.

**ORDINANCE NO. 08 -41**

**AN ORDINANCE OF THE CITY OF WINTER GARDEN AMENDING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE II, PENSION PLAN FOR GENERAL EMPLOYEES, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING SECTION 54-26, DEFINITIONS; AMENDING SECTION 54-35, OPTIONAL FORMS OF BENEFITS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE**

**BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:**

**SECTION 1:** That Chapter 54, Pensions and Retirement, Article II, Pension Plan for General Employees, of the City of Winter Garden Code of Ordinances, is hereby amended by amending Section 54-26, Definitions, to amend the definition of *Actuarial Equivalent*, to read as follows:

*Actuarial equivalent* means a benefit or amount of equal value, based upon the ~~1983 Group Annuity RP-~~ 2000 Combined Healthy Mortality Table-Sex Distinct Projected to 2025 by Scale AA and an interest rate of seven and one quarter percent per annum, ~~except that for purposes of determining the accrued value of a benefit to be transferred from the system to the city defined contribution plan as provided for in section 54-27(b), an interest rate of seven and one half percent shall be utilized.~~

**SECTION 2:** That Chapter 54, Pensions and Retirement, Article II, Pension Plan for General Employees, of the City of Winter Garden Code of Ordinances, is hereby amended by amending Section 54-35, Optional forms of benefits, subsection (a) to read as follows:

(a) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified herein, a member, upon written request to the board, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

- (1) A retirement income of a monthly amount payable to the retiree for his lifetime, but with 120 monthly payments guaranteed in any event.
- (2) A retirement income of a modified monthly amount, payable to the retiree during the lifetime of the retiree and following the death of the retiree, 100 percent, 75 percent, 66 2/3 percent or 50

percent of such monthly amount payable to a joint pensioner for his lifetime. Except where the retiree's joint pensioner is his spouse, the payments to the joint pensioner as a percentage of the payments to the Retiree shall not exceed the applicable percentage provided for in the applicable table in the Treasury regulations.

- (3) If a member retires prior to the time at which social security benefits are payable, he may elect to receive an increased retirement benefit until such time as social security benefits shall be assumed to commence and a reduced benefit thereafter in order to provide, to as great an extent as possible, a more level retirement allowance during the entire period of retirement. The amounts payable shall be as recommended by the actuaries for the system, based upon the social security law in effect at the time of the member's retirement.

(4) A member may elect a percentage of benefit in a lump sum as follows:

- a. 10 percent lump sum benefit with 90 percent paid under the normal form or as per (1), (2) or (3) above.
- b. 15 percent lump; sum benefit with 85 percent paid under the normal form or as per (1), (2) or (3) above.
- c. 20 percent lump sum benefit with 80 percent paid under the normal form or as per (1), (2) or (3) above.
- d. 25 percent lump sum benefit with 75 percent paid under the normal form or as per (1), (2) or (3) above.

**SECTION 3:** Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Winter Garden.

**SECTION 4:** Section 2 of this Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances.

**SECTION 5:** All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 6:** If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

**SECTION 7:** That this Ordinance shall become effective upon adoption.

PASSED ON FIRST READING, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

PASSED AND ADOPTED ON SECOND READING, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

APPROVED:

JOHN REES, MAYOR/COMMISSIONER

ATTEST:

---

KATHY GOLDEN, CITY CLERK

**ORDINANCE NO. 08-42**

**AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, ESTABLISHING VOTING DISTRICT BOUNDARIES; ADOPTING THE REPORT OF THE DISTRICTING COMMISSION, INCLUDING THE MAP AND DESCRIPTION OF PROPOSED ELECTION DISTRICTS FILED WITH THE CITY BY THE DISTRICTING COMMISSION ESTABLISHED PURSUANT TO SECTION 25 OF THE CITY CHARTER; ENACTING THE DISTRICT BOUNDARIES PROPOSED BY SUCH REPORT; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, Section 25 of the City’s Charter requires that the City Commission appoint a Districting Commission to develop and propose a report pertaining to the adjustment of Commission districts within the City if, after April 30, 2008, the population of any district in the City becomes fifty (50) percent greater than the population of the smallest district prior to the decennial census of the state;

**WHEREAS**, it was determined after April 30, 2008, that the population of a district within the City had become fifty (50) percent greater than the population of another district and that such population shift had occurred prior to the next decennial census of the state in 2010;

**WHEREAS**, the City Commission appointed a Districting Commission to develop and file a report containing a recommended plan for adjustment of the commission district boundaries, which was to include a map and description of the proposed districts and be drafted in the form of a proposed ordinance (the “Report”);

**WHEREAS**, such Districting Commission has met periodically since its first meeting on June 4, 2008, and since that time has developed, finalized and adopted its Report, which has been incorporated into this Ordinance for presentation to the City Commission for approval;

**WHEREAS**, in the event that a redistricting ordinance is not adopted by the City Commission within ninety (90) days before the next municipal election, the Report of the Districting Commission shall go into effect at that time and have the effect of an ordinance duly enacted by the City Commission;

**WHEREAS**, the Districting Commission’s Report proposes a redistricting plan featuring four (4) districts, each of which are internally contiguous and do not exceed five (5) percent of the average population for all commission districts, and all of which are approximately equal in population based upon the principles of equal and effective representation as required by the federal and state constitutions;

**WHEREAS**, the Districting Commission, in preparing its Report, has further considered such other factors, including, but not limited to, compactness, contiguous, preservation of political subdivisions, preservation of communities of interests, preservation of cores of prior districts, the demographics of the City, the geography of the neighborhood, existing precinct lines, and minority population interest; and

**WHEREAS**, the Districting Commission has prepared its Report in an open, public, and fair forum in which all Winter Garden residents had a right to observe and participate; and

**WHEREAS**, the City Commission has reviewed the Report of the Districting Commission to ensure that the findings of such Report comport with the general principles of fair and equal representation of voting interests within the City under federal and state law and proposes a districting plan in compliance with Section 25(1) of the City Charter;

**WHEREAS**, any changes or modifications to such Report by the City Commission are deemed necessary by the Commission to ensure that the districting plan contained in such Report comports with the general principles of fair and equal representation of voting interests within the City under federal and state law, and meets the standards enumerated in Section 25(1) of the City Charter; and

**WHEREAS**, the City Commission concludes that the proposed districting plan contained in the Report, as set forth in Exhibit "A" attached hereto and incorporated herein, meets the requirements of the City Charter and the Florida and United States constitutions, statutes and codes; is supportive of communities of interest within the City; avoids the unnecessary dilution of minority voting interests within the City; and otherwise provides the citizens of Winter Garden with equal voting rights under the law.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, THAT:**

**Section 1.** The City Commission of the City of Winter Garden hereby adopts the Report of the Districting Commission and election district boundaries described therein as attached hereto and incorporated herein:

**SEE EXHIBIT "A"**

**Section 2. Severability.** If any portion of this ordinance is determined to be void, unconstitutional, or invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

**Section 3. Conflicts.** In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance shall control.

**Section 4. Effective Date.** If passed and adopted, this ordinance shall become effective on December 10, 2008, ninety (90) days prior to the next regularly scheduled municipal election on March 10, 2009.

