

ORDINANCE NO. 8347-12

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA, RELATING TO SITTING OR LYING DOWN UPON THE PUBLICLY OWNED RIGHT-OF-WAYS, SIDEWALKS, PIERS, DOCKS, BOARDWALKS, INCLUDING PUBLIC-ACCESS BOARDWALKS, AND THE ENTRYWAYS TO OR EXITWAYS FROM PUBLICLY OWNED BUILDINGS LOCATED IN THE "CLEARWATER DOWNTOWN CORE REDEVELOPMENT ZONE," THE "GATEWAY CORRIDOR," AND THE "CLEARWATER BEACH CORE TOURIST ZONE"; CREATING SECTION 21.20, CLEARWATER CODE OF ORDINANCES; PROVIDING FOR DEFINITIONS, PROHIBITIONS, AND EXCEPTIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Clearwater's 107,000 plus residents enjoy a vibrant economy resulting from a huge influx of 5.2 million annual tourists to Pinellas County with Clearwater Beach alone attracting over 800,000 tourists annually in addition to the approximate 600,000 residents in the region who annually visit the beach;

WHEREAS, the improvement of the downtown, the East Gateway District, and Clearwater Beach has been a high priority in the City's plan to expand the economic base of the City by attracting new investment and patrons to the area;

WHEREAS, Clearwater Beach has an economic impact of over \$1 billion and is projected to increase its impact as redevelopment on the beach continues to occur;

WHEREAS, the downtown is also projected to attract additional tourists and visitors as redevelopment continues;

WHEREAS, the East Gateway District is one of the designated redevelopment areas of the City of Clearwater and it is at a transformative point to change the trajectory of the economy and improve the quality of life for current and future residents and businesses;

WHEREAS, the emergence of the City's downtown, the East Gateway District, and beachfront as quality redevelopment areas is due in no small part to the following projects and expenditures by the City of Clearwater:

- Cleveland Street Streetscape Phases I and II - Cost: \$12 Million

As the city's traditional downtown "Main Street," it was important that Cleveland Street offer a pedestrian-friendly environment that attracts residential and destination development, especially restaurant and retail activity. Infrastructure improvements have included: new utility work, lighting, landscaping, site furnishings, amenities and medians

with opportunity for public art. The project is a central element in the City's downtown revitalization strategy.

- Station Square Park – Cost \$1.2 million

The City/Clearwater Community Redevelopment Agency (CRA) developed a master streetscape and wayfinding program for downtown that included the revitalization of Station Square Park, using \$490,143.47 from Penny for Pinellas and \$29,476.44 from Stormwater Utility. The remainder of the funds was budgeted in the CRA's CIP budget from FY06-07 and FY07-08 funds. The project was completed in 2009.

- Main Public Library - Cost: \$20.2 million

Clearwater is home to one of the most spectacular and impressive public library facilities in North America. The 90,000 square foot library is located on the downtown waterfront and opened in the spring of 2004. In addition to distinctive architecture, the library features a local history center, meeting rooms, rooftop terrace and galleries.

- Myrtle Avenue Reconstruction - Cost: \$16.13 million

Construction was completed in 2006 on Myrtle Avenue between Lakeview and Fairmont. Infrastructure maintenance, including an improved roadway drainage system, installation of new water mains, hydrants, gas mains and sewer pipes, were among the upgrades.

- Purchase of Former Economy Inn Motel on Cleveland Street and Surrounding Parcels – Cost: \$1.9 million

The CRA acquired the 2.2-acre site in December 2010. Once demolition was completed in 2011, the site was sodded and fenced. This is a key redevelopment property for the CRA.

- Purchase of Former Car Pro Property on Cleveland Street - Cost: \$800K

The site was acquired and demolished in 2010 for \$325,000. Remediation costs are estimated to be \$325,440 and they are funded through the Brownfield's Cleanup Revolving Loan Fund (BCRLF). In 2012, the city acquired 14 S. Evergreen St., a 6,300 square foot property adjacent to the Car Pro, for \$145,000.

