

**CITY COMMISSION AGENDA
CITY HALL COMMISSION CHAMBERS
300 W. Plant Street
(REVISED 8/25/09)**

REGULAR MEETING

AUGUST 27, 2009

6:30 P.M.

CALL TO ORDER

Determination of a Quorum
Invocation and Pledge of Allegiance

1. APPROVAL OF MINUTES

Regular Meeting of August 13, 2009

2. FIRST READING OF PROPOSED ORDINANCES

A. **Ordinance 09-19:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING SECTIONS 118-890, 118-893 and 118-989 AND CREATING SECTION 118-829 and 118-830 OF CHAPTER 118 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING TIME RESTRICTIONS FOR FILING AND OBTAINING APPROVAL OF FINAL DEVELOPMENT PLANS AND FINAL PLATS FOR PLANNED UNIT DEVELOPMENTS; PROVIDING A PROCESS FOR CITY COMMISSION APPROVAL OF TIME EXTENSIONS FOR PLANNED UNIT DEVELOPMENTS; PROVIDING FOR RETROACTIVE EXTENSION OF EXPIRED PLANNED UNIT DEVELOPMENTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for September 21, 2009** – Community Development Director Wilson

B. **Ordinance 09-25:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING ARTICLE II OF CHAPTER 22 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING PEDDLERS, SOLICITORS, AND ITINERANT VENDORS; REVISING AND CLARIFYING THE DEFINITIONS OF OPEN AIR VENDORS AND PEDDLERS; PROVIDING FOR CODIFICATION; ADDING DEFINITIONS FOR CHIEF OF POLICE, CITY MANAGER, ITINERANT AND STATIONARY MOBILE FOOD VENDORS AND SEASONAL VENDORS; REVISING AND ADDING CRITERIA FOR OBTAINING AN OPEN AIR VENDOR PERMIT; PROVIDING FOR ZONING AND OTHER RESTRICTIONS UPON MOBILE FOOD VENDORS; PROVIDING FOR ZONING AND OTHER RESTRICTIONS UPON SEASONAL VENDORS; PROVIDING FOR EXPIRATION, AMENDMENT, AND RENEWAL OF OPEN AIR VENDOR PERMITS; REQUIRING OPEN AIR VENDORS TO WEAR APPROPRIATE ATTIRE; PROVIDING FOR EXCEPTIONS TO OBTAINING OPEN AIR VENDOR PERMITS; PROVIDING FOR WAIVER OF OPEN AIR VENDOR PERMIT REQUIREMENTS FOR CHARITABLE ORGANIZATIONS; REVISING APPLICATION REQUIREMENTS FOR SOLICITORS AND PEDDLERS; PROVIDING FOR THE ISSUANCE OF OPEN AIR EVENT PERMITS FOR OPEN AIR VENDORS AS WELL AS AMENDMENTS THERETO; CLARIFYING ORDINANCE TO REFLECT THAT ONLY COMMERCIAL PEDDLERS, SOLICITORS, AND AGENTS MUST OBTAIN A SOLICITORS' PERMIT; PROVIDING FOR GENDER NEUTRAL LANGUAGE AND GRAMMATICAL REVISIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for September 9, 2009** – Community Development Director Wilson

C. **Ordinance 09-53:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING ARTICLE I OF CHAPTER 74 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN TO CREATE SECTION 74-4; PROVIDING FOR THE APPROVAL OF GOLF CART OPERATION WITHIN SPECIFICALLY IDENTIFIED COMMUNITIES AND/OR ROADWAYS BY RESOLUTION; PROVIDING FOR A PROCEDURES FOR CITY COMMISSION CONSIDERATION AND APPROVAL OF GOLF CART COMMUNITIES AND ROADWAYS; REQUIRING GOLF CARTS TO BE EQUIPPED WITH STATUTORILY MANDATED SAFETY DEVICES; PROVIDING FOR HOURS OF OPERATION OF GOLF CARTS ON CITY ROADWAYS; PROVIDING FOR REGULATION OF UNLICENSED GOLF CART DRIVERS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for September 21, 2009** – City Manager Bollhoefer

D. **Ordinance 09-54:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 74 OF THE WINTER GARDEN CITY CODE, AND TO CREATE A NEW ARTICLE V, ENTITLED “THE CITY OF WINTER GARDEN TRAFFIC LIGHT SAFETY ACT”, INCLUDING NEW SECTIONS 74-200 THROUGH 74-214; PROVIDING FOR INTENT AND DEFINITIONS; ESTABLISHING A RED LIGHT ENFORCEMENT PROGRAM WITHIN THE CITY; AUTHORIZING THE CITY TO PERMIT AND IMPLEMENT THE USE OF UNMANNED CAMERAS/MONITORING DEVICES FOR RED LIGHT VIOLATIONS; PROVIDING ENFORCEMENT PROCEDURES UNDER THE AUTHORITY OF A HEARING OFFICER, INCLUDING NOTICE OF HEARINGS BEFORE THE A CODE ENFORCEMENT HEARING OFFICER, PENALTIES, IMPOSITION OF ADMINISTRATIVE CHARGES INCLUDING ATTORNEYS’ FEES, COLLECTION, AND APPEALS; PROVIDING FOR EXCEPTIONS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for September 21, 2009** – Police Chief Brennan

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

A. **Ordinance 09-39:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.46 ± ACRES LOCATED AT 364 NORTH WEST CROWN POINT ROAD, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for September 21, 2009** – Community Development Director Wilson

B. **Ordinance 09-40:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY LOW DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL FOR PROPERTY GENERALLY DESCRIBED AS 0.46 ± ACRES LOCATED AT 364 NORTH WEST CROWN POINT ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for September 21, 2009** – Community Development Director Wilson

C. **Ordinance 09-41:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 0.46 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 364 NORTH WEST CROWN POINT ROAD FROM ORANGE COUNTY R-2 TO CITY R-1B; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE - **with the second reading and public hearing being scheduled for September 21, 2009** – Community Development Director Wilson

D. **Ordinance 09-42:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 2.95 ± ACRES LOCATED AT THE NORTHWEST CORNER OF EAST CROWN POINT ROAD AND CROWN POINT CROSS ROAD, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE - **with the second reading and public hearing being scheduled for September 21, 2009** – Community Development Director Wilson

E. **Ordinance 09-43:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY LOW DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL FOR PROPERTY GENERALLY DESCRIBED AS 2.95 ± ACRES LOCATED AT THE NORTHWEST CORNER OF EAST CROWN POINT ROAD AND CROWN POINT CROSS ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for September 21, 2009** – Community Development Director Wilson

F. **Ordinance 09-44:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 2.95 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT THE NORTHWEST CORNER OF EAST CROWN POINT ROAD AND CROWN POINT CROSS ROAD FROM ORANGE COUNTY A-1 TO CITY R-1; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for September 21, 2009** – Community Development Director Wilson

G. **Ordinance 09-45:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.54 ± ACRES LOCATED AT 946 AND 948 VINELAND ROAD, AND

MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for September 21, 2009** – Community Development Director Wilson

- H. **Ordinance 09-46:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY LOW MEDIUM DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL FOR PROPERTY GENERALLY DESCRIBED AS 0.54 ± ACRES LOCATED AT 946 AND 948 VINELAND ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for September 21, 2009** – Community Development Director Wilson
- I. **Ordinance 09-47:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 0.54 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 946 AND 948 VINELAND ROAD FROM ORANGE COUNTY R-2 TO CITY R-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for September 21, 2009** – Community Development Director Wilson

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

- A. **Ordinance 09-36:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 1.96 ± ACRES LOCATED AT 1301 EAST BAY STREET AND 1360 EDGEWAY DRIVE, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE – Community Development Director Wilson
- B. **Ordinance 09-37:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY LOW DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL FOR PROPERTY GENERALLY DESCRIBED AS 1.96 ± ACRES LOCATED AT 1301 EAST BAY STREET AND 1360 EDGEWAY DRIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE – Community Development Director Wilson
- C. **Ordinance 09-38:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 1.96 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 1301 EAST BAY STREET AND 1360 EDGEWAY DRIVE FROM ORANGE COUNTY R-2 TO CITY R-4; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE – Community Development Director Wilson

5. **REGULAR BUSINESS**

- A. Recommendation to approve an Emergency Medical Services Agreement to allow the Fire Rescue Department to receive two Lifepak 15 defibrillators and related equipment through grant funds – Fire Chief Williamson
- B. Recommendation to approve distribution of awarded grant funds to replace three analog portable radios – Police Chief Brennan
- C. Recommendation to approve an amendment to the agreement with the St. Johns River Water Management District for Water Pumping Storage Project - Winter Garden Reclaimed Water Pumping and Transmission Project - Public Services Director Cochran
- D. Recommendation to approve blocking Plant Street between City Hall and Dillard Street on November 6, 2009 to accommodate the West Orange High School Homecoming Parade – Parks and Recreation Director Conn
- E. Recommendation to approve waiving permit fees and blocking Plant Street between Central Avenue and Woodland Avenue to accommodate the Winter Garden Art Festival on November 21 and 22, 2009 – Parks and Recreation Director Conn
- F. Recommendation to approve waiving fees and closing Plant Street April 10 and 11, 2010 to accommodate the Spring Fever in the Garden Festival – Parks and Recreation Director Conn
- G. **Resolution 09-13:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, ADOPTING POLICIES AND PROCEDURES FOR THE PROCUREMENT OF PRODUCTS AND SERVICES FOR THE CITY OF WINTER GARDEN, FLORIDA AND PROVIDING FOR AN EFFECTIVE DATE - Finance Director Hayes

6. **MATTERS FROM CITIZENS** (*Limited to 3 minutes per speaker*)
7. **MATTERS FROM CITY ATTORNEY** – Kurt Ardaman
8. **MATTERS FROM CITY MANAGER** – Mike Bollhoefer
 - A. Update on the calculations for Westside Townhomes
 - B. Report on homeowner association streetlight reimbursements
9. **MATTERS FROM MAYOR AND COMMISSIONERS**

ADJOURN to budget hearings and regular meeting on Wednesday, September 9, 2009 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.

Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained at the meeting from the Information Technology Director.

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 09-19

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING SECTIONS 118-890, 118-893 and 118-989 AND CREATING SECTION 118-829 and 118-830 OF CHAPTER 118 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING TIME RESTRICTIONS FOR FILING AND OBTAINING APPROVAL OF FINAL DEVELOPMENT PLANS AND FINAL PLATS FOR PLANNED UNIT DEVELOPMENTS; PROVIDING A PROCESS FOR CITY COMMISSION APPROVAL OF TIME EXTENSIONS FOR PLANNED UNIT DEVELOPMENTS; PROVIDING FOR RETROACTIVE EXTENSION OF EXPIRED PLANNED UNIT DEVELOPMENTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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. Section 118-890 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):

Sec. 118-890. Final development plan.

(a) Time limits for submission. Unless otherwise specified by the PUD zoning ordinance, The ~~the~~ developer shall have one five years from the approval adoption date of the PUD zoning ordinance preliminary plat or preliminary development plan, whichever is later, in which to: file
i. file and obtain approval of a final plat of a residential planned unit development, or any portion thereof; or
ii. file and obtain approval of a final development plan of a residential planned unit development, or a portion thereof and commence construction contemplated by such plan.

Residential planned unit developments adopted prior to August 31, 2009 are hereby granted an extension to allow five years from the date of their adoption to complete the approvals under subsection i. or ii. above.

(b) Site plan. If not platted, a site plan must be presented in accordance with division 2 of article II of this chapter.

(c) Plat. If platted a plat must be presented which complies with chapter 110.

(d) Additional exhibits. Additional exhibits required for the final development plan may include the following:

(1) Development schedule. The development schedule shall contain the following information:

a. The order of construction of the proposed stages delineated in the development plan.

b. The proposed date for the beginning of construction on the stages.

c. The proposed date for the completion of the stages.

d. The proposed schedule for the construction and improvement of common open space within the stages, including any complementary buildings.

(2) Deed restriction. Deed restriction proposals to preserve the character of the common open space. The deed restrictions shall include a prohibition against partition by any residential property owner.

(3) Association or nonprofit corporation. If the developer elects this method of administering common open space, the proposed bylaws of the association or the certificate of incorporation and the corporate bylaws of the nonprofit corporation shall be submitted for approval by the city attorney.

(4) Instruments. Instruments dedicating all rights-of-way, easements and other public lands shown on the final development plan from all persons having any interest in the land and instruments indicating that all necessary off-site easements or dedications have been acquired. In lieu of originals, certified true copies will be accepted if the recording information from the public records of the county is included thereon.

(5) Bill of sale. A bill of sale, conveying to the city water and sewer utility lines, mains, lift stations, and other personal property required to be installed by this Code.

(6) Title opinion. A title opinion from an attorney showing the status of the title to the site encompassed by the final development plan and all liens, encumbrances and defects, if any.
(7) Tax receipts. Paid receipts from the city and county indicating taxes have been paid in full up to and including the current period.

(e) Procedure.

(1) A fee established by the city commission shall accompany the final development plan application for the purpose of administration.

(2) The city engineer and the city planner shall recommend the approval, approval subject to conditions, or disapproval of the final development plan application based upon the conformity of the final development plan with the preliminary development plan, sufficiency and accurateness of the required exhibits, and the requirements and purposes of this division and ordinances and regulations of the city.

(3) The planning and zoning board and the city commission shall review these recommendations at regular public meetings and shall approve, approve subject to conditions, or deny the final development plan application.

(f) Recording of final development plan.

(1) After approval of the city commission of the final development plan application, it shall be recorded in the public records of the county. No final development plan of a planned unit development within the city shall be recorded unless it shall have the approval of the city commission inscribed thereon.

(2) The transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition of or other use of a final development plan of a planned unit development or portion thereof that has not been given final approval by the city commission and recorded in the official records of the county is prohibited. The description by metes and bounds in the instrument of transfer or other documents shall not exempt the transaction from such documents.

SECTION 3: Adoption. Section 118-893 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):

Sec. 118-893. Reserved. Termination of PUD zone. Under this division, failure of the developer to file a final development plan application within the time periods specified shall automatically revoke approval of the preliminary development plan, and the city may take the necessary steps to return the land to its previous classification or to one which is deemed most applicable.

SECTION 4: Adoption. Section 118-829 of the City of Winter Garden Code is created to read as follows

(words that are ~~stricken out~~ are deletions; words that are underlined are additions):

Sec. 118-829. Time extensions. Any time limits imposed by this article or the applicable PUD zoning ordinance may be extended by the city commission for reasonable periods upon the petition of an applicant prior to the expiration of the PUD and based upon good cause, as determined by the city commission.

SECTION 5: Adoption. Section 118-830 of the City of Winter Garden Code is created to read as follows

(words that are ~~stricken out~~ are deletions; words that are underlined are additions):

Sec. 118-830. Expiration of PUD. In the event the developer fails to comply with the time limits of Section 118-890(a) or Section 118-989 or fails to comply with the time limits contained in the applicable PUD zoning ordinance, the preliminary development plan shall automatically expire and no further development orders or permits shall be issued and no development shall occur on the land unless and until the city commission reapproves the preliminary development plan or approves a new preliminary development plan. The city may require modifications to the applicable PUD zoning ordinance as a precondition to such approval. After the expiration of the preliminary development plan pursuant to this section, the city shall have to right to terminate the applicable PUD zoning ordinance and related development orders, permits, and agreements and return the land, or any portion thereof to its previous zoning classification or to a zoning classification that is consistent with the comprehensive plan and the city commission deems most appropriate.

SECTION 6: Adoption. Section 118-989 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):

Sec. 118-989. Approval of final development plan.

