



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

REGULAR MEETING

FEBRUARY 24, 2011

6:30 P.M.

CALL TO ORDER

Determination of a Quorum

Invocation and Pledge of Allegiance

1. APPROVAL OF MINUTES

Regular Meeting of February 10, 2011

2. FIRST READING OF PROPOSED ORDINANCES

A. **Ordinance 11-05:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING CHAPTER 118 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING GENERAL DEFINITIONS, PROHIBITED USES, AND SPECIAL EXCEPTIONS; AMENDING ARTICLE I, SECTION 118-1 DEFINITIONS; AMENDING ARTICLE IV, DIVISION 8, SECTION 118-535 PROHIBITED USES AND STRUCTURES FOR THE C-1 ZONING DISTRICTS; AMENDING ARTICLE IV, DIVISION 9, SECTION 118-580 PROHIBITED USES AND STRUCTURES FOR THE C-2 ZONING DISTRICTS; AMENDING ARTICLE IV, DIVISION 12, SECTION 118-729 SPECIAL EXCEPTIONS FOR THE I-1 ZONING DISTRICT; AMENDING ARTICLE IV, DIVISION 13, SECTION 118-774 SPECIAL EXCEPTIONS FOR THE I-2 ZONING DISTRICT; PROVIDING FOR ZONING REGULATIONS PERTAINING TO TATTOO PARLORS AND BODY ART ESTABLISHMENTS, PROHIBITION OF MOBILE BODY ART ESTABLISHMENTS, CODIFICATION, CONTROL IN EVENT OF CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for March 24, 2011** – Community Development Director Wilson

B. **Ordinance 11-07:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ORDINANCE 10-31, THE CITY OF WINTER GARDEN FISCAL YEAR 2010-2011 BUDGET TO CARRY FORWARD PRIOR YEAR APPROPRIATIONS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for March 10, 2011** – City Manager Bollhoefer

3. FIRST AND FINAL READING AND PUBLIC HEARING OF PROPOSED RESOLUTION

A. **Resolution 11-01:** THE CITY OF WINTER GARDEN, FLORIDA NOTICING ITS INTENT TO USE THE UNIFORM METHOD FOR COLLECTION OF A NON-AD VALOREM SPECIAL ASSESSMENT TO UPGRADE AND REPAIR ROADWAYS, STREETS, AND APPURTENANCES THERETO LOCATED WITHIN THE WEST SIDE TOWNHOMES SUBDIVISION; STATING THE NEED FOR THE LEVY OF SUCH NON-AD VALOREM ASSESSMENT; PROVIDING A DESCRIPTION OF THE REAL PROPERTY SUBJECT TO

THE LEVY, NOTICE TO THE STATE AND COUNTY AS REQUIRED BY LAW, AND AN
EFFECTIVE DATE – City Manager Bollhoefer

4. **REGULAR BUSINESS**

- A. Recommendation to approve Request for Proposals ratings for the Cross-Connection Control Management Program, select Hydro Designs, Inc., and authorizing staff to negotiate a contract using Option #6; the lowest rate for residents at \$30 a year - Public Services Manager Cochran
- B. Recommendation to approve Continuing Consulting Contracts for Professional Engineering Services, rankings and contracts with, Camp, Dresser and McGee, Parsons Brinckerhoff and HDR Engineering - Public Services Manager Cochran

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. Annual road paving projects list

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

ADJOURN to a regular City Commission meeting on March 10, 2011 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 11-05

