

ORDINANCE NO. 9712-23

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA MAKING AMENDMENTS TO THE COMMUNITY DEVELOPMENT CODE BY AMENDING ARTICLE 3. DEVELOPMENT STANDARDS, PARKING AND LOADING DIVISION; BY AMENDING ARTICLE 4. DEVELOPMENT REVIEW AND OTHER PROCEDURES, GENERAL PROCEDURES DIVISION; BY AMENDING APPENDIX B. US 19 ZONING DISTRICT AND DEVELOPMENT STANDARDS, GENERAL PROVISIONS, SUBDISTRICT STANDARDS, SITE DESIGN STANDARDS, BUILDING DESIGN STANDARDS, AND ADMINISTRATION DIVISIONS; BY AMENDING APPENDIX C. DOWNTOWN DISTRICT AND DEVELOPMENT STANDARDS, CHARACTER DISTRICT STANDARDS, FRONTAGE STANDARDS, SITE DESIGN STANDARDS, BUILDING DESIGN STANDARDS, FLEXIBILITY, AND ADMINISTRATION DIVISIONS TO COMPLY WITH SENATE BILL 250: NATURAL EMERGENCIES; CERTIFYING CONSISTENCY WITH THE CITY'S COMPREHENSIVE PLAN AND PROPER ADVERTISEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Clearwater ("the City") adopted the Community Development Code on January 21, 1999, which took effect on March 8, 1999; and

WHEREAS, the City desires for the Community Development Code to function effectively and equitably throughout the City; and

WHEREAS, on April 4, 2023, the City adopted Ordinance No. 9643-23 amending the Community Development Code, making a variety of changes where it had determined clarification and revision were needed, including the addition of new requirements in Article 3. Division 14. Parking and Loading; Article 4. Division 2. General Procedures; Appendix B. Division 1. General Provisions, Division 3. Subdistrict Standards, Division 5. Site Design Standards, Division 6. Building Design Standards, and Division 8. Administration; and Appendix C. Division 3. Character District Standards, Division 4. Frontage Standards, Division 5. Site Design Standards, Division 6. Building Design Standards, Division 8. Flexibility, and Division 9. Administration; and

WHEREAS, on June 28, 2023, the Governor of Florida signed Senate Bill 250 ("SB 250"): Natural Emergencies in which Bill Section 14 placed certain restrictions on municipalities entirely or partially within 100 miles of where either Hurricanes Ian or Nicole made landfall; and

WHEREAS, SB 250 established that municipalities may not "propose or adopt more restrictive or burdensome amendments to their comprehensive plan or land development regulations" prior to October 1, 2024, declaring that any such amendment "shall be null and void ab initio" and the provision applies retroactively to September 28, 2022; and

WHEREAS, the City has reviewed all ordinances amending the Community Development Code that were adopted within the timeframes established by SB 250 and has determined that the aforementioned amendments to the Community Development Code adopted by Ordinance No. 9643-23 that established new requirements may be "more restrictive or burdensome" and are therefore null and void ab initio pursuant to SB 250; and

WHEREAS, to ensure transparency with the public and proper processing, a new ordinance removing the previously approved changes which are null and void ab initio is advised; and

WHEREAS, the City has determined that these amendments to the Community Development Code promote and support the public health, safety, morals, and welfare, of the City's residents; and

WHEREAS, at a duly noticed public meeting the Clearwater Community Development Board, pursuant to its responsibilities as the Local Planning Agency, has reviewed these amendments, conducted a public hearing, considered all public testimony and has determined that these amendments are consistent with the City of Clearwater's Comprehensive Plan and recommended that the City Council adopt these amendments; and

WHEREAS, the City Council has fully considered the recommendation of the Community Development Board and testimony and evidence submitted at its public hearing; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEARWATER, FLORIDA:

Section 1. That Article 3. Development Standards, Division 14. Parking and Loading, be amended to read as follows:

Section 3-1407. – Parking restrictions in residential areas.