~~(a) Unless otherwise specified by the PUD zoning ordinance, the developer shall have five years from the adoption date of the PUD zoning ordinance in which to:~~

~~i. file and obtain approval of a final plat of a commercial or industrial planned unit development, or any portion thereof; or~~

~~ii. file and obtain approval of a final development plan of a commercial or industrial planned unit development, or a portion thereof and commence construction contemplated by such plan.~~

Commercial and industrial planned unit developments adopted prior to August 31, 2009 are hereby granted an extension to allow five years from the date of their adoption to complete the approvals under subsection i. or ii. above.

~~Within six months following the approval of the preliminary development plan of the industrial and commercial planned unit development, the applicant shall file with the planning and zoning board a final development plan containing in final form the information required in the plan approved or approved with modifications.~~

~~(b) The planning and zoning board shall review the final development plan and shall approve the final development plan if it is in substantial compliance with the preliminary development plan. The city clerk shall record the final development plan in the manner provided for recording plats of subdivisions.~~

SECTION 7: Codification: Sections 2, 3, 4, 5 and 6 of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances.

SECTION 8: Control: In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance controls.

SECTION 9: 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 10: Effective Date: This Ordinance shall become effective upon adoption at its second reading.

FIRST READING: _____, 2009.

SECOND READING AND PUBLIC HEARING: _____, 2009.

ADOPTED this _____ day of _____, 2009, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ORDINANCE 09-25

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING ARTICLE II OF CHAPTER 22 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING PEDDLERS, SOLICITORS, AND ITINERANT VENDORS; REVISING AND CLARIFYING THE DEFINITIONS OF OPEN AIR VENDORS AND PEDDLERS; ADDING DEFINITIONS FOR CHIEF OF POLICE, CITY MANAGER, ITINERANT AND STATIONARY MOBILE FOOD VENDORS AND SEASONAL VENDORS; REVISING AND ADDING CRITERIA FOR OBTAINING AN OPEN AIR VENDOR PERMIT; PROVIDING FOR ZONING AND OTHER RESTRICTIONS UPON MOBILE FOOD VENDORS; PROVIDING FOR ZONING AND OTHER RESTRICTIONS UPON SEASONAL VENDORS; PROVIDING FOR EXPIRATION, AMENDMENT, AND RENEWAL OF OPEN AIR VENDOR PERMITS; REQUIRING OPEN AIR VENDORS TO WEAR APPROPRIATE ATTIRE; PROVIDING FOR EXCEPTIONS TO OBTAINING OPEN AIR VENDOR PERMITS; PROVIDING FOR WAIVER OF OPEN AIR VENDOR PERMIT REQUIREMENT FOR CHARITABLE ORGANIZATIONS; REVISING APPLICATION REQUIREMENTS FOR SOLICITORS AND PEDDLERS; PROVIDING FOR THE ISSUANCE OF OPEN AIR EVENT PERMITS FOR OPEN AIR VENDORS AS WELL AS AMENDMENTS THERETO; CLARIFYING ORDINANCE TO REFLECT THAT ONLY COMMERCIAL PEDDLERS, SOLICITORS, AND AGENTS MUST OBTAIN A SOLICITORS' PERMIT; PROVIDING FOR GENDER NEUTRAL LANGUAGE AND GRAMMATICAL REVISIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission has the authority to regulate commercial activity within its jurisdictional boundaries pursuant to Article VIII, § 2(b) of the Florida Constitution and Chapter 166, Florida Statutes;

WHEREAS, the City Commission desires to clarify and amend Article II, Chapter 22 of the City's Peddlers, Solicitors, Itinerant Vendors ordinance to clarify the applicability of such Article to charitable and benevolent organizations operating within the City;

WHEREAS, the City Commission also intends to better regulate the proliferation of open air and mobile food vendors within the City so as to reduce clutter and increase the aesthetic appeal of the City;

WHEREAS, the City Commission desires to impose reasonable regulations upon open air vendors within the City so as to promote and maintain the family-friendly atmosphere and aesthetics of the City and further protect the health, safety, welfare, and morals of its citizens; and

WHEREAS, the City Commission desires to restrict mobile food vendors to operations within the C-2 arterial commercial districts so as to reduce clutter and promote the operation and use of restaurants located in permanent structures in other commercial districts where foodservice is permitted; and

WHEREAS, the City Commission seeks to further regulate open air sales of seasonal products in an effort to reduce roadside clutter and preserve the aesthetic character of the City.

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.** Article II of Chapter 22 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):

ARTICLE II. PEDDLERS, SOLICITORS, ITINERANT VENDORS

Sec. 22-26. Definitions.

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

(1) Agent means a person engaged in a house-to-house canvass, for the purpose of demonstrating or taking orders for any goods, wares or merchandise or taking orders from samples where goods are to be delivered later in the same manner, not in interstate commerce.

- (2) Chief of police shall mean the Chief of the Winter Garden Police Department or his/her designee.
- (3) City manager shall mean the City Manager of Winter Garden or his/her designee.
- (4) Event sponsor shall mean the person or entity that sponsors an open air event and has the legal authority to enter into contractual arrangements regarding such.
- (5) Goods, wares ~~and~~ merchandise, in addition to those items encompassed by the ordinary meaning of such terms, such term also may encompass and include photographs, food, beverages, and coupons or tickets good in whole or in part for a photograph or other merchandise.
- (6) Mobile food vendor means an open air vendor who sells prepared food or beverages, or an open air vendor who is otherwise operating a Mobile Food Dispensing Vehicle as described in Rule 61C-1.002(5)(a)2., F.A.C. All mobile food vendors shall be subject to the same requirements as open air vendors unless otherwise noted. Mobile food vending operations shall be further classified as either itinerant or stationary in the following manner:
- (a) Intinerant operations shall mean and refer to the conduct of business operations at one or more locations or properties throughout the day provided that the mobile food vendor does not remain or linger at any particular property or location for longer than thirty (30) minutes.
- (b) Stationary operations shall mean and refer to the conduct of mobile business operations at or on a single location or property for longer than thirty (30) minutes.
- (7) Open air vendor means any person who has offers, for sale or lease, goods, wares or merchandise for sale from a stand, trailer, vehicle, tent, table or other area that is not completely enclosed by a permanent structure, on real property owned, controlled, or leased by another person or entity in a commercial zone in a location which is not completely enclosed. The following types of businesses shall not be considered open air vendors for the purposes of this Article:
- (a) A person or entity whose business is principally located within a permanent structure and lawfully operates and controls an outdoor dining or sales area as part of its primary business, which outdoor dining or sales area is located adjacent to such permanent structure.
- (b) A person or entity who, upon the request and consent of the business entity in possession and control of real property, lawfully delivers and conveys ownership of pre-ordered goods, wares and merchandise via a motor vehicle to the requesting business entity, its agents, or employees.
- (c) Licensed caterers, restaurants, or permanent non-seating restaurants as defined in Rule 61C-1.002(5)(a)1. and 3., F.A.C., who prepare food or drink prior to delivering such to a contracted service location for consumption.
- (d) A person or entity operating under a valid permit issued pursuant to the requirements of Article VII, Chapter 62 of the City Code.
- (e) A person or entity operating at a city approved event when such person or entity has been hired or otherwise authorized by the City Commission or City Manager to operate at such event.
- (f) Children under the age of 16 engaged in de minimis outdoor sales activities in residential neighborhoods, provided that such children are conducting such activities of their own accord and not at the behest of any other person or entity.
- (8) Open air event means an outdoor or partially outdoor festival, carnival, celebration, or other special event of a temporary nature, which includes or will otherwise be serviced by open air vendors.
- (9) Peddler means a person who brings goods, wares or merchandise from outside the city ~~or state~~, or where the goods, wares, or merchandise is manufactured in the city for sale at retail and is in this state at the time that all negotiations prior to and at the sale thereof are had, and the goods, wares or merchandise is not sold in original packages in interstate commerce but at retail, in small quantities, by means of house-to-house, or place-to-place canvass. Goods ordered or in transit that were so ordered without reference to particular sales shall be deemed to be in the state.
- (10) Seasonal Vendor means any Open Air Vendor, whose goods, wares or merchandise held for sale are seasonally themed or related to seasonal celebrations and occurrences, including but not limited to Christmas, Valentine's Day, Halloween, Thanksgiving, New Years, or the Fourth of July. Such goods, wares, or merchandise may include but shall not be limited to fireworks, Christmas trees and wreaths, flowers, roses, costumes, and other holiday-themed décor.

- (11) Solicitor means any agent or peddler who is otherwise permitted to do business in the city, whether or not such agent or peddler is engaged in interstate commerce; and shall include all servicemen or repairmen who engage in any activity as an agent or peddler, as defined in this section.

Sec. 22-27. Prohibitions.

It is unlawful for any individual solicitor, agent or peddler to:

- (1) Enter the premises of a private residence, gated community or business establishment for the purpose of selling or soliciting orders for goods, wares or merchandise, personal services or information when a sign stating "no solicitors" is posted.
- (2) Remain upon any premises after the owner or occupant requests the solicitor to depart.
- (3) Conduct business before 9:00 a.m. and after 9:00 p.m. and on Sundays at any time.
- (4) Approach back or rear doors or the sides or rear of residential premises.

Sec. 22-28. ~~Permit required~~ Open Air Vendor Permit.

- (a) ~~In addition to the occupational license required by section 66-104, every agent, peddler, canvasser and solicitor, as defined in section 22-26, shall obtain from the chief of police a written permit to conduct business within the city.~~
- (ba) An open air vendor must ~~obtain an occupational license~~ pay applicable local business taxes as required of agents, peddlers and solicitors in section 66-104. Furthermore, it shall be unlawful for any open air vendor to operate without a regulatory valid open air vendor permit granted by the city commission manager, and any such infraction shall be punished as set forth in Chapter 2, Article II of this Code. Permits for open air vendors may only be granted for business operations on commercially zoned properties or properties specifically zoned for open air vending operations.
- (b) ~~To apply for such an open air vendor permit, the~~ vendor must personally appear before the city commission ~~submit a completed application to the City Manager or his/her designee accompanied by the applicable permit processing fee and provide the city commission manager with specific~~ the following information:
- (1) The vendor's contact information, including the address and telephone number at which the vendor may be reached.
 - (2) ~~regarding~~ The location(s) at which the vendor will use be offering his/her goods, wares, or merchandise for sale;
 - (3) ~~The name of the owner(s) of the~~ each real property whereupon which the vendor will have offer his/her goods, wares or merchandise for sale;
 - (4) ~~and p~~ Proof of each the real property owner's or lessee's permission for the vendor to use the property for the purpose of selling or leasing such vendor's goods, wares, or merchandise;
 - (5) ~~a~~ A description of the goods, wares or merchandise the vendor will be offering for sale or lease;
 - (6) ~~The number of days and the daily hours the vendor will be on the property selling or leasing his/her goods, wares or merchandise at each location listed; and~~
 - (7) If the applicant has previously held an open air vendor permit that was revoked, the facts and circumstances surrounding such revocation and any reasons or changes in circumstances as to why such permit should be reissued;
 - (8) If the applicant intends to conduct stationary mobile food vending operations, a description of the access the vendor and its customers will have to onsite restroom and sanitation facilities;
 - (9) If the applicant intends to conduct itinerant mobile food vending operations, a description of the applicant's proposed routes, areas of operation, and method of service; and
 - (10) ~~a~~ Any other appropriate information as requested by the city commission manager.
- (c) ~~The city commission manager will~~ shall evaluate a request completed application for an open air vendor permit and determine whether such applicant should be granted a permit based on whether the applicant has demonstrated compliance with the following criteria:

- (1) ~~whether~~ The vendor has the consent of the real property owner(s) or lessee(s) to conduct his/her business on the properties identified in the permit;
 - (2) ~~whether~~ The operation of the vending area vendor's sales operations are unlikely to causes traffic or parking hazards;
 - (3) ~~whether~~ The vendor's proposed hours of the sale business are reasonable when evaluated in light of all other City ordinances and applicable zoning criteria;
 - (4) ~~whether~~ The operation of the vendor's proposed business does not would aesthetically detract aesthetically from the area surrounding it area and is otherwise consistent with the character of the surrounding area and applicable law and any other factors deemed pertinent with regard to a particular location;
 - (5) The operation of the vendor's proposed business meets the requirements of this Article and all other applicable code provisions;
 - (6) If the applicant has previously held an open air vendor permit that was revoked, the City Manager or his/her designee must determine whether the applicant has presented sufficient reason and evidence of changed facts and circumstances that warrant reissuance of a permit;
 - (7) If the applicant intends to conduct stationary mobile food vending operations, the City Manager or his/her designee must determine that the applicant will have suitable access to onsite restroom and sanitation facilities; and
 - (8) If the applicant intends to conduct itinerant mobile food vending operations, the City Manager or his/her designee must determine that the applicant's proposed routes, areas of operation, and method of service are compatible with the character of the proposed areas of operation and applicable law.
- (d) Mobile food vendors. Mobile food vendors shall be subject to the same application and permitting requirements as all open air vendors, but, in addition to such requirements, shall be further subject to the following regulations:
- (1) Regardless of whether a mobile food vendor holds a valid open air vendor permit, no mobile food vendor shall simultaneously conduct business operations within 1,000 feet of another open air vendor. This restriction shall not apply to a mobile food vendor operating pursuant to an Open Air Event Permit or to a mobile food vendor engaged in bona fide itinerant mobile food vending operations pursuant to the conditions of such vendor's permit.
 - (2) Mobile food vendors may operate only in the following areas:
 - i. Areas with a C-2 Arterial Commercial designation;
 - ii. Properties located along the frontage of Dillard Street between the intersections of Story Road and Florida State Road 50.
 - iii. Itinerant mobile food vendors may service active construction areas in residential developments if properly permitted for such activity.
 - (3) The zoning restrictions specified in subsection (2) shall not apply to a mobile food vendor if such vendor is:
 - i. Operating pursuant to the terms of a valid Open Air Event Permit;
 - ii. Operating in an area governed by a duly enacted Planned Unit Development or other similar development where mobile food vending operations are expressly authorized.
- (e) Seasonal vendors. Seasonal vendors shall be subject to the same application and permitting requirements as all open air vendors, but, in addition to such requirements, shall be further subject to the following regulations:
- (1) Seasonal vendors shall be required to acquire a seasonal vending permit, which permit shall be obtained in the same manner as an Open Air Vendor Permit.
 - (2) A seasonal vendor permit, once granted, shall be valid for only thirty (30) days from the date appearing on the face of the permit. A seasonal vendor may apply for a specified start date for such permit if the vendor submits his or her application sufficiently in advance of such date. Otherwise, the date of issuance shall be the date appearing on the face of the permit.

