

tion that access will be approved upon submittal of appropriate engineering and design exhibits for a driveway permit or shall require the actual permit itself.

- g. Current operating levels of service shall be based upon the most recent average daily traffic counts available plus project counts from previously committed and binding development permits.
 - h. The calculation of total traffic generated by a proposed residential project will assume 100 percent build-out and occupancy. Credit against trip generation rates for certain nonresidential uses may be taken by utilizing the percentages contained in the city's 1990 impact fee study, including any revisions. Any capture of trips from passing traffic for uses not listed in the study or in excess of those percentages listed must be justified by the applicant using accepted engineering principles.
- (2) *Sanitary sewer concurrency.*
- a. The capacity for sanitary sewer shall be determined by utilizing the existing capacity, which shall be determined by subtracting the committed project demand and present flow from the approved design capacity of the treatment facility. The city's utilities department shall determine whether a capacity reservation certification can be issued for a proposed project, and shall ensure that capacity is available for the project.
 - b. The impact on the sewage treatment plant shall be determined by using the level of service standard of 316 gallons per day per residential unit and a residential equivalent of 316 gallons per day for nonresidential uses based on estimated or actual daily flow.
- (3) *Solid waste concurrency.* The city staff shall ensure that adequate capacity exists

in the disposal facilities operated by the county through either contacting the county utilities or by requiring the applicant for a project to obtain a capacity reservation certificate or similar document from the county prior to final development permit approval. The city shall document its files regarding this matter.

(4) *Drainage concurrency.*

- a. The city engineer shall determine whether a proposed project meets the adopted level of service standard of retention for the first one-half inch of runoff and detention capacity is sufficient to ensure that post-development stormwater runoff flow rates, quantities, peaks, and velocities are equal to or less than predevelopment runoff for the 25-year/24-hour storm event.
- b. The city engineer shall determine whether a proposed project meets all applicable sections of chapter 106 pertaining to stormwater management prior to final development permit approval.
- c. The city engineer shall require that the applicant obtain a permit or a letter of exemption from the St. Johns River Water Management District prior to final development permit approval.

(5) *Potable water concurrency.*

- a. The capacity for potable water shall be determined by utilizing the existing capacity which shall be determined by subtracting the committed project demand and present flow from the approved design of the treatment facility. The city's utilities department shall determine whether a capacity reservation certification can be issued for a proposed project, and shall ensure that capacity is available for the project.
- b. The impact on the water treatment facilities shall be determined by us-

ing the level of service standard of 275 gallons per day per residential unit and a residential equivalent of 275 gallons per day for nonresidential uses based on estimated or actual daily demand.

(6) *Parks and recreation concurrency.*

- a. The director of planning shall determine whether a proposed residential project meets the adopted level of service standard of five acres of parks per 1,000 residents. The adequacy of parks and recreation needs shall be based upon the city as a whole rather than individual neighborhood areas.
- b. The impact of the proposed development shall be determined by utilizing the official household-size multiplier, from the University of Florida, Bureau of Economic and Business Research for the City of Winter Garden. This number multiplied by the proposed number of units in the project shall determine the population for the project. The existing population of the city plus the additional population from committed projects shall be added to the projected population of the proposed project in order to determine total projected population.
- c. The total population shall then be divided by 200 (five acres/1,000 person) to determine the total acreage needed.

(Code 1988, § 28-8)

Sec. 86-9. Exemptions.

The following types of development are exempt from the requirements of this chapter:

- (1) Remodeling or repair, provided that no increase in square footage is made;
- (2) Accessory structures for existing single-family homes that will not increase the number of inhabitants of the structure;

- (3) Other developments which do not result in any increase in demand upon established levels of service for public facilities identified in this chapter, as determined by the director of planning; and

- (4) Vested projects.

(Code 1988, § 28-9)

Sec. 86-10. Administration.

This chapter shall be administered by the director of planning. The director of planning, at the direction of the city manager, may develop such administrative rules, forms and applications as may be needed to implement this chapter. The director of planning shall be responsible for maintaining the cumulative record of the level of service allocations permitted under this chapter.

(Code 1988, § 28-10)

Sec. 86-11. Development agreements.

The city commission may, at its sole discretion, enter into development agreements with the legal and equitable owners of parcels of land within the city limits of the city, pursuant to F.S. § 163.3220 et seq., in such cases where the threshold capacity of any public facility will be exceeded by a proposed project.

(Code 1988, § 28-11)

Chapter 87

RESERVED

Chapter 88

DEVELOPMENT REVIEW FEE SCHEDULE*

Sec. 88-1.	Authority.
Sec. 88-2.	Definitions.
Sec. 88-3.	Review deposits.
Sec. 88-4.	Project account.
Sec. 88-5.	City invoices.
Sec. 88-6.	Required payments.
Sec. 88-7.	Assessable costs, expenses, and fees.
Sec. 88-8.	Fee collection and schedule.
Sec. 88-9.	Objections/appeal.
Sec. 88-10.	Attorney's fees in the event of failure to pay review costs.
Sec. 88-11.	Change of ownership.
Sec. 88-12.	Agreement to be bound by this chapter.
Sec. 88-13.	Amendments.
Sec. 88-14.	Additional fees for road, drainage, water, or wastewater facilities.

***Editor's note**—Ordinance No. 02-41, § II, adopted October 24, 2002, amended and restated chapter 88 in its entirety to read as herein set out. Formerly, such chapter pertained to similar provisions and derived from Ord. No. 98-03, § VI, 2-12-98; Ord. No. 99-66, § I, 12-9-99.

