

**ORDINANCE NO. 9514-22**

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA MAKING AMENDMENTS TO THE COMMUNITY DEVELOPMENT CODE BY AMENDING SECTION 3-920. AFFORDABLE HOUSING INCENTIVES TO PROVIDE INCREMENTAL DENSITY BONUSES FOR MIXED-INCOME PROJECTS BETWEEN 15 AND 25 PERCENT AFFORDABLE HOUSING UNITS, TO ALLOW ADDITIONAL OFF-STREET PARKING REDUCTIONS FOR AFFORDABLE HOUSING UNITS NEAR TRANSIT STOPS PROVIDING CERTAIN FREQUENCY OF SERVICE, TO ESTABLISH LONG-TERM BICYCLE PARKING REQUIREMENTS FOR THOSE AFFORDABLE HOUSING UNITS PROVIDING REDUCED OFF-STREET PARKING, AND TO ADD A NEW SUBSECTION C. AFFORDABLE HOUSING FEE REDUCTIONS; REPEALING ARTICLE 3. DIVISION 11. HOME OCCUPATIONS; ADOPTING A NEW ARTICLE 3. DIVISION 11 HOME-BASED BUSINESSES WHICH ESTABLISHES STANDARDS FOR ALL HOME-BASED BUSINESSES, CONSISTENT WITH F.S. 559.955, AND ENSURES CONSISTENCY WITH RESIDENTIAL CHARACTER BY CLARIFYING TYPES OF UNPERMITTED BUSINESSES, LIMITING BUSINESS SIZE AND NUMBER OF OUTSIDE EMPLOYEES, AND ADDRESSING CERTAIN OPERATIONAL CHARACTERISTICS, PARKING LOCATION, AND OTHER SIMILAR REQUIREMENTS; AMENDING SECTION 5-201. POWERS AND DUTIES TO CLARIFY AND AFFIRM THAT THE COMMUNITY DEVELOPMENT BOARD IS THE CITY'S DESIGN REVIEW BOARD; AMENDING SECTION 8-102. DEFINITIONS BY DELETING HOME OCCUPATION AND ADDING HOME-BASED BUSINESS; AMENDING APPENDIX A – SCHEDULE OF FEES, RATES AND CHARGES, V. BUILDINGS AND BUILDING REGULATIONS (§ 47.087), TO REVISE FEE REDUCTIONS FOR USE OF PRIVATE PROVIDERS AND ESTABLISH A FEE REDUCTION FOR AFFORDABLE HOUSING PROJECTS; AMENDING APPENDIX B – US 19 DISTRICT AND DEVELOPMENT STANDARDS, SECTION B-303.C TABLE 3, TO ADD AFFORDABLE HOUSING AS A FACTOR FOR REDUCING REQUIRED PARKING; MAKING OTHER ADMINISTRATIVE CHANGES; CERTIFYING CONSISTENCY WITH THE CITY'S COMPREHENSIVE PLAN AND PROPER ADVERTISEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, on July 15, 2021 the City demonstrated its commitment to taking a countywide approach to addressing housing affordability by approving the Advantage Pinellas Housing Compact between the municipalities within Pinellas County, the Pinellas County Board of County Commissioners and Forward Pinellas; and

WHEREAS, the City has provided reduced parking for affordable and workforce housing projects in the Community Development Code since 2005 (Ordinance 7499-05), and established additional incentives for affordable housing including a density bonus in 2012 (Ordinance 8313-12); and

WHEREAS, the city's Affordable Housing Advisory Committee convenes annually as required by Section 420.9076 Florida Statutes and has supported various incentives intended to encourage development and preservation of affordable and workforce housing; and

WHEREAS, during its 2021 session, the Florida Legislature passed House Bill 403 ("HB 403"), which, prohibits local governments from taking certain actions relating to the licensure and regulation of home-based businesses; and

WHEREAS, the City has determined that certain amendments to the Community Development Code are necessary to remain consistent with the changes to Florida Statutes governing home-based businesses pursuant to HB 403; and

WHEREAS, during its 2021 session, the Florida Legislature also passed House Bill 401/Senate Bill 284 ("HB 401/SB 284"), which, preempts local governments from regulating certain building design elements for single-family and two-dwelling residences; and

