

**ORDINANCE NO. 2776-09**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE I, "COMPREHENSIVE PLAN" SO AS TO ADOPT NEW PUBLIC NOTICE AND ADOPTION PROCEDURES FOR AMENDMENTS TO THE CITY OF WINTER PARK, COMPREHENSIVE PLAN, GOALS, OBJECTIVES AND POLICIES DOCUMENT, SUBSTITUTING FOR THE CURRENT AMENDMENT PROCEDURES, ADOPTING A 2009 PUBLIC PARTICIPATION PLAN, PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Florida Statutes require all local communities to adopt Comprehensive Plans pursuant to Chapter 163, Florida Statutes and Florida Administrative Rules in order to provide appropriate policy guidance for growth and development: and

**WHEREAS**, the Winter Park City Commission adopted the 1991 Comprehensive Plan on August 13, 1991 via Ordinance 1938 that included public notice and adoption procedures for comprehensive plan amendments; and

**WHEREAS**, the Winter Park City Commission has subsequently adopted a new Comprehensive Plan on February 23, 2009 via Ordinance 2762-09 and needs to update the public notice and amendment procedures as well as the Public Participation Plan.

**NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:**

**SECTION 1.** That Chapter 58 "Land Development Code", Article I "Comprehensive Plan" of the Code of Ordinances is hereby amended by repealing Section 58-6 "Amendments to the comprehensive plan" and adopting a new Section 58-6 "Amendments to the comprehensive plan" to read as follows:

Sec. 58-6. Amendments to the comprehensive plan.

(a) Amendments to the comprehensive plan shall at a minimum conform to the requirements as specified within Florida Statutes Chapter 163, Part II and Rules 9-J5/9-J11 Florida Administrative Code.

(1) A comprehensive plan text or map amendment may be proposed by the city commission or the planning and zoning commission or may be proposed by any individual, corporation, partnership or other entity having a bona-fide interest in property either by ownership or by standing under a contract to purchase such land. All comprehensive plan text or map amendments must be made by ordinance. Applications shall be submitted on

a standard application form accompanied by all pertinent information which may be required for proper consideration of the matter, along with payment of fees and charges as established by the city commission. The commencement of the process to amend the Comprehensive Plan shall be limited to no more than two times during any calendar year except for those exceptions enumerated in Section 163.3187 and as otherwise provided by law, and except for amendments to the Future Land Use Map involving applications for properties of less than two (2) acres in size provided the cumulative effect of the above condition shall not exceed thirty (30) acres annually; the proposed future land use map amendment does not involve the same property more than once a year; and the proposed future land use amendment does not involve the same owner's property within 200 feet of property granted a change within a period of 12 months. This twice a year limitation shall not apply or count as one of the two permitted amendment cycles for any city sponsored comprehensive plan amendment in the case of emergency, if the emergency plan amendments receive the approval of all of the members of the city commission. "Emergency" means any occurrence or threat thereof whether accidental or natural, caused by man, in war or peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property or public funds. In addition this twice a year limitation shall not apply or count as one of the two permitted amendment cycles for any city sponsored comprehensive plan amendments involving changes to the City's five year capital improvements plan or narrative thereto or other portions of the capital improvements element required to be adopted annually in order to coincide with the annual adoption of the city's budget and capital improvements program. Applicants shall include prospective plans indicating the desired development scenario proposed as a result of an approval per the plan submission requirements established for conditional uses.

(2) All proposed comprehensive plan text or map amendments shall be submitted to the planning and zoning commission for study and recommendation. The planning and zoning commission shall study such proposals to determine:

- a. The need and justification for the change;
- b. When pertaining to the future land use designation of land, the effect of the change, if any, on the particular property and the surrounding properties;
- c. When pertaining to the future land use designation of land, the amount of undeveloped land in the general area and in the city having the same classification as that requested; and
- d. The relationship of the proposed amendment to the goals, objectives and policies text of the city's comprehensive plan, with appropriate consideration as to whether the proposed change will further, or at least not be contrary to the comprehensive plan.