- A. *Restrictions.* For the dual purpose of preserving attractive residential areas within the city and promoting safe unimpeded traffic circulation throughout such neighborhoods, the following parking restrictions shall apply except as provided in paragraph B of this section:
1. *Within street right-of-way.* The following vehicles shall not be parked or stored on any public right-of-way in a residential zoning district, ~~residentially designated downtown property,~~ or on any right-of-way contiguous to ~~such properties~~ a residentially zoned property:
 - a. Any boat or boat trailer;
 - b. Any hauling trailer;
 - c. Any of the following recreational vehicles: travel trailers, motor homes and camping trailers;
 - d. Any commercial vehicle.
 - e. Any race car, dune buggy, farm equipment, go kart, ATV, or other similar vehicle not designated for street operation.
 2. *Between principal structure and right-of-way.* The following vehicles shall not be parked or stored, in whole or in part, in a front setback and/or forward of the building line of the principal structure and any right-of-way line in a residential zoning district ~~or on a residentially designated downtown property~~ up to a maximum of two frontages:
 - a. Boat in excess of 20 feet;
 - b. Any boat trailer in excess of 25 feet total length or in excess of five feet longer than any boat occupying the trailer;
 - c. Hauling trailer;
 - d. Recreational vehicles, travel trailers, motor homes and camping trailers.

- e. Any commercial vehicle which measures in excess of 20 feet in total chassis and body length, seven feet in total width or seven feet in total height, including appurtenances, equipment and cargo.
 - f. Any race car, dune buggy, farm equipment, go kart, ATV, or other similar vehicle not designated for street operation.
3. *Parking in the side or rear setback.* The following vehicles may be parked or stored, in whole or in part, in a side or rear setback behind the front building line of the principal structure in a residential zoning district ~~or on a residentially designated downtown property~~ provided such vehicles are screened with a six-foot high solid fence, wall or hedge:
- a. Boat in excess of 20 feet;
 - b. Boat trailer in excess of 25 feet;
 - c. Hauling trailer;
 - d. Recreation vehicles, trailers, motor homes and camping trailers; and
 - e. Any race car, dune buggy, farm equipment, go kart, ATV, or other similar vehicle not designated for street operation.
4. *Large vehicles.* The following vehicles shall ~~be not be~~ parked or stored in any residential zoning districts ~~or on any residentially designated downtown property~~:
- a. Commercial vehicles measuring in excess of 20 feet in total chassis and body length, seven feet in total width or seven feet in total height, including appurtenances, equipment and cargo are prohibited; and
 - b. Semi-tractor trailer, semi-tractor cab or any garbage truck, pump-out truck, chemical truck, gasoline truck, fuel oil truck or similar vehicle designed to transport wastes or hazardous or noxious materials.

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Section 3-1408. - Parking restrictions in commercial ~~nonresidential~~ areas.

- A. ~~Commercial trucks, semi-tractor trailers, cabs and other commercial vehicles shall be permitted to be parked or stored on commercial property only if such vehicles are associated with the property on which they are located.~~
- B. ~~Boats or boat trailers, hauling trailers, and recreational vehicles shall not be parked or stored on any public right-of-way in nonresidential areas.~~

Section 2. That Article 4. Development Review and Other Procedures, Division 2. General Procedures, Section 4-201. Pre-application conference, be renamed and amended to read as follows:

Section 4-201. – Optional ~~P~~pre-application conference.

- A. ~~Applicants for a proposed development in the US 19 or Downtown zoning districts shall have a pre-application conference with the Community Development Coordinator or his/her designee prior to development application, unless otherwise waived by the Community Development Coordinator, to review the preliminary site plan, building elevations, and other materials required by the Community Development Coordinator. Those development projects that are exempt from the US 19 Zoning District and Development Standards pursuant to Section B 104.C or the Downtown District and Development Standards pursuant to Section C 104.B shall be exempt from this requirement.~~

~~B. Projects in all other zoning districts.~~ An applicant for development approval may request an informal conference with the community development coordinator prior to filing an application for the purpose of discussing the proposed development and to identify the views and concerns of the applicant and the city's professional staff.

Section 3. That Appendix B. US 19 Zoning District and Development Standards, Division 1. General Provisions, Section B-104. Applicability of Development Standards, be amended to read as follows:

Section B-104. – Applicability of Development Standards.

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C. Exemptions

The following types of development are exempt from all or a portion of the Development Standards as follows.