WHEREAS, HB 401/SB 284 also created an exemption to the preemption, allowing local governments to continue to regulate dwellings in those jurisdictions that already have a design review board or architectural review board; and

WHEREAS, the City has a long-standing design review board, its Community Development Board ("CDB"), whose duties include performing design consistency reviews for dwellings pursuant to the City's Land Development Regulations; and

WHEREAS, the City does affirm that its CDB is a Design Review Board, as that term is contemplated in HB 401/SB 284; and

WHEREAS, HB 401/SB 284 also requires local governments to reduce permit fees where a private provider is used for the purposes of plans review or building inspection services; and

WHEREAS, the City desires to also reduce building permit fees for one or two-family residential affordable and workforce housing projects, as certified by the City's Economic Development and Housing Department; and

WHEREAS, at a duly noticed public meeting the Clearwater Community Development Board, pursuant to its responsibilities as the Local Planning Agency, has reviewed this amendment, conducted a public hearing, considered all public testimony and has determined that this amendment is consistent with the City of Clearwater's Comprehensive Plan and recommended that the City Council adopt this amendment; 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 9. General Applicability Standards, Section 3-920 Affordable housing incentives, Community Development Code, be amended to read as follows:

A. *Affordable housing density dwelling units.*

\* \* \* \* \*

3. *Density bonus.*

- a. *Mixed-income affordable housing developments.* Mixed-income affordable housing developments contain a minimum of 15 percent affordable housing units and a maximum of 25 percent affordable housing units, the remainder being market-rate housing units. The percentage of bonus units awarded is based on the percentage of affordable housing units provided, as shown in the table below:

Percentage Affordable Housing Dwelling Units Provided <u>(Minimum 15% Required)</u>	Bonus Density Awarded  <u>(Additional 2.5% Density Bonus for Each 1% Increase Above the 15% Minimum)</u>
15%	25%
<u>16%</u>	<u>27.5%</u>
<u>17%</u>	<u>30.0%</u>
<u>18%</u>	<u>32.5%</u>
<u>19%</u>	<u>35.0%</u>
<u>20%</u>	<u>37.5%</u>
<u>21%</u>	<u>40.0%</u>
<u>22%</u>	<u>42.5%</u>
<u>23%</u>	<u>45.0%</u>
<u>24%</u>	<u>47.5%</u>
<u>25%</u>	<u>50%</u>

\* \* \* \* \*

B. *Affordable housing parking ~~reductions~~incentive.*

1. Any reduction in required off-street parking shall only apply to those dwelling units which are certified by the City's Economic Development and Housing Department as affordable housing. All other dwelling units not certified as affordable housing shall meet the minimum off-street parking requirements set out for the use in the applicable zoning district. Certified affordable housing projects may be eligible for a reduction in the required off-street parking consistent with the following: ~~Off-street parking may be reduced to one and one-half (1.5) parking spaces, or less per unit, provided the site with affordable housing units is located within 1,000 feet of a transit stop as measured from the nearest point of exit from the parcel based upon the shortest route of ordinary pedestrian travel and subject to the following:~~

a4. The parking requirement may be reduced to between one and one-half (1.5) and one (1) space per unit for projects located within 1,000 feet of a transit stop if the affordable housing units are designated for senior citizens or disabled persons.

b. For all other affordable housing projects, the parking requirement may be reduced to between one and one-half (1.5) and one and one-quarter (1.25) space per unit for projects located within 1,500 feet of a transit stop with 30-minute or more frequent service during peak hours and 60 minute-minutes or more frequent service during off-peak hours.

c. The distance a site is from a transit stop shall be measured from the nearest point of exit from the parcel based upon the shortest route of ordinary pedestrian travel.

2. Long-term bicycle parking shall be provided to any affordable housing unit which is approved with reduced off-street parking consistent with the following:

a. The following table sets forth the number of long-term bicycle spaces required for each unit for which the number of off-street parking spaces was reduced. When the determination of the number of required long-term bicycle parking spaces results in a requirement of a fractional space, any fraction less than one-half space shall be rounded down to the nearest whole number and any fraction of one-half space or more shall be rounded up.

