

(c) The mayor-commissioner of the city commission or in his absence the mayor pro tempore may administer oaths and compel the attendance of witnesses. All meetings of the city commission shall be open to the public. The city commission shall keep minutes of its meetings, showing the vote of each member on each hearing or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be immediately filed in the minutes of the city commission.

(d) The city commission shall conduct a hearing de novo upon any appeal taken from the ruling of the board and shall hear the testimony of witnesses and other evidence offered by the aggrieved person and interested parties to the appeal and may, in conformity with this article and the zoning resolutions, rules and regulations adopted thereunder, reverse, or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the board. The city commission shall render its decision on the appeal within 21 days after the conclusion of the public hearing. For good cause, the city commission may extend the time for holding its hearing and rendering its decision to a time certain after notice to all parties to whom notice of such hearing is required.

(Code 1988, § 16-32)

Sec. 98-32. Appeal from city commission decisions.

Any person aggrieved by the city commission's decision on an appeal from the planning and zoning board or on any quasi-judicial matter, may challenge such decision by filing a petition for writ of certiorari as provided by the Florida Rules of Appellate Procedure in the circuit court of Orange County. The petition for writ of certiorari shall be filed within 30 days of the rendition of the city commission's decision, or the right to challenge the decision is waived. The court shall not conduct a trial de novo, but shall be limited to reviewing whether the decision was supported by competent substantial evidence in the record, the essential elements of the law were followed and due process was afforded. The proceedings before the city commission, including the testimony of witnesses, any exhibits, photographs, maps or

other documents filed before it, shall be the subject of review by the circuit court. The person filing the petition for certiorari shall be responsible for filing with the circuit court a true and correct transcript and the complete testimony of the witnesses from the city commission hearing or meeting in which the decision was rendered. Any aggrieved person may intervene as a respondent in the certiorari proceeding authorized by this section.

(Code 1988, § 16-33; Ord. No. 08-28, § 1, 6-12-08)

Sec. 98-33. Annual report to city commission.

The planning and zoning board shall annually make a written report to the city commission giving a resume of its work during the preceding year. In such report it shall also make recommendations as to future projects to be undertaken.

(Code 1988, § 16-34)

Sec. 98-34. Decisions; issuance of land use permits.

No land use permit contingent on a decision of the planning and zoning board shall be issued within 15 days after such decision is rendered. During this 15-day period following a decision of the planning and zoning board, any aggrieved person may file an appeal of such decision pursuant to section 98-31, or the city commission may review the decision on its own motion.

(Code 1988, § 16-35)

Secs. 98-35—98-60. Reserved.

ARTICLE III. LOCAL PLANNING AGENCY*

Sec. 98-61. Authority.

This article is enacted pursuant to and in accordance with provisions of F.S. § 163.3161 et seq., the Local Government Comprehensive Planning and Land Development Regulation Act.

(Code 1988, § 16-61)

***State law references**—Local Government Comprehensive Planning and Land Development Regulation Act, F.S. § 163.3161 et seq.; local planning agency, F.S. § 163.3174.

Sec. 98-62. Designated and established.

Pursuant to and in accordance with F.S. § 163.3174, the planning and zoning board is designated and established as the local planning agency for the incorporated territory of the city. (Code 1988, § 16-62)

Sec. 98-63. Duties and responsibilities.

The local planning agency, in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act, F.S. §§ 163.3161—163.3243, shall:

- (1) Have the general responsibility for the conduct of the comprehensive planning program.
- (2) Be the agency responsible for the preparation of the comprehensive plan and make recommendations to the city commission regarding the adoption of such plan or element or portion thereof.
- (3) During the preparation of the plan and prior to any recommendation to the city commission, hold at least one public hearing, with due public notice, on the proposed plan or element or portion thereof.
- (4) In cooperation with and with the approval of the city commission, have the authority to designate any agency, committee, department, or person to prepare the comprehensive plan or any element thereof, but final recommendation of the adoption of such plan to the city commission shall be its responsibility.
- (5) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the city commission such changes in the comprehensive plan as may from time to time be required, including preparation of the periodic reports required by F.S. § 163.3191.
- (6) Review proposed land development regulations, land development codes or amendments thereto and make recommendations to the city commission as to the consistency of the proposal with the adopted comprehensive plan or element or
- (7) Perform any other functions, duties, and responsibilities assigned to it by the city commission or by general or special law.