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING CHAPTER 118 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN CONCERNING GENERAL DEFINITIONS, PROHIBITED USES, AND SPECIAL EXCEPTIONS; AMENDING ARTICLE I, SECTION 118-1 DEFINITIONS; AMENDING ARTICLE IV, DIVISION 8, SECTION 118-535 PROHIBITED USES AND STRUCTURES FOR THE C-1 ZONING DISTRICTS; AMENDING ARTICLE IV, DIVISION 9, SECTION 118-580 PROHIBITED USES AND STRUCTURES FOR THE C-2 ZONING DISTRICTS; AMENDING ARTICLE IV, DIVISION 12, SECTION 118-729 SPECIAL EXCEPTIONS FOR THE I-1 ZONING DISTRICT; AMENDING ARTICLE IV, DIVISION 13, SECTION 118-774 SPECIAL EXCEPTIONS FOR THE I-2 ZONING DISTRICT; PROVIDING FOR ZONING REGULATIONS PERTAINING TO TATTOO PARLORS AND BODY ART ESTABLISHMENTS, PROHIBITION OF MOBILE BODY ART ESTABLISHMENTS, CODIFICATION, CONTROL IN EVENT OF CONFLICTS, SEVERABILITY, AND 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 enact reasonable regulations upon body art establishments within the City to promote and maintain property values and aesthetic coherence within the City and further protect the health, safety, welfare, and morals of its citizens; and

WHEREAS, the City Commission desires to expressly delineate appropriate locations in the City where body piercing, tattooing or other permanent body art activities may be conducted; and

WHEREAS, the City currently does not specifically identify locations or zoning categories in which body art establishments, body piercing, tattooing or other similar activities may be permitted to operate within the City; and

WHEREAS, the City is identifying the definitions, standards and location requirements for body art establishments, body piercing, tattooing and other permanent body art activities; and

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, § 2(b) of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

SECTION 2: Adoption. Chapter 118, Article I, Section 118-1 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 I. IN GENERAL

Sec. 118-1. Definitions.

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

Abandonment of use means an intention on the part of the user to abandon his right to a nonconforming use of the premises, as well as an actual cessation of the use in issue.

Accessory use or structure means a use or structure customarily incidental to the principal use of the property.

Agricultural building or structure means any building or structure accessory to the principal agricultural use of the land.

Agriculture or agricultural means the use of land for cultivation of crops, for the raising of animals or the preservation of land in its natural state, in tracts of 2 1/2 acres or larger.

Alteration means any change, rearrangement, enlargement, extension, reduction or moving of any structure or part thereof.

Apartment building means a building which is used or intended to be used as the home or residence for more than two families living in separate quarters.

Body Art means the practice of physical body adornment by establishments and operators/technicians using, but not limited to, any of the following techniques: body piercing, tattooing, branding, and scarification. This definition does not include practices that are considered medical procedures by a state medical board, such as implants under the skin, which shall not be performed in a body art establishment, or cosmetic tattooing as defined in this Section. Nor does this definition include, for the purposes of this Ordinance, piercing of the outer perimeter or lobe of the ear with pre-sterilized single-use stud-and clasp ear-piercing systems, the application of gemstones or other objects and adornments to the skin via the use of temporary adhesives, or the application of temporary tattoos or markings that do not involve the piercing of the skin and may be washed away with soap and water or otherwise naturally disappear within weeks or a few months after application (e.g., henna or body or face painting).

Body Art Establishment means any place or premise, whether public or private, temporary or permanent, in nature or location, where the practices of body art, whether or not for profit, are performed – including mobile body art establishments and temporary body art establishments.

Body Piercing shall have the same meaning as set forth in Section 381.0075(2)(a), Florida Statutes (2010), as such may be from time to time amended.

Buffer zone means a landscaped and screened strip of land at least five feet wide separating two different types of land uses.

Building means any structure which fully encloses space for the occupancy by persons or their activities.

Building area means the total ground area taken by a horizontal plane at the mean grade level of each building and accessory building, but not including uncovered entrances, platforms, terraces and steps.

Building height means the vertical distance measured from the established mean grade at the front building line to the highest point of the building.

Building not of standard construction means any structure which is temporary, which is movable and which is not fully enclosed.

Campground means any area or tract of land used to accommodate two or more camping parties, including cabins, tents, house trailers or other camping outfits.

Club means any building, facilities and property owned and operated by a corporation or association of persons for social or recreational purposes, including those organized chiefly to promote friendship and welfare among its members, but not operated primarily for profit or to render a service which is customarily carried on as a business.

Compatible use means the use which is capable of existing in harmony with other uses situated in its immediate vicinity.

Conventional curriculums means the aggregate courses of study in primary, middle and secondary schools as generally approved by the county public school system or the state agency with jurisdiction.

