



PLANNING & DEVELOPMENT DEPARTMENT COMMUNITY DEVELOPMENT BOARD STAFF REPORT

MEETING DATE: April 16, 2024

AGENDA ITEM: F.2

CASE: TA2024-03001

ORDINANCE NO.: 9758-24

REQUEST: Amendments to the Community Development Code to provide for accessory dwelling units in certain residential zoning districts, to provide additional standards for carwashes, to establish standards for solar energy systems and density bonuses for the use of gray water systems, to update mechanical screening requirements, to remove outdated requirements related to concurrency, to update standards for traffic impact studies, to require a notice of application for Level II cases prior to the Development Review Committee meeting, and various other formatting and editorial clarifications.

INITIATED BY: City of Clearwater, Planning and Development Department

BACKGROUND

Proposed Ordinance No. 9758-24 contains numerous staff-initiated amendments to the Community Development Code. Proposed amendments come from the city's adoption of *Clearwater 2045*, the city's new Comprehensive Plan, including updating references to *Clearwater 2045* that are now outdated; *Greenprint 2.0*, the city's sustainability plan; and changes to state statutes through recent legislation. Additional amendments to certain zoning districts add review criteria or bring consistency between all districts; add Level Two applications to those that are noticed after an application is deemed complete; and other minor amendments that clean up typographical errors within the code or update graphics to help provide additional clarity.

The largest amendments are the establishment of accessory dwelling units as a newly permitted use within certain residential zoning districts and the associated development standards for that use. Accessory dwellings are currently permitted in certain nonresidential zoning districts, and this proposed amendment will add the word "units" to make the use consistent throughout the code and will add additional

development criteria for those accessory dwelling units within nonresidential zoning districts. The creation of accessory dwelling units is supported by *Clearwater 2045*.

Amendments stemming from *Greenprint 2.0* include the creation of standards for solar energy systems, i.e. roof mounted solar photovoltaic (PV) panels. Additionally, this proposed addition is supported by *Clearwater 2045*.

Legislative amendments are based on requirements found in Senate Bill (SB) 64 (2021), *An Act Relating to Reclaimed Water*; SB 250 (2023), *An Act Related to Natural Emergencies*; House Bill (HB) 1411 (2022), *An Act Relating to Floating Solar*; and existing code language based on obsolete statutory requirements. Provisions within SB 64 require that municipalities provide development bonuses for certain residential developments that incorporate or implement graywater systems within the development. SB 250 extended the timeframe for which temporary emergency housing can be located on a property after declaration of a natural emergency issued by the Governor. HB 1411 directs municipalities to promote the use of floating solar facilities, which are proposed to be included with the solar energy systems section. Lastly, there are currently provisions within the Community Development Code that detail a method for obtaining a certificate of concurrency/capacity as it relates to public utilities prior to a development; however, the statutes do not require this provision to occur, only that public utilities be available to serve a development prior to issuance of a certificate of occupancy.

While not a directed change from *Clearwater 2045*, *Greenprint 2.0*, or legislative changes, amendments to the noticing of applications results from discussions and feedback from staff and representatives of the Clearwater Neighborhoods Coalition. The city currently sends a notice of application for Level I (Flexible Standard Development) applications that have been deemed to be complete, and this proposed ordinance adds Level II (Flexible Development) applications, once deemed to be complete, to this notice of application requirement. This “advanced notice” of applications will allow for affected residents to be aware of projects that will need to go before the Community Development Board in advance of the city’s current noticing process. Those projects that go before the Community Development Board currently are noticed no later than 10 days before the hearing, and this proposed change would provide an initial notice a minimum of six weeks before that current notice is sent.

Remaining proposed amendments add additional review criteria related to car washes in the Commercial (C) District, remove certain footnotes from certain zoning districts, bring consistency to the Residential Infill Project use in certain zoning districts, update or remove outdated references, reformat certain use tables to bring consistency between all use tables in the Community Development Code, and correct typographical errors.

Additionally, proposed Ordinance 9758-24 advertised the addition of electric vehicle (EV) parking requirements and updates to the city’s Mobility Management System. These were removed following the Development Review Committee (DRC) Meeting on April 4, 2024. The proposed amendments relating to the establishment of electric vehicle (EV) parking requirements were removed due to Senate Bill 1084 (2024) preempting the regulation of electric vehicle charging stations to the state. Proposed amendments to the Mobility Management System were removed as Pinellas County and Forward Pinellas are initiating a project

to update that system and the Multimodal Impact Fee. Staff felt a more comprehensive amendment after that project has completed would be more appropriate.

