



PLANNING & DEVELOPMENT DEPARTMENT COMMUNITY DEVELOPMENT BOARD STAFF REPORT

MEETING DATE: September 19, 2023

AGENDA ITEM: F.1

CASE: TA2023-07002

ORDINANCE NO.: 9712-23

REQUEST: To amend the Community Development Code to rescind certain amendments that were adopted previously through Ordinance No. 9463-23 determined to be null and void *ab initio* pursuant to Florida Senate Bill 250 (2023)

INITIATED BY: City of Clearwater, Planning and Development Department

BACKGROUND:

City Council approved Ordinance No. 9643-23 on April 4, 2023, making a variety of amendments to the Community Development Code (CDC). Subsequent to this approval, the Florida Legislature prepared Senate Bill 250 (herein after SB 250), which the Governor signed into law on June 28, 2023.

SB 250 pertains to natural emergencies, and bill Section 14 places certain restrictions on municipalities entirely or partially within 100 miles of where either Hurricanes Ian or Nicole made landfall. The city of Clearwater lies within the area for which these restrictions apply. More specifically, SB 250 states 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. The bill further declares that any such amendment “shall be null and void *ab initio*”. This restriction applies retroactively to September 28, 2022. Void *ab initio* means that those provisions have no legal effect.

The city has adopted multiple Ordinances amending either the city’s Comprehensive Plan or Community Development Code since September 28, 2022. Staff has reviewed those ordinances and determined that most are not affected by SB 250. However, portions of Ordinance No. 9643-23 may be “more restrictive or burdensome” and are therefore null and void *ab initio* pursuant to SB 250.

Although SB 250 has established that the applicable provisions are void and have no legal effect, Ordinance No. 9712-23 provides transparency and proper processing to ensure the provisions are removed from the Community Development Code in all its forms. Should the city want to adopt these amendments again, it may do so after October 1, 2024.

ANALYSIS:

Proposed Ordinance No. 9712-23 rescinds certain amendments, reverting to the codified language that existed prior to April 4, 2023 (i.e., when Ordinance No. 9643-23 was adopted). The provisions identified that may be “more restrictive or burdensome” and that are included in this Ordinance were:

1. New standards that may require additional capital outlay to meet (e.g., new long-term bike parking requirements in US 19 District; new swimming pool standards in Downtown District); or
2. Changes to processes (e.g., mandatory pre-application meeting for projects in the US 19 or Downtown Districts; Development Review Committee (DRC) review for properties 10+ acres in the US 19 District); or
3. New restrictions of the use of property or the city’s right-of-way (e.g., application of residential parking restrictions to residentially designated downtown property).

The remainder of amendments adopted by Ordinance No. 9643-23 included new standards that expanded a property owner’s options (e.g., new fence standards; expansion of community gardens to additional zoning districts; additional flexibility provisions in US 19 and Downtown Districts); the addition of clarifying language (e.g., transparency requirements for ground floor windows in US 19 and Downtown Districts); or other changes that were determined to not otherwise be burdensome to a private property owner. Those remain in effect.

CRITERIA FOR TEXT AMENDMENTS:

CDC Section 4-601 sets forth the procedures and criteria for reviewing text amendments. All text amendments must comply with the following:

- 1. The proposed amendment is consistent with and furthers the goals, policies, and objectives of the Comprehensive Plan.**

Proposed Ordinance No. 9712-23 is consistent with the Clearwater Comprehensive Plan as it is reverting certain provisions and standards in the Community Development Code back to an earlier version that had previously been determined to be consistent with the city’s Comprehensive Plan.

2. The proposed amendments furthers the purposes of the Community Development Code and other City ordinances and actions designed to implement the Plan.

Similarly, the proposed text amendment will further the purposes of the CDC. Although the city chose to amend the CDC earlier this year, the original language was originally adopted and determined to meet these same review criteria.

SUMMARY AND RECOMMENDATION:

The proposed amendment to the Community Development Code is consistent with and will further the goals of the Clearwater Comprehensive Plan and the purposes of the Community Development Code, and is required to comply with Senate Bill 250 (2023).

Based upon the above, the Planning and Development Department recommends **APPROVAL** of Ordinance No. 9712-23 that amends the Community Development Code.



Prepared by Planning and Development Department Staff:

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ATTACHMENTS: Ordinance No. 9712-23
Resume