**READ FIRST TIME IN PUBLIC HEARING HELD: \_\_\_\_\_, 2008.**

**READ SECOND TIME IN PUBLIC HEARING HELD: \_\_\_\_\_, 2008.**

**PASSED AND ORDAINED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2008, BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA.**

**CITY OF WINTER GARDEN, FLORIDA,  
a Florida Municipality**

**By: \_\_\_\_\_  
JOHN REES, Mayor/Commissioner**

**ATTEST:**

**By: \_\_\_\_\_  
KATHY GOLDEN, City Clerk**

# City of Winter Garden Districting Commission 2008

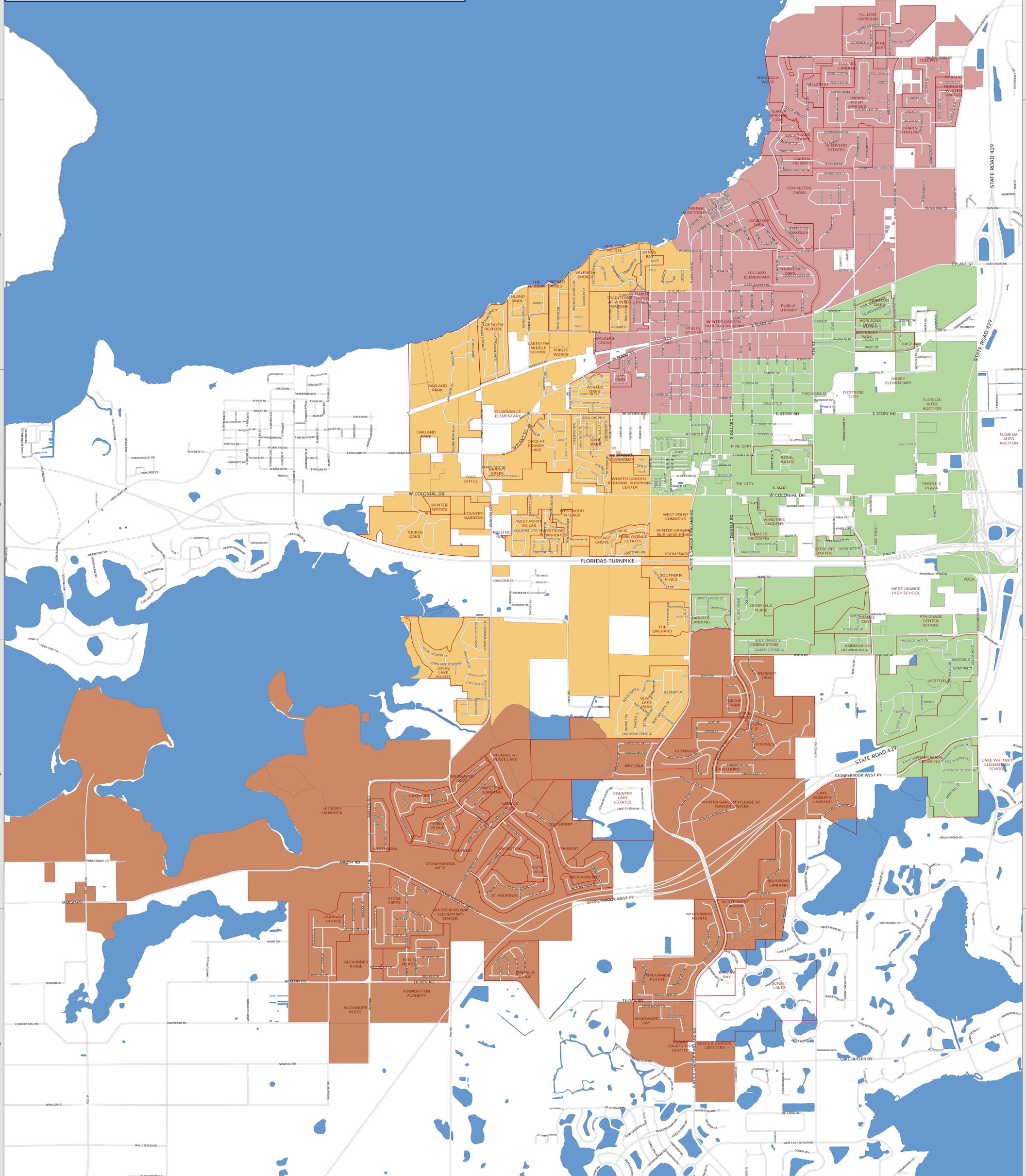
## Scenario 8 Finalized on July 16th 2008

-  Roads
-  Subdivisions
-  County Line
-  Water Bodies



Scenario 8 2008 Final

Districts	Total Population	Deviation Percentage
D1	7709	-0.95%
D2	7878	1.22%
D3	7715	-0.87%
D4	7830	0.60%



**ORDINANCE 08-40**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING ARTICLE V OF CHAPTER 2 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING MUNICIPAL ELECTIONS; PROVIDING FOR CONSISTENCY WITH RECENT CHARTER AMENDMENTS; PROVIDING REGISTRATION PROCEDURES FOR CANDIDATES, ELECTION DUTIES OF CITY CLERK AND ADOPTION FOR CERTAIN PROVISIONS OF THE FLORIDA ELECTION CODE; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, during the 2008 regular municipal election the citizens of Winter Garden approved several City Charter amendments affecting terms of office and municipal elections; and

**WHEREAS**, the City Commission desires to amend the City Election Code to make such code consistent with the City Charter as revised by the 2008 Charter Amendments and to provide for candidate registration procedures, city clerk election duties and adoption of certain provisions of the Florida Election Code.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA, AS FOLLOWS:**

**SECTION 1: Authority.** The City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

**SECTION 2: Adoption.** Division 1, Article V of Chapter 2 of the City of Winter Garden Code is amended to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

DIVISION 1. GENERALLY

Sec. 2-251. General and runoff elections ~~date~~; taking office ~~registration of candidates~~.

(a) *Election dates and terms of office.* Beginning in March 1998, regular municipal elections shall be held ~~annually~~ on the second Tuesday in March of each year in which the term of office for mayor-commissioner or a city commissioner expires, unless the date and time of such election is otherwise changed by the city commission to coincide with a presidential preference primary in accordance with general law. The terms of office of the mayor and the city commissioners shall be as follows:

(1) The current terms for the office of ~~mayor-commissioner~~ and all seats on the city commission shall be extended and continue until such time as his respective successor is sworn in.

(2) The ~~mayor-commissioner~~ shall be elected for a ~~two~~three-year term at a regular municipal election ~~to be held in March 1998~~ 2008 and shall thereafter be elected for a ~~two~~three-year term at a regular municipal election to be held every ~~two~~three years thereafter.

(3) One city commissioner shall be elected for a ~~two~~three-year term at a regular municipal election to be held in ~~March 1998~~ 2008 and shall thereafter be elected for ~~two~~three-year terms at a regular municipal election to be held every ~~two~~three years thereafter. Such city commissioner shall be elected to District No. 1.

(4) Three city commissioners shall be elected for a ~~two~~three-year term at a regular municipal election to be held in ~~March 1999~~ 2009 and shall thereafter be elected for ~~two~~three-year terms at a regular municipal

election to be held every ~~two~~<sup>three</sup> years thereafter. Such city commissioners shall be elected to District No. 2, District No. 3 and District No. 4.

Notwithstanding the provisions of subsections (a)(1) through (4) of this section, the term of office of any person elected to the office of mayor~~-commissioner~~ or the office of city commissioner shall commence upon being sworn into office and continue until such time as ~~his~~ the respective successor of such officeholder is sworn into office. ~~Any person elected to the office of mayor or the office of city commissioner shall be sworn into office at the next regularly scheduled city commission meeting held after the results of the election are declared by the canvassing board. The incumbent mayor and city commissioners as of October 23, 1997, shall continue to hold their respective offices until their respective successors are sworn into office. Notwithstanding the foregoing, if no candidate qualifies for the office of mayor or a specific seat on the city commission, then such office or seat shall be declared vacant by the canvassing board at its meeting following the regular municipal election.~~

~~(b) *Registration of candidates.* The period within which registration of all candidates for the offices of mayor-commissioner and commissioner for the districts for which the general election is to be held shall commence on noon of the third Tuesday in January of the year of election. The registration of candidates shall terminate at noon on the seventh day after the date of commencement of registration.~~

(b) *Runoff election date.* If no single candidate receives greater than 50% of the votes cast within a district general election, a runoff election shall be held on the second Tuesday of the month following the month of the district general election producing the need for a runoff. If necessary, the city commission may change the date of the runoff election by resolution to coordinate the runoff election with other municipalities' elections or to comply with requirements of the county supervisor of elections, provided that such runoff election is held no later than seven (7) weeks after the general election warranting the runoff. The two (2) candidates receiving the greatest votes within a district shall be the only candidates on the ballot for such runoff election. In the event of a tie during the runoff election, the winner of the runoff election shall be selected by a flip of a coin administered by the city clerk.

(c) *Taking office.* Any person elected to the office of mayor-commissioner or the office of city commissioner shall be sworn into office at the next regularly scheduled city commission meeting held after the results of the election for that office are declared by the canvassing board. The swearing in of commission members shall occur at such city commission meeting after approval of the minutes from the previous meeting(s) and prior to conducting new and old business. The incumbent mayor-commissioner and city commissioners shall continue to hold their respective offices until their respective successors are sworn into office.

