

ORDINANCE 2023-04

AN ORDINANCE OF THE CITY OF OLDSMAR, FLORIDA, AMENDING ARTICLE VI (FLOOD CONTROL, STORMWATER MANAGEMENT AND WETLANDS PROTECTION) OF PART III (LAND DEVELOPMENT CODE) OF THE CODE OF ORDINANCES OF THE CITY OF OLDSMAR TO EXCLUDE THE COST OF CERTAIN CODE COMPLIANT MITIGATION AND ENERGY EFFICIENT RETROFITS FROM CUMULATIVE SUBSTANTIAL IMPROVEMENT; TO ADOPT TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE; PROVIDING FOR FISCAL IMPACT STATEMENT; PROVIDING FOR APPLICABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166 – Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, Chapter 553, Florida Statutes, allows for local administrative and technical amendments to the *Florida Building Code* that provide for more stringent requirements than those specified in the Code and allows adoption of local administrative and local technical amendments to the Florida Building Code to implement the National Flood Insurance Program and incentives; and

WHEREAS, the City Council is amending provisions for substantial improvement to provide for exclusion of certain costs under specific circumstances for buildings and structures in flood hazard areas for the purpose of participating in the National Flood Insurance Program's Community Rating System and, pursuant to section 553.73(5), F.S., is formatting that requirement to coordinate with the *Florida Building Code*; and

WHEREAS, the City Council has determined that it is in the public interest to adopt the proposed local technical amendments to the *Florida Building Code*, and the

proposed amendments are not more stringent than necessary to address the need identified, do not discriminate against materials, products or construction techniques of demonstrated capabilities, are in compliance with section 553.73(4), Florida Statutes; and

WHEREAS, the City Council has determined that the effective date of this ordinance should be applied retroactively to August 24, 2021, when the current FEMA flood insurance rate maps (FIRM) were adopted and therefore any applicant submitting a building permit application to the City of Oldsmar on or after August 24, 2021 shall be entitled to the exclusions referenced in Sections 3, 4 and 5 below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OLDSMAR, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED:

Section 1. That Section 6.11.4 (Historic Buildings) of Article VI (Flood Control, Stormwater Management and Wetlands Protection) of Part III (Land Development Code) of the Code of Ordinances of the City of Oldsmar, Florida, is hereby amended to read as follows:

6.11.4. - Historic buildings.

A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

Section 2. That the definition of Historic Structure in Section 6.14.1. (Scope) of Article VI (Flood Control, Stormwater Management and Wetlands Protection) of Part III (Land Development Code) of the Code of Ordinances of the City of Oldsmar, Florida, is hereby amended to read as follows:

Historic structure. Any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings.

Section 3. That subparagraphs (3) and (4) are hereby added to the definition of Substantial Improvement in Section 6.14.1 (Scope) of Article VI (Flood Control, Stormwater Management and Wetlands Protection) of Part III (Land Development Code) of the Code of Ordinances of the City of Oldsmar, Florida, and shall read as follows:

- (3) Costs of additional, code-compliant building elements or alterations or replacements of materials or building elements whose express purpose is the mitigation of future wind or flood damage, provided the costs of such measures, plus the costs of any other improvements and repairs undertaken at the same time, do not exceed 50 percent of the market value of the structure. Costs associated with horizontal additions and vertical additions shall not be excluded. Examples of code-compliant wind and flood mitigation measures include, but are not limited to, the installation or replacement of storm shutters; replacement of windows and doors with impact resistant glass; strengthening of roof attachments or exterior walls; replacing existing materials with wind and flood damage-resistant materials; elevating machinery and equipment; and installation of flood openings.
- (4) Costs of additional, code-compliant energy efficiency retrofits whose express purpose is the improvement of energy efficiency of the building, provided the costs of such measures, plus the costs of any other improvements and repairs undertaken at the same time, do not exceed 50 percent of the market value of the structure. Costs associated with lateral and vertical additions shall not be excluded. Examples of code-compliant energy efficiency retrofits include, but are not limited to, application of insulation; replacement of windows and doors with insulated products; installation of geo-thermal climate

control systems; installation of attic ventilation equipment; and the installation of solar energy systems.