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5. Change of Use. Projects involving only a change in use are exempt from the Development Standards in Appendix B, Divisions 4, 5 and 6, ~~but shall comply with the bicycle parking standards in Section B-303.D when the change of use results in an increase in the minimum number of bicycle parking spaces required. When applicable, this shall only apply to the increase in bicycle parking required for the new use.~~
6. Improvement, Remodel, or Reconstruction. Building improvement and remodel projects, including reconstruction of buildings in the general location or footprint of buildings being replaced, with up to 5 percent additional gross floor area, shall be exempt from the Development Standards as follows.
 - a. Building improvement, remodel, or reconstruction projects valued at less than 25 percent of the total assessed building value as reflected in the Property Appraiser's current records at the time of application are exempt from the Development Standards in Appendix B, Divisions 4, 5 and 6, except that the location of any new floor area, including accessory structures, shall be compliant with the setback requirements in Division 4 of these standards to the greatest extent practicable as determined by the Community Development Coordinator, ~~and bicycle parking shall be provided for any new floor area consistent with the bicycle standards in Section B-303.D.~~
 - b. Building improvement, remodel, or reconstruction projects valued at 25 percent or more of the total assessed building value as reflected in the Property Appraiser's current records at the time of application, are exempt from all but the pedestrian walkway standards in B-503.C, the surface parking and service area standards in B-504.A.1, ~~the bicycle parking standards in B-504.C, and the landscape requirements in B-505.A of these standards, which shall be brought into compliance to the greatest extent practicable as determined by the Community Development Coordinator. Additionally, the location of any new floor area, including accessory structures, shall be compliant with the setback requirements in Division 4 of these standards to the greatest extent practicable as determined by the Community Development Coordinator, and bicycle parking shall be provided for any new floor area consistent with the bicycle standards in Section B-303.D.~~ Landscape requirements in B.504.A.1 and B.505.A may be modified as part of a comprehensive landscape program pursuant to the criteria set forth in Section 3-1202.G.

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Section 4. That Appendix B. US 19 Zoning District and Development Standards, Division 3. Subdistrict Standards, be amended to read as follows:

Section B-303. – Permitted Uses & Parking

A. Use & Off-Street Parking Table

Permitted uses and approval levels by Subdistricts, along with off-street parking requirements, are listed in Table 2. Use & Off-Street Parking. Active uses are required at identified key corners, as defined in Section B-303.B. ~~Pursuant to Section B-801, new construction projects on sites of 10 acres or more shall require at a minimum a Level One (flexible standard development) approval unless the proposed use or proposal otherwise requires a Level Two (flexible development) approval.~~

Table 2. Use and Off-Street Parking

Use	Regional	Neighborhood	Corridor	Use Specific Standards	Minimum Off-Street Parking Spaces
* * * * *					
Footnotes: 1. The parcel proposed for development is not contiguous to a parcel of land which is designated as residential in the Zoning Atlas. 2. The parcel proposed for development is not located within 500 feet of a parcel of land used for purposes of a place of worship or a public or private school unless the intervening land uses, structures or context are such that the location of the use is unlikely to have an adverse impact on such school or use as a place of worship. Key: BCP = Level 1 Minimum Standard (Building Construction Permit). FLS = Level 1 Flexible Standard Development (Community Development Coordinator approval required). FLD = Level 2 Flexible Development (Community Development Board approval required). X = Not Permitted New construction projects on sites of 10 acres or more shall require, at a minimum, a Level One (flexible standard development) approval unless the proposed use or proposal otherwise requires a Level Two (flexible development) approval.					

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D. Bicycle Parking

1. ~~Short-term and long-term~~ bicycle parking requirements are listed in Table 4. Bicycle Parking.

Table 4. Bicycle Parking

Use	Short Term Spaces	Long Term Spaces
Attached Dwellings (1 – 100 units)	2 min., or 1 space per 10 units	1 per 2 dwelling units. Units with private garage or private storage space are exempt.
Attached Dwellings (101+ units)	1 space per 20 units	1 per 4 dwelling units. Units with private garage or private storage space are exempt.

Bars, Brewpubs, Restaurants	2 min., or 1 per 5,000 SF GFA	None
Offices	2 min., or 1 per 10,000 SF GFA	2 min., or 1 per 10,000 SF GFA
Parking Garages	6 min., or 1 per 20 vehicle parking spaces, whichever is greater	None
Public Transportation Facilities	10 min., or 1 per 5,000 SF GFA	4 min., or 1 per 10,000 SF GFA
Retail Sales and Services, Retail Plazas, Alcoholic Beverage Sales	2 min., or 1 per 5,000 SF GFA	None
All Other Nonresidential Uses	2 min., or 1 per 10,000 SF GFA	None

2. All short-term bicycle parking areas shall be in highly visible locations along pedestrian walkways and near building entries.
3. All bicycle parking provided shall comply with the bicycle parking standards in Section 3-1411 of this Development Code.