(d) *Lack of qualified candidate.* If no candidate qualifies for the office of mayor-commissioner or a specific seat on the city commission when such office or seat is up for election, then such office or seat shall be declared vacant by the canvassing board at its meeting following the regular municipal election. Thereafter, the city commission shall take steps to fill such vacancy in accordance with Section 17 of the Charter.

#### Sec. 2-252. Special Elections.

Special elections shall be held in the same manner as a regular election except the city commission, by resolution, shall fix the time of holding such special election and the question to be balloted and notice shall be provided in the manner required by Florida Statutes governing special elections.

#### Sec. 2-~~252~~<sup>253</sup>. Absentee voting and ballots.

(a) *Generally.* In addition to the provisions set forth in this article, absentee voting in municipal elections shall be permitted and governed by the provisions of the Florida Statutes governing absentee ballots and such provisions are hereby adopted as a means of providing for absentee voting in any authorized municipal election; provided, that all forms required to be prepared by the city clerk and executed in her/his presence shall be prepared by the city clerk, but may be deposited by her/him with the Supervisor of Elections of Orange County and all functions of the city clerk in connection with the handling of such absentee ballots, including but not limited to the verification of signatures, the handling of applications thereof, the issuance of the ballot and receipt and disposition of ballots, may

be handled by the Supervisor of Elections of Orange County; except, that all absentee ballots for voting in municipal elections received by the supervisor of elections shall be turned over and delivered to the city canvassing board and such ballots shall be canvassed by the city canvassing board in the manner prescribed by Florida Statute.

(b) *Receipt and return of absentee ballots.*

(1) Any elector may request an absentee ballot in the manner prescribed by F.S. § 101.62.

(2) Any elector may designate, ~~in writing~~ by written authorization in the manner prescribed in F.S. § 101.62(4)(b)(4), a person to pick up and/or return the ballot for the elector; however, the person designated may not pick up and/or return more than two absentee ballots per election other than the designee's own ballot, except that additional ballots may be picked up and/or returned for members of the designee's immediate family. For purposes of this section, "immediate family" means the designee's spouse or the parent, child, grandparent or sibling of the designee or of the designee's spouse. The designee and elector must comply with the provisions of F.S. § 101.62(4)(b)(4). An absentee ballot not cast in person: 1) must be mailed to the supervisor of elections or 2) delivered directly to the supervisor of elections by the elector or 3) delivered directly to the supervisor of elections by the elector's designee on election day but in no instance earlier than five (5) days prior to election day. An absentee ballot cast in person must be cast as provided for in the Florida Statutes.

(3) Nothing in this section shall be construed to prevent the supervisor of elections from providing supervised voting for absent electors residing in adult congregate living facilities or nursing home facilities as those terms are defined in F.S. ch. 400, provided said supervised voting complies with the provisions of F.S. § 101.655.

(4) The provisions of this article shall not be construed to prohibit any elector from voting in person at the elector's precinct on the day of a city election notwithstanding that the elector has requested an absentee ballot for that election provided that the provisions of F.S. § 101.69, are followed.

(Ord. No. 01-84, § 2, 1-10-02)

Sec. 2-253254. Election board training.

The city clerk shall be responsible for determining the necessary election board requirements for inspectors and clerks and for training said inspectors and clerks for all city municipal elections. Said requirements and training procedures shall be consistent with the Florida Statutes.

(Ord. No. 01-84, § 2, 1-10-02)

Sec. 2-254255. Early voting opt out.

The City of Winter Garden hereby exercises its right to exempt itself from the provisions of F.S. § 101.657, and shall contract with the Orange County Supervisor of Elections to conduct early voting for the City of Winter Garden at the Orange County Supervisor of Elections Office.

(Ord. No. 04-54, § 1, 9-8-04)

**Charter references:** Elections, Art. V.

Sec. 2-256. Registration of candidates.

(a) Registration period. The period within which registration of all candidates for the offices of mayor-commissioner and commissioner for the districts for which the general election is to be held shall commence on noon of the third Tuesday in January of the year of election. The registration of candidates shall terminate at noon on the seventh day after the date of commencement of registration. If any city recognized holiday falls within the seven day registration period, the registration period shall be extended by the same number of holiday(s).

(b) Registration fee. All candidates for mayor-commissioner and commissioner, registering as provided in this Article, shall pay a registration fee of \$15.00, which registration fee shall be paid to the city clerk. The registration

fee may be adjusted by resolution of the city commission at any time at least 30 days prior to the commencement of the qualifying period for any election.

(c) Qualification. In order to register to run for the office of mayor-commissioner or commissioner, a person shall meet the qualifications of Section 12 of the Charter. At the time of registration, the person seeking office shall sign an affidavit in presence of the city clerk testifying under oath that such person meets the qualifications of Section 12 of the Charter.

(d) Withdrawal. Any candidate may withdraw at any time before the form for the election ballots are delivered to the printer for printing, but in no event shall the registration fee be returned or refunded. The name of any qualified candidate who has withdrawn or died at any time before the form for the election ballots are delivered to the printer for printing shall not be printed on the ballot. If the withdrawal or death of a qualified candidate following the end of the qualifying period results in only one (1) candidate remaining for that office, no election for that office shall be required and the remaining candidate shall be declared elected and take office at the first city commission meeting following the date the regular general election was scheduled to occur.

#### Sec. 2-257. Election Duties of the City Clerk.

The city clerk shall serve as the supervisor of municipal elections and be responsible for the conduct of such elections in the manner prescribed by state law, the Charter, and this Article; provided, however, the city commission may delegate any or all such municipal election duties or authority to the Orange County Supervisor of Elections as deemed necessary by the city commission. Unless otherwise determined by the city commission, the city clerk is authorized and directed to prepare such forms and perform such ministerial duties as are required by this Chapter and the Florida Election Code in order to accomplish the intent and objectives of this Chapter and the Florida Election Code.

#### **Charter references:** Art. IV, § 33(5)

#### Sec. 2-258. Florida Election Code.

The provisions of the Florida Election Code, chapters 97-106, Florida Statutes which are particularly applicable to municipalities are hereby incorporated herein by reference. If any issues arise that are not settled by provisions of the City's Code, the City's Charter, or provisions of Florida Election Code that are particularly applicable to municipalities, such questions shall be governed by portions of the Florida Election Code applying to like situations involving county elections. In the application of Florida Election Code provisions involving county elections, the City Clerk shall be substituted in lieu of the County Supervisor of Elections, the City Canvassing Board shall be substituted in lieu of County Canvassing Board and the City Commission shall be substituted in lieu of the Board of County Commissioners whenever such substitution would give sense and meaning to such statutes insofar as the same would otherwise be applicable to municipal elections.

**State law references:** Conduct of municipal elections, F.S. § 100.3605.

Secs. 2-~~255~~259--2-275. Reserved.

**SECTION 3: Adoption.** Division 2, Article V of Chapter 2 of the City of Winter Garden Code is amended to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

#### DIVISION 2. INITIATIVE AND REFERENDUM

#### Sec. 2-276. Petitions--Generally.

(a) A petitioners' committee described in § 56 of the Charter, or any other~~The~~ sponsor of any petition proposing an issue to be placed upon the ballot, other than recall of an elected official, shall, prior to obtaining any signatures, register with the city clerk as a political committee pursuant to F.S. § 106.03 and submit the text of ~~the~~such

~~committee's proposed question~~ to the city clerk, with the form on which the signatures shall be affixed, and shall obtain the approval of the clerk of such form.

(b) If a petition has signatures of electors to be verified, but does not propose a ballot issue or initiative or citizen referendum as described in § 55 of the Charter, the sponsor of such petition shall not be required to register as a political committee, unless otherwise required by statutes, or to submit the text to the city clerk for approval prior to circulating the petition. Such petition shall adhere to the requirements of ~~subsection (c) of this section~~ Section 57 of the Charter concerning petition format. If the sponsor voluntarily submits the petition form to the city clerk for approval, the clerk shall proceed to approve or object to the form as a courtesy to the sponsor.

