

ORDINANCE NO. 2011-06

AN ORDINANCE OF THE CITY OF OLDSMAR, FLORIDA, AMENDING SECTIONS 2.1, 5.1.2., 5.5.3.2, 5.5.3.3., OF THE CITY OF OLDSMAR LAND DEVELOPMENT CODE TO PROVIDE FOR RESTRICTIVE USES AND AMENDING SECTIONS 2.1 AND 3.2.1 OF THE TOWN CENTER DEVELOPMENT CODE TO PROVIDE FOR CONSISTENCY BETWEEN THE LAND DEVELOPMENT CODE AND TOWN CENTER DEVELOPMENT CODE AS IT RELATES TO RESTRICTIVE USES; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, City staff has reviewed the City's Land Development Code and Town Center Development Code and has recommended certain revisions to add a use classification for restrictive uses and to provide consistency between the Land Development Code and Town Center Development Code; and

WHEREAS, it is deemed a legitimate objective of the local government and in the best interests of the public, to bring about the orderly growth and development within the City; and

WHEREAS, the City of Oldsmar has established precedents restricting the location of various businesses and requiring separation zones for land uses such as bar establishments, automobile service stations and automobile repair businesses and adult use establishments; and

WHEREAS, the City of Oldsmar recognizes the right of legal businesses to locate and operate within the city limits; however, due to the nature of the businesses reasonable restrictions may be applied; and

WHEREAS, the Planning Board, on May 11, 2011, reviewed and recommended amendments to the City's Land Development Code and Town Center Development Code; and

WHEREAS, the City Council did agenda and discuss in public hearings the proposed amendments to the City's Land Development Code and Town Center Development Code; and

WHEREAS, at the conclusion of City staff presentations and public hearings concerning the amendments, the City Council did find from the facts presented to the City Council, that the amendments would protect and preserve the public health, safety and welfare of the City.

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 2.1 of Article II of the Land Development Code of the City of Oldsmar is hereby amended to include new definitions as follows:

Restrictive uses. Retail sales and service uses, including but not limited to, day labor operations, tattoo parlors, body piercing facilities, pawn shops, check cashing centers, gun shops and blood plasma centers which are typically characterized by poorly maintained facilities, loitering and other indices of neighborhood deterioration.

Tampa Road Corridor. Any property or development, including outparcels, fronting on or having access to Tampa Road including the developments commonly known as Woodlands Square and Curlew Centre.

Town Center. The area of the City designated in Resolution 95-24 as the Oldsmar Community Redevelopment District.

Section 2: That Section 5.1.2 of Article V of the Land Development Code of the City of Oldsmar is hereby amended to read as follows:

5.1.2. Nonconforming structures, uses, setbacks and signs.

It shall be unlawful to use or occupy, or permit the use or occupancy of any building, premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure in violation of the provisions established herein. Structures or uses in existence prior to adoption of this Code may be maintained, except as follows:

1. *Alteration.* A nonconforming structure may be maintained, interior improvements/alterations may be made and repairs, including replacement of certain building elements such as roofs and windows, provided that no change in original external structural configuration occurs, may be made thereon except, that in a structure which is nonconforming as to its use regulations no structural alterations shall be permitted. Alterations or improvements to structures or site in excess of 50 percent or more of the assessed value of the principal structure shall require compliance with the requirements of this Code.
2. *Extension.* Structures or uses of land which are nonconforming shall not be extended or enlarged, nor shall any use be extended so as to occupy additional land area on the same lot or parcel.
3. *Use of land.* When a nonconforming use of land has been abandoned, its future use shall conform to the uses permitted in the district in which said land is located.
4. *Restoration.* A nonconforming structure which is hereafter damaged or destroyed, including demolition, in excess of 50 percent or more of its assessed value, for the life of the structure, by deterioration, flood, fire, explosion, earthquake, hurricane, tornado, war, riot, or act of God, may not be reconstructed or restored for use except in compliance with the requirements of this Code.
5. *Setbacks.* Where structures are nonconforming, in setbacks only, due to the provisions of this Code or the acquisition of a public right-of-way, and said structures conformed to the provisions of a previous code or ordinance, additions may be made to such structures provided the nonconforming setback is not reduced and all other setbacks meet the requirements of this Code.
6. *Abandonment.* A nonconforming use of land or a structure which has been vacated or abandoned for 90 days shall not thereafter be occupied by any nonconforming use. Also, the structure(s) and site shall become compliant with

all requirements of this Code prior to occupancy. Failure to renew a Business Tax Receipt is evidence of a voluntary action to intentionally abandon the use and/or structure.