Section 5. That Appendix B. US 19 Zoning District and Development Standards, Division 5. Site Design Standards, Section B-503. Access and circulation, be amended to read as follows:

Section B-503. – Access and circulation.

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D. Cross Parcel Connections

To facilitate circulation and improve accessibility, vehicle and pedestrian facilities on adjacent sites shall be interconnected. Existing and planned parking lot drive aisles and pedestrian walkways shall be aligned and connected ~~with abutting sites. In cases where no connection exists on an abutting developed site, and~~ drive aisle and pedestrian walkway stub outs shall be constructed on properties abutting undeveloped sites to allow for future connections.

Section 6. That Appendix B. US 19 Zoning District and Development Standards, Division 6. Building Design Standards, be amended to read as follows:

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Section B-602. – Façade treatment and design.

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B. Limited Blank Facades

Blank sections of ground floor building façades fronting ~~or within view of streets, pedestrian walkways, or other~~ and public spaces shall not exceed 20 feet in length. Elements such as windows, doors, balconies, columns, pilasters, changes in material, or other architectural details that provide visual interest shall be distributed across the façade in a manner consistent with the overall design of the building.

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E. Upper Floor Facade Articulation ~~and Fenestration~~

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3. ~~To minimize blank façade areas along street frontages, façades fronting streets and new primary drives shall provide fenestration (doors, windows or other openings) to an extent of a minimum of 20 percent of each floor's façade area as measured between finished floor and finished ceiling.~~

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Section 7. That Appendix B. US 19 Zoning District and Development Standards, Division 8. Administration, Section B-801. Site plan approvals, be amended to read as follows:

Section B-801. – Site plan approvals.

A. ~~Required Pre-Application Conference~~

~~A pre-application conference shall be required for all development applications within the US 19 District unless the development is exempt from the Development Standards pursuant to Section B-104.C or this requirement is otherwise waived by the Community Development Coordinator.~~

B. ~~Approval Authority~~

The final decision-making authority for site plans is either the Community Development Coordinator for Level One approvals or the Community Development Board for Level Two approvals, as specified in Article 4. The level of approval required varies by use and subdistrict as specified in Table 2. Use & Off-Street Parking, which identifies whether a use can be approved as a Building Construction Permit (Level 1 Minimum Standard), or if Community Development Coordinator (Level One Flexible Standard Development) or Community Development Board (Level Two Flexible Development) approval is required. ~~Projects on sites of 10 acres or more shall require at a minimum a Level One (flexible standard development) approval.~~ Projects requesting flexibility in the application of Design Standards shall follow the process established in Section B-702.

Section 8. That Appendix C. Downtown District and Development Standards, Division 3. Character District Standards, Table 1. Use and Off-Street Parking be amended to read as follows:

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Table 1. Use and Off-Street Parking

Use	Downtown Core	Old Bay	South Gateway	Prospect Lake	Downtown Gateway	Use Specific Criteria	Minimum Off-Street Parking Spaces
* * * * *							
NONRESIDENTIAL USES							
* * * * *							
Overnight Accommodations (Hotel)	BCP	BCP	X	BCP	BCP	None	0.75/unit
* * * * *							
Self Storage Warehouses	FLS	X	FLS	FLS	FLS	1. The use shall be secondary to and shall not exceed 25 percent of the gross floor area of the building in which it is	N/A

Table 1. Use and Off-Street Parking

Use	Downtown Core	Old Bay	South Gateway	Prospect Lake	Downtown Gateway	Use Specific Criteria	Minimum Off-Street Parking Spaces
						located another principal use. 2. Leasing office and other non-storage customer service areas shall be incorporated into the building frontage along the primary street. 3. Outdoor storage of any kind shall be prohibited. 4. Access to individual storage spaces shall be provided from within the building. 5. All loading areas, including bays and loading zones used for the placement of personal products onto, or removal from, a transportation vehicle shall be provided along the interior side or rear of the building and screened from view.	

Section 9. That Appendix C. Downtown District and Development Standards, Division 4. Frontage Standards, be amended to read as follows:

Section C-405. – Storefront 2 frontage.