Section 4. That subparagraphs (3) and (4) are hereby added to the definition of Substantial Improvement in Section 202 under Section 6.16.4 (Technical Amendments to the Florida Buildings Code, Building) of Article VI (Flood Control, Stormwater Management and Wetlands Protection) of Part III (Land Development Code) of the Code of Ordinances of the City of Oldsmar, Florida, and shall read as follows:

- (3) Costs of additional, code-compliant building elements or alterations or replacements of materials or building elements whose express purpose is the mitigation of future wind or flood damage, provided the costs of such measures, plus the costs of any other improvements and repairs undertaken at the same time, do not exceed 50 percent of the market value of the structure. Costs associated with horizontal additions and vertical additions shall not be excluded. Examples of code-compliant wind and flood mitigation measures include, but are not limited to, the installation or replacement of storm shutters; replacement of windows and doors with impact resistant glass; strengthening of roof attachments or exterior walls; replacing existing materials with wind and flood damage-resistant materials; elevating machinery and equipment; and installation of flood openings.
- (4) Costs of additional, code-compliant energy efficiency retrofits whose express purpose is the improvement of energy efficiency of the building, provided the costs of such measures, plus the costs of any other improvements and repairs undertaken at the same time, do not exceed 50 percent of the market value of the structure. Costs associated with lateral and vertical additions shall not be excluded. Examples of code-compliant energy efficiency retrofits include, but are not limited to, application of insulation; replacement of windows and doors with insulated products; installation of geo-thermal climate control systems; installation of attic ventilation equipment; and the installation of solar energy systems.

Section 5. That subparagraphs (3) and (4) are hereby added to the definition of Substantial Improvement in Section 202 under Section 6.16.5 (Technical Amendments to the Florida Buildings Code, Existing Building) of Article VI (Flood Control, Stormwater

Management and Wetlands Protection) of Part III (Land Development Code) of the Code of Ordinances of the City of Oldsmar, Florida, and shall read as follows:

- (3) Costs of additional, code-compliant building elements or alterations or replacements of materials or building elements whose express purpose is the mitigation of future wind or flood damage, provided the costs of such measures, plus the costs of any other improvements and repairs undertaken at the same time, do not exceed 50 percent of the market value of the structure. Costs associated with horizontal additions and vertical additions shall not be excluded. Examples of code-compliant wind and flood mitigation measures include, but are not limited to, the installation or replacement of storm shutters; replacement of windows and doors with impact resistant glass; strengthening of roof attachments or exterior walls; replacing existing materials with wind and flood damage-resistant materials; elevating machinery and equipment; and installation of flood openings.
- (4) Costs of additional, code-compliant energy efficiency retrofits whose express purpose is the improvement of energy efficiency of the building, provided the costs of such measures, plus the costs of any other improvements and repairs undertaken at the same time, do not exceed 50 percent of the market value of the structure. Costs associated with lateral and vertical additions shall not be excluded. Examples of code-compliant energy efficiency retrofits include, but are not limited to, application of insulation; replacement of windows and doors with insulated products; installation of geo-thermal climate control systems; installation of attic ventilation equipment; and the installation of solar energy systems.

Section 6. In terms of design, plan application review, construction and inspection of buildings and structures, the cost impact as an overall average is negligible in regard to the local technical amendments because all development has been subject to the requirements of the local floodplain management ordinance adopted for participation in the National Flood Insurance Program. Therefore, in terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

Section 7. For purposes of codification of any existing section of the Oldsmar Code herein amended, words **underlined** represent additions to original text, words

stricken are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 8. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Council Members would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 9. The Codifier shall codify the substantive amendments to the Land Development Code of the City of Oldsmar contained in Sections 1 through 5 of this Ordinance as provided for therein and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 10. Pursuant to Florida Statutes §166.041(4), this Ordinance shall take effect immediately upon adoption and applied retroactively to August 24, 2021.

PASSED ON FIRST READING:

_____ **March 7, 2023** _____.

PASSED ON SECOND READING AND ADOPTED:

_____ **March 21, 2023** _____.

Daniel M. Saracki, Mayor
City of Oldsmar

ATTEST:

Ann Nixon, MMC
City Clerk
City of Oldsmar

APPROVED AS TO FORM:

Thomas J. Trask, B.C.S.
City Attorney
City of Oldsmar