(c) The city clerk shall not review the accuracy, content or legal sufficiency of the text of the material submitted, but will examine to determine that the required format has been followed and shall approve or object to such material strictly on the basis of those criteria set forth in Section 57 of the Charter and in the manner prescribed by Section 58(1) of the Charter. ~~strictly on form requirements. The city clerk shall deliver in writing any action to the sponsor within 24 hours after submission.~~

~~(Code 1988, § 2-315)~~

**Charter references:** Art. IV

**State law references:** Political committees, F.S. § 106.03.

Sec. 2-277. Same--Form.

~~(a) The petition proposing an issue to be placed upon the ballot, including those used for recall of an elected official, shall conspicuously contain the full text of the proposal. If the text requires printing on both sides of the form, it shall be clearly indicated that the text continues or begins on the other side. The petition form shall be clearly and conspicuously entitled at the top of such form.~~

~~(b) The petition form shall be printed on separate cards or individual sheets of paper. The minimum size of such forms shall be three by five inches and the maximum size shall be 8 1/2 by 11 inches. Each form shall contain space for only one elector's signature. Forms providing for multiple elector signatures will not be approved. Adequate space for the printed name and street address of the signee shall be included. Each petition form shall also contain a form of affidavit to be executed by the circulator thereof, verifying the fact that the circulator saw each elector sign the petition form, that each signature appearing thereon is the genuine signature of the person it purports to be, and that the petition was signed in the presence of the circulator on the date indicated.~~

~~(ea)~~ Petition forms may be reproduced in newspapers, magazines and other forms of printed mass media, provided such forms are reproduced in the same format as approved by the city clerk.

~~(db)~~ Any change in a previously approved form or additional types of petition forms to be circulated by a previously approved circulator shall be submitted in accordance with the Charter ~~this section~~.

~~(Code 1988, § 2-316)~~

**Charter references:** Art. IV

Sec. 2-278. Same--Verification.

(a) Registration books and files used in the checking of electors' signatures are in the custody of the supervisor of elections, who shall, with the city clerk, determine administrative procedures used in the signature verification process under this division. Either of the following two methods for checking may be used:

(1) A name-by-name, signature-by-signature check; or

(2) A check of a random sampling, following the rules and guidelines as set forth in F.S. § 99.097.

(b) The sponsor(s) of the petition shall pay such sums as are allowed by state statute to the city clerk for each signature submitted for verification. Actual costs shall be determined at the conclusion of the process, and the sum

per signature checked or the cost of checking, whichever is less, shall be charged and necessary adjustments made at the time of certification by the city clerk of the results of the signature verification. Any portion of these monies which shall be payable to the supervisor of elections by the clerk for participation of the supervisor's staff in the verification process shall be a transaction between the supervisor and clerk.

(c) Petition forms shall be retained by the clerk for a period of time as required by the director of archives, history and records management of the department of state.

~~(d) Petitions containing issues to be placed upon the municipal general election ballot shall be submitted not before 12:00 noon of the 180th day or after 12:00 noon on the 91st day prior to election day. Signature verification must be certified to the sponsor by 12:00 noon of the 60th day prior to the municipal general election day.~~

~~(e) Petitions containing issues to be placed upon the ballot shall be signed by ten percent of the registered electors of the city or district concerned as of the preceding municipal general election.~~

~~(f) Petitions stating a request for a special election shall have the signature verification completed by the clerk within 30 days after submission. If the required number of signatures to order the referendum is certified, a special election shall be set within 70 days. The specific date shall be set by the clerk after consultation with the supervisor of elections. Deviation from this special election date shall be through the intervention of the circuit court.~~

(Code 1988, § 2-317)

Secs. 2-279--2-315. Reserved.

**SECTION 4: Codification:** Section 2 and Section 3 of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances.

**SECTION 5: Control:** In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance controls.

**SECTION 6: Severability:** It is the intent of the City Commission of the City of Winter Garden, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

**SECTION 7: Effective Date:** This Ordinance shall become effective upon adoption at its second reading.

**FIRST READING:** July 24, 2008.

**SECOND READING AND PUBLIC HEARING:** August 14, 2008.

**ADOPTED** this 14th day of August, 2008, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

\_\_\_\_\_  
JOHN REES, Mayor/Commissioner

ATTEST:

\_\_\_\_\_  
KATHY GOLDEN, City Clerk

---

**DRAFT #1**

**CITY OF WINTER GARDEN, FLORIDA**



**FIRE RESCUE ASSESSMENT ORDINANCE**



**FIRST READING JULY 24, 2008**

**SECOND READING AUGUST 14, 2008**

---

ARTICLE I  
INTRODUCTION

SECTION 1.01. DEFINITIONS. .... 2  
SECTION 1.02. INTERPRETATION. .... 5  
SECTION 1.03. GENERAL FINDINGS. .... 5  
SECTION 1.04. LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT. .... 6

ARTICLE II  
ANNUAL FIRE RESCUE ASSESSMENTS

SECTION 2.01. GENERAL AUTHORITY. .... 7  
SECTION 2.02. INITIAL PROCEEDINGS. .... 7  
SECTION 2.03. INITIAL ASSESSMENT ROLL. .... 7  
SECTION 2.04. NOTICE BY PUBLICATION. .... 8  
SECTION 2.05. NOTICE BY MAIL. .... 8  
SECTION 2.06. ADOPTION OF FINAL ASSESSMENT RESOLUTION. .... 9  
SECTION 2.07. EFFECT OF FINAL ASSESSMENT RESOLUTION. .... 10  
SECTION 2.08. ANNUAL IMPLEMENTATION PROCEDURE. .... 10  
SECTION 2.09. LIEN OF FIRE RESCUE ASSESSMENTS. .... 13  
SECTION 2.10. REVISIONS TO FIRE RESCUE ASSESSMENTS. .... 13  
SECTION 2.11. PROCEDURAL IRREGULARITIES. .... 13  
SECTION 2.12. CORRECTION OF ERRORS AND OMISSIONS. .... 14  
SECTION 2.13. INTERIM ASSESSMENTS. .... 15  
SECTION 2.14. AUTHORIZATION FOR EXEMPTIONS AND HARDSHIP ASSISTANCE. .... 16

ARTICLE III  
COLLECTION AND USE OF FIRE RESCUE ASSESSMENTS

SECTION 3.01. METHOD OF COLLECTION. .... 18  
SECTION 3.02. ALTERNATIVE METHOD OF COLLECTION. .... 18  
SECTION 3.03. GOVERNMENT PROPERTY. .... 20

ARTICLE IV  
GENERAL PROVISIONS

SECTION 4.01. APPLICABILITY. .... 22  
SECTION 4.02. ALTERNATIVE METHOD. .... 22  
SECTION 4.03. SEVERABILITY. .... 22  
SECTION 4.04. EFFECTIVE DATE. .... 22

**DRAFT #1**

**ORDINANCE NO. 08-43**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA; RELATING TO THE PROVISION OF FIRE RESCUE SERVICES, FACILITIES, AND PROGRAMS THROUGHOUT THE INCORPORATED AREAS OF WINTER GARDEN, FLORIDA; AUTHORIZING THE IMPOSITION AND COLLECTION OF FIRE RESCUE ASSESSMENTS AGAINST PROPERTY; PROVIDING CERTAIN DEFINITIONS INCLUDING A DEFINITION FOR THE TERM "FIRE RESCUE ASSESSMENT"; ESTABLISHING A PROCEDURE FOR IMPOSING FIRE RESCUE ASSESSMENTS; PROVIDING THAT FIRE RESCUE ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF ASSESSMENT ROLL; PROVIDING THAT THE LIEN FOR A FIRE RESCUE ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, UPON PERFECTION SHALL ATTACH TO THE PROPERTY ON THE PRIOR JANUARY 1, THE LIEN DATE FOR AD VALOREM TAXES; PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT, OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES, AND CLAIMS; AUTHORIZING THE IMPOSITION OF INTERIM ASSESSMENTS; PROVIDING AUTHORIZATION FOR EXEMPTIONS AND HARDSHIP ASSISTANCE; PROVIDING A PROCEDURE FOR THE COLLECTION OF FIRE RESCUE ASSESSMENTS; PROVIDING A MECHANISM FOR THE IMPOSITION OF ASSESSMENTS ON GOVERNMENT PROPERTY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN,  
FLORIDA:**

**ARTICLE I**

**INTRODUCTION**

**SECTION 1.01. DEFINITIONS.** As used in this Ordinance, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

**"Annual Rate Resolution"** means the resolution described in Section 2.08 hereof, establishing the rate at which a Fire Rescue Assessment for a specific Fiscal Year will be computed. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which a Fire Rescue Assessment is imposed or reimposed.