- (3) A seasonal vendor may only receive a maximum of three (3) seasonal vending permits within a twelve (12) month period.
- (4) No more than three (3) seasonal vending permits may be issued for a single parcel of land within a twelve (12) month period.
- (5) Seasonal vendors may operate only in areas with the following zoning designations:
- i. C-2 Arterial Commercial;
 - ii. I-1 Light Industrial and Warehousing District;
 - iii. I-2 General Industrial District.
- (6) The zoning restrictions specified in subsection (5) shall not apply to a seasonal vendor if such vendor is:
- i. Operating pursuant to the terms of a valid Open Air Event Permit;
 - ii. Operating in an area governed by a duly enacted Planned Unit Development or other similar development where seasonal vending operations are expressly authorized.
- (f) Attire. In addition to being grounds for revocation of an open air vendor permit, failure to comply with the following rules during open air vending operations shall be punishable as a Class III penalty pursuant to § 2-92 of the Winter Garden Code:
- (1) No open air vendor or any employee, contractee, or agent thereof, shall expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage, or buttocks or any simulation thereof.
 - (2) No female open air vendor or any female employee, contractee, or agent thereof shall expose to public view any portion of her breasts below the top of the areola or any simulation thereof.
 - (3) No male open air vendor or any male employee, contractee, or agent thereof shall expose to public view his covered male genitals in a discernably turgid state.
 - (4) Attire which is insufficient to comply with these requirements includes those items and applications commonly known as body paint, pasties, G-strings, T-backs, dental floss, and thongs.
- (g) An open air vendor permit shall be effective for a period of six (6) months following its date of issuance, after which time, such permit shall expire. Such permit shall be valid only as to those locations and conditions listed in the vendor's permit application, and it shall be unlawful for the vendor to operate in contravention thereof.
- (h) Permit Conditions: The City may impose reasonable restrictions and conditions on the granting of open air vendor permits, including but not limited to restrictions and conditions pertaining to the hours and days of operation, display of goods and merchandise, and positioning of the vendor's sales area. In the absence of any more specific restrictions contained in the permit, the following shall apply:
- (1) No open air vendor shall open or otherwise commence vending operations prior to 9:00 AM, and each open air vendor shall close and conclude vending operations prior to 9:00 PM.
 - (2) When not open for business, open air vendors shall secure and enclose all portable displays or signs, goods, wares, or merchandise in a location out of the sight of passers-by.
- (i) Enforcement.
- (1) Suspension or Revocation: The approval of a permit under this Section is conditional and grant thereof permissive at all times. Such permit may be suspended or revoked upon the occurrence of any of the following events in which the permittee or business owner has:
 - (i) Provided false information or fraudulently misrepresented information in the permit application;
 - (ii) Violated this Code, any local, state, federal law or any regulations of the county health department or other applicable regulatory agency;

- (iii) Failed to comply with the requirements of this Section, the terms under which the permit is issued, or an order of the code enforcement board relating to the use of the public way;
 - (iv) Operated under the permit in such a manner as to create a public nuisance, constitute any hazard to the public health, safety or welfare, or destroy or otherwise damage public property;
 - (v) Failed to post conspicuously the permit at all times at the location where the activity is permitted; or
 - (vi) Had any necessary business or health permit suspended, revoked or cancelled.
- (2) Notice to Permit Holder. If the City has knowledge that an open air vendor has engaged or is engaged in conduct warranting the suspension or revocation of his/her open air vendor permit, the City shall serve the permittee by certified mail or hand delivery at his/her business address as disclosed in the application for the permit or at the permitted premises a written statement of violation or a civil citation which affords reasonable notice of facts or conduct warranting the intended action. The statement of violation or civil citation shall state the action required to remedy the violation, if any. An adequate opportunity to request a hearing or appeal of the decision by the planning and zoning board shall be afforded to the permittee. A first time violation may result in a fine of up to \$250.00 per day. A second violation within 12 months may result in an additional fine as well as the revocation of the vendor's open air permit.
- (3) Emergency Suspension or Revocation: If the City Manager or his/her designee determines, in writing, that a permittee's operation of his/her open air vendor business poses an immediate and substantial risk to the health, safety, and welfare of the public, the City Manager (or his/her designee) shall issue an emergency suspension or revocation of such vendor's open air vendor permit. In the case of such emergency suspension or revocation, the permittee shall immediately be advised of the City's actions and afforded a prompt post-suspension or revocation hearing in accordance with the procedures set forth in this Code. From the time such vendor is notified of the emergency suspension or revocation of his/her permit and continuing until a final decision is made as to whether such permit shall be reinstated, the vendor's continued operation of an open air vending business shall be deemed a violation of § 22-28(a) and shall be punishable as set forth in Chapter 2, Article II of this Code.
- (4) Appeals: Any permittee whose open air vendor permit is suspended or revoked, or any applicant whose application for an open air vendor permit is denied pursuant to this section shall receive a statement, in writing, outlining the reasons for such suspension, revocation, or denial of the permit. An applicant may appeal such suspension, revocation or denial of the permit to the City Commission by filing a written request for appeal with the City Clerk, accompanied by the administrative appellate fee as periodically determined by the clerk's office, within ten (10) days after the date of the written suspension, revocation or denial. Appeals from decisions of the City Manager's office, including decisions of revocation or suspension, made pursuant to this article shall be addressed by the City Commission. When timely filed, an appeal shall be heard at the next regularly scheduled City Commission meeting, which meeting is scheduled at least fourteen (14) days after the filing of such appeal. Appeals from the decisions of the City Commission shall be as provided in § 98-32 of this Code.

Sec. 22-29. Open Air Event Permit – Open Air Vendors.

- (a) Open Air Event Permits: It being understood and recognized that festivals, celebrations, and other special events of a temporary nature may require the participation of numerous open-air vendors, including persons and entities who do not normally operate as open-air vendors, operating in close proximity with one another, an expedited procedure for such events has been devised to accommodate open air vendors operating at Open Air Events. Any person or entity that plans to hold an Open Air Event may obtain a temporary permit, effective for the duration and location of such event, which would allow Open Air Vendors to operate at the event. Any Open Air Vendor operating pursuant to an Open Air Event Permit shall be exempt from obtaining an Open Air Vendor Permit pursuant to Chapter 22 of the City Code solely for the purposes of operating at or otherwise participating in a specified Open Air Event.
- (b) Application: An Event Sponsor may apply for an Open Air Event Permit by application to the City Manager and his/her designee. Such application shall include:
- (1) The Event Sponsor's contact information, including the address and telephone number at which the Event Sponsor may be reached.
 - (2) The specific location(s) at which the Open Air Event will be conducted and a map thereof that depicts the relative locations and identities of each Open Air Vendor who will be participating at such Event;

- (3) The name of the owner, and, if applicable, the lessee of the real property upon which the Open Air Event will be conducted;
 - (4) Proof of the real property owners' or lessees' consent to the Open Air Event with respect to each parcel of property on which such Event will be conducted;
 - (5) The dates and times at which such Open Air Event shall be conducted;
 - (6) The name, address, and telephone number of each Open Air Vendor that will be conducting business at such event and the dates and times at which each such vendor will be conducting business;
 - (7) The goods, wares and merchandise that each Open Air Vendor will be offering for sale or lease during the Open Air Event; and
 - (8) Any other appropriate information as requested by the City Manager or his/her designee.
- (c) Review: The City Manager or his/her designee shall evaluate a completed application for an Open Event Permit based on the following factors:
- (1) Whether the Event Sponsor has the consent of all of the real property owner(s) or lessee(s) to conduct his/her Open Air Event on the properties identified in the permit;
 - (2) Whether the Open Air Event's and Open Air Vendors' conduct of business is likely to cause or otherwise fails to propose sufficient mitigation of traffic, safety, or parking hazards;
 - (3) Whether the proposed dates and hours of the Open Air Event and participating Open Air Vendors are reasonable when evaluated in light of all other City ordinances and applicable zoning criteria; and
 - (4) Whether the proposed Open Air Event and its use of Open Air Vendors is compatible with applicable law.

Should the City Manager or his/her designee determine that all criteria have been met, the City Manager, or such designee thereof, shall issue an Open Air Event Permit authorizing the operations of the Open Air Vendors listed in the application at such event. If approved, such permit shall be valid only to the extent that participating Open Air Vendors conduct their operations in a safe and lawful manner in accordance with the information and representations provided in the Open Air Event Permit application, as well as any additional conditions stated in the permit.

- (d) Open Air Event Permit Amendments: Upon becoming aware of any changes to information submitted as part of an Open Air Event Permit application, the Event Sponsor shall immediately apply to the City Manager's office for an Amendment to the Open Air Event Permit reflecting such changes. Applications for Amendment need not include a resubmission of all information required by § 22-30(b), but shall include the applicant's current contact information, a copy of such applicant's current Open Air Event Permit, a detailed statement of the requested changes to the Open Air Event Permit, and a concise summary as to why such changes are being requested. Such changes shall be evaluated utilizing the criteria set forth in § 22-30(c), to the extent that such are applicable.

Sec. 22-2930. Solicitor Permit-application; contents.

- (a) In addition to the business tax receipts required by § 66-104, every agent, peddler, and solicitor, as defined in § 22-26, shall obtain from the City a written solicitor permit authorizing such person to conduct business within the City.
- (a)(b) Any person desiring to secure a solicitor permit required by this section 22-28 shall first make written application to the ~~chief of police~~ City on forms provided by the city, and such application shall state at least the following:
 - (1) The name and current address of the applicant.
 - (2) The name and address of the person by whom such applicant is employed or who such applicant represents.
 - (3) The length of time the applicant has been so employed.
 - (4) The place of residence and nature of employment of the applicant during the preceding year.
 - (5) The nature and character of the goods, wares, merchandise or services to be offered by the applicant.

(6) The personal description of the applicant.

(b)(c) Such application shall be also accompanied by credentials and other personal references and identification as may be reasonably required by the city commission, including, ~~fingerprinting and photographing~~ but not limited to, copies of a valid driver's license for the applicant or other similar form of photographic identification.

Sec. 22-30. Issuance, expiration, exhibition of permit.

(d) If, upon an investigation reasonably made, the ~~chief of police~~City ascertains and determines that the applicant for a permit required by ~~this section 22-28~~ is a person of good moral character ~~has submitted a complete, correct and signed application~~ and proposes to engage in a lawful, commercial or professional enterprise, the ~~chief of police~~City shall issue the permit. Such permit shall be carried at all times by the person to whom ~~such permit is~~ issued when soliciting or ~~canvassing~~peddling within the city and shall be exhibited by any such person whenever requested by any police officer or any person solicited.

Sec. 22-31. Revocation of permit.

~~All~~Any permits issued under this article shall be conditioned upon compliance by the permittee with ~~general law, the Charter, and this Code, and the conditions contained in such permit.~~ For violation thereof the permit shall be suspended or revoked in the manner prescribed by section 66-105.

Sec. 22-32. Compliance by door-to-door peddlers, solicitors.

It shall be unlawful for any person to peddle, ~~or solicit or canvass~~ from door to door or to any homes, residences, or business establishments in the city unless and until any person so desiring to peddle, ~~or solicit, or canvass~~ shall have complied with each and every of the terms and conditions of sections 22-29 through 22-31.

Sec. 22-33. Exemption from permit requirements for ~~licensed persons~~familiar businesses.

When any ~~person~~agent, peddler or solicitor has consistently paid to the City those business taxes ~~held a valid occupational license~~ required by section 66-104 for a period of one year immediately last past, he ~~or she~~ shall not be required thereafter to obtain a ~~solicitor permit~~ required by ~~this article~~section 22-30 of this Article and may engage in the activity of peddling or soliciting, as defined in section 22-26, without obtaining a peddler's or solicitor's permit.

Sec. 22-34. Non-Profit Exemption.

Upon presentation of sufficient proof of charitable or benevolent intent and non-profit status to the City Manager or his/her designee, a charitable, benevolent, fraternal, educational, religious, or other similar non-profit organization or association may apply for and receive a waiver from the permitting requirements contained in this Article, provided that such organization or association agrees to conduct its activities in a safe and lawful manner. If granted, such waiver shall be effective only as to the grantee, its volunteers, and its direct employees, and shall not be extended to any independent contractors or for-profit entities hired, paid, or retained by the grantee. Once issued, a waiver shall be valid for a period of one year and may be renewed upon application. A waiver issued pursuant to this subsection shall not be construed to excuse or authorize otherwise unlawful conduct such as the conduct of vending or solicitation operations on properties without the consent of the owner or lessee of such property, trespass, disturbances of the peace, fraud, or the failure to observe and abide by any other applicable ordinance, law, or statute. The City shall be authorized to charge a nominal processing fee in conjunction with any applications submitted pursuant to this Section.

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

SECTION 4: Control: In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance controls.

SECTION 5: 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 6: Effective Date: This Ordinance shall become effective upon adoption at its second reading.

FIRST READING: _____, 2009.

SECOND READING AND PUBLIC HEARING: _____, 2009.

ADOPTED this _____ day of _____, 2009, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ORDINANCE 09-53

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING ARTICLE I OF CHAPTER 74 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN TO CREATE SECTION 74-4; PROVIDING FOR THE APPROVAL OF GOLF CART OPERATION WITHIN SPECIFICALLY IDENTIFIED COMMUNITIES AND/OR ROADWAYS BY RESOLUTION; PROVIDING FOR A PROCEDURES FOR CITY COMMISSION CONSIDERATION AND APPROVAL OF GOLF CART COMMUNITIES AND ROADWAYS; REQUIRING GOLF CARTS TO BE EQUIPPED WITH STATUTORILY MANDATED SAFETY DEVICES; PROVIDING FOR HOURS OF OPERATION OF GOLF CARTS ON CITY ROADWAYS; PROVIDING FOR REGULATION OF UNLICENSED GOLF CART DRIVERS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL IN EVENT OF CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission has the authority to authorize the operation of golf carts and regulate such operation within its jurisdictional boundaries pursuant to Article VIII, § 2(b) of the Florida Constitution and §§ 166.221; 316.212, Florida Statutes;

WHEREAS, citizens of the city have expressed an interest in allowing golf carts to be driven upon city streets and within some communities located within the city;

WHEREAS, the operation of golf carts upon public roads is ordinarily prohibited unless otherwise authorized by the city pursuant to § 316.212, Fla. Stat.

WHEREAS, the City Commission desires to add new Section 74-4 to Article I of Chapter 74 of the City's Code of Ordinances to allow for the City Commission to consider and approve resolutions authorizing the operation of golf carts within specified residential communities and on roadways meeting threshold safety requirements under state and municipal law;

WHEREAS, pursuant to § 316.212(7), Fla. Stat., the City has undertaken to pass additional regulations pertaining to unlicensed drivers who desire to operate golf carts upon city roadways;

WHEREAS, the state legislature has deemed the operation of golf carts along public roads to be compatible with general traffic safety pursuant to its enactment House Bill 405, which approves the seasonal operation of golf carts by delivery companies within residential areas; and

WHEREAS, to protect the health, safety, and welfare of its citizens, the City desires to prohibit the operation of golf carts along roads and thoroughfares incompatible with such operation and regulate the manner and times of the operation of golf carts upon city streets where such operation is authorized.

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 and § 316.212, Florida Statutes.

Section 2: **Adoption.** Article I of Chapter 74 of the City of Winter Garden Code is hereby amended to add the following Section 74-4 (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

Sec. 74-4. Golf carts.

- (a) Definition of golf cart. Pursuant to F.S. § 320.01(22), and for the purposes of this section, a "golf cart" is defined as a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of twenty (20) miles per hour.
- (b) Golf carts generally prohibited from operation on public streets. Unless otherwise expressly authorized pursuant to this Section or state law, golf carts shall not be operated upon public roadways located within the City.
- (c) Authorization to operate golf carts within and between golf cart communities and on specified roadways by resolution. Golf carts meeting the definition set forth in subsection (a) may be operated on city roadways within the defined boundaries of residential communities when such communities are approved by resolution as "golf cart communities." To receive City approval, any such resolution must be accompanied by the requisite legislative findings as required by statute and shall include a plan for the placement of the requisite signage within the golf cart

community. Golf carts may also be operated between golf cart communities that are adjacent, if such provision is specifically included by the City Commission in the approving resolution. Golf carts may also be operated on roadways outside golf cart communities, when such roadways have been approved by resolution for golf cart use. The City Commission may reject a resolution or otherwise revoke a previously approved resolution if the commission determines that the operation of golf carts within any such community or roadway would constitute or has become a danger or detriment to the health, safety, welfare, or character of the community or the surrounding area or the City Commission otherwise determines that it cannot or will not be able to determine that such community or roadway continues to meet statutory requirements.