<u>Type of Affordable Housing</u>	<u>Long-Term Bicycle Spaces</u>
<u>Detached Dwelling</u>	<u>No spaces required.</u>
<u>Attached Dwellings:</u>	
<u>a) with private garage or private storage space for unit</u>	<u>No spaces required.</u>
<u>b) without private garage or private storage space for unit</u>	<u>0.5 spaces per unit</u>

b. All bicycle spaces provided shall comply with the bicycle parking standards in Section 3-1411.

32. In the case of attached dwellings, if parking is proposed ~~adjacent~~next to the building, a buffer that includes a four-foot sidewalk and a five-foot landscaped area shall be provided between the building and parking as illustrated below.

\* \* \* \* \*

C. Affordable housing fee reductions.

1. Building permit fee reduction. Building plan review and permit fees may be reduced for certified affordable housing developments as set forth in the fee schedule, except where legal constraints prevent such waiving.
2. Multimodal impact fee reduction. The multi-modal impact fee required pursuant to Section 4-905.C.2. may be reduced for qualified affordable housing projects meeting the requirements for the low-income household reduction as established by the Impact Fee Schedule A or B in Section 150-40 of the Pinellas County Land Development Code.

Section 2. That Article 3. Development Standards, Division 11. Home Occupations, Community Development Code, be repealed and replaced and renamed to read as follows:

DIVISION 11. – HOME-BASED BUSINESSES

Section 3-1101. - Purpose.

It is the purpose of this division to establish criteria for certain businesses to operate in whole or in part from a residentially zoned property while limiting potential impacts on surrounding properties and maintaining residential character, pursuant to F.S. 559.955.

Section 3-1102. - Standards.

- A. A home-based business shall not include uses such as alcoholic beverage sales, animal boarding, light assembly (other than hand-crafted products), manufacturing, outdoor storage, problematic uses as defined under Article 8, publishing and printing, restaurants, salvage yards, urban farms, vehicle sales/display major, vehicle service, vehicle service limited, vehicle service major, veterinary office, or wholesale/distribution/warehouse facility, or any like uses which are industrial in nature or like uses which require or generate significant parking, as such uses are not compatible with the residential character of the dwelling or the neighborhood.

B. All home-based businesses shall conform to all of the following standards:

1. The activities of the home-based business shall be clearly secondary to the property's principal use as a dwelling unit and must be conducted entirely within the dwelling or a legal accessory structure located on the premises.
2. Home occupations are permitted in an attached garage provided the required parking is retained and accessible. Home occupations are prohibited in carports.
3. There shall be no external modifications made to the dwelling unit or accessory structure to accommodate a home-based business that would not be compatible or appropriate to its residential use and architectural character.
4. No display of products, operations, signs or nameplates shall be visible from outside the dwelling unit.
5. No more than two employees or independent contractors who do not reside at the dwelling unit may work at the dwelling unit in addition to those living in the dwelling unit. The business may have additional remote employees that do not work at the dwelling unit.
6. Retail transactions shall only be conducted from the dwelling unit.
7. The need for parking generated by the home-based business shall be no greater than would normally be expected at a similar residence where no home-based business is conducted.
8. Motor vehicles, trailers, or farm equipment used in conjunction with the home-based business shall be parked or stored consistent with all terms contained in Article 3, Division 14.
9. The home-based business shall not create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors, detectable to the normal senses at the lot line, or beyond the lot line if the home-based business is conducted in a detached dwelling, or beyond the exterior or any common walls in an attached dwelling.
10. All home-based business activities must comply with all local, county, state, and federal regulations related to the home-based business with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids.
11. Home-based business involving the provision of day care services shall comply with the provisions regulating family day cares in accordance with Florida Statutes and obtain all required licenses.

Section 3. That Article 5. Decision Making and Administrative Bodies, Division 2. Community Development Board, Section 5-201. Powers and duties, Community Development Code, be amended to read as follows:

Section 5-201. Powers and duties.

There is hereby created a community development board to act as the Design Review Board and the local planning agency of the city and with the following powers and duties:

\* \* \* \* \*

Section 4. That Article 8. Definitions and Rules of Construction, Section 8-102. Definitions, Community Development Code, be amended to read as follows:

\* \* \* \* \*

~~Home occupation means an occupation, craft or profession conducted entirely within a dwelling unit or conducted from a motor vehicle based at a dwelling unit such that the use is incidental to the residential use of the dwelling unit and does not change the residential character of the dwelling unit.~~

Home-based business means a business conducted in whole or in part within a dwelling unit or legal accessory structure on that same property, that is secondary to the use of the dwelling for dwelling purposes and does not give external evidence of nonresidential use or adversely affect the uses permitted in the residential district of which it is a part.