(3) No recommendation for transmittal or adoption of any amendment to the comprehensive plan shall be made by the planning and zoning commission until and unless a public hearing has been held. In addition to the public notice requirements of Florida Statutes Chapter 163, Part II and Rules 9-J5/9-J11 Florida Administrative Code, the city shall also conform to the following notice requirements. Notice shall be provided based upon the type and size of the request as detailed below. In cases where requests are not specifically indicated in this section, the planning director shall determine the most appropriate level of public notice.

a. For any proposed map amendment to the comprehensive plan involving land of less than one acre, notice of the public hearings for transmittal in the case of large scale amendments or for adoption in the case of small scale amendments shall be published in a newspaper of general circulation within the city at least 15 days in advance of the public hearing; written notice of the time and place of such meeting and the proposed action to be taken shall be posted upon the property and mailed to all owners of record of property within 1,500 feet of the property requested for map amendment at least 15 days prior to the public hearing. The public notice posted on the property shall be erected to be in full view of the general public on each street side of said land and shall be erected by the applicant.

b. For any proposed map amendment to the comprehensive plan involving land of one acre or more or for any comprehensive plan text amendment to the goals, objectives and policies of the comprehensive plan shall require notice of the public hearings for transmittal in the case of large scale amendments or for adoption in the case of small scale amendments, to be published in a newspaper of general circulation within the city at least 30 days in advance of the public hearings; written notice of the time and place of such meeting and the proposed action to be taken shall be posted upon the property affected by the map amendment and mailed to all owners of record of property within 1,500 feet of the property requested for map amendment as well as mailed to all households as determined from the listing of utility billing addresses within the entire city limits at least 30 days prior to the public hearing. The public notice posted on the property shall be erected to be in full view of the general public on each street side of said land and shall be erected by the applicant. Any public notice required after the initial public hearing for which a city-wide notice has already been mailed by the planning and zoning or city commission due to tabling, continuance, postponement or any other action by the planning commission shall revert to the 15 day notice so as to allow for requests to be heard at the next regular or special meeting of the planning and zoning or city commission. This city-wide notice mailing requirement shall not apply to any comprehensive plan text amendment that changes the City's five year capital improvements plan or narrative thereto or other portions of the capital improvements element required to be adopted annually in order to coincide with the annual adoption of the city's budget and capital improvements program and shall also not apply to any comprehensive plan map amendment related to annexations that have been previously approved pursuant to Chapter 171, Florida Statutes, as may be necessary to update the city boundaries or to establish existing or future land use designations for annexed properties as long as there is no change to the existing and future land use designations in the Orange County Comprehensive Plan.

c. Said postings of properties for map amendments shall remain in place throughout the public hearing process. The city shall monitor this posting and provide replacements for any postings lost due to weather, vandalism, etc. However, the absence of a posting due to these conditions beyond the control of the city or the applicant shall not constitute a breach of this requirement provided a good faith effort is made to comply.

(4) The planning and zoning commission following their public hearing may recommend approval, approval with conditions, denial or submit such request with no recommendation to the city commission in the case of a tie vote. However, if the planning and zoning commission makes no recommendation following two additional advertised public hearings

from the date of the initial public hearing, it shall be considered submitted to the city commission with a recommendation for denial on the proposed comprehensive plan text or map amendment. This provision shall not include any public hearing during which the applicant requests that their application be tabled, postponed or continued or any public hearing where the planning commission deems that the plans or other materials submitted do not meet the application submission requirements, notice is deemed insufficient or any other procedural deficiency.

(5) Upon the filing of the recommendations report by the planning and zoning commission or upon failure to do so with respect to any proposed comprehensive plan text or map amendment, the city commission shall proceed to hold one public hearing in the case of transmittal of a large scale amendment or two public hearings on any the ordinance for adoption of either small or large scale amendments, giving at least 15 days notice of time and place of such hearings, which notice shall first be published in a newspaper having a general circulation in the City of Winter Park, Florida.

(6) In case of a recommendation for denial, either to transmit or adopt, by the planning and zoning commission, such amendments shall not proceed or become effective except by the affirmative vote of four members of the city commission. In cases when the planning and zoning commission recommends approval of a comprehensive plan future land use map amendment or text amendment on a lesser portion of the property than originally requested or imposes conditions upon or limitations upon a recommendation for approval reducing the intensity or density of use of said property or text amendment, it shall require the affirmative vote of four members of the city commission to transmit or adopt such comprehensive plan future land use map or text amendment for a greater portion of the property or to increase the density or intensity of use above that recommended by the planning and zoning commission.