(Code 1988, § 16-63)
State law reference—Similar provisions, F.S. § 163.3174(4).

Sec. 98-64. Organization, rules and procedures.

Members of the local planning agency shall be appointed and follow such rules of procedure, methods of choosing officers, setting of public meetings, providing of financial support, and accomplishing its duties as provided in this article. (Code 1988, § 16-64)

Sec. 98-65. Public meetings and records.

All meetings of the local planning agency shall be public meetings, and all agency records shall be public records. The local planning agency shall encourage public participation.

(Code 1988, § 16-65)
State law reference—Similar provisions, F.S. § 163.3174(5).

Sec. 98-66. Financial support.

The city commission shall appropriate funds at its discretion to support the local planning agency in the conduct of its work. The city commission may expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources in order to assist the local planning agency in accomplishing the purpose and activities required by the Local Government Comprehensive Planning and Land Development Regulation Act. (Code 1988, § 16-66)

State law reference—Similar provisions, F.S. § 163.3174(3).

Secs. 98-67—98-95. Reserved.

ARTICLE IV. SCHEDULE OF FEES

Sec. 98-96. Fees.

All fees for development review and inspection shall be established in chapter 88 of this Code.

(Code 1988, § 16-67; Ord. No. 97-03, § I, 5-8-97; Ord. No. 98-03, § II, 2-12-98)

Secs. 98-97—98-120. Reserved.

ARTICLE V. COMMUNITY REDEVELOPMENT*

Sec. 98-121. Community redevelopment agency.

(a) The city commission expressly authorizes the community redevelopment agency, pursuant to F.S. § 163.356, which shall be a public body corporate and politic and constitute a public instrumentality.

(b) The city commission authorizes the community redevelopment agency to exercise all the powers conferred and as limited by F.S. § 163.3161 et seq., with the exception of the power to make building regulation exceptions; zone or rezone within the designated community redevelopment area; close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places as specified by the community redevelopment plan; acquire land through eminent domain; construct foundations/platforms for affordable housing air rights sites; and enforce or enact ordinances which have the purpose of protecting the public health, safety, and welfare. All other powers necessary or within the boundaries of the community redevelopment area, more particularly described in exhibit A, attached to the ordinance from which this section derives and on file in the city offices, shall be vested with the community redevelopment agency.

(c) The city commission expressly appoints a board of commissioners of the community redevelopment agency, which shall consist of seven members. Five of the members shall be

current members of the city commission. A sixth member may be appointed by the board of county commissioners, and the seventh member may be appointed by the city commission. The terms of office for the sixth and seventh members of the board of commissioners of the community redevelopment agency shall be four years.

(d) The board of commissioners of the community redevelopment agency shall, at its first meeting in July, appoint a community redevelopment advisory board, which shall consist of no less than seven and no more than nine members, of which a majority shall either reside, own property or operate a business located within the area of operation of the community redevelopment agency. In order to implement staggered terms on the community redevelopment advisory board, members serving on the board prior to July 1, 2022 will have their terms of office automatically extended as follows: (i) three board member's terms are extended to July 31, 2023; (ii) three board member's terms are extended to July 31, 2024; (iii) three board member's terms are extended to July 31, 2025; and (iv) the city manager will assign the foregoing extended terms to the specific members on the board. Thereafter, members shall be appointed for a term of three years, expiring July 31 of the third year of the term. Vacancies occurring during a term may be filled at any time in the same manner as the initial appointment was made, and shall remain effective until the first community redevelopment agency meeting in July of the last year of the remaining term when a successor is appointed. The terms of the chairman and vice-chairman of this advisory board shall be three years or the expiration of member's term that is serving in such capacity, whichever occurs first. The vice-chairman of this advisory board may be appointed chairman in the event the current chairman vacates his or her position as chairman, with the vice-chairman's unexpired term filled by appointment in the same fashion as the original appointment. If an advisory board member fails to attend more than three regularly scheduled meetings per year with a valid excuse, or two regularly scheduled meetings per year without a valid excuse, then that member shall relinquish his/her seat as a member of the advisory board. A

*State law reference—Community redevelopment, F.S. § 163.330 et seq.

member who has an excused absence may vote on any item on the agenda by making his or her vote known in writing to the chair or recording secretary prior to the start of the meeting. The community redevelopment advisory board shall have all duties and responsibilities as may be formally delegated by the community redevelopment agency, but shall, at a minimum, be responsible for the preparation and implementation of the community redevelopment plan through its recommendations to the community redevelopment agency.