(d) Application for golf cart community authorization. A golf cart community resolution as described in subsection (c) may be proposed pursuant to one of the following methods:

(1) Community associations. A community governed by a community association such as a homeowners' or condominium association must have the governing body of such association adopt and submit a request in writing to the city that its community be considered for approval as a golf cart community. Such request shall contain an affirmative statement from the community association that golf carts may safely be operated upon the streets of such community given the speed, volume, and character of motor vehicle traffic using the road or street and any additional information and/or evidence supporting such statement.

(2) Other communities. The City Commission may also, upon its own initiative or upon citizen petition, direct city staff to create a map or other diagram delineating the boundaries of a golf cart community or roads upon which golf carts may be operated and a resolution authorizing such roadways or communities for golf cart use to be presented to the City Commission for approval.

(e) Equipment and minimum standards. All golf carts operated within golf cart communities or approved roadways shall meet the minimum equipment standards established by Florida Statutes. Golf carts that are operated between the hours of sunset and sunrise, if permitted by the approving resolution, shall have additional equipment requirements, and at a minimum, must have headlights, brake lights, turn signals, a windshield, and reflective devices on the sides of the golf cart that could include reflective tape.

(f) Hours of operation. Golf carts meeting the minimum equipment standards established in subsection (e) above for operation between the hours between sunset and sunrise, shall only be operated between the hours of 5:00 a.m. and 10:00 p.m., if permitted by the approving resolution. Golf carts that do not meet the minimum equipment standards for operation between sunset and sunrise shall only be permitted to operate during the hours between sunrise and sunset.

(g) Unlicensed drivers. It shall be unlawful for an unlicensed driver, defined as a driver who does not hold and possess a valid state-issued driver's license, to operate a golf cart upon city streets unless such driver complies with the following requirements:

(1) Must be eighteen (18) years of age or older;

(2) Must complete a city-approved safety course in the operation of golf carts on public roads. Proof of completion of such course shall be carried at all times by an unlicensed driver when such driver is operating a golf cart on city streets.

(h) Compliance with traffic laws. Golf carts shall comply with all applicable local and state traffic laws, and may be ticketed for traffic violations in the same manner as motor vehicles.

(i) Regulations. Regardless of whether a particular community is designated as a golf cart community or a roadway is approved for use by golf carts, golf carts shall be subject to the following restrictions at all times:

(1) Unless otherwise expressly authorized pursuant to general law or the enabling resolution, no golf cart shall be operated upon a road with a posted speed limit in excess of twenty-five (25) miles per hour.

(2) A golf cart being operated upon a road with a posted speed limit of twenty-five (25) miles per hour or less may, for the sole purpose of continuing travel along such road, be operated across an intersecting street with a posted speed limit in excess of twenty-five (25) miles per hour but not to exceed thirty-five (35) miles per hour, provided that such intersection is governed by a 4-way stop sign or traffic signal.

(3) No golf carts shall be operated upon those roads that the city has identified as arterial or collector roads unless otherwise authorized by the enabling resolution.

(4) A golf cart shall not be operated upon a state highway unless otherwise authorized pursuant to § 316.212(2), Fla. Stat., or any other applicable state statute.

(j) Enforcement. The city shall have the authority to enforce the provisions set forth herein and applicable traffic laws, provided however, that the enforcement of rules and regulations created and established by community associations shall be the sole responsibility of each community.

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

SECTION 4: Control: In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance controls.

SECTION 5: 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 6: Effective Date: This Ordinance shall become effective upon adoption at its second reading.

FIRST READING: _____, 2009.

SECOND READING AND PUBLIC HEARING: _____, 2009.

ADOPTED this _____ day of _____, 2009, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ORDINANCE NO. 09 -54

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 74 OF THE WINTER GARDEN CITY CODE, AND TO CREATE A NEW ARTICLE V, ENTITLED "THE CITY OF WINTER GARDEN TRAFFIC LIGHT SAFETY ACT", INCLUDING NEW SECTIONS 74-200 THROUGH 74-214; PROVIDING FOR INTENT AND DEFINITIONS; ESTABLISHING A RED LIGHT ENFORCEMENT PROGRAM WITHIN THE CITY; AUTHORIZING THE CITY TO PERMIT AND IMPLEMENT THE USE OF UNMANNED CAMERAS/MONITORING DEVICES FOR RED LIGHT VIOLATIONS; PROVIDING ENFORCEMENT PROCEDURES UNDER THE AUTHORITY OF A HEARING OFFICER, INCLUDING NOTICE OF HEARINGS BEFORE THE A CODE ENFORCEMENT HEARING OFFICER, PENALTIES, IMPOSITION OF ADMINISTRATIVE CHARGES INCLUDING ATTORNEYS' FEES, COLLECTION, AND APPEALS; PROVIDING FOR EXCEPTIONS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Winter Garden ("City") is located in a high density traffic area and regularly experiences traffic incidents related to the failure of motorists to obey duly erected traffic control devices, exposing its citizens to the dangers of personal injury and property damage; and

WHEREAS, the use of unmanned cameras to enforce toll violation on the state's toll roads has been determined to be fair, reasonable and sufficient by the State of Florida in order to effectively enforce laws regulating the payment of tolls without the need to commit the extreme amount of personnel that would be necessary without the use of unmanned cameras; and

WHEREAS, similarly, the use of unmanned cameras is hereby determined to be effective in increasing compliance of drivers with red light operation; and

WHEREAS, the City has limited law enforcement resources that cannot all be allocated to monitoring red light compliance, and City police personnel must also be available to respond to other, and sometimes more, significant incidents as well as serious crime; and

WHEREAS, local governments in different parts of the state and country have demonstrated the enhancement of vehicular and pedestrian traffic safety attributable to the integration of automated image capture technologies with traditional traffic law enforcement methodology; and

WHEREAS, § 316.008, Florida Statutes, grants municipalities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of police power, authority to regulate and monitor traffic by means of police officers and security devices; and

WHEREAS, § 316.008(1)(w), Fla. Stat., expressly does not preclude the City from Regulating, restricting, or monitoring traffic by security devices or personnel on public streets and highways, whether by public or private parties and providing for the construction and maintenance of such streets and highways; and

WHEREAS, the City has home rule authority pursuant to Article VII, Section 2 of the Florida Constitution and Chapter 166, Florida Statutes, and express authority pursuant to § 162.03(2), Fla. Stat., to enact an ordinance making the failure to stop for red lights a violation of the City's Code of Ordinances, and to provide for enforcement of such violations of the City's Code of Ordinances through the use of a Code Enforcement Hearing Officer; and

WHEREAS, the City finds it to be fair and reasonable to use similar procedures used by the state to enforce toll violations through unmanned cameras, and to provide alleged violators with the opportunity to have a hearing within the City using a Municipal Code Enforcement Hearing Officer; and

WHEREAS, the City finds that implementation of the enforcement program as set forth herein will promote, protect and improve the health, safety and welfare of its citizens, consistent with the authority of and limitations on the City pursuant to the Florida Constitution and Florida Statutes.

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

SECTION I. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are incorporated herein as part of this Ordinance upon adoption.

SECTION II. Adoption. A new Article V shall be added to Chapter 74 of the Code of Ordinances of the City of Winter Garden, entitled, “The City of Winter Garden Traffic Light Safety Article,” and shall read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

Article V. The City of Winter Garden Traffic Light Safety Act

Sec. 74-200. Intent.

The purpose of this Article is to authorize the use of image capture technologies, including unmanned cameras/monitoring systems, (“Red Light Cameras”) to promote compliance with Red Light Signal directives as established in this Article and to adopt a civil enforcement system for Red Light Violations. This Article will supplement the efforts of law enforcement personnel in the enforcement against Red Light Violations and shall not prohibit law enforcement officers from issuing citations for Red Light Violations in accordance with ordinary statutory traffic enforcement procedures.

Sec. 74-201. Use of Image Capture Technologies.

The City may utilize Red Light Cameras as a supplemental means of monitoring compliance with laws related to Traffic Control Signals, while assisting law enforcement personnel in the enforcement of such laws, which are designed to protect and improve public health, safety and welfare. This Article shall not supersede, infringe, curtail or impinge upon state laws related to Red Light Violations or conflict with such laws. The City may utilize Red Light Cameras as an ancillary deterrent to Red Light Violations and to assist in reducing accidents and injuries associated with such violations. Notices of Violations issued pursuant to this Article shall be addressed using the City’s Code Enforcement authority and the procedures set forth herein, and not uniform traffic citations or county courts.

Sec. 74-202. Definitions.

The following definitions shall apply to this Article.

- (a) Intersection means the area within the prolongation or connection of the lateral curb line; or, if none, then the lateral boundary lines of the roadways of two roads which join or intersect one another at, or approximately at, right angles; or the area within which vehicles traveling upon different roads joining at any other angle may come in conflict.
- (b) Motor Vehicle means any self-propelled vehicle not operated upon rails or a guideway, but not including any bicycle, motorized scooter, electric personal assisted mobility device, or moped.
- (c) Notice of Violation means a citation issued for a Red Light Violation. Notices of Violation shall be sent via both First Class and Certified U.S. Mail.
- (d) Owner(s) or Vehicle Owner(s) means the person or entity identified by the Florida Department of Highway Safety and Motor Vehicles, or other State vehicle registration office, as the registered Owner(s) of a Motor Vehicle. Such term shall also mean a lessee of a Motor Vehicle pursuant to a lease of six months or more. In the event that there is more than one Owner of an offending vehicle, Notices of Violation shall be sent individually to each Owner of such Motor Vehicle.
- (e) Recorded Images shall mean images recorded by a Traffic Control Signal Monitoring System/Device:
 - 1. On:
 - Two or more photographs, or
 - Two or more electronic images; or
 - Two or more digital images, or
 - Digital or Video movies; or
 - Any other medium that can display a violation; and

2. Showing the rear of a Motor Vehicle and on at least one image, clearly identifying the license plate number of the vehicle.
- (f) Red Light Violation shall mean any violation of the requirements of Section 74-203 hereof.
- (g) Hearing Officer means a Special Magistrate appointed by the City for the express purpose of presiding over the matters described in this Article. Hearing Officers must be members in good standing of The Florida Bar and shall have completed a 40-hour education and training program which has been approved by the Florida Supreme Court. Thereafter, Hearing Officers shall complete an approved 4-hour continuing education program annually.
- (h) Traffic Control Signal means a device exhibiting different colored lights or colored lighted arrows, successively, one at a time, or in combination, using only the colors green, yellow, and red, which direct the flow of traffic through an Intersection and apply to drivers of Motor Vehicles as provided in Florida Statutes § 316.075.
- (i) Traffic Control Signal Monitoring System/Device means an electronic system consisting of one or more vehicle sensors, working in conjunction with a Traffic Control Signal, still cameras and/or a video recording device, to capture and produce recorded images of Motor Vehicles entering an Intersection against a steady red light signal indication.

Sec. 74-203. Adherence to Red Light Traffic Control Signals.

Motor Vehicles and Motor Vehicle traffic facing or approaching a Traffic Control Signal displaying a steady red light indication shall stop before entering the crosswalk on the near side of an Intersection or, if none, then before entering the Intersection, and such traffic shall remain stopped until a green indication is emitted by the Traffic Control Signal for such Motor Vehicle or Motor Vehicle traffic; however, the driver of a vehicle that is stopped at a clearly marked stop line, or if none, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the Intersection roadway before entering the Intersection during the display of a steady red light indication, may make a right turn (unless such turn is otherwise prohibited by posted sign or other traffic control device) but shall yield right-of-way to pedestrians and other traffic proceeding as directed by the Traffic Control Signal at the Intersection.

Sec. 74-204. Violation.

A violation of this Article, known as a Red Light Violation, shall occur when a vehicle does not comply with the requirements of § 74-203. Violations shall be enforced as set forth herein.

Sec. 74-205. One-month notice; introductory period.

For the first 30 days after the installation and implementation of a red light camera detection system at a particular intersection, unless the driver of a Motor Vehicle received a citation from a police officer at the time of a Red Light Violation in accordance with ordinary traffic enforcement procedures, the Vehicle Owner committing a violation at such intersection shall receive a courtesy notice of the violation. Commencing 30 days after the date of installation and implementation of a red light camera detection system at an intersection, the Owners of Motor Vehicles which are shown to be Motor Vehicles that are the subject of a Red Light Violation at such intersection shall be subject to the enforcement provisions as provided herein, provided that the Owners of any such Motor Vehicles did not receive a citation from a police officer in accordance with ordinary traffic enforcement procedures at the time the Red Light Violation occurred.

Sec. 74-206. Review of Recorded Images.

- (a) The Owner(s) of the Motor Vehicle depicted in Recorded Images capturing the occurrence of a Red Light Violation shall be issued a Notice of Violation. Such Recorded Images shall be sufficient grounds for the issuance of a Notice of Violation.
- (b) The City shall designate one or more traffic control violation review officers (“Review Officers”), who shall meet the qualifications set forth in §316.640(5)(a), Florida Statutes, or any other relevant statute. A Review Officer shall review the Recorded Images prior to the issuance of a Notice of Violation to ensure the accuracy and authenticity of the Recorded Images. The Traffic Control Violation Officer shall also verify that the Traffic Control Monitoring System(s)/Device(s) that captured the Recorded Images was/were functioning properly at the time the Recorded Images were captured. Once the Review Officer has verified the accuracy of the Recorded Images and functionality of the Traffic Control Monitoring System/Devices, a Notice of Violation shall be sent to the Owner of the Motor Vehicle at the address on record with the Florida Department of Highway Safety and Motor Vehicles, or for Motor Vehicles registered out of state, to the address on record

with the analogous out of state motor vehicle registration agency.

Sec. 74-207. Notice of Violation.

The Notice of Violation shall include:

- (a) The name and address of the Owner of the Motor Vehicle;
- (b) The license plate number and registration number of the Motor Vehicle;
- (c) The make, model, and year of the Motor Vehicle;
- (d) Notice that the violation is being issued pursuant to this Article;
- (e) The location of the Intersection where the violation occurred;
- (f) The date and time of the Red Light Violation;
- (g) Notice that the Recorded Images depict the vehicle and a statement that the recorded images are evidence of a Red Light Violation;
- (h) The civil penalty imposed;
- (i) Images depicting the violation;
- (j) The procedures for payment of the civil penalty and contesting the Notice of Violation;
- (k) Verification by the Review Officer that, based on inspection of Recorded Images, the vehicle was involved in a Red Light Violation;
- (l) Information advising the person alleged to be liable under this Section as to the manner and time in which liability as alleged in the Notice of Violation may be challenged and appealed and warning that failure to pay the civil penalty or to contest liability in a timely manner shall constitute an admission of liability under this Article.

Sec. 74-208. Vehicle Owner Responsibilities.

An Owner of a Motor Vehicle receiving a Notice of Violation may, within thirty (30) days of the date of the Notice of Violation:

- (a) Pay the assessed civil penalty pursuant to instructions on the Notice of Violation;
or
- (b) Request a hearing pursuant to the procedures outlined in this Article.

Failure to comply with the provisions of this Section within thirty (30) days from the date of the Notice of Violation shall constitute a waiver of the right to contest the Notice of Violation and an admission of liability. All Notices of Violation must be sent via both U.S. First Class Mail and U.S. Certified Mail.

Sec. 74-209. Appeal to Hearing Officer.

Any Owner who wishes to challenge a Notice of Violation issued against such Owner shall file a Notice of Appeal with the city, which should include a notarized statement explaining the grounds for Appeal and any supporting information, documentation, evidence, or other matters the Owner desires to present for the city's consideration. If the Notice of Violation is not dismissed by the City upon such grounds and matters submitted by the Owner, the City shall schedule a hearing before a Hearing Officer within sixty (60) days of the date of the Notice of Appeal. A Notice of Hearing shall be provided to the Owner no less than ten (10) days prior to such hearing, and shall be delivered via certified U.S. Mail to the same address to which the Notice of Violation was sent.

