



**CITY COMMISSION AGENDA
CITY HALL COMMISSION CHAMBERS
300 W. Plant Street
(*REVISED - 2/23/10)**

REGULAR MEETING

FEBRUARY 25, 2010

6:30 P.M.

CALL TO ORDER

Determination of a Quorum

Invocation and Pledge of Allegiance

1. APPROVAL OF MINUTES

Regular Meeting of February 11, 2010

2. OATHS OF OFFICE AND INTRODUCTION OF NEW POLICE OFFICERS

3. FIRST READING OF PROPOSED ORDINANCE

A. ***Ordinance 10-14:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING SECTION 74-72 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN BY INCREASING PARKING FEES, AMENDING THE APPEALS PROCESS AND PROVIDING FOR TRANSMISSION OF PARKING VIOLATION DATA TO THE FLORIDA DEPARTMENT OF TRANSPORTATION; ESTABLISHING SECTION 74-77 DESIGNATING THE WINTER GARDEN CODE ENFORCEMENT BOARD AS THE OFFICIAL APPEALS BOARD FOR PARKING VIOLATION CONTESTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; PROVIDING FOR SUPPLEMENTAL AUTHORITY; AND PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for March 25, 2010** (*continued from February 11, 2010*) – City Manager Bollhoefer

4. REGULAR BUSINESS

A. **Resolution 10-03:** A RESOLUTION ADOPTED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, CREATING THE SEARCH FEE TO CONDUCT RESEARCH ON ALL FEES DUE UPON A SPECIFIC REAL PROPERTY PARCEL LOCATED WITHIN THE CITY OF WINTER GARDEN AND PROVIDING FOR AN EFFECTIVE DATE – Finance Director Hayes

B. Appointments to Code Enforcement / Nuisance Abatement Board – City Manager Bollhoefer

5. MATTERS FROM CITIZENS (*Limited to 3 minutes per speaker*)

6. MATTERS FROM CITY ATTORNEY – Kurt Ardaman

7. **MATTERS FROM CITY MANAGER** – Mike Bollhoefer
 - A. Presentation on stormwater drainage alternatives on private property
 - B. Status report from the West State Road 50 Commercial Corridor Review Board -
Community Development Director Wilson

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

ADJOURN to a regular City Commission meeting on March 11, 2010 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 10-14

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING SECTION 74-72 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN BY INCREASING PARKING FEES, AMENDING THE APPEALS PROCESS AND PROVIDING FOR TRANSMISSION OF PARKING VIOLATION DATA TO THE FLORIDA DEPARTMENT OF TRANSPORTATION; ESTABLISHING SECTION 74-77 DESIGNATING THE WINTER GARDEN CODE ENFORCEMENT BOARD AS THE OFFICIAL APPEALS BOARD FOR PARKING VIOLATION CONTESTS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; PROVIDING FOR SUPPLEMENTAL AUTHORITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Winter Garden desires to increase parking fees; and

WHEREAS, the City desires to amend the appeals process for parking violations; and

WHEREAS, the City designates the Winter Garden Code Enforcement Board to serve as the appeals board for parking violations; and

WHEREAS, the City desires to create a procedure to notify the State of Florida Department of Motor Vehicles of unpaid parking fines.

WHEREAS, in addition to the statutory and existing City Code provisions which provide authority and a framework for this Ordinance, the City's home rule authority provides further authority for the enactment of this ordinance.

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

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: Section 74-72 is amended as follows:

Sec. 74-72. Schedule of civil penalties for parking violations and the procedure to appeal violations.