7. *Change of use.* The change of use of a property shall require compliance with all requirements of this Code.
8. *Nonconforming signs.* Consistent with the public policy to restrict and eventually eliminate nonconforming uses and structures, it is the policy of the city that nonconforming signs shall be brought into conformity or removed as expeditiously as possible while allowing such signs to be maintained in the interim. A nonconforming sign that was lawfully erected may continue to be maintained: (a) until the nonconforming sign or sign structure meets the definition of an abandoned or discontinued sign or sign structure or is substantially damaged or destroyed, or (b) until the real property on which the sign is located is redeveloped, or (c) until the real property on which the sign is located is sold or transferred, whichever of the foregoing occurs first. At such time the sign is substantially damaged or destroyed or at such time the real property is redeveloped or at such time as the real property is sold or transferred, the nonconforming sign must either (a) be removed or (b) be brought into conformity with this article and with any other applicable law or regulation.

Section 3: That Section 5.5.3.2 of Article V of the Land Development Code of the City of Oldsmar is hereby amended to read as follows:

5.5.3.2. Permitted uses.

1. All uses permitted and conditionally permitted in the C-1 district.
2. Retail sales establishments selling directly to consumers, except building materials.
3. Shopping centers.
4. Motels and hotels, not to exceed 30 units per acre.
5. Convenience stores, including motor fuel sales, and motor fuel sales establishments, except service stations.
6. Restaurants, including takeout and drive-thru.
7. Financial institutions and banks, including drive-thru.
8. Professional services, including medical, dental and eye clinics, real estate, travel agencies, brokerage houses, office reproduction and supplies for retail sales.
9. Veterinary hospitals and kennels when entirely confined within a building.
10. Dry cleaning establishments using only solvents which are not flammable.
11. Automobile detailing, not including body, upholstery, painting, motor, transmission and differential work, unless incidental to dealer use and completely enclosed.
12. Retail sales and display of automobile, boats, mobile homes.
13. Repair and sales of household appliances.
14. Funeral homes.
15. Commercial recreation including:
 - a. Health clubs and spas.
 - b. Movie theaters, except drive-in.
 - c. Miniature and adventure golf courses.
 - d. Bowling alleys and skating rinks.
 - e. Amusement arcades and similar enclosed or appropriately screened uses from which light, noise, odor, dust, or vibration are strictly controlled.

16. Rental truck rental.
17. Restrictive uses not located within the Tampa Road Corridor.

Section 4: That Section 5.5.3.3 of Article V of the Land Development Code of the City of Oldsmar is hereby amended to read as follows:

5.5.3.3. Conditional uses.

1. Marinas, which provide boat launching, docking, wet or dry storage of boats, sale of gasoline and oil and repair and service of boats and motors, incidental to the operation of a marina.
2. Navigation safety devices and structures.
3. Places of worship.
4. Public or private utility, electrical, gas, telephone, water, or sewage and railroad right-of-way.
5. Public or private utility substations, provided there be no storage of trucks or materials on the site.
6. Self service storage facilities, as per the requirements set forth in article XIV of this Code.
7. Service stations, as per the requirements as set forth in article XIV of this Code.
8. Assembly and research and development of electronic components, precision instruments, office and professional supplies, lighting and processing equipment, toys, cosmetics, musical instruments, and additional uses of similar character and no greater impact. Said uses shall perform as follows:
 - a. All assembly and research and development operations shall be fully enclosed.
 - b. Open storage shall be prohibited.
 - c. Maximum gross floor area shall be limited to 4,000 square feet on any one floor of a structure.
 - d. Noise-generating mechanical equipment shall be soundproofed so as not to exceed the noise regulations of the City of Oldsmar and Pinellas County.
 - e. Research/development; light manufacturing/assembly (class A) use shall be allowed only on the basis of and pursuant to the standards identified by 8.a - 8.d and which address, as a minimum, the following criteria in relationship to the nature of the proposed use:
 1. Neighboring uses and the character of the commercial area in which it is to be located;
 2. Noise, solid waste and air quality emission standards and hours of operation consistent with section 5.7.1, performance standards;
 3. Traffic generation; and
 4. Parking, loading, storage, and service provisions in accordance with section 7.1.
9. Retail major automobile repairs such as transmission, differential and major motor work, but not including body, upholstery or painting unless incidental to dealer use. Auto repairs must conform to the following performance standards:
 - a. All activities shall be conducted in an enclosed building.
 - b. No outside storage or display of any kind except for the display of new merchandise related to the primary use of the facility and for retail sales during the hours of operation of the facility. There shall be no parking of damaged motor vehicles or storage of parts and junk vehicles outside the building.
 - c. No auto repair will be permitted on property adjacent to residentially zoned property.