**"Assessed Property"** means all parcels of land within the City included on the Assessment Roll that receive a special benefit from the delivery of the fire rescue services, programs or facilities identified in the Initial Assessment Resolution or a subsequent Preliminary Rate Resolution.

**"Assessment Roll"** means the special assessment roll relating to a Fire Rescue Assessment approved by a Final Assessment Resolution pursuant to Section 2.06 hereof or an Annual Rate Resolution pursuant to Section 2.08 hereof.

**"Building"** means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind, including mobile homes. This term shall include the use of land in which lot or spaces are offered for use, rent or lease for the placement of mobile homes, travel trailers, or the like for residential purposes.

**"Building Permit"** means the written certification issued by the City permitting the construction or siting of a Building. For the purposes of this Ordinance, a set up or tie down permit or its equivalent issued for a mobile home shall be considered a Building Permit.

**"Certificate of Occupancy"** means the written certification issued by the City that a Building is ready for occupancy for its intended use. For the purposes of this Ordinance, a set up or tie down permit or its equivalent issued for a mobile home shall be considered a Certificate of Occupancy.

**"City"** means the City of Winter Garden, Florida.

**"City Clerk"** means the Clerk of the City Commission.

**"City Commission"** means the City Commission of the City of Winter Garden, Florida.

**"City Manager"** means the chief administrative officer of the City, designated by the City Commission to be responsible for coordinating Fire Rescue Assessments or such person's designee.

**"County"** means Orange County, Florida.

**"Final Assessment Resolution"** means the resolution described in Section 2.06 hereof which shall confirm, modify, or repeal the Initial Assessment Resolution and which shall be the final proceeding for the initial imposition of Fire Rescue Assessments.

**"Fire Rescue Assessment"** means a special assessment lawfully imposed by the City Commission against Assessed Property to fund all or any portion of the cost of the provision of fire rescue services, facilities, or programs providing a special benefit to property as a consequence of possessing a logical relationship to the value, use, or characteristics of the Assessed Property.

**"Fire Rescue Assessed Cost"** means the amount determined by the City Commission to be assessed in any Fiscal Year to fund all or any portion of the cost of the provision of fire rescue services, facilities, or programs which provide a special benefit to Assessed Property, and shall include, but not be limited to, the following components: (A) the cost of physical construction, reconstruction or completion of any required facility or improvement; (B) the costs incurred in any required acquisition or purchase; (C) the cost of all labor, materials, machinery, and equipment; (D) the cost of fuel, parts, supplies, maintenance, repairs, and utilities; (E) the cost of computer services, data processing, and communications; (F) the cost of all lands and interest therein, leases, property rights, easements, and franchises of any nature whatsoever; (G) the cost of any indemnity or surety bonds and premiums for insurance; (H) the cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits; (I) the cost of uniforms, training, travel, and per diem; (J) the cost of construction plans and specifications, surveys and estimates of costs; (K) the cost of engineering, financial, legal, and other professional services; (L) the costs of compliance with any contracts or agreements entered into by the City to provide fire rescue services; (M) all costs associated with the structure, implementation, collection, and enforcement of the Fire Rescue Assessments, including any service charges of the Tax Collector, or Property Appraiser and amounts necessary to off-set discounts received for early payment of Fire Rescue Assessments pursuant to the Uniform Assessment Collection Act or for early payment of Fire Rescue

Assessments collected pursuant to Section 3.02 herein; (N) all other costs and expenses necessary or incidental to the acquisition, provision, or construction of fire rescue services, facilities, or programs, and such other expenses as may be necessary or incidental to any related financing authorized by the City Commission by subsequent resolution; (O) a reasonable amount for contingency and anticipated delinquencies and uncollectible Fire Rescue Assessments; and (P) reimbursement to the City or any other Person for any moneys advanced for any costs incurred by the City or such Person in connection with any of the foregoing components of Fire Rescue Assessed Cost. In the event the City also imposes an impact fee upon new growth or development for fire rescue related capital improvements, the Fire Rescue Assessed Cost shall not include costs attributable to capital improvements necessitated by new growth or development that will be paid by such impact fees. The Fire Rescue Assessed Cost shall also not include costs for the provision of emergency medical services by the City.

**"Fiscal Year"** means that period commencing October 1st of each year and continuing through the next succeeding September 30th, or such other period as may be prescribed by law as the fiscal year for the City.

**"Government Property"** means property owned by the United States of America or any agency thereof, a sovereign state or nation, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

**"Initial Assessment Resolution"** means the resolution described in Section 2.02 hereof which shall be the initial proceeding for the identification of the Fire Rescue Assessed Cost for which an assessment is to be made and for the imposition of a Fire Rescue Assessment.

**"Maximum Assessment Rate"** means the highest rate of a Fire Rescue Assessment established by the City Commission in an Initial Assessment Resolution or Preliminary Rate Resolution and confirmed by the City Commission in the Final Assessment Resolution or Annual Rate Resolution.

**"Ordinance"** means this Fire Rescue Assessment Ordinance.

**"Owner"** shall mean the Person reflected as the owner of Assessed Property on the Tax Roll.

**"Person"** means any individual, partnership, firm, organization, corporation, association, or any other legal entity, whether singular or plural, masculine or feminine, as the context may require.

**"Preliminary Rate Resolution"** means the resolution described in Section 2.08 hereof initiating the annual process for updating the Assessment Roll and directing the reimposition of Fire Rescue Assessments pursuant to an Annual Rate Resolution.

**"Property Appraiser"** means the Orange County Property Appraiser.

**"Tax Collector"** means the Orange County Tax Collector.

**"Tax Roll"** means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

**"Uniform Assessment Collection Act"** means sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

**SECTION 1.02. INTERPRETATION.** Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Ordinance; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Ordinance. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

**SECTION 1.03. GENERAL FINDINGS.** It is hereby ascertained, determined, and declared that:

(A) Pursuant to Article VIII, section 2(b), Florida Constitution, sections 166.021 and 166.041, Florida Statutes, and the City Charter of the City of Winter Garden, Florida, the City Commission has all powers of local self government to perform municipal functions and to render municipal services in a manner not inconsistent with law, and such power may be exercised by the enactment of City ordinances.

(B) The City Commission may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the City Commission may legislate on any subject matter on which the Florida Legislature may act, except those subjects described in (a), (b), (c), and (d) of section 166.021(3), Florida Statutes. The subject matter of paragraphs (a), (b), (c), and (d) of section 166.021(3), Florida Statutes, are not relevant to the imposition of assessments related to fire rescue services, facilities or programs of the City.

(C) The purpose of this Ordinance is to (1) provide procedures and standards for the imposition of citywide Fire Rescue Assessments under the general home rule powers of a municipality to

impose special assessments; (2) authorize a procedure for the funding of fire rescue services, facilities, or programs providing special benefits to property within the City; and (3) legislatively determine the special benefit provided to Assessed Property from the provision of the City's fire rescue services.

(D) The annual Fire Rescue Assessments, to be imposed using the procedures provided in this Ordinance, shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(E) The Fire Rescue Assessments to be imposed using the procedures provided in this Ordinance are imposed by the City Commission, not the Orange County Board of County Commissioners, the Property Appraiser or the Tax Collector. The duties of the Property Appraiser and Tax Collector under the provisions of this Ordinance and the Uniform Assessment Collection Act are ministerial.

**SECTION 1.04. LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT.** It is hereby ascertained and declared that the fire rescue services, facilities, and programs provide a special benefit to property because fire rescue services possess a logical relationship to the use and enjoyment of improved property by: (1) protecting the value and integrity of the improvements, structures, and land through the provision of available fire rescue services; (2) protecting the life and safety of intended occupants in the use and enjoyment of property; (3) lowering the cost of fire insurance by the presence of a professional and comprehensive fire rescue program within the City; and (4) containing the spread of fire incidents occurring on vacant property with the potential to spread and endanger the structures and occupants of improved property.