(a) There is adopted the following schedule of civil penalties for parking violations occurring within the city for which payment must be made within ~~five~~ fourteen calendar working days of the issuance of the ticket and may be made at the city or may be mailed in the envelope provided or the person receiving the citation may elect to contest the citation by following the procedures outlined in section:

TABLE INSET:

Violation	Amount of Civil Penalty
(1) No parking anytime . . .	\$ 40.00 <u>30.00</u>
(2) No parking, stopping or standing . . .	40.00 <u>30.00</u>
(3) No parking here to corner . . .	40.00 <u>30.00</u>
(4) No parking between signs . . .	40.00 <u>30.00</u>
(5) No parking this side . . .	40.00 <u>30.00</u>
(6) No parking, emergency . . .	40.00 <u>30.00</u>
(7) No parking on parkway . . .	40.00 <u>30.00</u>

(8) No parking except as permitted or prohibited during specific times as posted on signs . . .	40.00-30.00
(9) No parking except for passenger loading . . .	40.00-30.00
(10) No parking, bus space . . .	40.00-30.00
(11) No parking, taxi stand . . .	40.00-30.00
(12) No parking anytime, freight loading zone . .	40.00-30.00
(13) No parking, space is designated for a specific individuals or vehicles other than disabled . . .	40.00-30.00
(14) No parking, patient loading zone . . .	40.00-30.00
(15) No parking, yellow or red curb (not a sign) .	40.00-30.00
(16) No parking on sidewalk . . .	40.00-30.00
(17) No parking blocking driveway . . .	40.00-30.00
(18) No parking blocking dumpster . . .	40.00-30.00
(19) No parking blocking wheelchair ramp . . .	40.00-30.00
(20) No parking within 30 feet of official traffic control device . . .	40.00-30.00
(21) No parking within 30 feet of nearest rail at railroad crossing . .	40.00-30.00
(22) Improper parking, obstructing traffic . . .	40.00-30.00
(23) Improper parking, left wheels to curb (on two-way street) . . .	40.00-30.00
(24) Improper parking, wrong way on one-way street (parked facing opposite flow of traffic) . . .	40.00-30.00
(25) Blocking fire hydrant . . .	40.00-30.00
(26) Keys left in unattended vehicle . . .	40.00-30.00
(27) Parking by disabled permit only . . .	400.00 250.00
(28) Parking overtime (limit authorized in zone) . .	5.00 30.00
(29) Parking over line or not in compliance with markings . . .	5.00- 30.00
(30) Designated fire lane . . .	20.00 30.00
Plus surcharge . . .	5.00

(b) ~~The penalty in subsection (a) of this section must be paid within five working fourteen calendar days of the date of issuance of the parking violation notice by either hand delivery or by mailing the penalty in the envelope provided with the notice or contest the violation by following the procedure in subsection (c) below. If such penalty is not paid within the five working days, the amount of the civil penalty shall be \$1.00 greater than the amount specified for the parking violation as provided in subsection (a) of this section.~~

(c) ~~Any person receiving a parking violation notice shall, within five working fourteen calendar days, pay the civil penalty as prescribed in subsection (a) of this section or request a hearing before a judge of the county court. Any person electing to appear before the designated judge shall be deemed to have waived his right to pay the civil penalty as set for in subsection (a) of this section. The judge, after a hearing, shall make a determination as to whether a violation has been committed. If the commission of a violation has been proven, the judge may impose a fine not to exceed \$100.00 plus court costs elect to contest the citation by completing and filing the "Contesting Affidavit" and other relevant information together with a filing fee in the amount of \$10 to the Chief of Police, his designee or such other person that may be designated on the citation. The filing fee shall be nonrefundable unless the Chief of Police or his designee determines that a parking violation did not occur as provided below or the Code Enforcement Board determines that the parking violation did not occur. Any person who fails to pay the civil penalty prescribed on the citation or deliver the Contesting Affidavit as set forth herein within 14 days from the date of issuance of the parking violation shall incur a delinquent fee of \$15 and be deemed to have waived his/her right to contest the merits of such citation. Any person electing to contest a citation pursuant to this paragraph shall be deemed to have waived his/her right to pay the civil penalty prescribed on the citation and may be subject to additional fines and fees if same are imposed by the Code Enforcement Board pursuant to section 74-77 of this chapter.~~

Upon receipt of a Contesting Affidavit, the Chief of Police or his designee shall review such affidavit and, based upon the evidence presented in such affidavit and any other relevant information, determine whether there is probable cause to believe that a parking violation has occurred. If the Chief of Police or his designee finds no probable cause to believe that a parking violation has occurred, then the Chief of Police or his designee shall void the citation, provide written notice of same to the person who submitted the Contesting Affidavit and refund the filing fee. If the Chief of Police or his designee determines that there is probable cause to believe that a parking violation has occurred, then the Chief of Police or his designee shall request a hearing before the Code Enforcement Board to consider the contested citation.