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Section 5. That Appendix A – Schedule of Fees, Rates and Charges, V. Buildings and Building Regulations (§ 47.087), Community Development Code, be amended to read as follows:

#### V. BUILDINGS AND BUILDING REGULATIONS (§ 47.087):

Permit fees and charges:

(1) Permits and fees and charges, in general; exceptions:

- (a) Permits are generally not required for carpeting, painting, wallpapering, paneling over existing walls, and tile, nor where the valuation of labor, materials, and all other items does not exceed \$500.00 and the work or operation is of casual, minor, inconsequential nature, and does not violate any city codes or ordinances, or is exempt pursuant to Chapter 75-489, Laws of Florida (~~Special Acts~~), ~~Section 25~~.
- (b) Valuations for all construction shall be based on the contract value. ~~The current Southern Building Code Congress International's valuation tables may be used if no contract is submitted with the permit application.~~
- (c) ~~Plans review fees~~Fees will be reduced by ~~33 percent~~ for those projects using a private provider ~~offer plan review or building inspection services to determine~~

compliance with the Florida Building Code, pursuant to Florida Statutes, to review the Building, Plumbing, Mechanical and Electrical trades. as follows:

1. Plan review fee: 50% reduction

2. Permit fee: 50% reduction

\* \* \* \* \*

(f) Plan review and permit fees for one- or two-family residential affordable housing projects, as defined in Article 8 of this code and certified by the city's Economic Development and Housing Department, will be reduced by 75%.

Section 6. That Appendix B – US 19 Zoning District and Development Standards, Division 3. Subdistrict Standards, Section B-303.C Parking Reduction, Community Development Code, be amended to read as follows:

C) Parking Reduction

For all uses listed in Table 2. Use and Parking, a reduction in the minimum number of parking spaces may be approved. The combined effect of all applicable reductions in this section shall not reduce the off-street parking required by more than 25 percent. Parking reduction factors are provided in Table 3. Parking Reduction Factors.

Table 3. Parking Reduction Factors		
Factor	Criteria	Parking Reduction
<u>Affordable Housing as certified by the city's Economic Development and Housing Department</u>	<u>All properties within the US 19 District</u>	<u>Minimum off-street parking may be reduced to 1 space per dwelling unit when affordable housing project is located within 1,500 feet of a transit stop</u>
On-Street Parking	Properties within the Regional Center and Neighborhood Center Subdistricts with Type A Street Frontage	One legal on-street parking space can be substituted for every required off-street parking space provided the on-street space is located along that portion of the right-of-way immediately abutting the property seeking the adjustment.
Electric Vehicle Charging Stations	All properties within the US 19 District	One off-street parking space equipped with an electric vehicle charging station may be substituted for two required off-street parking spaces. The maximum



		substitution shall be no more than eight required spaces.
Photovoltaic-Topped Shade Structure	All properties within the US 19 District	One off-street parking space equipped with a Photovoltaic /PV-topped shade structure (also called solar canopy or solar carport) may be substituted for three required off-street parking spaces.
Bus Shelter	All properties within the US 19 District	Bus shelters may be provided in lieu of up to 15 percent of the required number of parking spaces. This reduction shall only be applied at PSTA approved locations.
Bicycle Parking	All properties within the US 19 District	One bicycle rack that provides a minimum of six-units of parking may be substituted for no more than one parking space. This is in addition to required bicycle parking pursuant to Division 5. Site Design Standards.
Shared Parking	All properties within the US 19 District	Pursuant to Section 3-1405.

Section 7. 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 8. 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 9. 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 10. Notice of the proposed enactment of this Ordinance has been properly advertised in a newspaper of general circulation in accordance with applicable law.

Section 11. This ordinance shall take effect immediately upon adoption.

PASSED ON FIRST READING

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PASSED ON SECOND AND FINAL  
READING AND ADOPTED

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Frank V. Hibbard  
Mayor

Approved as to form:

Attest:

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Matthew J. Mytych, Esq.  
Assistant City Attorney

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Rosemarie Call, MPA, MMC  
City Clerk