- Gulf to Bay Blvd. and Highland Avenue Intersection Improvements Project – Cost: \$660K

The main goals of this project are to create an inviting entryway leading to the downtown and address the lack of pedestrian walkways in this intersection. Improvements are projected to be approximately \$375,000. The mast arm portion of

the project is projected to cost \$288,163. The project is scheduled for completion in July 2012.

- Construction of Sidewalks in the East Gateway District – Cost: \$224K

Constructing new sidewalks is one strategy aimed at making the East Gateway District a safer and more pedestrian-friendly community. CRA staff coordinated with the Engineering Department for the construction of several sidewalk projects using federal CDBG-R dedicated funding as well as funding from the Annual Sidewalk Program.

- Downtown Boat Slips Project - Cost: \$13.3 million

The project consisting of 126 boat slips with related amenities was completed in 2010. There is side tie dock space for long or short-term rentals, and additional spaces for events and shuttle-ferry operations. Total costs included: Bayfront Promenade \$1.32M; Upland Connection (seawall cap, sidewalks, landscaping, property upgrades and ADA improvements) \$940K; and Boat Slips \$11.13M.

- Mandalay Streetscape Improvements - Cost: \$3.4 million

This major streetscape improvement project along the primary North Beach arterial was completed in February 2003.

- Beach Walk - Cost: \$30 million

This was a project along Clearwater's prized waterfront that was completed in 2008. Beach Walk is designed to revitalize the community that surrounds Clearwater's popular south beach destination. Part of the city's "Beach by Design" plan, it has already played a vital role in attracting new hotel development to the beach;

WHEREAS, the City's downtown has attracted the following private investment:

- National chain franchises, such as Starbuck's Coffee and Dunkin Donuts/Baskin Robbins, as well as several independent stores/operations, such as Caliyogurt, Eye Shop Optical Boutique, Casanova Italian Restaurant and Lounge, Bob and Daughter Produce, Anytime Fitness, and Clearwater Marine Aquarium's Winter's Dolphin Tale Adventure.
- Capitol Theatre Acquisition - In 2008, the City of Clearwater acquired the Capitol Theatre for \$2.4M as a public service performing arts center and joined forces with Ruth Eckerd Hall, Inc., a Florida non-profit corporation, to occupy, renovate, and revitalize the historic theatre. The total project cost estimate is \$14.2M.
- Water's Edge Condominiums – Water's Edge has 157 luxury condominium units and 10,000 square feet of retail space. The project was completed in 2008.

- Station Square Residences - The project is a 15-story building with 126 residential condominium units, and 10,000 square feet of ground floor retail including a major restaurant space. In addition, there are 100 public parking spaces within a structured garage. The project was completed in 2008.
- Marriott Residence Inn - 7-story, 115-room select service hotel in downtown Clearwater opened in 2008.
- Tampa Bay Times Building - In 2012, the city purchased this downtown Clearwater property for the sum of \$2.2M. The property presented an opportunity for the city to acquire a strategically-located parcel considered for a number of years as well suited for transit and/or governmental uses.

WHEREAS, examples of some of the private investment in the East Gateway District include the following:

- Several independent shops/stores, such as Greektown Grille (over \$1.6 million), Ultimate Medical Academy (\$1.21 million), and Achieva Credit Union (over \$300,000).
- East Gateway Façade and Improvement Lot Program - The program's primary goal is to stimulate further investment in the District by transforming the look and feel of commercial corridors. Three projects have been completed, with over \$800,000 of private investment: 1390 Gulf to Bay (former La Feria de la Nieve), 1454 Gulf to Bay (former Kyle's Clock Shop), 1225 Cleveland Street (Nature's Food Patch).