The Chief of Police or his designee is hereby authorized and directed to supply the State of Florida Department of Highway Safety and Motor Vehicle with a magnetically encoded computer tape reel, cartridge or send by other electronic means data that is machine readable by the installed computer system at said Department listing persons who (i) have three or more outstanding parking violations, or (ii) one or more parking violation(s) of Florida Statute 316.1955 or any city ordinances which regulate similar parking in spaces designated for use by disabled persons.

SECTION 3: Section 74-77 is established as follows:

Sec 74-77 The Winter Garden Code Enforcement Board's duties and powers as the official appeals board for parking violations.

(a) The Winter Garden Code Enforcement Board is designated as the official appeals board for parking violations. The Board shall have the following powers and duties:

1. To hear contests to parking citations issued by the City of Winter Garden and receive and evaluate evidence in connection therewith; and
2. To make a determination, based upon the preponderance of the evidence, as to whether the parking violation(s) listed in a citation were committed; and
3. To impose fines and fees, including late fees and administrative charges, consistent with this Chapter.

(b) Four members of the Board shall constitute a quorum, and no action may be taken if less than four members are present and voting.

(c) The Board shall adopt rules for transaction of its business and shall keep a record of its resolutions, transactions, actions, findings and determinations. Meetings of the Board shall be held in conjunction with regular meetings of Code Enforcement Board at the call of the Chairperson and at such times as the Board may determine, and if the Chief of Police or his designee requests a meeting of the Board to consider a contested citation as provided in section 74-72 of this Chapter or as provided in other provisions of the City Code, then the Chairperson shall call a meeting of the Board within 30 days of such request.

(d) With respect to parking citations issued for violations of Chapter 74 of the City Code, if the Board determines that the parking violation(s) listed in the contested parking citation were in fact committed, the Board may impose a fine of up to \$50 for each violation or \$250 for each disabled parking violation, plus hearing costs for the issuing officer's attendance. If the Board

determines the parking violation(s) listed in the Contesting Affidavit were not committed, then the contested parking violation shall be dismissed and the filing fee shall be refunded.

(e) 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 Board'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 person filing the appeal to the Board.

(f) The decision of the Board shall be the final action by the City.

(g) This Ordinance provides supplemental authority to the City for the enforcement of parking requirements, and the City, in its discretion, may pursue any and all other available mechanisms for the enforcement of applicable parking requirements and regulations.

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

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

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

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

FIRST READING: February 25, 2010.

SECOND READING AND PUBLIC HEARING: _____, 2010.

ADOPTED this _____ day of _____, 2010, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

John Rees, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

RESOLUTION NO. 10-03

A RESOLUTION ADOPTED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, CREATING THE SEARCH FEE TO CONDUCT RESEARCH ON ALL FEES DUE UPON A SPECIFIC REAL PROPERTY PARCEL LOCATED WITHIN THE CITY OF WINTER GARDEN AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Winter Garden ("City") processes searches for all fees due on specific parcels of land that are requested by individuals, attorneys, banks, and title companies; and

WHEREAS, the City staff within the Department of the City Clerk expend a significant amount of time processing and conducting these searches that include liens; and

WHEREAS, the City has not charged a fee to conduct such fee searches; and

WHEREAS, implementing the City's charge for compiling and providing such searches for all fees due the City has become necessary in order to recoup the City's staff time and expenses associated with conducting such fee searches.

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

Section 1. The City of Winter Garden, Florida, hereby adopts a fee for processing and conducting searches for all fees due the city, as established herein.

Service	Response Time	Cost Each Property and/or Account Number Requested
Lien Search Fee	5 – 7 business days	\$30.00

Section 2. This Resolution shall be effective March 1, 2010.

PASSED AND RESOLVED THIS 25th **DAY OF** February, 2010.

BY: _____
John Rees, Mayor/Commissioner

ATTEST:
BY: _____
Kathy Golden, City Clerk