(e) The city commission and the community redevelopment agency shall agree upon an amount to be rebated back to the city each year of the amount deposited in the community redevelopment trust fund pursuant to F.S. § 163.387, for a particular year.

(f) The city commission and the community redevelopment advisory board shall also agree upon what powers the community redevelopment advisory board shall possess as they apply to the community redevelopment plan. In order for the interlocal agreement to become effective it must be approved by a unanimous vote of the city commission. If the interlocal agreement is not approved by a unanimous vote of the city commission within 12 months of the effective date of the ordinance from which this section derives, the community redevelopment plan shall expire and shall be of no further effect.

(Code 1988, § 16-81; Ord. No. 97-26, § 1, 7-24-97; Ord. No. 98-15, § I, 3-26-98; Ord. No. 01-57, § 1, 7-26-01; Ord. No. 10-27, § I, 7-22-10; Ord. No. 23-04, § 2, 2-9-23)

Sec. 98-122. Community redevelopment plan.

(a) The community redevelopment plan for the community redevelopment area and reserve area, having been duly received and considered as provided by law, is approved and adopted as attached to the ordinance from which this section derives as exhibit A and on file in the city offices, more specifically referred to as Winter Garden Community Redevelopment Plan, and made a part of this section by reference. Such plan is designated as the official community

redevelopment plan for the community redevelopment area, the boundaries of which are described in the plan. It is the purpose and intent of the city commission that the community redevelopment plan be implemented in the area.

(b) The city commission expressly finds that the community redevelopment plan satisfies the requirements of F.S. § 163.360, because:

- (1) Even though no families are anticipated to be displaced as a result of the project, a feasible method exists for the location of any such families in decent, safe and sanitary dwelling accommodations within their means and without undue hardship;
- (2) The community redevelopment plan conforms to the city comprehensive plan as a whole;
- (3) The plan gives due consideration to providing adequate park and recreation areas and facilities that may be desirable;
- (4) The plan affords the maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the community redevelopment area by private enterprise;
- (5) The plan is necessary and in the interests of public health, safety, morals and welfare of the residents of the city and will effectuate the purpose of the act by revitalizing the area economically and socially, thereby increasing the tax base, promoting sound growth, improving housing conditions, and eliminating the conditions which the state legislature has found in the state community redevelopment act, F.S. § 163.330 et seq., to constitute a menace that is injurious to the public health, safety and welfare of the residents; and
- (6) The plan is sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements and rehabilitation as may be proposed to be carried out in the community redevelopment area;

zoning and planning changes, if any; land uses; maximum densities; and building requirements.

(c) In accordance with F.S. § 163.360(7)(b), the city commission determines that:

- (1) Nonresidential uses in the community redevelopment area are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives; and
- (2) Acquisition of property within the community redevelopment area may require the exercise of governmental action, as authorized by F.S. § 163.3161 et seq., or other applicable constitutional, statutory, or ordinance provisions, because of:
 - a. Defective or unusual conditions of title or diversity of ownership which prevents the free alienation of such land;
 - b. Tax delinquency;
 - c. Improper subdivisions;
 - d. Outmoded street patterns;
 - e. Deterioration of site;
 - f. Economic disuse;
 - g. Unsuitable topography of faulty lot layouts;
 - h. Lack of correlation of the area with other areas of the county or city by streets and modern traffic requirements;
 - i. Inadequate parking facilities;
 - j. Roadway, bridges or public transportation facilities incapable of handling the volume of traffic flow; or
 - k. Any combination of such or other conditions which retard development of the area.

(Code 1988, § 16-82)

Sec. 98-123. Community redevelopment trust fund.