Corner lot means a lot in the junction of and fronting on two or more intersecting streets.

Cosmetic Tattooing means the practice commonly known as permanent makeup, in which micropigmentation or intradermal cosmetics are applied to permanently or semi-permanently simulate the appearance of common cosmetic applications such as eyeliner, lip liner, lip color, eyebrow enhancement, and beauty marks, or to otherwise permanently or semi-permanently restore or improve the appearance of damaged or disfigured skin and other bodily features to natural coloration and condition. For the purposes of determining whether a cosmetic tattooing

establishment qualifies as permitted use, such establishment shall be treated as a clinic, beauty shop, or other similar personal service provider.

Dwelling means a building or portion thereof designed or used exclusively for residential occupancy, but not including hotels, lodging houses, boardinghouses, motels or mobile homes.

Dwelling unit means a dwelling accommodation designed for one family unit maintaining separate and independent housekeeping but including at least one kitchen.

Family means an individual or two or more persons related by blood, marriage or adoption who are living together in a single housekeeping unit.

Farm means a parcel of land of 2 1/2 or more acres used principally in the raising or production of agricultural products and the necessary or usual dwelling units, farm structures, storage and equipment.

Floor area means the sum of the gross horizontal area of the several stories of the building measured from the exterior faces of the exterior walls or from the centerline of party walls. Included shall be any basement floor, interior, balconies and mezzanines, elevator shafts and stairwells, and enclosed porches. The floor area of accessory uses and accessory buildings on the same lot shall be included.

Funeral home means a dwelling or other structure used and occupied by a licensed mortician for burial preparation and funeral services.

Garage, commercial means a building or other premises used for the storage, repair, rental, sale and servicing of motor vehicles and for the retail sale of fuel for such vehicles.

Garden apartments means a group of apartment buildings not more than three stories or 35 feet high, each building containing not less than four dwelling units, but not limited to one building per site.

Gasoline station means any building, place or location designed to supply motor vehicles with gasoline, oils, greases, and automobile sundries, and to make minor repairs.

Home occupation or profession means any use customarily conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and which does not change the character thereof and in connection with which there is no display, no stock in trade, no outside storage of equipment, no commodity sold upon the premises, and not more than two persons are engaged in such occupation. Such uses as a barbershop, beauty parlor, tearoom, tourist home, animal hospital and dancing school shall not be deemed to be home occupations.

Hotel means a building or other structure used and maintained as a place where sleeping and supplemental accommodations are supplied transient guests. Only ten percent of the total number of lodging units will be permitted to have kitchen or cooking facilities within the unit.

Incompatible use means a use which is not in harmony with existing uses situated within its immediate vicinity.

Junkyard means a place where waste and discarded or salvaged materials are bought, sold, exchanged, stored, bailed, packaged, disassembled, and handled, including automobile wrecking yards, house wrecking and structural steel materials and other equipment, but not including the purchase or storage of used furniture and household equipment, used cars in operable condition, used or stored materials as part of a manufacturing operation.

Living area. The area of a dwelling unit that is designed and constructed to be heated or air conditioned.

Lot means a parcel of land occupied by or to be occupied by one principal building and its accessory buildings and including the open space and yards required under this chapter. The term "lot" includes the word "plot" or "parcel."

Lot depth means the mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

Lot line means the border dividing a lot from a right-of-way, adjoining lot or other adjoining tract of land.

Lot of record means a lot which is duly recorded in the office of the county clerk.

Lot width means the mean horizontal distance between the two side lot lines of a lot measured within the lot boundaries.

Maximum lot coverage refers to lot coverage by all buildings.

Minimum yard requirements refers to the depth of front and rear yards, and the width of side yards.

Mini-warehouse facilities means a fully enclosed structure, each unit not to exceed 560 square feet, to be used for short-term or long-term storage purposes. This may be a detached structure or unit or a

ministorage complex. No such unit shall be used for any wholesale or retail operations; however, it shall not preclude use as a depot for such purposes as a franchised distribution.