C. Front Setback Improvements.

1. Where front setbacks are provided, the area within the setback shall be improved primarily as a hardscape extension of the public streetscape with no change in elevation from adjacent sidewalks.
2. Landscape areas may account for 35 percent maximum of the front setback area. Such landscaping shall comply with landscape requirements in Section 3-1202.
3. Low curbing ~~up to six inches in height~~ may be used to define the edge of landscape areas but no permanent physical obstructions such as walls, railing, or fencing are permitted.

Section C-406. – Workshop/flex frontage.

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C. Front Setback Improvements.

1. The front setback area shall be improved as a landscape area with walkway connections between sidewalks and front building entries. Low curbing up to six inches in height may be used to define the edge of landscape areas but no permanent physical obstructions such as walls, railings, or fencing are permitted between the street and front building façade.

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- Section 10. That Appendix C. Downtown District and Development Standards, Division 5. Site Design Standards, be amended to read as follows:

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Section C-503. – Access and circulation.

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- D. Cross Parcel Connections. To facilitate circulation and improve accessibility, vehicle and pedestrian facilities on adjacent sites shall be interconnected, except for detached dwellings and duplexes on interior lots along Street Type F. Parking Existing and planned parking lot drive aisles, private drives, private service drives, and pedestrian walkways shall be aligned and connected with abutting sites. In cases where no connection exists on an abutting developed site, and drive aisle and pedestrian walkway stub outs shall be constructed on properties abutting undeveloped sites to allow for future connections.

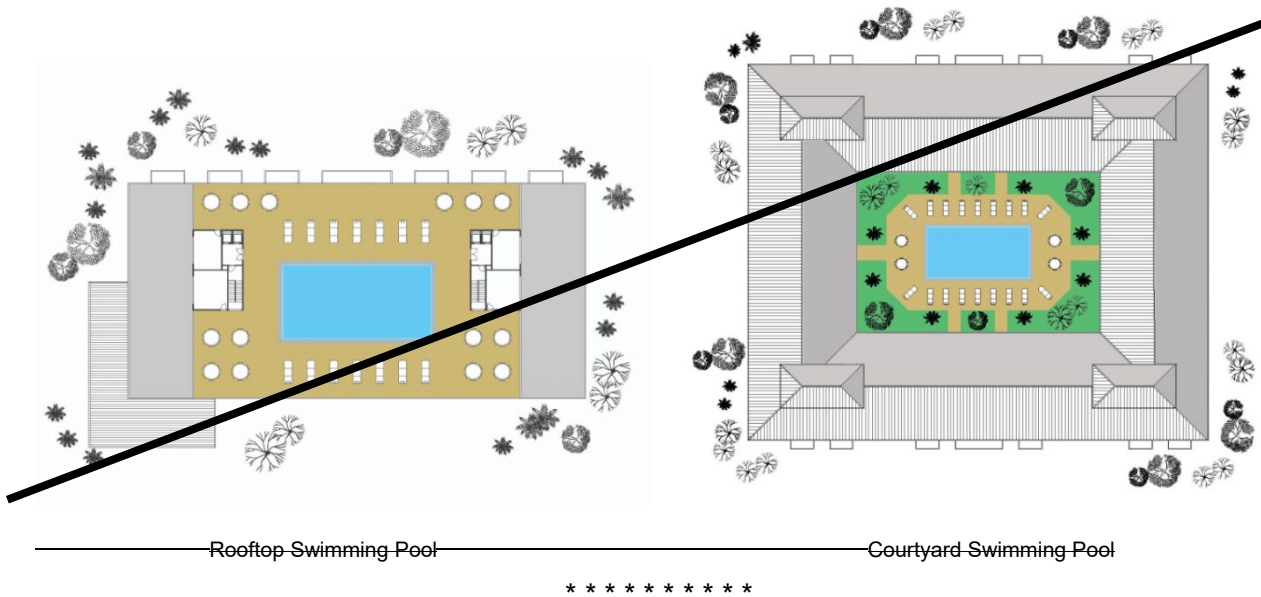
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~~Section C-510. – Swimming Pools.~~

~~Swimming pools for all attached dwellings except duplexes, shall be located on the roof of the building or internal to the development site as a courtyard pool, surrounded on all four sides by building(s), and not along street frontages as illustrated in Figure 31. Swimming pools for detached dwellings and duplexes shall comply with the accessory structure provisions in Article 3, Division 2 of this code.~~

Figure 31. Swimming Pools

(Delete images for Figure 31 and renumber subsequent Figures accordingly)



Section 11. That Appendix C. Downtown District and Development Standards, Division 6. Building Design Standards, be amended to read as follows:

Section C-602. – Façade treatment and design.