WHEREAS, the City's beachfront has recently attracted the following private investment:

- Aqualea Resort & Residences - 250 hotel/resort units; 18 permanent residential condominiums. Hyatt manages the hotel portion. Construction is valued at \$77 million.
- Holiday Inn Hotel & Suites – 189 renovated hotel rooms and suites.
- Hilton Clearwater Beach – 416 renovated hotel rooms.
- Kiran Grand Resort & Spa - Proposed project consisting of 350 hotel units and 75 permanent residences (also known as the Patel project).
- Sandpearl Resort - 253-room resort, 50 resort suites and 117 condominium homes (on the former site of the Clearwater Beach Hotel) opened in August 2007. Construction is valued at \$48.5 million.
- Surf Style Parking Garage – Construction valued at \$10.7 million. Project was completed in 2011.

- Pier 60 Hotel – 85 hotels units. Construction is valued at \$8 million. Project was completed in 2012.
- Wyndham Garden Clearwater Beach Hotel – 110 units. Construction is valued at \$1.6 million. Project was completed in 2012.

WHEREAS, the City of Clearwater also spends annually around \$602,000 on special events, with \$453,000 allocated to downtown events (including funding from the Downtown Development Board), \$5,000 allocated to the East Gateway District, and \$144,000 allocated to Beach events;

WHEREAS, the right-of-way, including the sidewalk, located between the edge of the pavement of a roadway and the adjacent property line of privately and publicly owned properties located in the “Clearwater Downtown Core Redevelopment Zone,” the “Gateway Corridor,” the “Clearwater Beach Core Tourist Zone,” as well as the publicly owned piers, docks, and boardwalks, including public-access boardwalks, and the entryways to and exitways from publicly owned buildings located within those areas, are created and maintained for the primary purposes of enabling the public to safely and efficiently move about from place to place, thus facilitating deliveries of goods and services, and providing the public with convenient access to goods and services; and

WHEREAS, the right-of-way, including the sidewalk, located between the edge of the pavement of a roadway and the adjacent property line of privately and publicly owned properties located in the “Clearwater Downtown Core Redevelopment Zone,” the “Gateway Corridor,” and the “Clearwater Beach Core Tourist Zone,” as well as the publicly owned piers, docks, and boardwalks, including public-access boardwalks, and the entryways to and exitways from publicly owned buildings located within those areas, are prone to congestion and should be kept available to serve their primary purposes; and

WHEREAS, evidence from other cities such as Phoenix, Arizona in *Seeley v. State of Arizona*, 655 P. 2d 803, 807 (Ariz. Ct. App. 1982), and Seattle, Washington, in *Roulette v. City of Seattle*, 97 F. 3d 300, 306 (9th Cir. 1996) and *City of Seattle v. McConahy*, 937 P. 2d 1133, 1138-39 (Wash. Ct. App. 1997), shows that sitting or lying upon the public right-of-ways threatens public safety and interferes with the primary purpose of enabling the public to safely and efficiently move about from place to place, thus deterring members of the public from frequenting a business district and undermining the essential economic viability of those areas – all of which can lead to a spiral of deterioration and blight; and

WHEREAS, there exist numerous locations within or in close proximity to the “Clearwater Downtown Core Redevelopment Zone,” the “Gateway Corridor,” and the “Clearwater Beach Core Tourist Zone” where individuals can sit or lie down, including public benches, public parks, and public beaches; now, therefore