(a) There is established and created in accordance with F.S. § 163.387 a community redevelopment trust fund, referred to in this section as the "fund."

(b) The funds allocated to and deposited into the fund are appropriated to the city community redevelopment agency, referred to as the "agency," to finance projects within the community redevelopment area, referred to as the area," as authorized by resolution, such resolution being adopted and made a part of this section by reference. The agency shall utilize the funds and revenues paid into and earned by the fund for all and every community redevelopment purpose delegated to it in such resolution, and as contained in the community redevelopment plan as provided by law, such fund to exist for the duration of the plan.

(c) There shall be paid into the fund each year by all taxing authorities, except the school district and the St. Johns River Water Management District, within the community redevelopment area, the incremental increase in ad valorem taxes levied each year by the taxing authorities on taxable property in the community redevelopment area, as shown upon the most recent assessment roll used in connection with the taxation of such property by each taxing authority prior to the effective date of the ordinance approving the community redevelopment plan.

(d) The most recent tax roll used in connection with the taxation of such property shall be the tax roll of 1992 of the county, and all deposits into the fund shall begin with incremental increases in ad valorem tax revenues received subsequent to November 1, 1992.

(e) The tax increment shall be determined and appropriated annually, and shall be an amount equal to 95 percent of the difference between:

- (1) The amount of ad valorem taxes levied each year by all taxing authorities except the school district and St. Johns River Water Management District and entities exempted by F.S. § 163.387(2)(c), exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries in the community redevelopment area; and
- (2) The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by

or for all taxing authorities, except the school district and the St. Johns River Water Management District and entities exempted by F.S. § 163.387(2)(c), exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the community redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by all taxing authorities, last equalized prior to the effective date of the ordinance approving the community redevelopment plan.

(f) All taxing authorities, except the school district and the St. Johns River Water Management District, will annually appropriate to the fund the sum stated in this section at the beginning of their fiscal years. The fund shall receive the tax increment only as, if and when such taxes may be collected by the taxing authorities. The taxing authorities' obligation to annually appropriate to the fund shall continue until all projects, loans, advances and indebtedness, if any, and interest thereon, undertaken or incurred by the agency as a result of the plan, have been paid and only to the extent that such tax increment accrues.

(g) The agency is directed to establish and set up the fund and to develop and promulgate rules, regulations, and criteria whereby the fund may be promptly and effectively administered, including the establishment and the maintenance of books and records and adoption of procedures whereby the agency may, expeditiously and without undue delay, utilize such funds for their allocated statutory purpose. In addition, the agency is directed to prepare and implement an interlocal agreement with the county whose purpose is to provide for the rebate to the county each year of a predetermined amount from funds deposited by the county in the community redevelopment trust fund under conditions and criteria established by the original delegation resolution adopted by the county. The agency is directed to establish and set up the fund and to develop and promulgate rules, regulations, and criteria whereby the fund may be promptly and effectively administered, including the establishment and the maintenance of books and records and adoption of procedures whereby

the agency may, expeditiously and without undue delay, utilize such funds of their allocated statutory purpose.

(h) The tax increment shall be computed by using the assessed value of taxable property in the community redevelopment area for the year 1991 as the base, and in subsequent years using the assessed value of property in the community redevelopment area for that year as the second factor in determining the amount of tax increment in that year.

(i) The agency accepts full responsibility for the receipt, custody, disbursement, accountability, management and proper application of all monies paid into the fund, subject to subsection (b) of this section.

(j) Pursuant to county resolution, the fund shall contain separate accounts segregating county and all other deposits.

(Code 1988, § 16-83)

Secs. 98-124—98-149. Reserved.

ARTICLE VI. DEVELOPMENT REVIEW COMMITTEE

Sec. 98-150. Creation of DRC.

The City Commission of the City of Winter Garden hereby establishes a development review committee ("DRC") for the purpose of reviewing applications and submittals for various development orders, including without limitation, subdivision plats, site plans, planned developments, construction plans, developers and development agreements, and other development orders and applications that the city planning director determines warrant review by the DRC.

(Ord. No. 06-46, § I, 10-12-06)

Sec. 98-151. DRC members.

The DRC shall consist of five voting members. All recommendations and/or determinations made by the DRC shall be decided by majority vote of