Sec. 88-1. Authority.

The city is hereby authorized to assess and collect fees, deposits, costs and expenses relating or pertaining to the review, inspection and regulation of development related activities pursuant to this chapter.

(Ord. No. 02-41, § II, 10-24-02)

Sec. 88-2. Definitions.

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

Applicant shall mean and refer to an owner or an owner's authorized agent who submits an application, proposal, petition or project to the city.

Application shall mean and refer to an application, petition or proposal submitted to the city pertaining to development for which city approval is required, including, but not limited to the review or approval of:

- (i) A preliminary subdivision plan,
- (ii) A subdivision plan or plat, including any revisions to a previously approved or existing subdivision or plat,
- (iii) An annexation and initial zoning,
- (iv) A rezoning (with or without a comprehensive plan amendment),
- (v) A comprehensive plan amendment,
- (vi) A variance,
- (vii) A special exception,
- (viii) A planned unit development,
- (ix) A transfer of development rights,
- (x) Determination of vested rights or subdivision review exemption,
- (xi) Concurrency determination,
- (xii) Concurrency capacity reservation,
- (xiii) A development of regional impact,
- (xiv) Site plan,
- (xv) A sketch plan,

(xvi) A development permit for construction, inspection or testing of subdivision improvements,

(xvii) A determination of development of regional impact (DRI) status,

(xiii) Conceptual site plan review,

(xix) Stormwater management,

(xx) Tree permit,

(xxi) Wetland alteration permit,

(xxii) Wellfield protection zone permit,

(xxiii) Development order, a development agreement,

(xxiv) Lot splits, or

(xxv) Matters relating to the issuance of an occupational license.

City consultant shall mean and refer to those companies, private consultants, governments, individuals or other entities under contract with the city to provide services to or for the city or who provide technical or legal expertise to or for the city, including but not limited to, attorneys, engineers and surveyors.

City staff shall mean and refer to city employees.

Total development review amount shall mean and refer to the combination of the flat fee established pursuant to section 88-8 and the review deposit to be paid by an applicant pursuant to section 88-3.

Owner shall mean and refer to an owner or group of owners of fee simple title to a particular lot, tract, or parcel of real property.

Owner's authorized agent shall mean and refer to an agent of the owner duly authorized to submit and process an application. If the applicant is not the property owner, a proper authorization must accompany the application. Such authorization shall be evidenced by a power of attorney signed by the owner and notarized specifically authorizing the agent to represent the owner in connection with the application and as to the owner's real property which is the subject of the application. The authorization shall include

an agreement of the owner to be bound by the actions of the owner's authorized agent and the provisions of this chapter.

Review deposit shall mean and refer to the review deposit, as established by this chapter and as established from time-to-time by ordinance of the city commission, to be paid by an applicant at the time of the filing of an application pertaining or related to subdivision plats, development agreements, planned unit developments, a development of regional impact or, upon good cause shown, such other development related application as determined by the city manager. (Ord. No. 02-41, § II, 10-24-02)

Sec. 88-3. Review deposits.

(a) *Required review deposits.* In addition to the flat fee required pursuant to section 88-8 a \$2,000.00 review deposit, payable to the City of Winter Garden by money order, personal or company check or cashier's check drawn on a financial institution authorized to do business in Orange County, Florida, shall be delivered to and collected by the city at the time of submission of each application for review or approval pertaining or related to a subdivision plat, development agreement, planned unit development, or a development of regional impact. Said review deposit shall be utilized by the city to reimburse the city for the actual costs paid by the city incurred as a result of the development activity.

(b) *Other development related applications.* Upon good cause shown, a review deposit, in an amount determined by the city manager, paid as set forth above in subsection 88-3(a), shall be delivered to and collected by the city at the time of submission of such other development related application as determined by the city manager. The following factors, by way of example not limitation, may be considered to support a finding of good cause for the imposition of a review deposit during the review and approval of a development related application and for establishing the appropriate review deposit amount: information provided by the city staff and the applicant, the complexity and scope of the development related application and project, the payment his-

tory of the applicant as it pertains to past dealings with the city, and the expected involvement of city consultants.

(c) *Waiver of review deposits.* In all cases, the city manager may waive the requirement of a review deposit if, based upon information from city staff and the applicant, the amount of the fees, costs and expenses relating to the review, processing, inspection and regulation of such, as estimated by the city manager, will not exceed the flat fee. No review of an application pertaining or relating to subdivision plats, development agreements, planned unit developments, a development of regional impact or, upon good cause shown, such other development related application as determined by the city manager, shall commence until the flat fee and review deposit, if applicable, is paid. The total development review amount shall be forwarded to the city finance director prior to the end of the second business day following the submittal of said application for review or approval. The balance of the review deposit, if any, shall be returned to the applicant as provided for in section 88-4. No interest shall be paid on any review deposit on account with the city.

(Ord. No. 02-41, § II, 10-24-02)

Sec. 88-4. Project account.

Once an application pertaining or relating to subdivision plats, development agreements, planned unit developments, a development of regional impact or, upon good cause shown, such other development related application as determined by the city manager, has been submitted to the city and the applicable total development review amount has been collected, the city finance director or his designee shall establish an individual project account through which all fees, expenses and costs incurred by the city which are associated with the applicable application will be monitored. The project account will be maintained throughout the entire review, processing, inspection, and regulation process until the later of:

- (i) Final action (after all appeal periods have run) by the city commission has occurred with respect to the application;