

**ORDINANCE 22-09**

**AN ORDINANCE OF THE CITY OF WINTER GARDEN,  
FLORIDA; AMENDING SECTION 78-38 OF CHAPTER 78,  
ARTICLE II OF THE WINTER GARDEN CODE OF  
ORDINANCES CONCERNING CONNECTION TO WATER  
AND WASTEWATER SYSTEMS AND REQUIREMENTS FOR  
UTILITY SERVICES TO PROPERTIES LOCATED OUTSIDE  
OF THE CITY LIMITS; PROVIDING FOR CODIFICATION,  
SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

WHEREAS, the City has home rule authority pursuant to Article VII, Section 2 of the Florida Constitution and Chapter 166, Florida Statutes, to enact this Ordinance; and

WHEREAS, the City desires to amend Section 78-38 of Chapter 78 of the Code of Ordinances to clarify the exemption to the annexation requirement for properties located outside of the city limits not being required to annex requesting to receive sewer services from the City pursuant to an interlocal agreement; and

WHEREAS, only properties located within the Town of Oakland that are being provided waste water services pursuant to an interlocal agreement are exempt from the requirement to annex into the City of Winter Garden city limits as a condition of receiving utility services from the City because properties within the Town of Oakland cannot be legally annexed into the limits of the City of Winter Garden pursuant to Chapter 171, Florida Statutes; and

WHEREAS, the revisions reflected in this Ordinance are consistent with the City's current interpretation of Section 78-38, City of Winter Garden Code of Ordinances.

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

**Section I**      The above recitals represent the legislative findings of the City Commission of the City of Winter Garden and are incorporated herein by this reference.

**Section II**      Section 78-38 of Chapter 78, Article II of the Winter Garden Code of Ordinances are hereby amended to read as follows (underlined text indicates additions; ~~struckout~~ text indicates deletions):

Sec. 78-38. - Service outside corporate limits.

- (a) The city may furnish sewer and water service outside the corporate limits of the city, within the discretion of the city commission.

(b) Annexation agreement. If application is made for water or wastewater utilities service (or a combination thereof) to property located outside the city boundaries that is contiguous to the existing city boundaries or is within an enclave surrounded by the city's boundaries, the property owner shall simultaneously annex the property into the city as a prerequisite to the provision of water or wastewater utilities service to the property. If application is made for water or wastewater utilities service (or a combination thereof) to property located outside the city boundaries that is not contiguous to the existing city boundaries, the property owner shall simultaneously execute an annexation agreement, in a form acceptable to the city and binding upon the property, giving the city the right to annex the property into the city limits when the prerequisites of annexation under general law are met. Failure of the property owner to annex the property pursuant to the annexation agreement shall constitute grounds to terminate water and/or wastewater service to the property. "Application" for public utilities service shall include any and all applications for water and/or wastewater service, to reactivate prior water and/or wastewater service, or to add additional water and/or wastewater service, including the addition of additional water meters, new fixtures or water and/or wastewater service capacity. There is an exception to this subsection for the properties within the Town of Oakland being provided reclaimed water or wastewater services pursuant to an interlocal agreement.

**Section III** Section II of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances.

**Section IV** In the event of a conflict or conflicts between this ordinance and other ordinances, this Ordinance shall control to the extent of the conflict.

**Section V** It is the intent of the City Commission of the City of Winter Garden, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed to render invalid or unconstitutional the remaining provisions of this Ordinance.

**Section VI** This Ordinance shall become effective upon adoption by the City Commission.

FIRST READING:

APRIL 14 2022

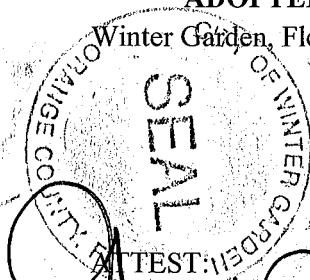
SECOND READING AND PUBLIC HEARING:

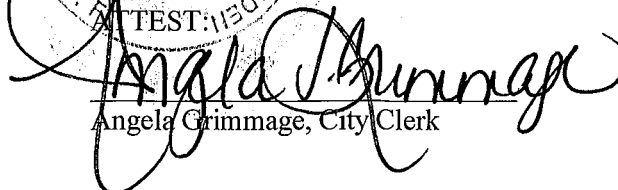
MAY 12 2022

ADOPTED this 12<sup>TH</sup> day of MAY, 2022, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

  
John Rees, Mayor/Commissioner



  
Angela Grimage, City Clerk