- (a) The following shall be permissible grounds for appeal to a Hearing Officer:
 - (i) At the time of the violation, the Motor Vehicle was not under the care, custody, or control of the Owner of the Vehicle or an individual with the Owner's consent, as established pursuant to affidavit attesting to such as provided in § 74-210;
 - (ii) The Motor Vehicle driver was issued a citation by a law enforcement officer for violating the steady red Traffic Control Signal, which was separate and distinct from the Notice of Violation issued under this Article;

- (iii) The Motor Vehicle driver was required to violate the steady red Traffic Control Signal to comply with other governing laws;
 - (iv) The Motor Vehicle driver was required to violate the steady red Traffic Control Signal as a reasonable measure to avoid damaging or endangering the property or life of him/herself or another;
 - (v) The steady red Traffic Control Signal was inoperable or malfunctioning;
 - (vi) The Traffic Control Monitoring System/Device that captured the Red Light Violation malfunctioned; or
 - (vii) Any other good cause the Hearing Officer deems appropriate.
- (c) The Review Officer shall testify at the hearing. The Owner of the Motor Vehicle, or his or her representative, may also present testimony and evidence.
 - (d) Recorded Images indicating a Red Light Violation, verified by the Review Officer, are admissible in any proceeding before the Hearing Officer to enforce the provisions of this Article, and shall constitute prima facie evidence of the violation.
 - (e) Unless an affidavit is provided pursuant to § 74-210, it is presumed that the person registered as the Owner of the subject vehicle with the Florida Department of Motor Vehicles or any other state vehicle registration office, or an individual having the Owner's consent, was operating the Motor Vehicle at the time of a Red Light Violation.
 - (f) Where there is more than one Owner of the Motor Vehicle, each such Owner shall be responsible for his/her/its defense, and, after hearing, the Hearing Officer may find that one or more of the Owners of the Motor Vehicle are not liable under the circumstances. Where more than one Owner of the vehicle is determined to be liable for the violation, such Owners shall be held jointly and severally responsible for such Red Light Violation; however, only one penalty per violation shall be imposed.
 - (g) Should the Owner(s) of the Motor Vehicle disagree with the final decision of the Hearing Officer, such Owner(s) may appeal such decision in the same manner as one may appeal a decision of the City's Code Enforcement Board in accordance with the procedures provided in § 2-70 of this Code.
 - (h) Formal rules of evidence shall not apply at the hearing on the Appeal and any relevant evidence may be admitted. Hearsay evidence may be admitted, but shall not form the sole basis upon which the Hearing Officer's decision is made. Irrelevant and unduly repetitious evidence may be excluded. The hearing shall be conducted in a manner to ensure that procedural and substantive due process is afforded the Owner.

Sec. 74-210. Vehicle Owner Affidavit of Non-responsibility.

In order for the Owner of a Motor Vehicle to establish that the Motor Vehicle was, at the time of the Red Light Violation, in the care, custody, or control of another person without the consent of the registered Owner, the Owner of the vehicle is required to complete an affidavit setting forth the circumstances demonstrating that the Motor Vehicle was not in the Owner's care, custody or control, or that of a person with such Owner's consent. The affidavit must be executed in the presence of a notary, and include:

- (a) If known to the Owner, the name, address, and the driver license number of the person who leased, rented or otherwise had care, custody, or control of the Motor Vehicle at the time of the alleged Red Light Violation; or
- (b) If the vehicle was stolen, the police report indicating the Motor Vehicle was stolen at the time of the alleged Red Light Violation.
- (c) The following language immediately above the signature line: "Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true."

The Owner of the subject vehicle may present an affidavit pursuant to this section as a defense in any proceeding before the Hearing Officer. In the event that there is more than one Owner of a Motor Vehicle, each Owner shall be permitted to submit an affidavit in his, her, or others' defense in accordance with this Section.

Sec. 74-211. Penalties.

A violation of this Article shall be deemed a non-criminal, non-moving violation for which a civil penalty in the amount of \$125.00 shall be assessed for the first two (2) violations, and a civil fine in the amount of \$250.00 shall be assessed for the third and any subsequent violation by the owner in any three (3) year period. Because the

violation relates to this Article and not the State Statutes, no points as provided in § 322.27, Florida Statutes, shall be recorded on the driving record of the Motor Vehicle Owner or responsible party, nor shall such violations be used as any basis for determining or otherwise calculating insurance rates. In the event that there is more than one Owner of a subject Motor Vehicle, only one civil penalty per violation shall be permitted; however, each Owner determined to be liable for the violation by the Hearing Officer shall be jointly and severally liable for such penalty.

Sec. 74-212. Administrative Charges.

In addition to the assessment pursuant to § 74-211 herein, administrative charges in the amount of the City's actual costs, including attorney's fees and costs, shall be assessed against an Owner(s) requesting a hearing in the event that such Owner(s) is determined to be liable for a Red Light Violation. .

Sec. 74-213. Collection of Fines.

The City may establish procedures for the collection of a penalty imposed herein, and may enforce such penalty by civil action in the nature of debt in accordance with general law. If an Owner(s) fails to pay a civil penalty assessed, the City may initiate such collection efforts against such Owner(s), who shall then be liable for the City's expenses incurred as a result of such collection efforts, including attorneys' fees and costs.

Sec. 74-214. Exceptions.

This Article shall not apply to Red Light Violations involving Motor Vehicle collisions or to any authorized emergency vehicle responding to a bona fide emergency; nor shall a Notice of Violation be issued in any case where the operator of the Motor Vehicle was issued a citation for violating state statutes regarding the failure to stop at a red light indication.

SECTION III. **INCONSISTENCY.** If any Ordinances or parts of Ordinances are in conflict herewith, this Ordinance shall control to the extent of such conflict.

SECTION IV. **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 V. **CODIFICATION.** That Section II of this Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances; and that such Section may be renumbered or relettered to accomplish such intention (i.e., the word "*Ordinance*" may be changed to "*Section*", "*Article*", or other appropriate word).

SECTION VI. This Ordinance shall become effective upon adoption at its second reading.

FIRST READING: _____, 2009.

SECOND READING AND PUBLIC HEARING _____, 2009.

APPROVED:

John Rees, Mayor/Commissioner

ATTEST:

Kathy Golden, City Clerk

ORDINANCE 09-39

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.46 ± ACRES LOCATED AT 364 NORTH WEST CROWN POINT ROAD, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owners of the land generally described as 0.46 ± acres located at 364 North West Crown Point Road and legally described in Section 2 of this Ordinance, which land is contiguous to the corporate limits of the City of Winter Garden, Florida, have pursuant to the prerequisites and standards as set forth in Chapter 171, F.S., petitioned the City Commission of the City of Winter Garden for voluntary annexation;

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

SECTION 1: That the City Commission through its Planning and Zoning Board has conducted an investigation to determine whether the described property meets the prerequisites and standards set forth in Chapter 171, F.S. and has held a public hearing on said petition and made certain findings.

SECTION 2: That, after said public hearing and having found such petition meets said prerequisites and standards, the property legally defined in ATTACHMENT "A" and graphically shown on the attached map shall be annexed into the City of Winter Garden, Florida, and

SECTION 3: That the City of Winter Garden, Florida, shall have all of the power, authority, and jurisdiction over and within the land as described in Section 2 hereof, and of the inhabitants thereof, and property therein, as it does and have over its present corporate limits and all laws, ordinances, and resolutions of said City shall apply and shall have equal force and effect as if all the territory had been part of said City at the time of the passage of such laws, ordinances, and resolutions.

SECTION 4: The area annexed to the City shall be subject to the taxes and debts of the City upon the effective date of the annexation. However, the annexed area shall not be subject to municipal ad valorem taxation for the current year if the effective date of the annexation falls after the City levies such tax.

SECTION 5: Should any portion of this Ordinance be held invalid, then such portions as are not declared invalid shall remain in full force and effect.

SECTION 6: This Ordinance shall become effective upon adoption at its second reading.

READ FIRST TIME AND PUBLIC HEARING HELD: _____, 2009.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2009.

APPROVED:

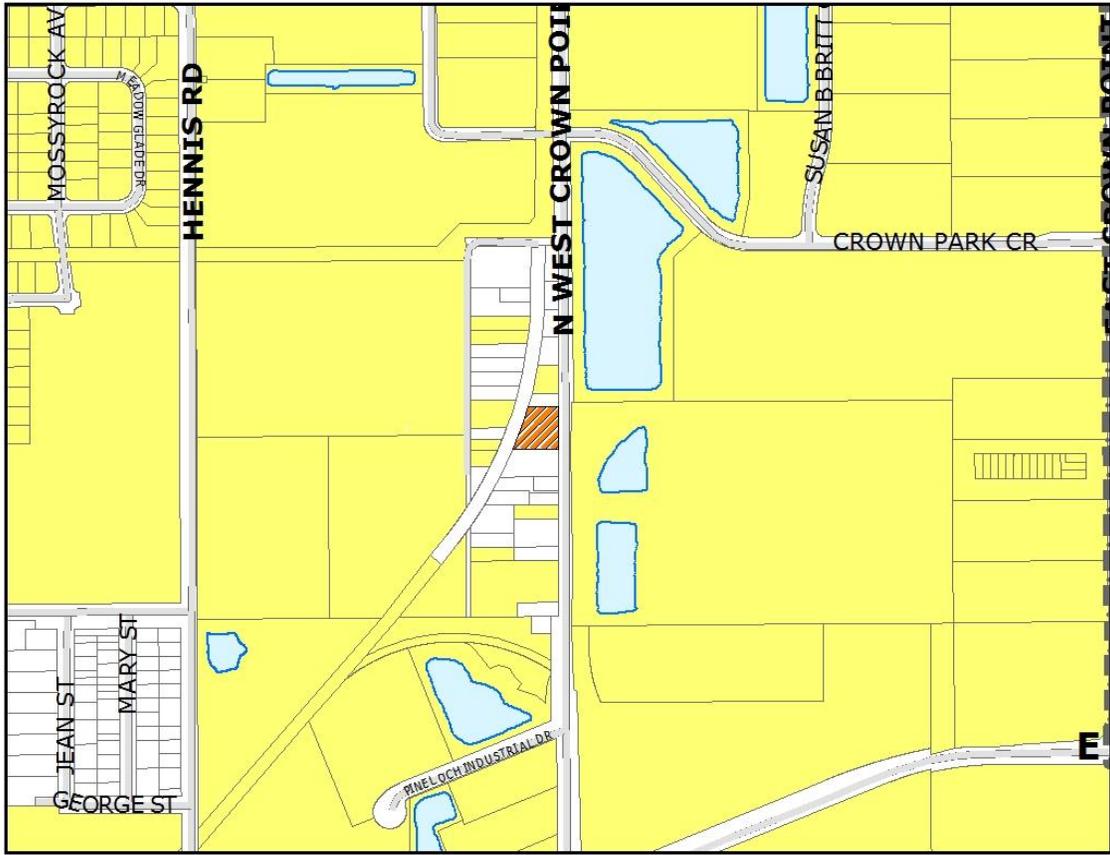
ATTEST:

JOHN REES, Mayor/Commissioner

KATHY GOLDEN, City Clerk

Attachment "A"

Map



ORDINANCE 09-40

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY LOW DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL FOR PROPERTY GENERALLY DESCRIBED AS 0.46 ± ACRES LOCATED AT 364 NORTH WEST CROWN POINT ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on the 13 of June, 1991, the City Commission of the City of Winter Garden adopted Ordinance 91-16 which adopted a new Comprehensive Plan for the City of Winter Garden, and

WHEREAS, the owners of land generally described as approximately 0.46 ± acres located at 364 North West Crown Point Road have petitioned the City to amend the Future Land Use Map of the Comprehensive Plan by changing the designation of said property from "ORANGE COUNTY LOW DENSITY RESIDENTIAL" to "CITY LOW DENSITY RESIDENTIAL", and

WHEREAS, the City Commission has conducted the prerequisite advertised public hearings as per Chapter 163 regarding the adoption of this ordinance for a Small Scale Comprehensive Plan Amendment, and

WHEREAS, the aforesaid petition complies with the Florida Statutes as a Small Scale Comprehensive Plan Amendment,

THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN FLORIDA:

SECTION 1: The City of Winter Garden hereby amends The Future Land Use Map of the Comprehensive Plan with Exhibit "A".

SECTION 2: The City Planner is hereby authorized and directed to amend the Official Winter Garden Future Land Use Map in accordance with the provisions of this Ordinance.

SECTION 3: Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

SECTION 4: This Ordinance shall become effective upon the later of:

- (i) adoption at its second reading; and
 - (ii) the date the Department of Community affairs renders a letter identifying the Department will not conduct a compliance review or issue a Notice of Intent in accordance with procedures contained in Section 163.3187(3)(a), Florida Statutes,
- or
- (iii) when a final order issued by the Department of Community Affairs finding the amendment to be in compliance is accordance with Chapter 163.3184, F.S., or
 - (iv) the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S.

The Department's Notice of Intent to find an amendment in compliance is deemed a final order if no timely petition challenging the amendment is filed.

READ FIRST TIME AND PUBLIC HEARING: _____, 2009.

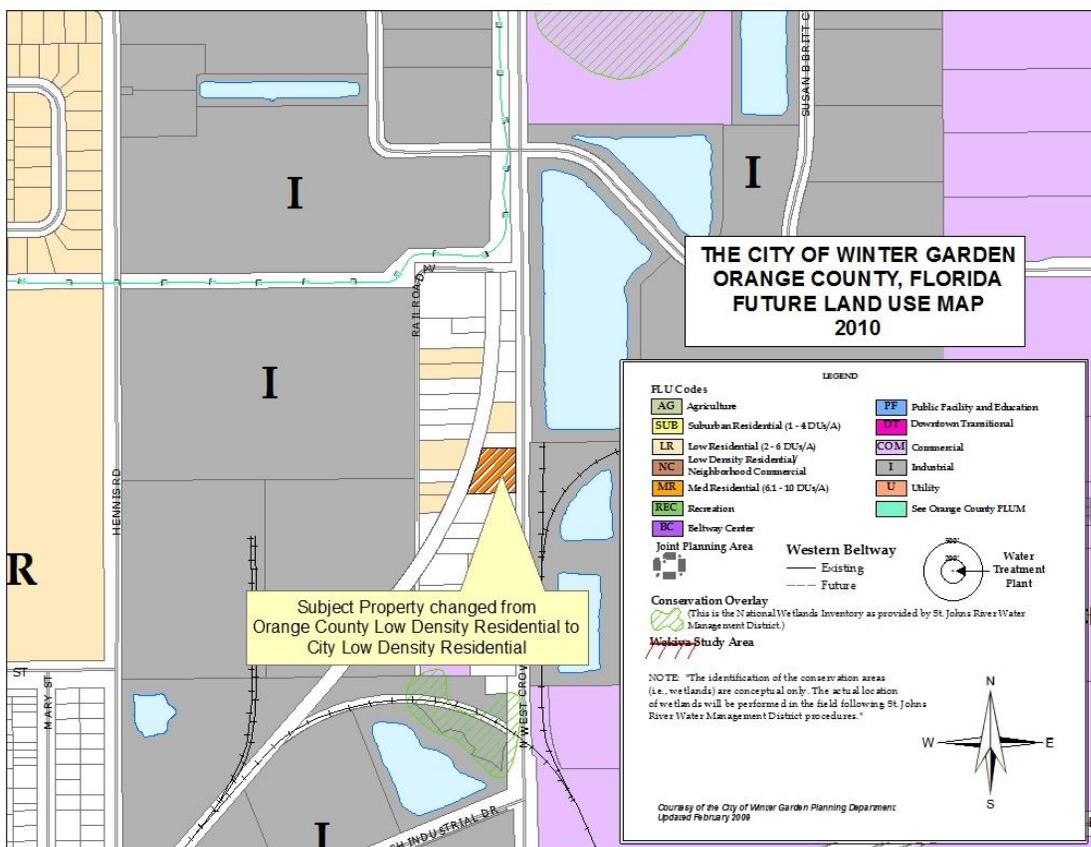
READ SECOND TIME AND PUBLIC HEARING: _____, 2009.