(7) Whenever the city commission has, by amendment, changed the comprehensive plan future land use designation of a property, the planning and zoning commission shall not consider any petition for the further amendment of any part or all of the same property for a period of one year from the effective date of the amendatory ordinance. Whenever the planning and zoning commission has taken action to recommend the denial of a petition for the change in the comprehensive plan land use designation of a property and that recommendation for denial has been approved by the city commission, or when the planning and zoning commission has recommended granting a petition for the change in the comprehensive plan future land use designation of a property and the city commission has reversed that recommendation and denied the petition, the city shall not:

a. Consider any further petition for the same future land use designation of any part or all of the same property for a period of one year from date of such action by the city commission;

b. Consider a petition for any other kind of future land use designation on any part or all of the same property of a period of one year from the date of such action by the city commission.

The time limits of these subsections may be waived by the affirmative vote of four members of the city commission, when such action is deemed necessary to prevent injustice or to facilitate the proper development of the city.

(8) The decision of the city commission on any comprehensive plan amendment shall be by ordinance. That decision may be made to affirm or deny the original request of the applicant or it may modify the request to approve a portion of the request or alternative version of comprehensive plan text or map amendment. The city commission may impose conditions upon the approval of a comprehensive plan amendment. Such conditions may restrict the range of permitted uses within a comprehensive plan designation and such conditions may also restrict or impose requirements upon the development or use of such land such as limitations on building size, height, setbacks or other site design or building design or use features.

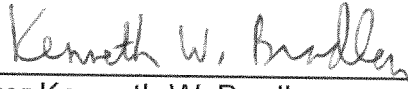
(9) Whenever the secretary to the planning and zoning commission or city clerk has received a written request for a continuation, delay or postponement of a public hearing from an applicant after such public hearing has been duly advertised, the planning and zoning commission or city commission may grant the applicant's request. The commission shall reschedule the public hearing to any future scheduled meeting within the following six months. Such rescheduling shall meet with the approval of the applicant. The applicant shall pay a second filing fee to cover necessary administration, public notice and other expenses. If, after the second public hearing has been duly advertised and the applicant again requests a delay, postponement or continuation, or if the applicant does not agree with the rescheduling of the public hearing within the six-month period, the planning and zoning commission or city commission shall duly act to deny the request of the applicant, and a new request for this property will not be accepted for a period of one year from the date of the second scheduled public hearing.

(10) Whenever an applicant submits plans as required by this section, only the plans submitted to the planning and zoning commission members prior to the public hearing for their review together with a staff report analysis and other pertinent information shall be the basis for action by the planning and zoning commission. If those plans are substantially modified then such application shall be postponed and re-advertised for a subsequent meeting. Similarly, when the planning and zoning commission makes a recommendation on an application pursuant to specific plans, and those plans are substantially modified for submission to the city commission public hearing, then the modified plans shall first be reviewed by the planning and zoning commission for recommendation before they are considered by the city commission for approval. The city commission shall not act on any application containing modified plans but shall refer the modified plans back to the planning and zoning commission, for subsequent review and recommendation unless such changes are in response to specific conditions of approval made by the planning and zoning commission.


**SECTION 2.** Pursuant to Section 163.3181 Florida Statutes, this ordinance adopts by the reference the City of Winter Park, Comprehensive Plan, Public Participation Plan attached hereto, dated February 23, 2009, replacing the existing Public Participation Plan adopted in 1989. The Public Participation Plan shall not be codified.

**SECTION 3.** This ordinance shall become effective on November 30, 2009.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 14<sup>th</sup> day of September, 2009.

  
\_\_\_\_\_  
Mayor Kenneth W. Bradley

ATTEST:

  
\_\_\_\_\_  
City Clerk Cynthia S. Bonham

**City of Winter Park  
Comprehensive Plan  
Public Participation Plan**

per

Chapter 163 Florida Statutes and  
Rule 9J-5 Florida Administrative Code

February 23, 2009

# CITY OF WINTER PARK PUBLIC PARTICIPATION PLAN

February 23, 2009

## **Introduction**

This Public Participation Plan (2009) supplements and updates the Public Participation Plan adopted in 1989. In the preparation, notice and public participation process for all Comprehensive Plan amendments and updates, the City has conducted its public participation efforts pursuant to the 1989 plan. However, as new programs and procedures have been developed and utilized since that time this plan provides an update incorporating past, present and future actions at promoting broad public notification and participation.