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

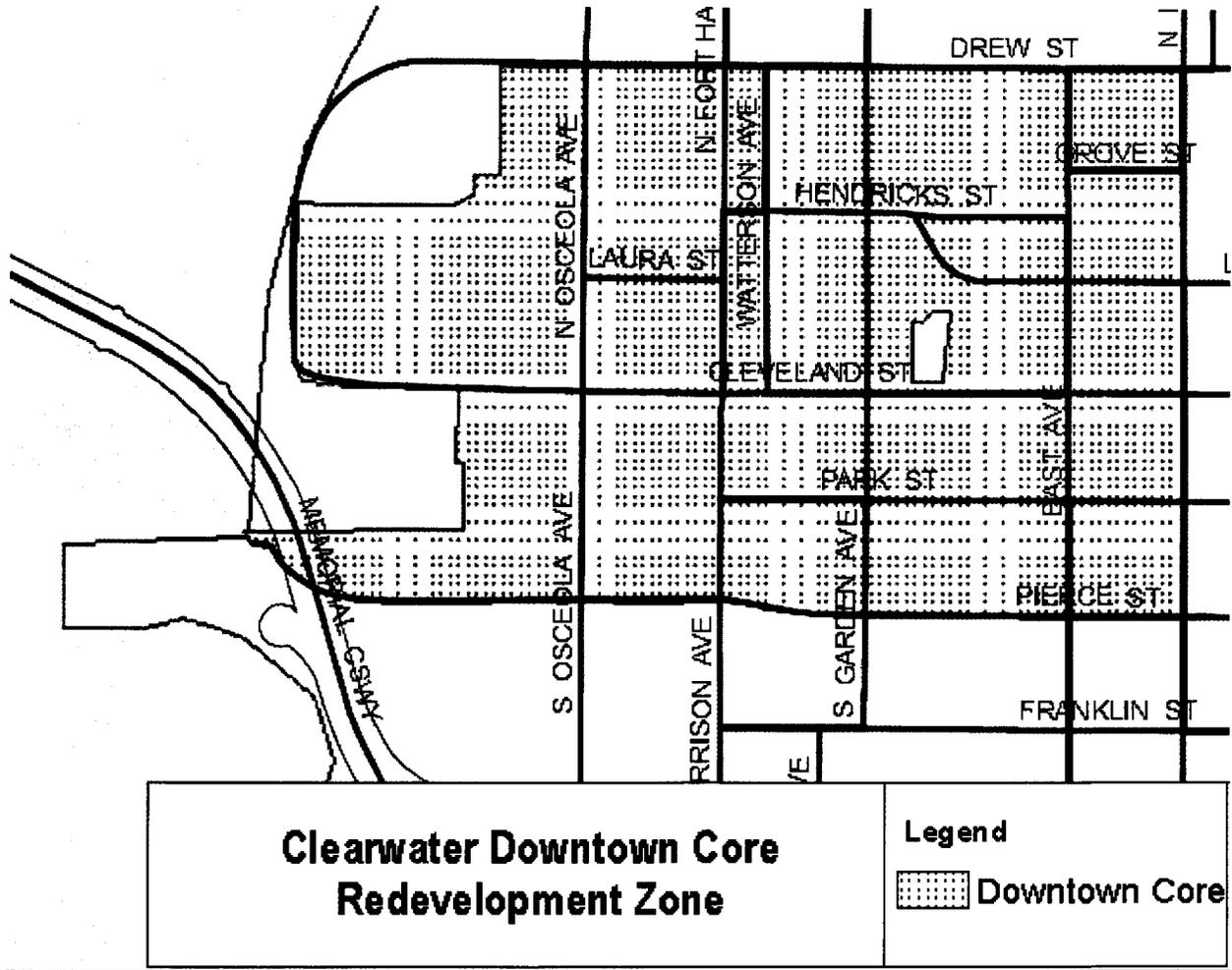
Section 1. Section 21.20, Clearwater Code of Ordinances, is hereby created as follows:

Sec. 21.20. Sitting or lying down upon the publicly owned right-of-ways, sidewalks, piers, docks, boardwalks, including public-access boardwalks, and the entryways to or exitways from publicly owned buildings located in the Clearwater Downtown Core Redevelopment Zone, the Gateway Corridor, and the Clearwater Beach Core Tourist Zone; exceptions.

(1) Definitions.