APPROVED:

JOHN REES, Mayor /Commissioner

ATTEST:

Exhibit "A"



ORDINANCE 09-41

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 0.46 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 364 NORTH WEST CROWN POINT ROAD FROM ORANGE COUNTY R-2 TO CITY R-1B; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owner of real property generally described as approximately 0.46 ± acres located at 364 North West Crown Point Road and legally described in Section 1 of this ordinance has petitioned the City to zone said property from Orange County R-2 to the City's R-1B zoning classification, therefore;

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

SECTION 1: After due notice and public hearing, the zoning classification of real property legally described on ATTACHMENT "A," is hereby rezoned from Orange County R-2 to City R-1B in the City of Winter Garden, Florida.

SECTION 2: The City Planner is hereby authorized and directed to amend the Official Winter Garden Zoning Map in accordance with the provisions of this ordinance.

SECTION 3: Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

SECTION 4: This Ordinance shall become effective upon the amendment of the City of Winter Garden Comprehensive Land Use Plan for the property described herein providing for a land use designation which allows the zoning that is to be established by this ordinance.

FIRST READING AND PUBLIC HEARING: _____ 2009.

SECOND READING AND PUBLIC HEARING: _____ 2009.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

Attachment "A"

ORDINANCE 09-42

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 2.95 ± ACRES LOCATED AT THE NORTHWEST CORNER OF EAST CROWN POINT ROAD AND CROWN POINT CROSS ROAD, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owners of the land generally described as 0.46 ± acres located at the northwest corner of East Crown Point Road and Crown Point Cross Road and legally described in Section 2 of this Ordinance, which land is contiguous to the corporate limits of the City of Winter Garden, Florida, have pursuant to the prerequisites and standards as set forth in Chapter 171, F.S., petitioned the City Commission of the City of Winter Garden for voluntary annexation;

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

SECTION 1: That the City Commission through its Planning and Zoning Board has conducted an investigation to determine whether the described property meets the prerequisites and standards set forth in Chapter 171, F.S. and has held a public hearing on said petition and made certain findings.

SECTION 2: That, after said public hearing and having found such petition meets said prerequisites and standards, the property legally defined in ATTACHMENT "A" and graphically shown on the attached map shall be annexed into the City of Winter Garden, Florida, and

SECTION 3: That the City of Winter Garden, Florida, shall have all of the power, authority, and jurisdiction over and within the land as described in Section 2 hereof, and of the inhabitants thereof, and property therein, as it does and have over its present corporate limits and all laws, ordinances, and resolutions of said City shall apply and shall have equal force and effect as if all the territory had been part of said City at the time of the passage of such laws, ordinances, and resolutions.

SECTION 4: The area annexed to the City shall be subject to the taxes and debts of the City upon the effective date of the annexation. However, the annexed area shall not be subject to municipal ad valorem taxation for the current year if the effective date of the annexation falls after the City levies such tax.

SECTION 5: Should any portion of this Ordinance be held invalid, then such portions as are not declared invalid shall remain in full force and effect.

SECTION 6: This Ordinance shall become effective upon adoption at its second reading.

READ FIRST TIME AND PUBLIC HEARING HELD: _____, 2009.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2009.

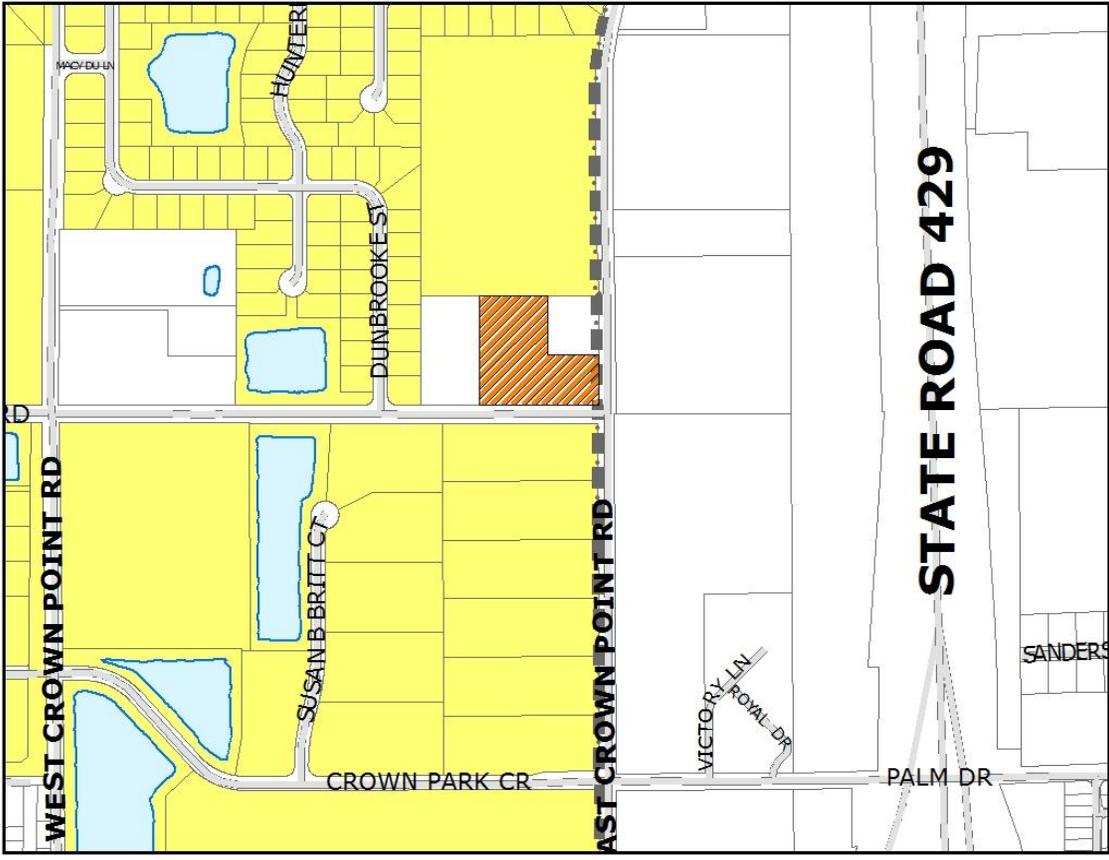
APPROVED:

ATTEST:

JOHN REES, Mayor/Commissioner

KATHY GOLDEN, City Clerk

Attachment "A"



ORDINANCE 09-43

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY LOW DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL FOR PROPERTY GENERALLY DESCRIBED AS 2.95 ± ACRES LOCATED AT THE NORTHWEST CORNER OF EAST CROWN POINT ROAD AND CROWN POINT CROSS ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on the 13 of June, 1991, the City Commission of the City of Winter Garden adopted Ordinance 91-16 which adopted a new Comprehensive Plan for the City of Winter Garden, and

WHEREAS, the owners of land generally described as approximately 2.95 ± acres located at the northwest corner of East Crown Point Road and Crown Point Cross Road have petitioned the City to amend the Future Land Use Map of the Comprehensive Plan by changing the designation of said property from "ORANGE COUNTY LOW DENSITY RESIDENTIAL" to "CITY LOW DENSITY RESIDENTIAL", and

WHEREAS, the City Commission has conducted the prerequisite advertised public hearings as per Chapter 163 regarding the adoption of this ordinance for a Small Scale Comprehensive Plan Amendment, and

WHEREAS, the aforesaid petition complies with the Florida Statutes as a Small Scale Comprehensive Plan Amendment,

THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN FLORIDA:

SECTION 1: The City of Winter Garden hereby amends The Future Land Use Map of the Comprehensive Plan with Exhibit "A".

SECTION 2: The City Planner is hereby authorized and directed to amend the Official Winter Garden Future Land Use Map in accordance with the provisions of this Ordinance.

SECTION 3: Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

SECTION 4: This Ordinance shall become effective upon the later of:

- (i) adoption at its second reading; and
- (iii) the date the Department of Community affairs renders a letter identifying the Department will not conduct a compliance review or issue a Notice of Intent in accordance with procedures contained in Section 163.3187(3)(a), Florida Statutes,
or
- (iii) when a final order issued by the Department of Community Affairs finding the amendment to be in compliance is accordance with Chapter 163.3184, F.S., or
- (iv) the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S.

The Department's Notice of Intent to find an amendment in compliance is deemed a final order if no timely petition challenging the amendment is filed.

READ FIRST TIME AND PUBLIC HEARING: _____, 2009.

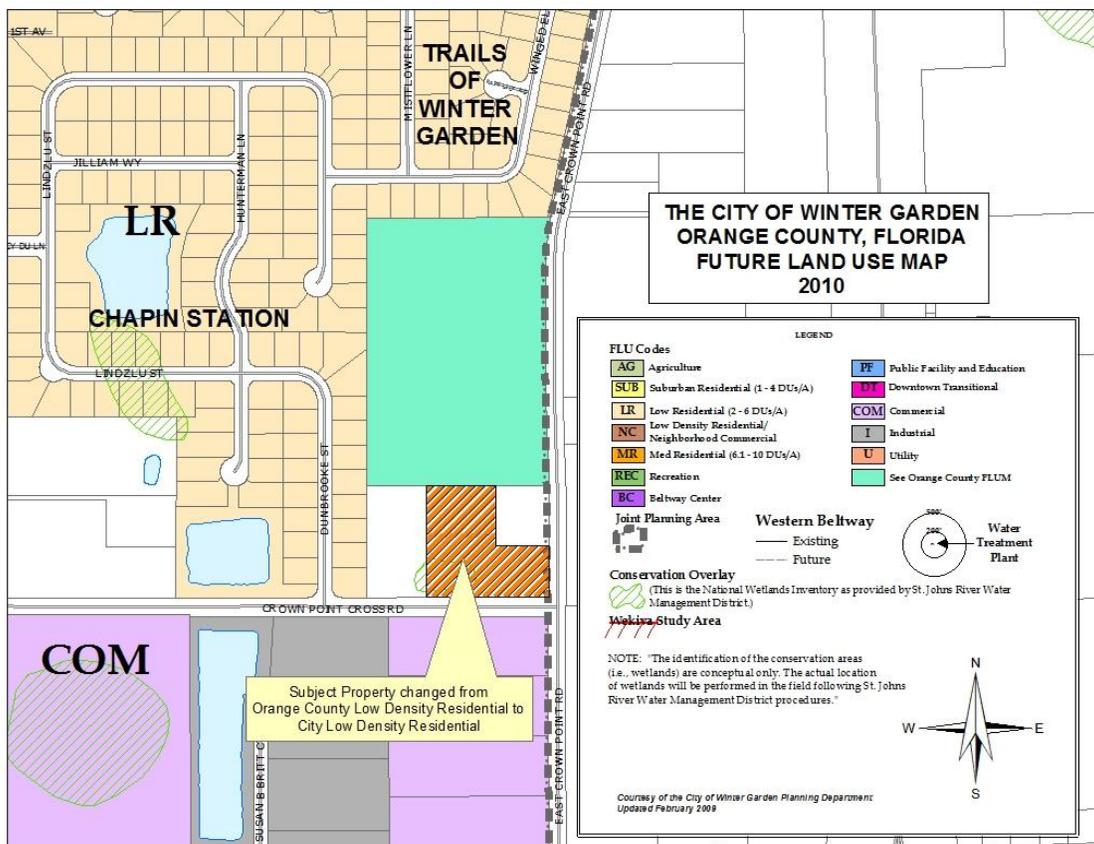
READ SECOND TIME AND PUBLIC HEARING: _____, 2009.

APPROVED:

ATTEST:

KATHY GOLDEN, City Clerk

Exhibit "A"



ORDINANCE 09-44

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 2.95 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT THE NORTHWEST CORNER OF EAST CROWN POINT ROAD AND CROWN POINT CROSS ROAD FROM ORANGE COUNTY A-1 TO CITY R-1; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owner of real property generally described as approximately 0.46 ± acres located at the northwest corner of East Crown Point Road and Crown Point Cross Road and legally described in Section 1 of this ordinance has petitioned the City to zone said property from Orange County A-1 to the City's R-1 zoning classification, therefore;

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

SECTION 1: After due notice and public hearing, the zoning classification of real property legally described on ATTACHMENT "A," is hereby rezoned from Orange County A-1 to City R-1 in the City of Winter Garden, Florida.

SECTION 2: The City Planner is hereby authorized and directed to amend the Official Winter Garden Zoning Map in accordance with the provisions of this ordinance.

SECTION 3: Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

SECTION 4: This Ordinance shall become effective upon the amendment of the City of Winter Garden Comprehensive Land Use Plan for the property described herein providing for a land use designation which allows the zoning that is to be established by this ordinance.

FIRST READING AND PUBLIC HEARING: _____ 2009.

SECOND READING AND PUBLIC HEARING: _____ 2009.

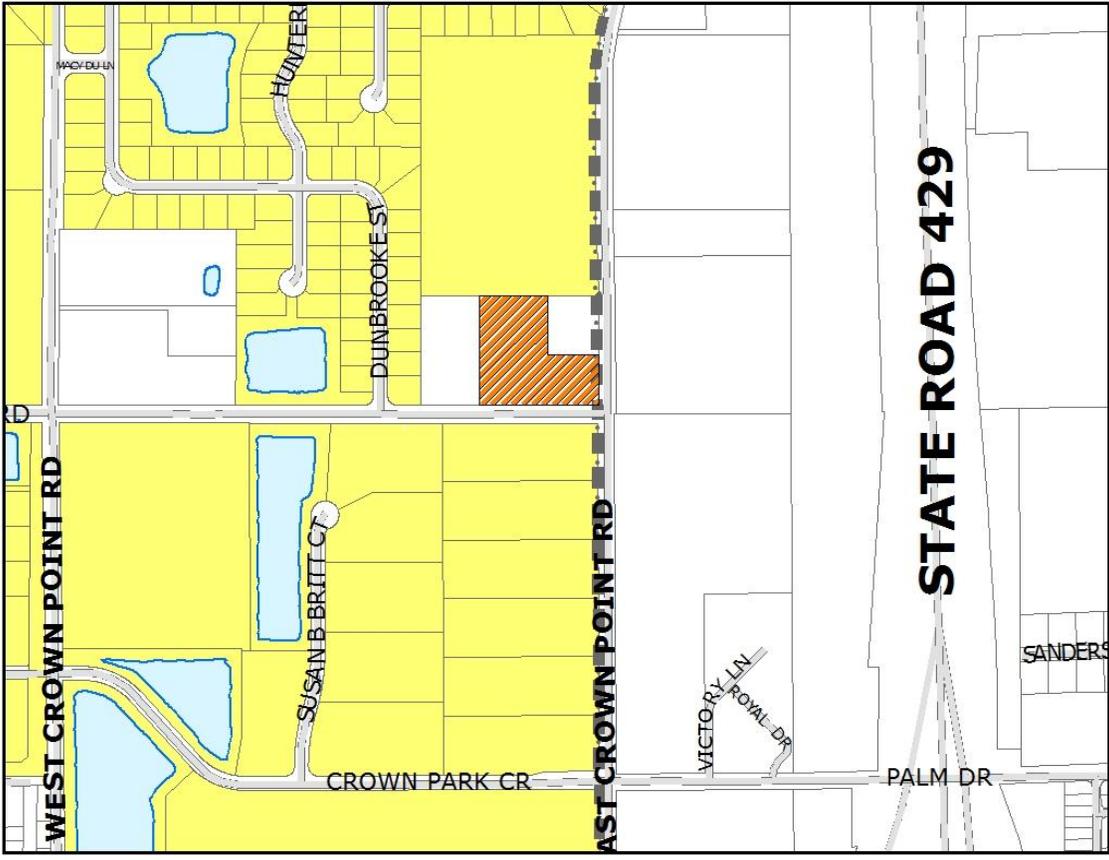
APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

Attachment "A"



ORDINANCE 09-45

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.54 ± ACRES LOCATED AT 946 AND 948 VINELAND ROAD, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owners of the land generally described as 0.54 ± acres located at 946 and 948 Vineland Road and legally described in Section 2 of this Ordinance, which land is contiguous to the corporate limits of the City of Winter Garden, Florida, have pursuant to the prerequisites and standards as set forth in Chapter 171, F.S., petitioned the City Commission of the City of Winter Garden for voluntary annexation;

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

SECTION 1: That the City Commission through its Planning and Zoning Board has conducted an investigation to determine whether the described property meets the prerequisites and standards set forth in Chapter 171, F.S. and has held a public hearing on said petition and made certain findings.