Mobile body art establishment means a mobile establishment or unit which is self-propelled or otherwise movable from place to place operated with the intent to provide body art services in such establishment or unit while parked, temporarily or permanently, on private property or other public right-of-way or public areas of the city. Mobile body art establishments are hereby prohibited.

Mobile home means any vehicle or similar portable structure mounted or designed for mounting on wheels, used or intended for use for dwelling purposes, including structural additions, except parked or unoccupied camping-type trailers. Any vehicle or structure shall be deemed to be a mobile home whether or not the wheels have been removed therefrom and whether or not resting upon a temporary or permanent foundation.

Mobile home park means a tract of land in a single ownership which has been developed with all necessary facilities and services in accordance with a site development plan meeting all the requirements of this chapter and which is intended for the express purpose of providing a satisfactory living environment for mobile home living residents on a long-term occupancy basis.

Motel means a building or groups of buildings, whether detached or in connected units, used as sleeping accommodations designed primarily for transit automobile travelers. The term "motel" includes buildings designed as auto courts, tourist courts, motor lodges, motor hotels and similar applications. Only ten percent of the total number of lodging units will be permitted to have kitchen or cooking facilities within the unit.

Nonconforming use means any building or land lawfully occupied by a use on the effective date of the ordinance from which this chapter derives or amendments thereto which does not conform, after the effective date of this chapter or amendments, with the requirements of the district in which it is situated.

Noxious matter means any material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economical well-being of an individual.

Nursing home means a home for the aged, chronically ill or incurable persons in which three or more persons not of immediate the family are received, kept or provided with food and shelter or care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Park means a parcel set apart for recreation for the public to promote health and enjoyment.

Parking lot means an area or plot of ground used for the storage or parking of motor vehicles either for compensation or to provide an accessory service to a business, industrial or residential use.

Parking space means a surfaced area enclosed in the main building or in an accessory building, or unenclosed, having an area not less than 200 square feet, exclusive of driveways permanently reserved for the temporary storage of one automobile, and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.

Planned unit development means a district of not less than 50 acres designed to promote the establishment of areas in which diverse uses may be brought together as a compatible and unified plan of development which shall be in the interest of the general welfare of the public, and in accordance with this chapter.

Planned unit development project means a complex of structures and uses planned as an integral unit of development rather than as a single principal structure or use on a single lot.

Professional office building means a building accommodating professional service uses, nonprofessional and other types of offices where the service of the office does not involve the transfer of a commercial product at the office site.

Restaurant means an establishment where food is served or prepared or both, for public consumption on or off the premises.

Roominghouse means a residential building used or intended to be used as a place where sleeping or housekeeping accommodations are furnished or provided for pay to transient or permanent guests or tenants in which less than ten and more than three rooms are used for the accommodations of such guests or tenants, but which does not maintain a public dining room or cafe in the same building or in any building connected to it.

Service, Personal means a service use primarily engaged in providing services involving the care of a person, his or her apparel, pets, or small appliances, and including any of the following uses:

Appliance services
Barber shops
Beauty shops
Dance studios
Duplicating services
Funeral homes
Health spas
In-house carpet servicing
Laundromats
Massage establishments
Photographic studios
Radio repair
Shoe repair
Tailoring
Television repair
Veterinary clinic
Watch and clock repair
Any similar service use

Setback means the distance between a street and the front building line of a principal building or structure, projected to the side lines of the lot, and including driveways and parking areas, except where otherwise restricted by this chapter.

Shopping center means a group of not less than five contiguous retail stores, orderly planned and developed as a single unit.

Sign means any advertisement, announcement, direction or communication affixed to or placed on any building or structure. Signs placed or erected by governmental agencies or nonprofit civic associations for public purposes in the public interest shall not be included in this chapter, nor shall this include signs which are a part of the architectural design of a building.

Special exception means any use permitted as specified in individual district regulations, when such use is compatible to surrounding uses, will not create traffic hazards or parking problems, or does not deviate from the terms of this chapter. All special exceptions shall be subject to site plan review by the planning and zoning board. This procedure requires submission of a development plan which sets forth specific land use, circulation and access, building arrangement and overall site layout. The planning and zoning board may require conditions such as performance standards, screening or landscaping as well as time limitations or other similar requirements.