- d. In order to screen abutting properties and reduce any adverse impact the following regulations shall be required:
 - 1. Provide, at a minimum, a 20-foot side yard setback (a larger setback may be required depending on the location) with appropriate landscaping as is required to reduce any adverse impacts.
 - 2. Provide a ten-foot landscape strip along all street frontages.
 - 3. Locate buildings centrally on the property so that maximum setbacks can be obtained from abutting properties.
- e. Operating hours shall coincide with the city noise regulations.
- 10. Off-site parking.
 - a. Up to 30 percent of the minimum required parking may be provided at an off-site parking location;
 - b. Valet parking may be permitted at the offsite parking location provided the spaces utilized for valet are above the minimum number of parking spaces required for the specific use;
 - c. The off-site parking location must be improved as required by article XV, design and construction and article XII tree protection, landscaping and buffering;
 - d. The off-site parking location shall be located within 650 feet of a public entrance to the structure or land area containing the use for which such parking spaces are required;
 - e. A safe, direct, convenient, pedestrian route shall be provided between the off-site parking location and the use being served, i.e.: the construction of eight-foot sidewalks between the use and the off-site parking location;
 - f. The off-site parking location and the use site shall be situated on the same side of the road;
 - g. Low level lighting is required at the off-site parking location; and
 - h. Additional buffering in the form of opaque screening shall be required for any off-site parking location adjacent to a residential use.
- 11. Restrictive uses located within the Tampa Road Corridor.
 - a. Shall not be less than 1,000 feet, measured property line to property line, from another restrictive use or adult use;
 - b. Shall not be less than 500 feet, measured property line to property line, from a residentially zoned property, place of worship, school or child care facility;
 - c. Shall not be less than 500 feet, measured property line to zoning district line, from the Town Center;
 - d. All business activities shall occur within an enclosed building;
 - e. No temporary or permanent outdoor display or storage of goods shall be permitted;
 - f. The customer entrance door shall face the adjacent street, be transparent and not tinted to ensure visibility into the building;
 - g. All windows shall be transparent, allow visibility into the building and shall not be blocked by window signage, shelving or merchandise;
 - h. The use of chains and chainlink fences for security shall not be permitted;
 - i. If window and/or door bars are used, the bars shall be decorative in nature and architecturally integrated into the building design;
 - j. The site shall have lighting to provide illumination for security and safety of parking and access areas and shall be in conformance with City regulations as to not draw attention to the site;
 - k. The colors of the building, roof and exterior amenities such as canopies, if used, shall be of a subdued and muted color; and
 - l. The following additional regulations apply to all signs and sign types:

1. Pole signs are prohibited;
2. All wall and monument signs shall be compatible with the building's architecture and color scheme. Monument signs shall be limited to six feet in height and display the street address;
3. All colors shall be subdued or muted;
4. Canopy, cabinet and window signs are prohibited; and
5. All sign lighting shall be automatically controlled so that the lighting is turned off at midnight or when the business is closed, whichever is later.

All facilities and operations shall meet: the requirements of the most recent edition of the National Fire Code as published by the National Fire Protection Association, chapter 10 D-56, of the Florida Administrative Code, and Control of Radiation Hazard Regulations, the most recent edition of the General Industry Standards published by the Occupational Health and Safety Administration of the U.S. Department of Labor and, when appropriate, other applicable state or nationally recognized standards for the protection of health, safety and welfare of employees. No operations or activities in this zone shall be conducted as to constitute a nuisance. Screening and landscaping, in addition to requirements as set forth in this Code, may be required when abutting residential districts to reduce any adverse impact on surrounding or abutting land uses.

Section 5: That Section 2.1 of Article II of the Town Center Development Code of the City of Oldsmar is hereby amended to include new definitions as follows:

2.1 General.

Restrictive uses. Retail sales and service uses, including but not limited to, day labor operations, tattoo parlors, body piercing facilities, pawn shops, check cashing centers, gun shops and blood plasma centers which are typically characterized by poorly maintained facilities, loitering and other indices of neighborhood deterioration.

Tampa Road Corridor. Any property or development, including outparcels, fronting on or having access to Tampa Road including the developments commonly known as Woodlands Square and Curlew Centre.

Town Center. The area of the City designated in Resolution 95-24 as the Oldsmar Community Redevelopment District.

Section 5: That Section 3.2.1 of Article III of the Town Center Development Code of the City of Oldsmar is hereby amended to read as follows:

3.2.1. Prohibited land uses and structures.

The following land uses and structures shall be prohibited within the Oldsmar Town Center:

1. Semi-trailers for any use other than being parked for short durations during loading and unloading.
2. Mobile homes for residential or nonresidential except temporary housing permitted in Chapter 18 of the Code of Ordinances.
3. Primary or secondary schools, whether public or private.
4. Utility substations and communications towers.
5. Any use requiring outside storage and/or display beyond normal business hours.

6. Portable temporary storage units, except that such units may be permitted provided that the units are screened from public view and left on site for a maximum of 30 days. Portable temporary storage units installed in conjunction with an active construction site may remain during the course of construction; however, said unit shall be removed prior to issuance of a certificate of occupancy.
7. Industrial uses not specifically permitted.
8. Restrictive uses.

Section 6: This Ordinance shall become effective immediately upon its final passage and adoption.

PASSED ON FIRST READING: June 21, 2011

PASSED ON SECOND READING AND ADOPTED: July 5, 2011

Jim Ronecker, Mayor
City of Oldsmar

ATTEST:

Ann E. Stephan, City Clerk
City of Oldsmar

APPROVED AS TO FORM:

Thomas J. Trask, Esquire
City Attorney
City of Oldsmar