SECTION 2: That, after said public hearing and having found such petition meets said prerequisites and standards, the property legally defined in ATTACHMENT "A" and graphically shown on the attached map shall be annexed into the City of Winter Garden, Florida, and

SECTION 3: That the City of Winter Garden, Florida, shall have all of the power, authority, and jurisdiction over and within the land as described in Section 2 hereof, and of the inhabitants thereof, and property therein, as it does and have over its present corporate limits and all laws, ordinances, and resolutions of said City shall apply and shall have equal force and effect as if all the territory had been part of said City at the time of the passage of such laws, ordinances, and resolutions.

SECTION 4: The area annexed to the City shall be subject to the taxes and debts of the City upon the effective date of the annexation. However, the annexed area shall not be subject to municipal ad valorem taxation for the current year if the effective date of the annexation falls after the City levies such tax.

SECTION 5: Should any portion of this Ordinance be held invalid, then such portions as are not declared invalid shall remain in full force and effect.

SECTION 6: This Ordinance shall become effective upon adoption at its second reading.

READ FIRST TIME AND PUBLIC HEARING HELD: _____, 2009.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2009.

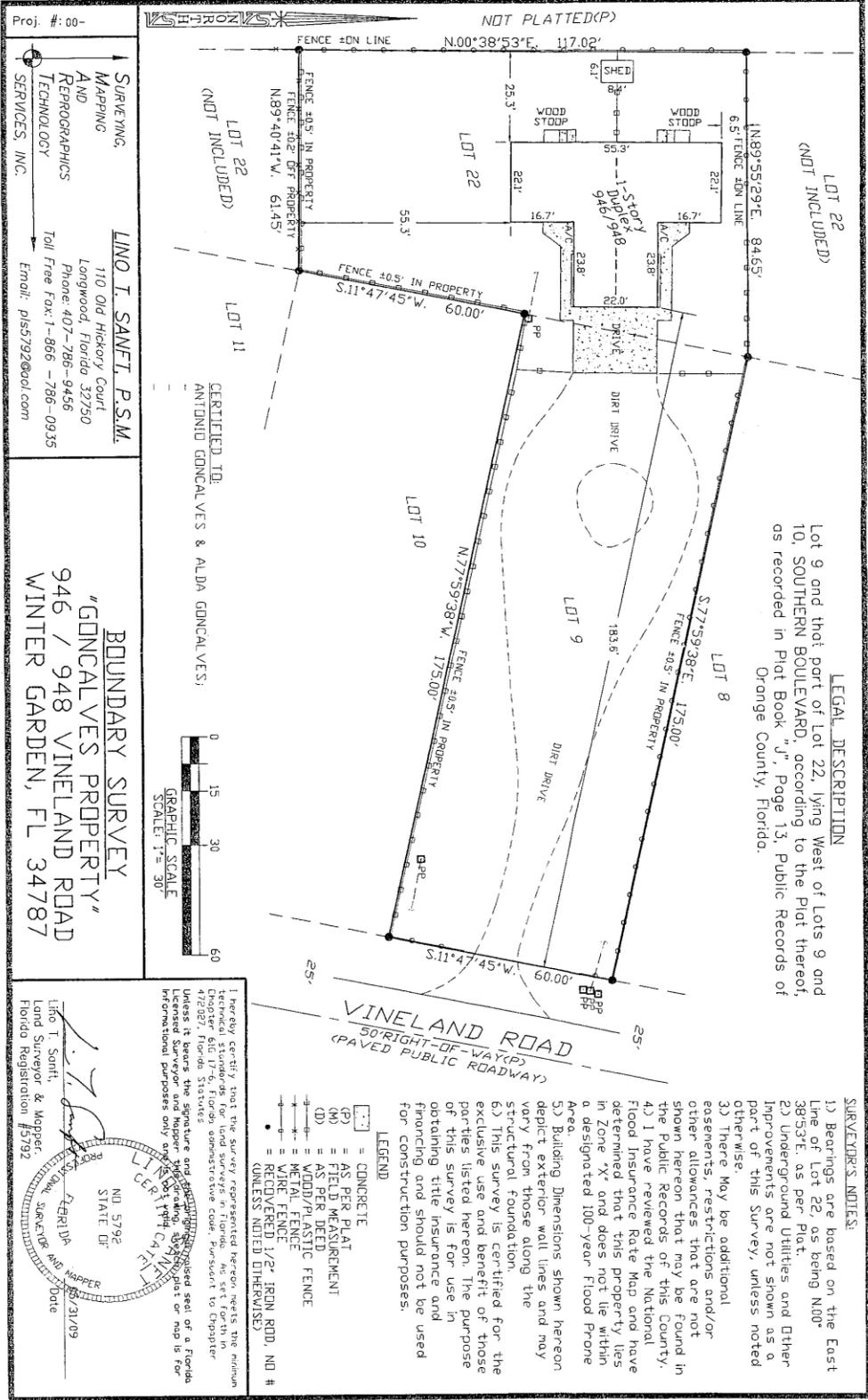
APPROVED:

ATTEST:

JOHN REES, Mayor/Commissioner

KATHY GOLDEN, City Clerk

Attachment "A"



LEGAL DESCRIPTION
 Lot 9 and that part of Lot 22, lying West of Lots 9 and 10, SOUTHERN BOULEVARD, according to the Plat thereof, as recorded in Plat Book "J", Page 13, Public Records of Orange County, Florida.



PROJ. #: 00-
 SURVEYING,
 MAPPING
 AND
 REPROGRAPHICS
 TECHNOLOGY
 SERVICES, INC.
 LINO T. SANFL, P.S.M.
 110 Old Hickory Court
 Longwood, Florida 32750
 Phone: 407-786-9456
 Toll Free Fax: 1-866-786-0935
 Email: pls792@aol.com

BOUNDARY SURVEY
 "GONCALVES PROPERTY"
 946 / 948 VINELAND ROAD
 WINTER GARDEN, FL 34787

SURVEYER'S NOTES:

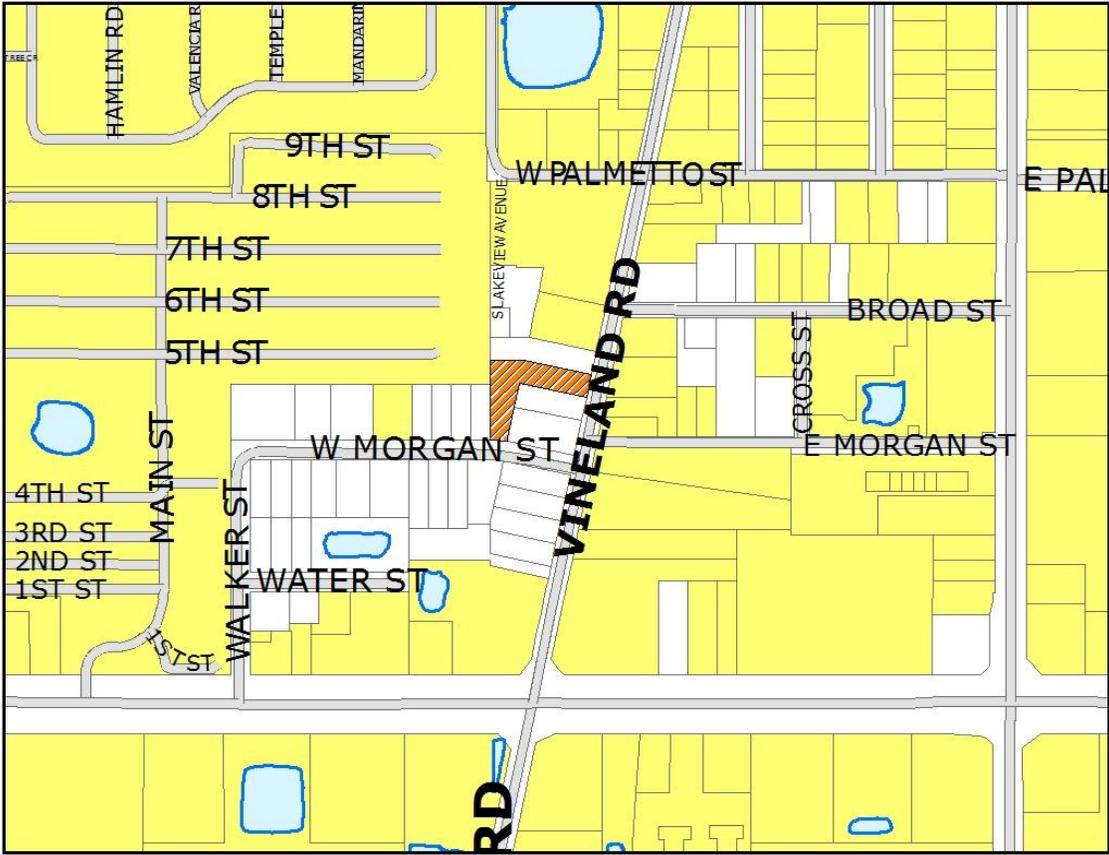
- 1) Bearings are based on the East Line of Lot 22, as being N100°38'53"E, as per Plat.
- 2) Underground Utilities and Other Improvements are not shown as a part of this Survey, unless noted otherwise.
- 3) There may be additional easements, restrictions and/or other allowances that are not shown hereon that may be found in the Public Records of this County.
- 4) I have reviewed the National Flood Insurance Rate Map and have determined that this property lies in Zone "X" and does not lie within a designated 100-year Flood Prone Area.
- 5) Building Dimensions shown hereon depict exterior wall lines and may vary from those along the structural foundation.
- 6) This survey is certified for the exclusive use and benefit of those parties listed hereon. The purpose of this survey is for use in obtaining title insurance and financing and should not be used for construction purposes.

LEGEND

- ▣ = CONCRETE
- (P) = AS PER PLAT
- (M) = FIELD MEASUREMENT
- (D) = AS PER DEED
- ▬ = WOOD/PLASTIC FENCE
- ▬ = METAL FENCE
- ▬ = WIRE FENCE
- = RECOVERED 1/2" IRON ROD, NO # (UNLESS NOTED OTHERWISE)

I hereby certify that the survey represented hereon meets the minimum technical standards for land surveys in Florida. As set forth in Chapter 61G, Florida Administrative Code, pursuant to Chapter 61G01, Florida Statutes, and the signature and seal of a Florida Licensed Surveyor and Mapper. My registration expires on 12/31/09. This map is for informational purposes only and does not constitute a deed or map for any other purpose.

LINO T. SANFL, P.S.M.
 STATE OF FLORIDA
 LAND SURVEYOR AND MAPPER
 REG. NO. 5792
 DATE 11/21/09



ORDINANCE 09-46

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY LOW MEDIUM DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL FOR PROPERTY GENERALLY DESCRIBED AS 0.54 ± ACRES LOCATED AT 946 AND 948 VINELAND ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on the 13 of June, 1991, the City Commission of the City of Winter Garden adopted Ordinance 91-16 which adopted a new Comprehensive Plan for the City of Winter Garden, and

WHEREAS, the owners of land generally described as approximately 0.54 ± acres located at 946 and 948 Vineland Road have petitioned the City to amend the Future Land Use Map of the Comprehensive Plan by changing the designation of said property from "ORANGE COUNTY LOW MEDIUM DENSITY RESIDENTIAL" to "CITY LOW DENSITY RESIDENTIAL", and

WHEREAS, the City Commission has conducted the prerequisite advertised public hearings as per Chapter 163 regarding the adoption of this ordinance for a Small Scale Comprehensive Plan Amendment, and

WHEREAS, the aforesaid petition complies with the Florida Statutes as a Small Scale Comprehensive Plan Amendment,

THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN FLORIDA:

SECTION 1: The City of Winter Garden hereby amends The Future Land Use Map of the Comprehensive Plan with Exhibit "A".

SECTION 2: The City Planner is hereby authorized and directed to amend the Official Winter Garden Future Land Use Map in accordance with the provisions of this Ordinance.

SECTION 3: Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

SECTION 4: This Ordinance shall become effective upon the later of:

- (i) adoption at its second reading; and
 - (iv) the date the Department of Community affairs renders a letter identifying the Department will not conduct a compliance review or issue a Notice of Intent in accordance with procedures contained in Section 163.3187(3)(a), Florida Statutes,
- or
- (iii) when a final order issued by the Department of Community Affairs finding the amendment to be in compliance is accordance with Chapter 163.3184, F.S., or
 - (iv) the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S.

The Department's Notice of Intent to find an amendment in compliance is deemed a final order if no timely petition challenging the amendment is filed.

READ FIRST TIME AND PUBLIC HEARING: _____, 2009.

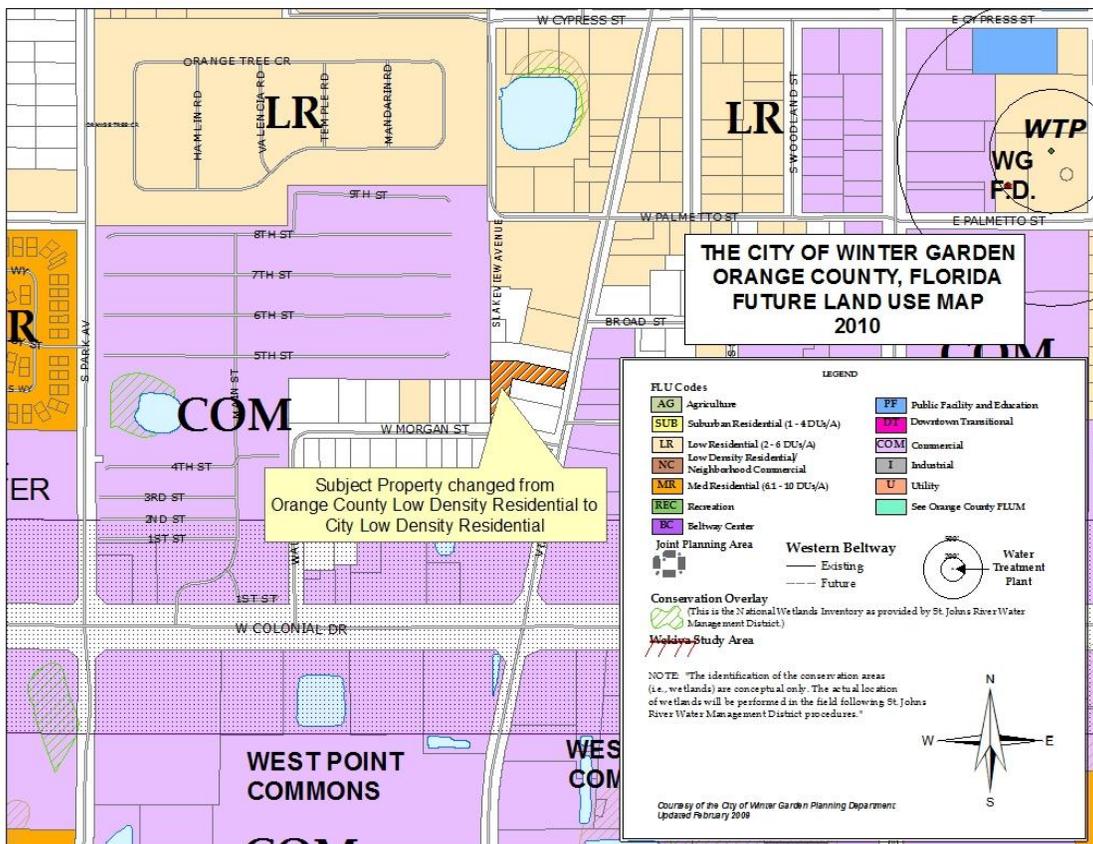
READ SECOND TIME AND PUBLIC HEARING: _____, 2009.