C. Facade Materials All building facades within view of a public street, pedestrian walkway, waterfront, or other public space, including side and rear facades, shall be constructed of high quality materials such as brick, stone, architectural block, concrete with an architectural finish, and traditional cementitious stucco. Side and rear facades shall use materials and design features similar to or complementary to those of the front facade. The use of metal facades shall not be permitted.

~~D. Upper Floor Façade Fenestration. To minimize blank façade areas along street frontages, façades fronting streets and new primary drives shall provide fenestration (doors, windows or other openings) to an extent of a minimum of 20 percent of each floor's façade area as measured between finished floor and finished ceiling.~~

***** RELETTER REMAINING SUBSECTIONS *****

Section 12. That Appendix C. Downtown District and Development Standards, Division 8. Flexibility, be amended to read as follows:

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Section C-803. – Flexibility provisions.

Flexibility may be approved subject to the standards below.

~~K. Site Design Standards – Swimming Pools.~~

~~Flexibility in the application of swimming pool requirements in Section C-510 may be approved consistent with one of the following.~~

- ~~1. For buildings at corner locations, flexibility may be approved to allow at-grade swimming pools within in a courtyard of a “U” shaped or “L” shaped building along a secondary street frontage. Where flexibility in this standard is allowed, non-opaque or picket-style fencing may be permitted to a maximum height of 6 feet in line with or setback from the front building façade.~~
- ~~2. For buildings on Through Lots or Multi-Frontage Lots, flexibility may be approved to allow at-grade swimming pools within a courtyard of a “U” shaped building along Street Type D. Where flexibility in this standard is allowed, non-opaque or picket-style fencing may be permitted to a maximum height of 6 feet in line with or setback from the front building façade.~~

***** RELETTER REMAINING SUBSECTIONS *****

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Section 13. That Appendix C. Downtown District and Development Standards, Division 9. Administration, be amended to read as follows:

Section C-901. – Site plan approvals.

~~A. Required Pre-Application Conference~~

~~A pre-application conference shall be required for all development applications within the Downtown District unless the development is exempt from the Development Standards pursuant to Section C-104.B or this requirement is otherwise waived by the Community Development Coordinator.~~

~~B. Approval Authority~~

The final decision-making authority for site plans is either the Community Development Coordinator for Level One approvals or the Community Development Board for Level Two approvals, as specified in Article 4. The level of approval required varies by use and character district as specified in Table 1. Use & Off-Street Parking, which identifies whether a use can be approved as a Building Construction Permit (Level 1 Minimum Standard), or if Community Development Coordinator (Level 1 Flexible Standard Development) or Community Development Board (Level 2 Flexible Development) approval is required. Projects requesting flexibility in the application of development standards shall follow the process established in Appendix C, Section C-802.

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Section C-903. – Regulating plan adjustments.

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- B. Street Type on Existing or New Public Streets. Upon approval of a development project which includes new ~~public~~ streets or existing public streets where a street type was not previously depicted in Figure 2. Regulating Plan–Street Types and Key Corners, the Community Development Coordinator will make an administrative adjustment to Figure 2. Regulating Plan–Street Types and Key Corners to reflect the approved street type(s).

Section 14. Amendments to the Community Development Code of the City of Clearwater (as originally adopted by Ordinance No. 6348-99 and subsequently amended) are hereby adopted to read as set forth in this Ordinance.

Section 15. The City of Clearwater does hereby certify that the amendments contained herein, as well as the provisions of this Ordinance, are consistent with and in conformance with the City's Comprehensive Plan.

Section 16. Should any part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part declared to be invalid.

Section 17. Notice of the proposed enactment of this Ordinance has been properly advertised in a newspaper of general circulation in accordance with applicable law.

Section 18. This ordinance shall take effect immediately upon adoption.

PASSED ON FIRST READING

PASSED ON SECOND AND FINAL
READING AND ADOPTED

Brian J. Aungst, Sr.
Mayor

Approved as to form:

Attest:

Matthew J. Mytych, Esq.
Senior Assistant City Attorney

Rosemarie Call, MPA, MMC
City Clerk