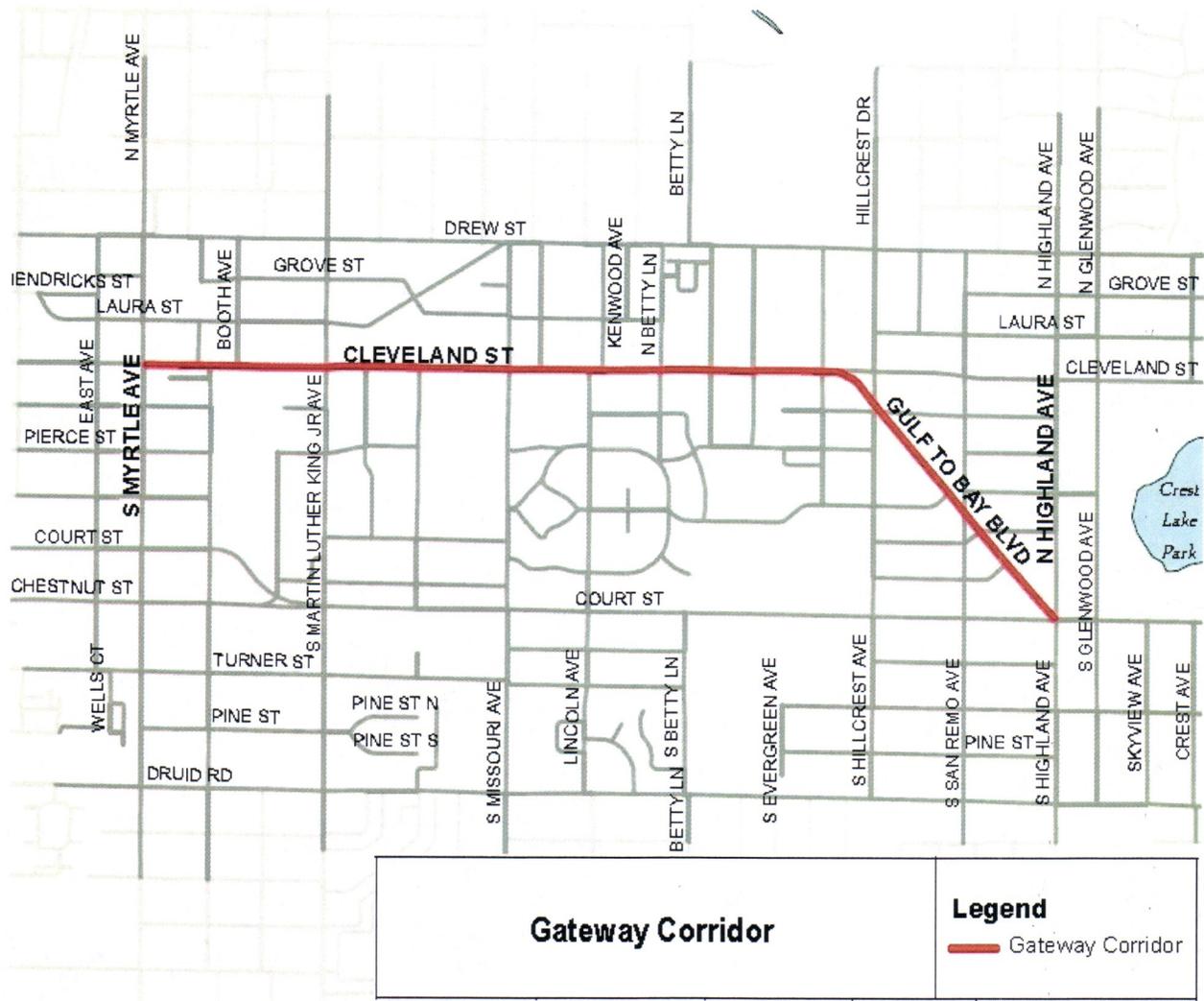
(a) Clearwater Downtown Core Redevelopment Zone means any of the following areas, which generally are shown on Diagram 1: The area bounded on the east by Myrtle Avenue, on the west by the waters of Clearwater Harbor, on the north by Drew Street westward until it terminates at Clearwater Harbor, and on the south by Pierce Street westward until it terminates at the beginning of the Memorial Causeway Bridge, excluding Coachman Park, Station Square Park, Memorial Parks I & 2, and the Bayfront Tennis Complex.