APPROVED:

ATTEST:

KATHY GOLDEN, City Clerk

Exhibit "A"



ORDINANCE 09-47

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 0.54 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 946 AND 948 VINELAND ROAD FROM ORANGE COUNTY R-2 TO CITY R-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owner of real property generally described as approximately 0.54 ± acres located at 946 and 948 Vineland Road and legally described in Section 1 of this ordinance has petitioned the City to zone said property from Orange County R-2 to the City's R-2 zoning classification, therefore;

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

SECTION 1: After due notice and public hearing, the zoning classification of real property legally described on ATTACHMENT "A," is hereby rezoned from Orange County R-2 to City R-2 in the City of Winter Garden, Florida.

SECTION 2: The City Planner is hereby authorized and directed to amend the Official Winter Garden Zoning Map in accordance with the provisions of this ordinance.

SECTION 3: Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

SECTION 4: This Ordinance shall become effective upon the amendment of the City of Winter Garden Comprehensive Land Use Plan for the property described herein providing for a land use designation which allows the zoning that is to be established by this ordinance.

FIRST READING AND PUBLIC HEARING: _____ 2009.

SECOND READING AND PUBLIC HEARING: _____ 2009.

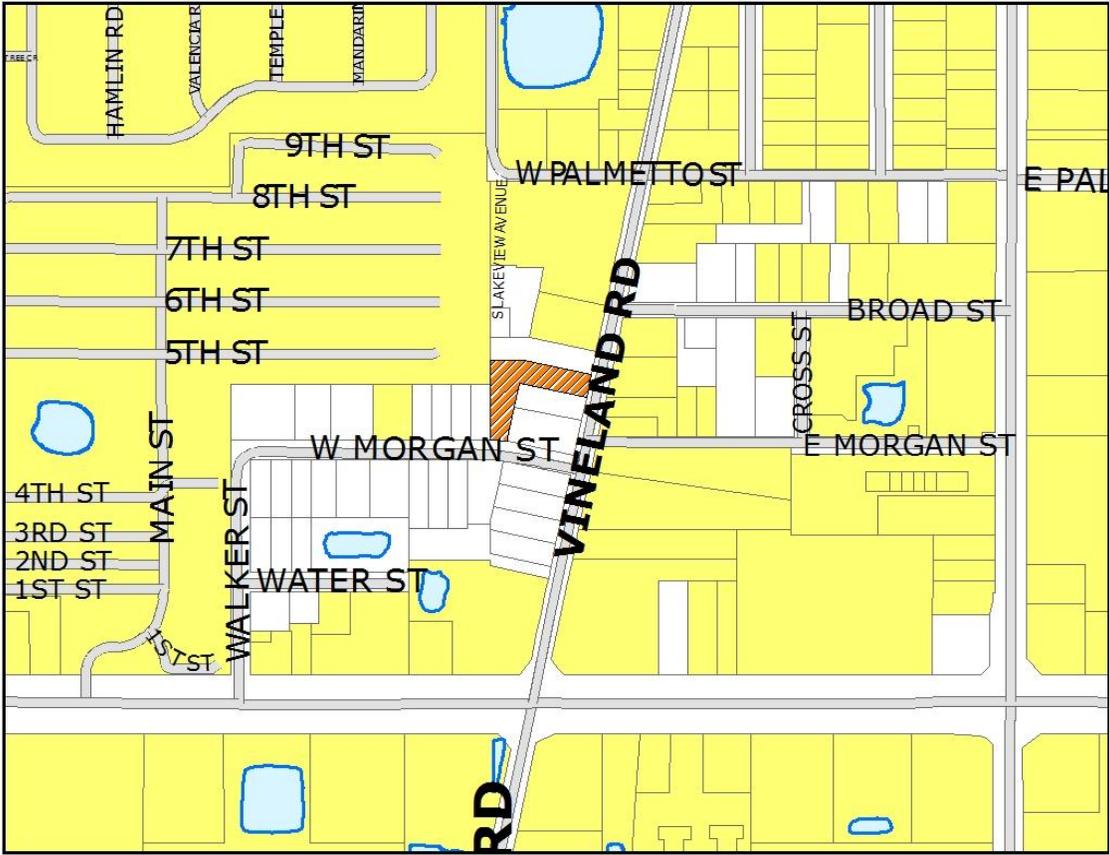
APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

Attachment "A"



ORDINANCE 09-36

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 1.96 ± ACRES LOCATED AT 1301 EAST BAY STREET AND 1360 EDGEWAY DRIVE, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owners of the land generally described as 1.96 ± acres located at 1301 East Bay Street and 1360 Edgeway Drive and legally described in Section 2 of this Ordinance, which land is contiguous to the corporate limits of the City of Winter Garden, Florida, have pursuant to the prerequisites and standards as set forth in Chapter 171, F.S., petitioned the City Commission of the City of Winter Garden for voluntary annexation;

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

SECTION 1: That the City Commission through its Planning and Zoning Board has conducted an investigation to determine whether the described property meets the prerequisites and standards set forth in Chapter 171, F.S. and has held a public hearing on said petition and made certain findings.

SECTION 2: That, after said public hearing and having found such petition meets said prerequisites and standards, the property legally defined in ATTACHMENT "A" and graphically shown on the attached map shall be annexed into the City of Winter Garden, Florida, and

SECTION 3: That the City of Winter Garden, Florida, shall have all of the power, authority, and jurisdiction over and within the land as described in Section 2 hereof, and of the inhabitants thereof, and property therein, as it does and have over its present corporate limits and all laws, ordinances, and resolutions of said City shall apply and shall have equal force and effect as if all the territory had been part of said City at the time of the passage of such laws, ordinances, and resolutions.

SECTION 4: The area annexed to the City shall be subject to the taxes and debts of the City upon the effective date of the annexation. However, the annexed area shall not be subject to municipal ad valorem taxation for the current year if the effective date of the annexation falls after the City levies such tax.

SECTION 5: Should any portion of this Ordinance be held invalid, then such portions as are not declared invalid shall remain in full force and effect.

SECTION 6: This Ordinance shall become effective upon adoption at its second reading.

READ FIRST TIME AND PUBLIC HEARING HELD: July 23, 2009.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2009.

APPROVED:

ATTEST:

JOHN REES, Mayor/Commissioner

KATHY GOLDEN, City Clerk

Attachment "A"

ORDINANCE 09-37

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY LOW DENSITY RESIDENTIAL TO CITY LOW DENSITY RESIDENTIAL FOR PROPERTY GENERALLY DESCRIBED AS 1.96 ± ACRES LOCATED AT 1301 EAST BAY STREET AND 1360 EDGEWAY DRIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on the 13 of June, 1991, the City Commission of the City of Winter Garden adopted Ordinance 91-16 which adopted a new Comprehensive Plan for the City of Winter Garden, and

WHEREAS, the owners of land generally described as approximately 1.96 ± acres located at 1301 East Bay Street and 1360 Edgeway Drive petitioned the City to amend the Future Land Use Map of the Comprehensive Plan by changing the designation of said property from "ORANGE COUNTY LOW DENSITY RESIDENTIAL" to "CITY LOW DENSITY RESIDENTIAL", and

WHEREAS, the City Commission has conducted the prerequisite advertised public hearings as per Chapter 163 regarding the adoption of this ordinance for a Small Scale Comprehensive Plan Amendment, and

WHEREAS, the aforesaid petition complies with the Florida Statutes as a Small Scale Comprehensive Plan Amendment,

THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN FLORIDA:

SECTION 1: The City of Winter Garden hereby amends The Future Land Use Map of the Comprehensive Plan with Exhibit "A".

SECTION 2: The City Planner is hereby authorized and directed to amend the Official Winter Garden Future Land Use Map in accordance with the provisions of this Ordinance.

SECTION 3: Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

SECTION 4: This Ordinance shall become effective upon the later of:

- (i) adoption at its second reading; and
 - (v) the date the Department of Community affairs renders a letter identifying the Department will not conduct a compliance review or issue a Notice of Intent in accordance with procedures contained in Section 163.3187(3)(a), Florida Statutes,
- or
- (iii) when a final order issued by the Department of Community Affairs finding the amendment to be in compliance is accordance with Chapter 163.3184, F.S., or
 - (iv) the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S.

The Department's Notice of Intent to find an amendment in compliance is deemed a final order if no timely petition challenging the amendment is filed.

READ FIRST TIME AND PUBLIC HEARING HELD: July 23, 2009.

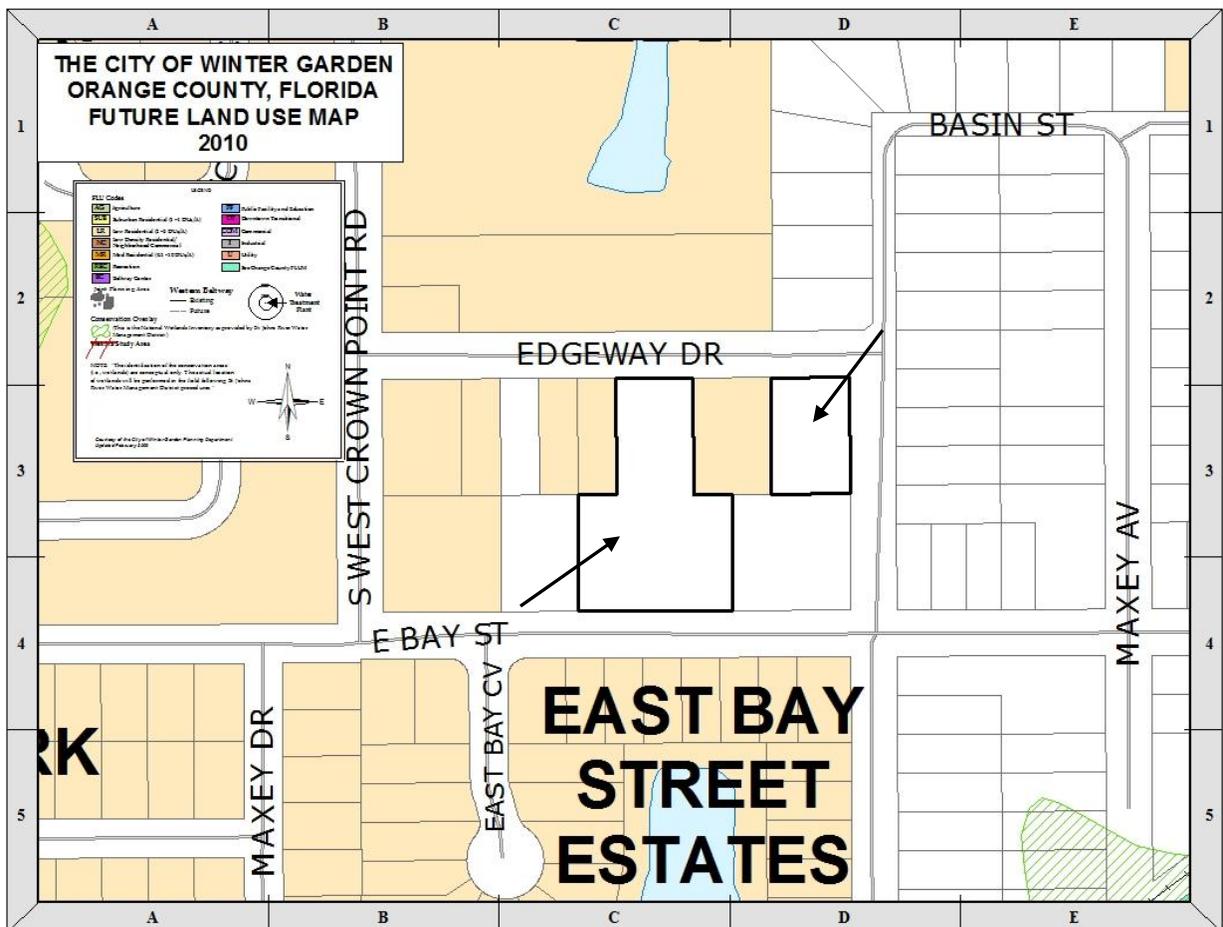
READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2009.

APPROVED:

JOHN REES, Mayor /Commissioner

ATTEST:

Exhibit "A"



ORDINANCE 09-38

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 1.96 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 1301 EAST BAY STREET AND 1360 EDGEWAY DRIVE FROM ORANGE COUNTY R-2 TO CITY R-4; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owner of real property generally described as approximately 1.96 ± acres located at 1301 East Bay Street and 1360 Edgeway Drive and legally described in Section 1 of this ordinance has petitioned the City to rezone said property from Orange County R-2 to the City's R-4 zoning classification, therefore;

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

SECTION 1: After due notice and public hearing, the zoning classification of real property legally described on ATTACHMENT "A," is hereby rezoned from Orange County R-2 to City R-4 in the City of Winter Garden, Florida.

SECTION 2: The City Planner is hereby authorized and directed to amend the Official Winter Garden Zoning Map in accordance with the provisions of this ordinance.

SECTION 3: Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

SECTION 4: This Ordinance shall become effective upon the amendment of the City of Winter Garden Comprehensive Land Use Plan for the property described herein providing for a land use designation which allows the zoning that is to be established by this ordinance.

READ FIRST TIME AND PUBLIC HEARING HELD: July 23, 2009.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2009.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

Attachment "A"



RESOLUTION NO. 09-13

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, ADOPTING POLICIES AND PROCEDURES FOR THE PROCUREMENT OF PRODUCTS AND SERVICES FOR THE CITY OF WINTER GARDEN, FLORIDA AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Winter Garden desires to adopt a uniform system of procedures and processes for the procurement of goods and services; and

WHEREAS, it is in the best interest of the City to have consistent processes for the procurement of goods and services to ensure that the City acquires the best products and services at a reasonable price and in accordance with applicable law; and

WHEREAS, a uniform process for the procurement of goods and services will ultimately benefit the City and provide for a fair and equitable manner in which the City may procure all necessary and desired goods and services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA:

Section 1. Adoption of Representations. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and the same are hereby made a specific part of this Resolution.

Section 2. Adoption of the City of Winter Garden Purchasing Manual. The City Commission of the City of Winter Garden hereby adopts the City of Winter Garden Purchasing Manual, which establishes a binding set of rules for the procurement of goods and services within the City. A true and correct copy of the City of Winter Garden Purchasing Manual is attached hereto and incorporated herein as Exhibit “A.”

Section 3. This Resolution shall take effect immediately upon its adoption.

ADOPTED at a Regular Meeting this ____ day of _____, 2009.

CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA

John Rees, Mayor/Commissioner

ATTEST:

Kathy Golden, City Clerk