AMENDMENT PROPOSAL

Proposed Ordinance 9758-24 contains numerous amendments throughout the Community Development Code, which can be generally broken down into the following categories:

1. Accessory dwelling units, or ADUs, including the establishment as a use within certain zoning districts along with development standards for such.
2. Sustainability initiatives, including standards for solar energy systems.
3. Legislative changes, including adding language related to temporary emergency housing timeframes, the inclusion of residential density bonuses for the use of graywater systems in certain residential developments, and the creation of floating solar standards. Also included with legislative changes is the removal of standards for certificates of concurrency/capacity.
4. Application noticing, to add Level Two, Flexible Development (FLD) applications to the notices that are sent to abutting property owners.
5. “Clean up” amendments, which generally include correcting typographical errors, updating references to *Clearwater 2045*, removing outdated references, adding additional or removing review criteria as needed, and adding certain new definitions and amending other certain definitions.

The proposed amendments are detailed further within the analysis section.

ANALYSIS

Accessory Dwelling Units [Pages 3 – 8, 12, 14, 17 – 18, and 21 – 23 of Ordinance]

Ordinance 9758-24 proposes to add accessory dwelling unit, or ADU, as a permitted use to the Low Density Residential (LDR), Low Medium Density Residential (LMDR), and Medium Density Residential (MDR) Districts as a Level One, Flexible Standard Development (FLS) approval. In addition, accessory dwellings are currently permitted in the Commercial (C), Tourist (T), Downtown (D), Office (O), Institutional (I), and Industrial, Research, and Technology (IRT) Districts. This ordinance proposes to update the use name to “accessory dwelling unit” consistent with the LDR, LMDR, and MDR Districts. In addition to establishing accessory dwelling unit as a permitted use within the LDR, LMDR, and MDR zoning districts, flexibility criteria are being created within those specific zoning districts. These flexibility criteria relate to unit size, setbacks, height, parking, and design standards including architectural styles and the use of shipping containers. Only one accessory dwelling unit will be permitted per property, and it will not count towards a property’s density. For example, if a property’s size only permits it one dwelling unit, that property will be able to construct an accessory dwelling unit should the flexibility criteria be able to be met.

Additional flexibility criteria are also being proposed for an accessory dwelling unit in the C, T, O, I, and IRT Districts. These criteria stipulate that the accessory dwelling unit needs to comply with the development standards established for the principal use and that the accessory dwelling unit must be constructed with a

similar architectural style as the principal use. Like accessory dwelling units within the residential zoning districts above, only one accessory dwelling unit is permitted per property.

The creation of accessory dwelling units as a permitted use will incrementally increase housing stock within the city and has the potential for a property owner to earn additional income. To be able to construct an accessory dwelling unit, the property owner must live within one of the units on the property. Additionally, an accessory dwelling unit will not be permitted to operate as a short-term rental, or a rental that is less than 30 days in length, within the LDR, LMDR, or MDR Districts. This is consistent with residential rental provisions that currently exist within the city.

Sustainability Initiatives [Pages 27 – 28 and 38 of Ordinance]

This ordinance also proposes to include standards related to solar energy systems to further implement *Clearwater 2045*, the city's Comprehensive Plan, and *Greenprint 2.0*. Solar energy systems are being created under Article 3, Development Standards, Division 2, Accessory Use/Structures to create standards for roof mounted and floating solar systems.

Roof mounted systems can be located on pitched or flat roofs, and under both circumstances, the systems must be installed in a horizontal configuration. For pitched roofs, the system must be parallel to and cannot extend more than 12 inches above the roofline. For flat roofs, the system cannot exceed five feet in height when at maximum tilt angle, which is approximately 25° in the city, and shall be set back from the edge of the roof to minimize visibility from the street.

Floating solar energy systems were introduced, and required to be a permitted use, through HB 1411 (2022) to promote the use of floating solar within the state. These systems tend to be constructed on larger inland bodies of water, such as within quarries or reservoirs, where there is little to no wave action. These systems could also be installed on smaller bodies of water such as stormwater ponds or lakes, and as such, staff is including these systems within this proposed ordinance. Floating solar energy systems cannot exceed three feet above the surface of the water, and a professional engineer must submit a statement that details that the system will not cause degradation to the performance nor cause any negative impacts to the biological community for which the system is to be located.