Street means a public thoroughfare which affords the principal means of access to abutting property.

Structure means any production or piece of work, artificially built upon or composed of parts and adjoined together in some definite manner.

Swimming pool means any body of water or receptacle for water having a depth at any point greater than two feet, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above the ground.

Tattooing means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa.

Tattoo Parlor is an establishment in which Tattooing is practiced and constitutes a type of Body Art Establishment as defined herein.

Truck parking facilities. A truck parking facility is a facility on a piece of property which is to be used for long term (i.e. over five hours) and overnight parking of trucks. Exceptions to this are situations where a truck is in the process of being repaired, or being loaded or unloaded. For the purpose of this definition, a truck includes tractor trailers (either cab or trailer), or any licensed vehicle (motorized or not) that is designed for transporting goods or materials and that has three or more axles.

Used or occupied, as applied to any land, building or other structure, shall be construed to include the term "intended, arranged or designed to be used or occupied."

Variance, as used in connection with the sections of this chapter dealing with zoning, means the relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district. Under no circumstances shall a variance permit a use not generally or by special exception permitted in the zoning district involved, or any use expressly or by implication prohibited by the terms of this chapter in such zoning district.

SECTION 3: Adoption. Chapter 118, Article IV, Division 8, Section 118-535 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 ADMINISTRATION

Division 8. C-1 Central Commercial District

Sec. 118-535. Prohibited uses and structures.

In the C-1 central commercial district, the uses and structures prohibited are as follows:

- (1) Single-family, two-family and mobile home parks.
- (2) Manufacturing and warehousing activities, freight, or cargo transportation terminals, truck parking facilities, and other activities of similar nature.
- (3) Industrial activities.
- (4) Body art establishments
- (5) Mobile body art establishments
- ~~(4)~~ All uses not specifically or provisionally permitted in this division.
- ~~(5)~~ Any use not in keeping with the commercial character of the district.

SECTION 4: Adoption. Chapter 118, Article IV, Division 9, Section 118-580 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 ADMINISTRATION

Division 9. C-2 Arterial Commercial District

Sec. 118-535. Prohibited uses and structures.

In the C-2 arterial commercial district, the uses and structures prohibited are as follows:

- (1) Residential uses.
- (2) Manufacturing activities.
- (3) Industrial activities.
- (4) Junkyards.
- (5) Body art establishments
- (6) Mobile body art establishments
- ~~(5)~~ All uses not specifically or provisionally permitted in this division; any uses not in keeping with the commercial character of the district.
- ~~(6)~~ Garages (commercial).

SECTION 5: Adoption. Chapter 118, Article IV, Division 12, Section 118-729 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 IV DISTRICT REGULATIONS

Division 12. I-1 Light Industrial and Warehousing District

Sec. 118-729. Special exceptions.

In the I-1 light industrial and warehousing district, the uses permitted as special exceptions pursuant to section 118-97 are as follows:

- (1) Freight handling and transportation terminals.
- (2) Planned industrial developments including office and business parks.
- (3) Commercial uses which are deemed compatible with the principal uses in this zone.
- (4) Body art establishments.

SECTION 6: Adoption. Chapter 118, Article IV, Division 13, Section 118-774 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 IV DISTRICT REGULATIONS

Division 13. I-2 General Industrial District

Sec. 118-774. Special exceptions.

In the I-2 general industrial district, the uses permitted as special exceptions pursuant to section 118-97 are as follows:

- (1) Concrete, block, and asphalt plants including batch plants.
- (2) Bulk storage of chemical or petrochemical products.
- (3) Any structure higher than 40 feet.
- (4) Any outside display or storage. Any outside display or storage area shall have an opaque screen on all sides in order to avoid any deleterious impact on adjacent property.
- (5) Bulk storage of compressed gases or cryogenic materials.
- (6) Body art establishments.

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

SECTION 7: Control. In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance shall control to the extent such conflict exists.

SECTION 8: 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, the remaining provisions of this ordinance shall survive and remain effective despite such invalidity or unconstitutionality.

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

FIRST READING: _____, 2011.