## **ARTICLE II**

### **ANNUAL FIRE RESCUE ASSESSMENTS**

#### **SECTION 2.01. GENERAL AUTHORITY.**

(A) The City Commission is hereby authorized to impose an annual Fire Rescue Assessment to fund all or any portion of the Fire Rescue Assessed Cost upon benefitted property at a rate of assessment based on the special benefit accruing to such property from the City's provision of fire rescue services, facilities, or programs. All Fire Rescue Assessments shall be imposed in conformity with the procedures set forth in this Article II.

(B) The amount of the Fire Rescue Assessment imposed in a Fiscal Year against a parcel of Assessed Property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the Fire Rescue Assessed Cost among properties on a basis reasonably related to the special benefit provided by fire rescue services, facilities, or programs funded with assessment proceeds.

(C) Nothing contained in this Ordinance shall be construed to require the imposition of Fire Rescue Assessments against Government Property.

**SECTION 2.02. INITIAL PROCEEDINGS.** The initial proceeding for the imposition of a Fire Rescue Assessment shall be the adoption of an Initial Assessment Resolution by the City Commission, (1) containing a brief and general description of the fire rescue services, facilities, or programs to be provided, (2) determining the Fire Rescue Assessed Cost to be assessed, (3) describing the method of apportioning the Fire Rescue Assessed Cost and the computation of the Fire Rescue Assessment for specific properties, (4) establishing an estimated assessment rate for the applicable Fiscal Year, (5) establishing a Maximum Assessment Rate, if desired by the City Commission, and (6) directing the City Manager to (a) prepare the initial Assessment Roll, as required by Section 2.03 hereof, (b) publish the notice required by Section 2.04 hereof, and (c) mail the notice required by Section 2.05 hereof using information then available from the Tax Roll.

#### **SECTION 2.03. INITIAL ASSESSMENT ROLL.**

(A) The City Manager shall prepare, or direct the preparation of, the initial Assessment Roll, which shall contain the following:

(1) A summary description of all Assessed Property conforming to the description contained on the Tax Roll.

(2) The name of the Owner of the Assessed Property.

(3) The amount of the Fire Rescue Assessment to be imposed against each such parcel of Assessed Property.

(B) The initial Assessment Roll shall be retained by the City Manager and shall be open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Fire Rescue Assessment for each parcel of property can be determined by use of a computer terminal available to the public.

#### **SECTION 2.04. NOTICE BY PUBLICATION.**

(A) Upon completion of the initial Assessment Roll, the City Clerk shall publish, or direct the publication of, once in a newspaper of general circulation within the City a notice stating that at a meeting of the City Commission on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned, or special meeting, the City Commission will hear objections of all interested persons to the Final Assessment Resolution which shall establish the rate of assessment and approve the aforementioned initial Assessment Roll.

(B) The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include (1) a geographic depiction of the property subject to the Fire Rescue Assessment; (2) a brief and general description of the fire rescue services, facilities, or programs to be provided; (3) the rate of assessment including a Maximum Assessment Rate in the event one was adopted; (4) the procedure for objecting provided in Section 2.06 hereof; (5) the method by which the Fire Rescue Assessment will be collected; and (6) a statement that the Initial Assessment Roll is available for inspection at the office of the City Clerk and all interested persons may ascertain the amount to be assessed against a parcel of Assessed Property at the office of the City Clerk.

#### **SECTION 2.05. NOTICE BY MAIL.**

(A) In addition to the published notice required by Section 2.04, the City Manager shall provide notice, or direct the provision of notice, of the proposed Fire Rescue Assessment by first class mail to the Owner of each parcel of property subject to the Fire Rescue Assessment.

(B) Such notice shall include (1) the purpose of the Fire Rescue Assessment; (2) the rate of assessment to be levied against each parcel of property, including a Maximum Assessment Rate in the event one was adopted; (3) the unit of measurement applied to determine the Fire Rescue Assessment; (4) the number of such units contained in each parcel of property; (5) the total revenue to be collected by the City from the Fire Rescue Assessment; (6) a statement that failure to pay the Fire Rescue Assessment will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property; (7) a statement that all affected Owners have a right to appear at the hearing and to file written objections with the City Commission within 20 days of the notice; and (8) the date, time, and place of the hearing.

(C) The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each Owner at such address as is shown on the Tax Roll. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. The City Manager may provide proof of such notice by affidavit. Failure of the Owner to receive such notice due to mistake or inadvertence shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Fire Rescue Assessment imposed by the City Commission pursuant to this Ordinance.

#### **SECTION 2.06. ADOPTION OF FINAL ASSESSMENT RESOLUTION.**

(A) At the public hearing as noticed pursuant to Sections 2.04 and 2.05 hereof, or to which an adjournment or continuance may be taken by the City Commission, the City Commission shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the City Commission adopt the Final Assessment Resolution which shall (1) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the City Commission; (2) establish the rate of assessment to be imposed in the upcoming Fiscal Year; (3) establish a Maximum Assessment Rate that may be imposed in the event such rate was adopted; (4) approve the initial Assessment Roll, with such amendments as it deems just and right; and (5) determine the method of collection.

(B) The adoption of the Final Assessment Resolution by the City Commission shall constitute a legislative determination that all parcels assessed derive a special benefit from the fire rescue services,

facilities, or programs to be provided or constructed and a legislative determination that the Fire Rescue Assessments are fairly and reasonably apportioned among the properties that receive the special benefit.

(C) All written objections to the Final Assessment Resolution shall be filed with the City Manager at or before the time or adjourned time of such hearing. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which Fire Rescue Assessments are imposed or reimposed hereunder.

**SECTION 2.07. EFFECT OF FINAL ASSESSMENT RESOLUTION.** The Fire Rescue Assessments for the initial Fiscal Year shall be established upon adoption of the Final Assessment Resolution. The adoption of the Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property; the method of apportionment and assessment; the initial rate of assessment; the Maximum Assessment Rate, if any; the initial Assessment Roll; and the levy and lien of the Fire Rescue Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the City Commission action on the Final Assessment Resolution. The initial Assessment Roll, as approved by the Final Assessment Resolution, shall be delivered to the Tax Collector, as required by the Uniform Assessment Collection Act, or if the alternative method described in Section 3.02 hereof is used to collect the Fire Rescue Assessments, such other official as the City Commission by resolution shall designate.

**SECTION 2.08. ANNUAL IMPLEMENTATION PROCEDURE.**

(A) Annually, during the budget adoption process, the City Commission shall determine whether to impose the Fire Rescue Assessment for the upcoming Fiscal year. If the City Commission elects to reimpose the Fire Rescue Assessment, the procedures in this Section 2.08 shall be followed.

(B) The initial proceedings for the reimposition of an annual Fire Rescue Assessment shall be the adoption of a Preliminary Rate Resolution by the City Commission (1) containing a brief and general description of the fire rescue services, facilities, or programs to be provided; (2) determining the Fire Rescue Assessed Cost to be assessed for the upcoming Fiscal Year; (3) establishing the estimated assessment rate for the upcoming Fiscal Year; (4) establishing or increasing a Maximum Assessment Rate, if desired by the City Commission; (5) authorizing the date, time, and place of a public hearing to

receive and consider comments from the public and consider the adoption of the Annual Rate Resolution for the upcoming Fiscal Year; and (6) directing the City Manager to (a) update the Assessment Roll, (b) provide notice by publication and first class mail to affected Owners in the event circumstances described in subsection (F) of this Section so require, and (c) directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the City.

(C) At the public hearing established in the Preliminary Rate Resolution or to which an adjournment or continuance may be taken by the City Commission, the City Commission shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the City Commission, adopt the Annual Rate Resolution, which shall (1) establish the rate of assessment to be imposed in the upcoming Fiscal Year and (2) approve the Assessment Roll for the upcoming Fiscal Year with such adjustments as the City Commission deems just and right. The Assessment Roll shall be prepared in accordance with the method of apportionment set forth in the Initial Assessment Resolution, or any subsequent Preliminary Rate Resolution, together with modifications, if any, that are provided and confirmed in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

(D) Nothing herein shall preclude the City Commission from providing annual notification to all Owners of Assessed Property in the manner provided in Sections 2.04 and 2.05 hereof or any other method as provided by law.

(E) The City Commission may establish or increase a Maximum Assessment Rate in an Initial Assessment Resolution or Preliminary Rate Resolution and confirm such Maximum Assessment Rate in the Annual Rate Resolution in the event notice of such Maximum Rate Assessment has been included in the notices required by Section 2.04 and 2.05 hereof.