Legislative Changes [Pages 31 - 32, and 34 – 37 of Ordinance]

This proposed ordinance also includes amendments based on legislative changes to the state statutes, including the creation of development bonuses for residential uses that incorporate the use of graywater systems, updating timeframes for temporary emergency housing, and the deletion of outdated standards relating to certificates of concurrency/capacity.

Senate Bill 64 (2021) included provisions to promote the use of graywater technologies, as well as to help conserve potable water usage, through the creation of density and intensity bonuses for residential uses. There are two percentages of bonuses afforded to a developer: 25% or 35%. To achieve a 25% development bonus, the developer of a proposed or existing development must have at least 75% of the units with a

graywater system installed. To achieve the 35% development bonus, the development must have 100% of the units with a graywater system installed.

To qualify for these bonuses, the development, either proposed or existing, must have at least 25 detached units or attached units. The bonus for graywater systems can be applied on top of other density or intensity bonuses the city provides that were in effect on July 1, 2021; however, the bonus cannot be applied to a multifamily development over five stories in height.

Senate Bill 250 (2023) revised provisions related to temporary emergency housing after a natural disaster. The bill stipulates that a municipality may not prohibit the placement of one temporary shelter on a property for up to 36 months after the date an emergency is declared or until a certificate of occupancy is issued on the permanent structure. Three circumstances must apply for the temporary emergency housing to be placed on a property: a good faith effort to rebuild or renovate the structure is made; the temporary shelter is connected to water and electric utilities and does not present a threat to health and human safety; and the resident lives in the temporary structure.

Currently, the city incorporates by reference Pinellas County's emergency housing code into the city's Community Development Code. Pinellas County is not amending this portion of their code at this time, and to ensure that the city is in compliance with state statutes, a small addition is being made within the Community Development Code to recognize the revised timeframe of up to 36 months.

Ordinance 9758-24 also proposes to remove the requirements of obtaining a certificate of concurrency/capacity. The city's Community Development Code does not provide for a review process for obtaining a certificate of concurrency/capacity, and state statutes do not require such a certificate. Concurrency requirements found in Section 163.3180 of the Florida Statutes state that "sanitary sewer, solid waste, drainage, and potable water are the only public facilities and services subject to the concurrency requirement on a statewide basis" [§163.3180(1)]. This section goes on further to state that sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available prior to serve a new development no later than the issuance of a certificate of occupancy by the local government [§163.3180(2)].

During the site plan review process, city staff from Public Utilities and Public Works review any proposed development and determine if a development would need to make improvements to the utilities infrastructure prior to being issued a certificate of occupancy, or if the current infrastructure can adequately serve any new development. As there is no statutory requirement for a certificate of concurrency/capacity to be issued, staff is recommending that these sections of Article 4, Development Review and Other Procedures, Division 9, Concurrency and Mobility Management, be amended to remove references to the certificate of concurrency/capacity sections.

Notice of Application [Page 33 of Ordinance]

Ordinance 9758-24 proposes to amend Section 4-202, Applications for Development Approval, subsection C, Determination of Completeness, to require that Level Two, Flexible Development (FLD) applications be noticed after applications have been determined to be complete. Currently, only Level One, Flexible Standard Development (FLS) cases are included in these notices of applications, and the Level Two cases are only noticed prior to the Community Development Board hearing. While this is a small amendment, it will allow those property owners and registered neighborhood associations within 200 feet of a subject property advanced notice of a development approval that will be going before the Community Development Board. This will allow those affected residents and neighborhood associations to be more involved during the review process, as well as be involved earlier in the process.

Additional Amendments [Pages 4 – 35 and 37 – 40 of Ordinance]

The additional proposed amendments are considered to be clean up amendments and consist of correcting typographical errors, updating references to the city's new Comprehensive Plan, *Clearwater 2045*, re-formatting certain development tables, revising the Detached Dwellings and Residential Infill Project uses in certain zoning districts, adding or amending certain flexibility criteria, and adding or amending definitions as needed.