SECOND READING AND PUBLIC HEARING: _____, 2011.

ADOPTED this _____ day of _____, 2011, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ORDINANCE 11-07

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ORDINANCE 10-31, THE CITY OF WINTER GARDEN FISCAL YEAR 2010-2011 BUDGET TO CARRY FORWARD PRIOR YEAR APPROPRIATIONS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on September 22, 2010, the City Commission of the City of Winter Garden, Florida, adopted Ordinance 10-31 appropriating and allocating all revenue and funds of the City of Winter Garden, Florida for the tax year beginning October 1, 2010 and ending September 30, 2011;

WHEREAS, the City Commission has decided to amend the City of Winter Garden, Florida Budget for the tax year beginning October 1, 2010 and ending September 30, 2011 to provide for budget carryovers from the preceding budget year;

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

SECTION 1: That the sum of \$12,848,583 to be appropriated as follows:

REVENUES

General Fund	\$ 175,492	
Downtown Parking District	0	
Community Redevelopment Agency	0	
Law Enforcement Grants Fund	0	
Local Option Gas Tax Fund	241,242	
General Impact Fee Fund	0	
Transportation Impact Fee-South of Turnpike Fund	1,307,483	
CR 545 Special Benefit Impact Fee Fund	0	
Transportation Impact Fee Fund	7,298,135	
Utilities	0	
Utilities Impact Fee Fund	3,736,555	Utilities
Renewal & Replacement	79,676	
Stormwater Fund	0	
Trailer City Fund	10,000	
\$12,848,583		

EXPENSES

General Fund	\$ 175,492	
Downtown Parking District	0	
Community Redevelopment Agency	0	
Law Enforcement Grants Fund	0	
Local Option Gas Tax Fund	241,242	
General Impact Fee Fund	0	
Transportation Impact Fee-South of Turnpike Fund	1,307,483	
CR 545 Special Benefit Impact Fee Fund	0	
Transportation Impact Fee Fund	7,298,135	
Utilities	0	
Utilities Impact Fee Fund	3,736,555	Utilities
Renewal & Replacement	79,676	
Stormwater Fund	0	
Trailer City Fund	<u>10,000</u>	
\$12,848,583		

SECTION 2: Detail for the aforementioned totals is attached as Exhibit 1, which shall be incorporated in the Ordinance. Should any portion of this Ordinance be held invalid, then such portions as are not declared to be invalid shall remain in full force and effect.

SECTION 3: This Ordinance shall become effective upon its adoption at the second reading and public hearing.

READ FIRST TIME: _____

READ SECOND TIME AND PUBLIC HEARING HELD: _____

APPROVED:

 Mayor/Commissioner John Rees

ATTEST:

 Kathy Golden, City Clerk

RESOLUTION 11 - 01

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA NOTICING ITS INTENT TO USE THE UNIFORM METHOD FOR COLLECTION OF A NON-AD VALOREM SPECIAL ASSESSMENT TO UPGRADE AND REPAIR ROADWAYS, STREETS, AND APPURTENANCES THERETO LOCATED WITHIN THE WEST SIDE TOWNHOMES SUBDIVISION; STATING THE NEED FOR THE LEVY OF SUCH NON-AD VALOREM ASSESSMENT; PROVIDING A DESCRIPTION OF THE REAL PROPERTY SUBJECT TO THE LEVY, NOTICE TO THE STATE AND COUNTY AS REQUIRED BY LAW, AND AN EFFECTIVE DATE.

WHEREAS, the City of Winter Garden, Florida intends to upgrade and repair certain roadways within the West Side Townhomes subdivision (“Subdivision”) and therefore is considering the repair and construction of upgrades and improvements to the roads and streets and appurtenances thereto within such Subdivision, for which the City intends to impose a non-valorem assessment against lots within the Subdivision that are specially benefited by such upgrades and repairs; and

WHEREAS, the West Side Townhomes Homeowners Association, Inc., (“Association”) has secured the necessary votes of the owners of the lots within the Subdivision to convey all common area streets owned by such Association to the City and to convey, assign, dedicate or give to the City any necessary access easement rights over Orange West Boulevard and drainage / runoff easement rights through the utility pipes under Orange West Boulevard and into the retention pond located in the Mobile Home Park, and any other easement rights that the City may require to properly upgrade and repair the streets within the Subdivision;