(F) In the event (1) the proposed Fire Rescue Assessment for any Fiscal Year exceeds the rates of assessment adopted by the City Commission including a Maximum Assessment Rate, if any, that were listed in the notices previously provided to the Owners of Assessed Property pursuant to Sections 2.04 and 2.05 hereof, (2) the purpose for which the Fire Rescue Assessment is imposed or the use of the revenue from the Fire Rescue Assessment is substantially changed from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 2.04 and 2.05 hereof, (3) Assessed Property is reclassified or the method of apportionment is revised or altered resulting in an

increased Fire Rescue Assessment from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 2.04 and 2.05 hereof, or (4) an Assessment Roll contains Assessed Property that was not included on the Assessment Roll approved for the prior Fiscal Year, notice shall be provided by publication and first class mail to the Owners of such Assessed Property as provided by law. Such notice shall substantially conform with the notice requirements set forth in Sections 2.04 and 2.05 hereof and inform the Owner of the date, time, and place for the adoption of the Annual Rate Resolution. The failure of the Owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Fire Rescue Assessment imposed by the City Commission pursuant to this Ordinance.

(G) As to any Assessed Property not included on an Assessment Roll approved by the adoption of the Final Assessment Resolution or a prior year's Annual Rate Resolution, the adoption of the succeeding Annual Rate Resolution shall be the final adjudication of the issues presented as to such Assessed Property (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the establishment or increase of a Maximum Assessment Rate, the Assessment Roll, and the levy and lien of the Fire Rescue Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the City Commission action on the Annual Rate Resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any Fire Rescue Assessment not challenged within the required 20-day period for those Fire Rescue Assessments previously imposed against Assessed Property by the inclusion of the Assessed Property on an Assessment Roll approved in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

(H) The Assessment Roll, as approved by the Annual Rate Resolution, shall be delivered to the Tax Collector as required by the Uniform Assessment Collection Act, or if the alternative method described in Section 3.02 hereof is used to collect the Fire Rescue Assessments, such other official as the City Commission by resolution shall designate. If the Fire Rescue Assessment against any property shall be sustained, reduced, or abated by the court, an adjustment shall be made on the Assessment Roll.

**SECTION 2.09. LIEN OF FIRE RESCUE ASSESSMENTS.** Upon the adoption of the Assessment Roll, all Fire Rescue Assessments shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid. The lien for a Fire Rescue Assessment shall be deemed perfected upon the City Commission's adoption of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable. The lien for a Fire Rescue Assessment collected under the Uniform Assessment Collection Act shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes imposed under the Tax Roll. The lien for a Fire Rescue Assessment collected under the alternative method of collection provided in Section 3.02 shall be deemed perfected upon the City Commission's adoption of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable, and shall attach to the property on such date of adoption.

**SECTION 2.10. REVISIONS TO FIRE RESCUE ASSESSMENTS.** If any Fire Rescue Assessment made under the provisions of this Ordinance is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the City Commission is satisfied that any such Fire Rescue Assessment is so irregular or defective that the same cannot be enforced or collected, or if the City Commission has failed to include or omitted any property on the Assessment Roll, which property should have been so included, the City Commission may take all necessary steps to impose a new Fire Rescue Assessment against any property benefited by the Fire Rescue Assessed Costs, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Fire Rescue Assessment is annulled, vacated, or set aside, the City Commission may obtain and impose other Fire Rescue Assessments until a valid Fire Rescue Assessment is imposed.

**SECTION 2.11. PROCEDURAL IRREGULARITIES.** Any informality or irregularity in the proceedings in connection with the levy of any Fire Rescue Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Fire Rescue Assessment as finally approved shall be competent and sufficient evidence that such Fire Rescue Assessment was duly levied, that the Fire Rescue Assessment was duly made and adopted, and that all

other proceedings adequate to such Fire Rescue Assessment were duly had, taken, and performed as required by this Ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.

**SECTION 2.12. CORRECTION OF ERRORS AND OMISSIONS.**

(A) No act of error or omission on the part of the Property Appraiser, Tax Collector, City Manager, City Commission, or their deputies or employees, shall operate to release or discharge any obligation for payment of a Fire Rescue Assessment imposed by the City Commission under the provision of this Ordinance.

(B) When it shall appear that any Fire Rescue Assessment should have been imposed under this Ordinance against a parcel of property specially benefited by the provision of fire rescue services, facilities, or programs, but that such property was omitted from the Assessment Roll; or such property was erroneously assessed; or was not listed on the Tax Roll as an individual parcel of property as of the effective date of the Assessment Roll approved by the Annual Rate Resolution for any upcoming Fiscal Year, the City Commission may, upon provision of a notice by mail provided to the Owner of the omitted or erroneously assessed parcel in the manner and form provided in Section 2.05, impose the applicable Fire Rescue Assessment for the Fiscal Year in which such error or omission is discovered, in addition to the applicable Fire Rescue Assessment due for the prior two Fiscal Years. Such Fire Rescue Assessment shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles, and claims in and to or against the real property involved, shall be collected as provided in Article III hereof, and shall be deemed perfected on the date of adoption of the resolution imposing the omitted or delinquent assessments.

(C) Prior to the delivery of the Assessment Roll to the Tax Collector in accordance with the Uniform Assessment Collection Act, the City Manager shall have the authority at any time, upon his or her own initiative or in response to a timely filed petition from the Owner of any property subject to a Fire Rescue Assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the Fire Rescue Assessment apportionment method to any particular parcel of property not otherwise requiring the provision of notice pursuant to the Uniform

Assessment Collection Act. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the Fire Rescue Assessment imposed under the provisions of this Ordinance. All requests from affected property owners for any such changes, modifications or corrections shall be referred to, and processed by, the City Manager and not the Property Appraiser or Tax Collector.

(D) After the Assessment Roll has been delivered to the Tax Collector in accordance with the Uniform Assessment Collection Act, any changes, modifications, or corrections thereto shall be made in accordance with the procedures applicable to correcting errors and insolvencies on the Tax Roll upon timely written request and direction of the City Manager.

### **SECTION 2.13. INTERIM ASSESSMENTS.**

(A) An interim Fire Rescue Assessment shall be imposed against all property for which a Certificate of Occupancy (or Building Permit, as determined by the City Commission) is issued after the adoption of the Annual Rate Resolution. The amount of the interim Fire Rescue Assessment shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such property computed in accordance with the Annual Rate Resolution for the Fiscal Year for which the interim Fire Rescue Assessment is being imposed. Such monthly rate shall be imposed for each full calendar month remaining in the Fiscal Year. A credit shall be granted against the interim Fire Rescue Assessment for any Fire Rescue Assessment paid for the same property for the same time period. In addition to the monthly rate, the interim Fire Rescue Assessment shall also include an estimate of the subsequent Fiscal Year's Fire Rescue Assessment. Issuance of the Certificate of Occupancy (or Building Permit, as determined by the City Commission) by mistake or inadvertence, and without the payment in full of the interim Fire Rescue Assessment shall not relieve the Owner of such property of the obligation of full payment. Any interim Fire Rescue Assessment not collected prior to the issuance of the Certificate of Occupancy (or Building Permit, as determined by the City Commission) may be collected pursuant to the Uniform Assessment Collection Act as provided in Section 3.01 of this Ordinance, under the alternative collection method provided in Section 3.02 or by any other method authorized by law. Any interim Fire Rescue Assessment shall be deemed due and payable on the date the Certificate of Occupancy (or Building Permit, as determined by the City Commission) was issued and shall constitute a lien against

such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the Certificate of Occupancy (or Building Permit, as determined by the City Commission).

(B) In the event the City Council chooses to collect the interim Fire Rescue Assessment at the time a Building Permit is issued, the following procedure shall apply:

(1) In the event a Building Permit expires prior to completion of the Building for which it was issued, and the applicant paid the interim Fire Rescue Assessment at the time the Building Permit was issued, the applicant may within 90 days of the expiration of the Building Permit apply for a refund of the interim Fire Rescue Assessment. Failure to timely apply for a refund of the interim Fire Rescue Assessment shall waive any right to a refund.