Minor amendments to the Residential Infill Project use are proposed in this Ordinance. Under the Low Density Residential (LDR), Low Medium Density Residential (LMDR), Medium Density Residential (MDR), Medium High Density Residential (MHDR), and High Density Residential (HDR) Districts, the Residential Infill Project footnotes and footnote references are proposed to be deleted from Tables 2-103, 2-104, 2-203, 2-204, 2-303, 2-304, 2-404, and 2-504. The footnote provides additional flexibility without including additional standards or parameters to achieve that flexibility. No other uses within the Community Development Code provide a footnote with such flexibility so this proposed deletion will bring consistency throughout the Community Development Code. Additional amendments to the Detached Dwellings and Residential Infill Project uses propose to update to correct setback measurements found on the minimum standard diagram for the district.

Proposed Ordinance 9758-24 proposes to reformat the tables within the following zoning districts: C, T, and O Districts. Proposed edits to these tables would move the Maximum Height column to appear after the Minimum Setbacks columns. This proposed edit would bring consistency with the rest of the Development Standards tables in the Community Development Code. The other proposed edits are to the Minimum Off-Street Parking standards and to separate out the "side/rear" setback column into two separate "side" and "rear" columns, also to bring consistency with the remaining tables in the Community Development Code. The off-street parking standards would be amended, as applicable, to be in the "number of spaces/unit of measure" standard, i.e. 5/1,000 SF GFA.

Proposed amendments related to *Clearwater 2045*, the city's Comprehensive Plan, remove outdated references to obsolete portions of the comprehensive plan and update references to the city's Coastal Storm

Area policy and map. These proposed amendments include updating the reference to the policy and map number for Section 2-1101.1, US 19 District, the definition of “Coastal Storm Area” in Section 8-102, Definitions, and within Section B-301.1, US 19 District and Development Standards. Additional amendments to Section 3-102.E remove references to obsolete maps or elements.

Within Section 2-704, Commercial (C) District Flexible Development, two new criteria are proposed to be added to subsection I, Limited Vehicle Service, that add language for a car wash as the existing language does not adequately address design changes that have occurred in the car wash industry. Under Section 2-1203, Industrial, Research and Technology (IRT) District, Flexible Standard Development, subsection B, Airport is being amended to remove references to the 1999 Airport Master Plan and to update to state the Airport Master Plan as amended.

Other proposed amendments within Article 3, Development Standards, include revising the percentage for accessory uses from ten percent of the gross floor area to 25 percent to be consistent with the percentage for accessory structures; updating mechanical equipment screening standards to bring consistency with the standards already adopted for the Downtown and US 19 Districts; updating certain fence graphics to bring additional clarity to the application of fence standards; increasing the minimum size of sidewalks permitted in front setbacks from 42 to 48 inches and allowing for the City Engineer to determine appropriate site visibility site triangle distances; allowing for affordable housing density bonuses to be approved at a staff level review; and exempting banners that are part of a city banner program, which is currently being developed, from sign regulations.

Additionally, this proposed ordinance edits Article 4, Development Review and Other Procedures, Division 8, Traffic Impact Study. Proposed amendments within Division 8, Traffic Impact Study include: adding a reference to Article 4, Division 9; clarifying when a traffic impact study is required; adding “a.m.” to peak hours; and updating and adding traffic characteristics to be analyzed as part of a traffic impact study.

Section 8-102, Definitions, is being updated to include definitions that relate to the new graywater systems bonuses and solar energy systems, along with a definition that was contained within the accessory use/structures section. The new definitions are: blackwater; dog daycare; graywater; maximum tilt angle; mechanical equipment; photovoltaic (PV) panel; racking equipment; shipping container; solar energy system; solar energy system, floating; and solar energy system, roof mounted. Additionally, existing definitions are proposed to be amended: dwelling, accessory to align with the newly created Accessory Dwelling Unit use; nonresidentially zoned property to remove “Mixed Use (“MU”)” as this zoning district does not exist; and retail sales and services to add dog daycare.

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.

Policy QP 5.2.8 Continue to evaluate that sufficient public facilities are available to support proposed increased to density or intensity and require mitigation strategies if sufficient public facilities will not be available.

Policy QP 5.4.1 Create a density bonus for residential development or redevelopment that utilizes graywater systems within the CDC.

Policy QP 6.1.7 Support amendments to the CDC to enable greater housing diversity and affordability, such as accessory dwelling units and other missing middle housing types.

Policy QP 6.1.10 Allow accessory dwelling units in all residential zoning districts and exempt them from density provisions to provide additional and diverse housing options integrated into existing neighborhood. Such accessory dwelling units shall not be used for short-term rental purposes.