## **Background Information**

As mandated by the State of Florida Comprehensive Planning Regulation Act, Chapter 163 Florida Statutes and Rule 9J-5 Florida Administrative Code, the State Legislature has encouraged the fullest public participation in comprehensive planning efforts by local governments. The intent is defined in section 163.3181, "Public Participation in the comprehensive planning process" that "the procedures shall provide for broad dissemination of the proposals and alternatives, opportunity for written comments, public hearings as provided herein, provisions for open discussion, communications programs, information services, and consideration of and response to public comments."

The City will follow the procedures set forth in Florida Administrative Code section 9J-5.004 Public Participation:

- (a) Provisions to assure that real property owners are put on notice, through advertisement in a newspaper of general circulation in the area or other method adopted by the local government, of official actions that will affect the use of their property;
- (b) Provisions for notice to keep the general public informed;
- (c) Provisions to assure that there are opportunities for the public to provide written comments;
- (d) Provisions to assure that the required public hearings are held; and
- (e) Provisions to assure the consideration of and response to public comments



## **Purpose**

In addition to satisfying a requirement of the Florida Comprehensive Planning Law, this public participation plan is intended to serve two purposes. First, it will provide that information about the plan and planning process will be widely distributed to the community. The public will become aware of the comprehensive plan, the elements contained within it, and the proposed goals and policies through the array of techniques identified herein.

Secondly, it will ensure that there are ample opportunities for involvement and input from the public. This public participation process is designed to actively engage city residents, business owners, and community groups in shaping the comprehensive plan.

## **Public Participation Efforts – Outreach and Public Input**

Ongoing public participation efforts are proposed to take place throughout the comprehensive planning process. These outreach efforts are designed to provide information to the public of the comprehensive plan requirements, progress/status of the plan, background information and drafts of the plan's goals, objectives and policies. They will include:

Notice of All Comprehensive Plan Meetings. All meetings regarding the comprehensive plan update will be publicly noticed, with advertisements placed on quarter-page ads in the *Orlando Sentinel*. Notices are also posted on the city web site and at City Hall and the Winter Park Public Library.

Web site Posting. Information regarding comprehensive plan progress and upcoming meetings or other public participation opportunities will be posted and maintained on the city's Web site. Drafts of the individual elements, as well as other pertinent information, will be posted and updated as progress is made on the plan. The web address is [www.cityofwinterpark.org](http://www.cityofwinterpark.org). Public access to the Internet is available at the Winter Park Library and Orange County Library for those residents without internet access.

Hard-Copy Posting. A hard copy of the draft and eventually the adopted document can be found in the Planning Department at 401 Park Avenue South, Winter Park, FL 32789 and at the Winter Park Public Library in the reference section.

Updates Included in the "City Update". The city distributes to all its residents a bi-monthly update that summarizes projects and other "happenings" in the city. This is a great tool that will be used to inform the citizenry of comprehensive planning updates and meetings (information being placed is dependant on the print schedule of the "Update").

City of Winter Park Board and Commission Participation. The Planning and Zoning Commission as the designated “local planning agency” shall be responsible for making recommendations on all comprehensive plan amendments and shall be the lead appointed board for that purpose. In order to encourage additional review and comment, the following boards/commissions may be requested to review the pertinent sections of the comprehensive plan in order to solicit comments from each of them. Joint work session with the Planning and City Commissions shall occur on policy or text amendments not related to a single property/development project.

Community Redevelopment Advisory Board

Environmental Review Board

Historic Preservation Commission

Lakes and Waterways Board

Parks and Recreation Board

Pedestrian and Bicycle Advisory Board

Staff Presentations to the Community. Many of the other civic organizations request public presentations on the comprehensive planning process by staff. Some of the presentations done in the past were at the Rotary, Winter Park Chamber of Commerce and other civic organizations.

Audio Broadcasts of Public Meetings. All Planning and Zoning Commission meetings and City Commission meetings are broadcast through the Internet to anyone at home or work that are interested in the public meetings.

Public Notices. Mailed public notices shall be sent to owners of property pursuant to the notification requirements of the Land Development Code, Article I, “Comprehensive Plan”, Section 58-6 “Amendments to the Comprehensive Plan”.

### **Winter Park’s Formal Adoption Process**

The city will follow the guidelines mandated by the State in Chapter 163.3184 *Process for adoption of comprehensive plan or plan amendment*. The notification requirements as summarized by the DCA from their website at:

<http://www.dca.state.fl.us/fdcp/dcp/Procedures/index.cfm#comp>