WHEREAS, the Association has conveyed or will convey to the City all necessary easement and/or ownership rights in the roadways and appurtenances thereto that are located within the Subdivision so as to vest in the City a valid public and municipal interest in the upgrade and repair thereof;

WHEREAS, the City has determined that the upgrade and repair of the roadways within the Subdivision specially benefits each and every lot within the Subdivision, and serves a valid municipal purpose insofar as governmental emergency and non-emergency service and utility providers will enjoy safe and sound access to and from dwellings, utilities, easements, and areas located within the Subdivision;

WHEREAS, the City intends to use the uniform method for the levy, collection and enforcement of non-ad valorem special assessments, as authorized by § 197.3632, Florida Statutes, as amended, to collect funds to upgrade and repair streets and roadways located within the Subdivision;

WHEREAS, the total estimated cost of all such upgrades and repair shall be apportioned over a period of up to thirty (30) years and collected annually and enforced in the same manner as provided for ad valorem taxes; and

WHEREAS, the City has duly published its intent to use the uniform method for collection of such special assessment in a newspaper of general circulation in Orange County weekly, for four consecutive weeks, preceding the hearing at which the City considered the adoption of this Resolution.

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 and constitute a material part of this Resolution.

Section 2. Authority. This Resolution is adopted in accordance with Section 197.3632(3)(a), Florida Statutes and under authority of Section 2(b), Article VIII of the Constitution of the State of Florida, Parts I and III of Chapter 166, Florida Statutes.

Section 3. Notice of Intent Pursuant to § 197.3632(3)(a), Fla. Stat. The City intends to use the uniform method for collection as described in § 197.3632, Florida Statutes, as amended from time to time, to recoup costs associated with the upgrade and repair of streets and roadways within the Subdivision. Such costs shall be apportioned over a period of up to thirty (30) years, commencing in the year 2011 or as soon thereafter as is practicable, and shall be enforceable as a lien against all properties, including homestead property, as permitted pursuant to § 4, Art. X of the Florida Constitution.

Section 4. Determination of Necessity of Non-Ad Valorem Assessment. The City hereby determines that the levy of the non-ad valorem assessments is required to fund the necessary costs of upgrading and repairing the streets and appurtenances thereto that are located within the Subdivision, which are currently in an unsafe state of disrepair and obsolescence and pose a danger to the health, safety and welfare of persons using such streets and appurtenances. The proposed upgrades and concomitant repair of the streets and appurtenances are necessary to bring such streets and roads into compliance with applicable codes and regulations and to protect the health, safety and welfare of residents

residing within the Subdivision and their visitors as well as those municipal service providers, both emergency and non-emergency, who must access the Subdivision. The upgrades and repairs will further specially benefit those properties located within the Subdivision by providing safe and efficient access to and from such properties and positively enhancing the aesthetics and functionality of the Subdivision at large, and therefore should be directly assessed against and apportioned among properties within the Subdivision.

Section 5. Properties Subject to Non-Ad Valorem Assessment. The real properties subject to this non-ad valorem special assessment are those properties serviced and benefitted by the intended improvements that are located within the Subdivision, as more particularly described and defined in **Exhibit "A"** attached hereto and incorporated herein.

Section 6. Notice to State and County. Upon adoption, the City Clerk or his/her designee is hereby directed to send a copy of this Resolution by United States mail to the Florida Department of Revenue, the Orange County Tax Collector, and the Orange County Property Appraiser by **January 10, 2011**, or, if such time has passed and the City, Tax Collector, and Property Appraiser Agree, **March 10, 2011**.

Section 7. Effective Date. This Resolution shall be effective immediately upon adoption.

ADOPTED at a Regular Meeting this 24th day of February, 2011.

**CITY COMMISSION OF THE CITY OF
WINTER GARDEN, FLORIDA**

John Rees, Mayor/Commissioner

ATTEST:

Kathy Golden, City Clerk