Objective CCM 4.3 Continue to implement and evaluate Greenprint 2.0 to decrease energy consumption and increase the city's resiliency and sustainability.

Policy SS 1.4.5 Prior to issuance of a building permit, a design for potable water distribution system improvements shall be prepared by the developer and approved by the city. The developer shall pay the costs of any necessary improvements to the existing potable water distribution system to accommodate the new development.

Policy SS 2.3.5 Prior to issuance of a building permit, a design for sewer system improvements if required shall be prepared by the development and approved by the city. The developer shall pay the costs of any necessary improvements to the existing wastewater collection system to accommodate the new development.

Policy SS 4.4.2 Require development and redevelopment activities to comply with all stormwater management design standards and criteria.

Objective SS 5.3 Continue to provide solid waste collection service to residents and businesses within the city.

Goal PI 10 Continue to provide essential public facilities in a timely, efficient, and fiscally sound manner through applicable codes, plans, or ordinances.

Objective PI 10.2 Coordinate policies of the *Comprehensive Plan* and *CDC* to address necessary public facilities needed to support development or redevelopment prior to issuance of development orders.

Objective PI 10.4 Continue to administer the City of Clearwater Mobility Management System and concurrency management for all other utilities and services.

The proposed additions of accessory dwelling units and providing density bonuses for graywater systems are supported by Policies QP 5.4.1, 6.1.7, and 6.1.0, which will help to increase the housing stock and diversity within the city and will meet statutory requirements for graywater incentives. Objective CCM 4.3 supports the expansion of the use of solar energy systems in the city. Policies SS 1.4.5, 2.3.5, and 4.4.2, along with Objectives SS 5.3, PI 10.2, and PI 10.4, and Goal PI 10 support the statutory concurrency requirements for public utilities. Minor amendments to the Residential Infill Project use will bring consistency between that use, the Detached Dwellings use, and the Minimum Standard Development setbacks which will help simplify the development review process. Additional amendments are intended to simplify or clarify development criteria while also correcting typographical errors, which will help ensure the Community Development Code is interpreted and applied correctly. As such, the proposed amendments within Ordinance 9758-24 further the *Comprehensive Plan* through the specific goal, objectives, and policies referenced above.

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

The proposed text amendment will further the purposes of the CDC in that it will be consistent with the following purposes set forth in CDC Section 1-103:

- It is the purpose of this Development Code to implement the *Comprehensive Plan* of the city; to promote the health, safety, general welfare and quality of life in the city; to guide the orderly growth and development of the city; to establish rules of procedure for land development approvals; to enhance the character of the city and the preservation of neighborhoods; and to enhance the quality of life of all residents and property owners of the city (Section 1-103.A., CDC).
- It is the purpose of the Community Development Code to create value for the citizens of the City of Clearwater by allowing property owners to enhance the value of their property through innovative and creative redevelopment (Section 1-103.B.1, CDC).
- It is the further purpose of this Development Code to protect the character and the social and economic stability of all parts of the city through the establishment of reasonable standards which encourage the orderly and beneficial development of land within the city. (Section 1-103.E.2, CDC)
- It is the further purpose of this Development Code to establish permitted uses corresponding with the purpose and character of the respective zoning districts and limit uses within each district to those uses specifically authorized. (Section 1-103.E.9, CDC)

The proposed amendments in this Ordinance will further the above referenced purposes of the Community Development Code by providing for more appropriate and consistent development standards. Through the various topics covered by this Ordinance, the city is encouraging the continued investment in properties while also allowing property owners to enhance the value of their property through the creation of accessory dwelling units. The establishment of solar energy system standards will allow for beneficial development of land within the city while also respecting the character of the respective zoning districts where the systems are permitted. Additionally, amendments throughout this Ordinance propose clarifications to establish reasonable standards which encourage orderly development that will enhance the character of the city. As such, proposed Ordinance No. 9758-24 furthers the purposes in the CDC.

RECOMMENDATION

The Development Review Committee (DRC) reviewed the proposed text amendments to the Community Development Code at the DRC meeting of April 4, 2024. The Planning and Development Department, having reviewed the requirements of the Community Development Code, recommends **APPROVAL** of Ordinance 9758-24.

Prepared by Planning and Development Department Staff:



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ATTACHMENTS: Ordinance No. 9758-24
Resume