Add the following graphic.



(b) Gateway Corridor means the east to west route to the downtown of the City, which generally is shown on Diagram 2, beginning at Gulf to Bay Boulevard and Highland Avenue and extending west on Gulf to Bay Boulevard to Cleveland Street and then from Cleveland Street to Myrtle Avenue.

Add the following graphic.



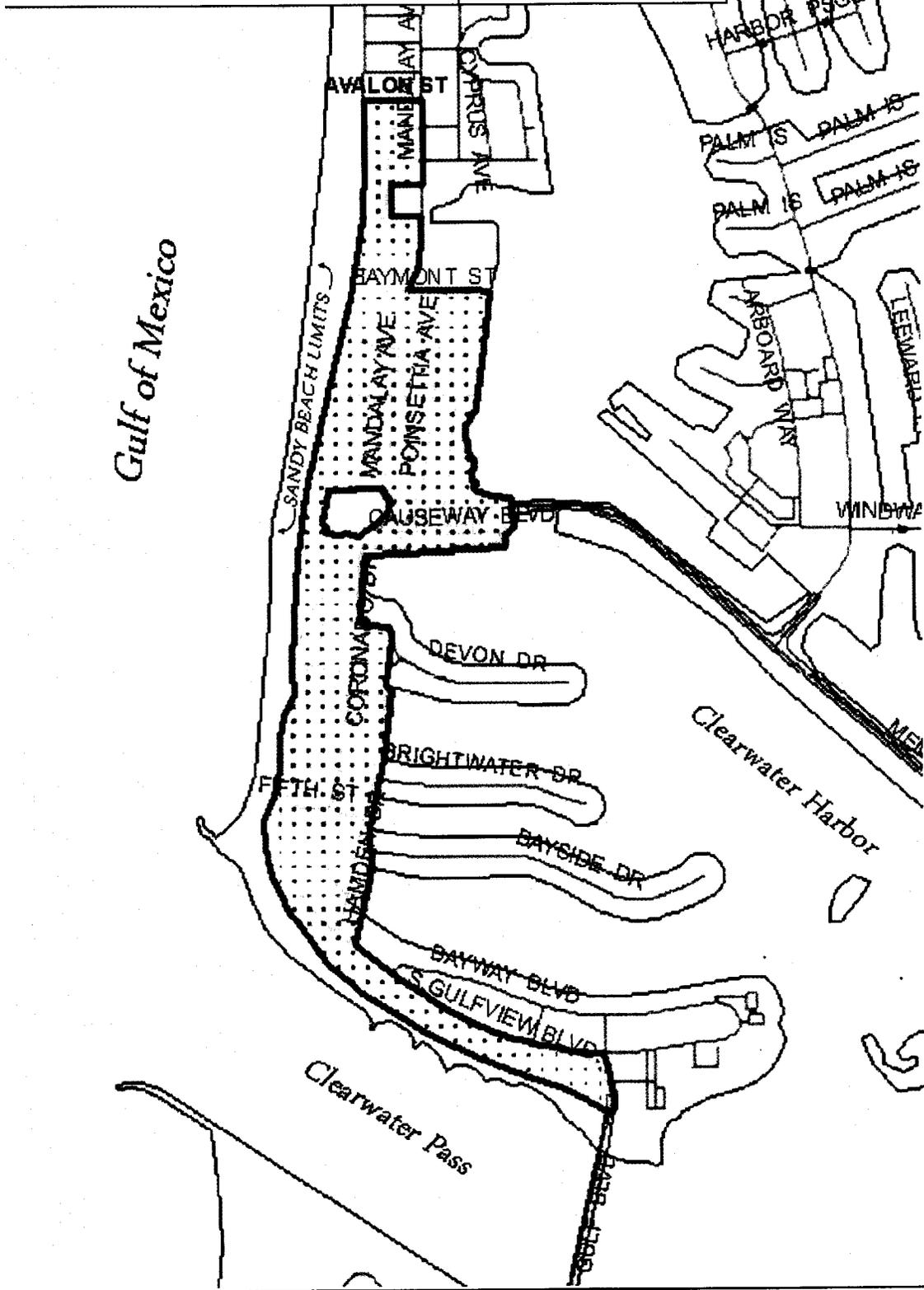
(c) Clearwater Beach Core Tourist Zone means any of the following areas, which generally are shown on Diagram 3: The area bounded on the north by Avalon Street; on the west by the sandy beach abutting the Gulf of Mexico; on the south by the waters of Clearwater Pass; and on the east beginning at Gulf Boulevard on the northern end of the Sand Key Bridge until Gulf Boulevard intersects with South Gulfview Boulevard, then northerly along South Gulfview Boulevard to the intersection of Hamden Drive, then northerly along Hamden Drive until the intersection of Coronado Drive, then northerly along Coronado Drive to and including the Clearwater Marina and Causeway Boulevard, then northerly along the seawall boarding Clearwater Harbor to the intersection of Baymont Street, then westerly along Baymont Street until the intersection of Mandalay Avenue, and then northerly along Mandalay Avenue to the intersection of Avalon Street, excluding Pier 60 Park and Mandalay Park.