(2) The application for refund shall be filed with the City Manager and contain the following:

(a) The name and address of the applicant;

(b) The location of the property and the tax parcel identification number for the property which was the subject of the Building Permit;

(c) The date the interim Fire Rescue Assessment was paid;

(d) A copy of the receipt of payment for the Fire Rescue Assessment; and

(e) The date the Building Permit was issued and the date of expiration.

(3) After verifying that the Building Permit has expired and that the Building has not been completed, the City Manager shall refund the interim Fire Rescue Assessment paid for such Building.

(4) A Building Permit which is subsequently issued for a Building on the same property which was the subject of a refund shall pay the interim Fire Rescue Assessment as required by this Section 2.13.

#### **SECTION 2.14. AUTHORIZATION FOR EXEMPTIONS AND HARDSHIP ASSISTANCE.**

(A) The City Commission, in its sole discretion, shall determine on an annual basis whether to provide exemptions from payment of the Fire Rescue Assessment for Government Property or Institutional Property whose use is exempt from ad valorem taxation under Florida law.

(B) The City Commission, in its sole discretion, shall determine on an annual basis whether to provide a program of hardship assistance to City residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of the Fire Rescue Assessments.

(C) On an annual basis, the City Commission shall designate the funds available to provide any exemptions or hardship assistance. The provision of an exemption or hardship assistance in any one year shall in no way establish a right or entitlement to such exemption or assistance in any subsequent year and the provision of funds in any year may be limited to the extent funds are available and appropriated by the City Commission. Any funds designated for exemptions or hardship assistance shall be paid by the City from funds other than those generated by the Fire Rescue Assessment.

(D) Any shortfall in the expected Fire Rescue Assessment proceeds due to any hardship assistance or exemption from payment of the Fire Rescue Assessments required by law or authorized by the City Commission shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Fire Rescue Assessments. In the event a court of competent jurisdiction determines any exemption or reduction by the City Commission is improper or otherwise adversely affects the validity of the Fire Rescue Assessment imposed for any Fiscal Year, the sole and exclusive remedy shall be the imposition of a Fire Rescue Assessment upon each affected Tax Parcel in the amount of the Fire Rescue Assessment that would have been otherwise imposed save for such reduction or exemption afforded to such Tax Parcel by the City Commission.

### ARTICLE III

#### COLLECTION AND USE OF FIRE RESCUE ASSESSMENTS

##### SECTION 3.01. METHOD OF COLLECTION.

(A) Unless otherwise directed by the City Commission, the Fire Rescue Assessments shall be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act, and the City shall comply with all applicable provisions of the Uniform Assessment Collection Act. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act or other provision of law.

(B) The amount of a Fire Rescue Assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific parcel of benefitted property may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for a prior year's assessment for a comparable service, facility, or program provided, (1) the collection method used in connection with the prior year's assessment did not employ the use of the uniform method of collection authorized by the Uniform Assessment Collection Act, (2) notice is provided to the Owner as required under the Uniform Assessment Collection Act, and (3) any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such Fire Rescue Assessment upon certification of a non-ad valorem roll to the Tax Collector by the City.

**SECTION 3.02. ALTERNATIVE METHOD OF COLLECTION.** In lieu of using the Uniform Assessment Collection Act, the City Commission may elect to collect the Fire Rescue Assessments by any other method which is authorized by law or under the alternative collection method provided by this Section:

(A) The City Commission shall provide Fire Rescue Assessment bills by first class mail to the Owner of each affected parcel of property that is subject to the Fire Rescue Assessment. The bill or accompanying explanatory material shall include (1) a brief explanation of the Fire Rescue Assessment, (2) a description of the unit of measurement used to determine the amount of the Fire Rescue Assessment, (3) the number of units contained within the parcel, (4) the total amount of the Fire Rescue Assessment imposed against the parcel for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the Fire Rescue Assessment is due, and (7) a statement that the Fire

Rescue Assessment constitutes a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

(B) A general notice of the lien resulting from imposition of the Fire Rescue Assessments shall be recorded in the Official Records of the City. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.

(C) The City Commission shall have the right to foreclose and collect all delinquent Fire Rescue Assessments in the manner provided by law for the foreclosure of mortgages on real property or appoint or retain an agent to institute such foreclosure and collection proceedings. A Fire Rescue Assessment shall become delinquent if it is not paid within 30 days from the date payment was due, as identified in accordance with paragraph (A)(6) of this Section. The City Commission or its agent shall notify any property owner who is delinquent in payment of his or her Fire Rescue Assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the City Commission or its agent will either (1) initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent Fire Rescue Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real property, or (2) cause an amount equivalent to the delinquent Fire Rescue Assessment, not previously subject to collection using the uniform method under the Uniform Assessment Collection Act, to be collected on the tax bill for a subsequent year.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the City may be the purchaser to the same extent as any Person. The City Commission or its agent may join in one foreclosure action the collection of Fire Rescue Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent Owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City Commission and its agents, including reasonable attorney fees, in collection of such delinquent Fire Rescue Assessments and any other costs incurred by the City Commission as a result of such delinquent Fire Rescue Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) In lieu of foreclosure, any delinquent Fire Rescue Assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that (1) notice is provided to the Owner in the manner required by the Uniform Assessment Collection Act and this Ordinance, and (2) any existing lien of record on the affected parcel for the delinquent Fire Rescue Assessment is supplanted by the lien resulting from certification of the Assessment Roll, as applicable, to the Tax Collector.

(F) Notwithstanding the City Commission's use of an alternative method of collection, the City Manager shall have the same power and authority to correct errors and omissions as provided to him or other City officials in Section 2.12 hereof.

(G) Any City Commission action required in the collection of Fire Rescue Assessments may be by resolution.

**SECTION 3.03. GOVERNMENT PROPERTY.**

(A) In the event Fire Rescue Assessments are imposed against Government Property, the City Commission shall provide Fire Rescue Assessment bills by first class mail to the Owner of each affected parcel of Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Fire Rescue Assessment, (2) a description of the unit of measurement used to determine the amount of the Fire Rescue Assessment, (3) the number of units contained within the parcel, (4) the total amount of the parcel's Fire Rescue Assessment for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the Fire Rescue Assessment is due.

(B) Fire Rescue Assessments imposed against Government Property shall be due on the same date as all other Fire Rescue Assessments and, if applicable, shall be subject to the same discounts for early payment.

(C) A Fire Rescue Assessment shall become delinquent if it is not paid within 30 days from the date payment was due, as identified in paragraph (A)(6) of this Section. The City Commission shall notify the Owner of any Government Property that is delinquent in payment of its Fire Rescue Assessment within 60 days from the date such assessment was due. Such notice shall state that the City Commission will initiate a mandamus or other appropriate judicial action to compel payment.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent Owners of Government Property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City, including reasonable attorney fees, in collection of such delinquent Fire Rescue Assessments and any other costs incurred by the City Commission as a result of such delinquent Fire Rescue Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) As an alternative to the foregoing, a Fire Rescue Assessment imposed against Government Property may be collected as a surcharge on a utility bill provided to such Government Property in periodic installments with a remedy of a mandamus action in the event of non-payment. The City Commission may contract for such billing services with any utility, whether or not such utility is owned by the City.



**GENERAL PROVISIONS**

**SECTION 4.01. APPLICABILITY.** This Ordinance and the City Commission's authority to impose assessments pursuant hereto shall be applicable throughout the City.

**SECTION 4.02. ALTERNATIVE METHOD.**

(A) This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Ordinance, being necessary for the welfare of the inhabitants of the City, shall be liberally construed to effect the purposes hereof.

(B) Nothing herein shall preclude the City Commission from directing and authorizing, by resolution, the combination with each other of (1) any supplemental or additional notice deemed proper, necessary, or convenient by the City, (2) any notice required by this Ordinance, or (3) any notice required by law, including the Uniform Assessment Collection Act.

**SECTION 4.03. SEVERABILITY.** The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

**SECTION 4.04. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its passage and adoption on the second and final reading.

**PASSED** on First Reading on the 24th day of July, 2008.

**PASSED AND ADOPTED** on Second Reading and Final Reading on the 14th day of August, 2008.

**CITY OF WINTER GARDEN, FLORIDA**

(SEAL)

By: \_\_\_\_\_  
John Rees, Mayor

ATTEST:

---

Kathy Golden, City Clerk

APPROVED AS TO FORM AND CONTENT:

---

City Attorney