Add the following graphic.

Clearwater Beach Core Tourist Zone

Legend

 Tourist Zone



Gulf of Mexico

Clearwater Harbor

Clearwater Pass

(2) No person shall sit or lie down upon the right-of-way, including the sidewalk, located between the curblineline or the edge of the pavement of a roadway and the adjacent property line of privately or publicly owned properties, upon publicly owned piers, boardwalks, and docks, or upon any public-access boardwalk within the Clearwater Downtown Core Redevelopment Zone, the Gateway Corridor, and the Clearwater Beach Core Tourist Zone, or upon a blanket, sleeping bag, chair, stool, or any other object not permanently affixed upon such areas, between the hours of 7:00 a.m. and 10:00 p.m.

(3) No person shall sit or lie down upon the entryways to or exitways from a publicly owned building within the Clearwater Downtown Core Redevelopment Zone, the Gateway Corridor, and the Clearwater Beach Core Tourist Zone when the building is opened to the general public.

(4) The prohibitions contained in this section shall not apply to any person:

(a) Sitting or lying down in a park or public beach as defined in Section 22.21;

(b) Sitting or lying down due to a medical emergency;

(c) Utilizing an object supplied by the City or other public agency in the manner it was intended, such as sitting on a chair or bench;

(d) Sitting or lying down in or on a wheelchair, a baby carriage, or any other object or vehicle in order to move about;

(e) Participating in or viewing any activity, such as a parade, festival, performance, rally, demonstration, meeting, or other event, pursuant to any permit or license issued by the City;

(f) Sitting down while patronizing a sidewalk café; or

(g) Sitting or lying down when it is an integral part of a protest accompanied by incidents of speech such as signs or literature explaining the protest.

(5) Nothing in the exceptions enumerated in subsection (4) of this section shall be construed to authorize any conduct that is otherwise prohibited by statutes or local ordinances.

(6) No person shall be charged under this section for the first violation unless the

person continues to engage in conduct prohibited by this section after having been:

(a) Notified by a law enforcement officer that the conduct violates this section; and

(b) Provided an opportunity to relocate to an area where sitting or lying down would be lawful.

(7) It shall be a violation of this section for any person who has previously violated this section and has received notification pursuant to subsection (6) of this section to commit a second or subsequent violation within the same area listed in subsection (1) of this section as the first violation.

Section 2. This ordinance shall take effect immediately upon adoption.

PASSED ON FIRST READING

July 19, 2012

PASSED ON SECOND AND FINAL
READING AND ADOPTED

August 2, 2012

- George N. Cretekos

George N. Cretekos
Mayor

Approved as to form:

Robert J. Surette

Robert J. Surette
Assistant City Attorney

Attest:

Rosemarie Call

Rosemarie Call
City Clerk

