

ORDINANCE 709

AN ORDINANCE OF THE CITY OF MEXICO BEACH, FLORIDA, TOLLING CERTAIN TIMES LIMITS DURING THE PREVIOUSLY ESTABLISHED BUILDING MORATORIUM; ALLOWING RECREATIONAL VEHICLES AND CAMPERS TO BE PLACED ON CERTAIN RESIDENTIAL LOTS TEMPORARILY; ALLOWING FOOD TRUCKS AND MODULAR BUILDINGS TO BE PLACED AT CERTAIN COMMERCIAL LOCATIONS FOR 365 DAYS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Rick Scott, Governor of the State of Florida, Issued Executive Order 18-276 declaring a state of emergency in Bay County as a result of Tropical Storm Michael;

WHEREAS, on October 10, 2018, Hurricane Michael struck the City of Mexico Beach (the "City") as a Category 4 hurricane resulting in massive damages to private and public property, as well as public infrastructure;

WHEREAS, the residents and the citizens of the City sustained massive damages and most buildings were made uninhabitable; and

WHEREAS, as provided in section 2(b), Article VIII of the Constitution of the State of Florida, and section 166.021(1), Florida Statutes, the City, a municipal corporation, enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, the City has adopted and applies a Comprehensive Plan and Land Development Regulations relating to the development and construction on property and the City issues building permits pursuant to the Florida Building Code and local technical amendments to the Florida Building Code; and

WHEREAS, the City has made substantial progress toward restoring basic infrastructure in the City and now there will be hundreds of citizens seeking building permits and other City approvals to repair their homes and businesses and there is a need for business services in the City quicker than permanent rebuilding can reasonably be expected; and

WHEREAS, the City Council hereby finds that this ordinance is in the best interest of the public health, safety, and welfare.

WHEREAS, the pending ordinance doctrine in Florida provides that a building permit or development order application established on or after the date when a local government has publicly declared its intent to change its zoning scheme may be denied or held until after the enactment of the new zoning ordinance (*see, e.g. Smith v. City of Clearwater*, 383 So. 2d 681(Fla. 2d DCA 1980));

WHEREAS, given the extraordinary circumstances due to the Hurricane Michael recovery efforts and the need to restore some business and professional services quickly within the City, the City Council will rely on the pending ordinance doctrine following first reading of this ordinance to direct staff not to object to uses and placement of structures and vehicles contemplated herein and to hold permit applications for consideration for approval until after the adoption of this ordinance and if this ordinance is not adopted following its second reading, then all such structures and uses will be required to be promptly removed at no cost to the City if they do not comply with applicable laws.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MEXICO BEACH, FLORIDA:

SECTION 1. FINDINGS OF FACT. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this ordinance.

SECTION 2. RESIDENTIAL USES. The following special rules shall apply for the use of residentially zoned lots and other lots that were the location of a home prior to Hurricane Michael:

A. The City normally allows a recreational vehicle or camper to be placed on and inhabited for six months on a parcel where the construction of home is occurring. During the building moratorium adopted November 6, 2018, this six-month time period shall not begin running.

B. Recreational vehicles and campers may be placed on and inhabited on lots where a home was located prior to Hurricane Michael but is now either destroyed or damaged to point of being uninhabitable, provided the following conditions are met (but not mobile homes, which are residential units constructed to standards promulgated by the U.S. Department of Housing and Urban Development (HUD)):

1. The lot must be a location with a home will be built or the existing home will be repaired with construction or repairs reasonably anticipated to be completed in 2019.

2. Only the owner of the lot or the tenant immediately before Hurricane Michael, as well as their respective immediate family, may inhabit the recreational vehicle or camper place on the lot.

3. The recreational vehicle or camper may not be placed on a lot until the City has granted a permit, which shall not be issued unless the owner or the owner and tenant jointly apply and provide proof of ownership of the lot and that the requirements of this ordinance will be met. All such permits shall expire 30 days after the November 6, 2018 building moratorium is lifted or expires.

4. All recreational vehicles or campers placed pursuant to this ordinance must be removed if the owner or tenant has not applied for a building permit within 30 days after the November 6, 2018 building moratorium has been lifted or expires.

C. If the shape or slope of a lot or the damage to the lot or structures thereon prevents the location from being feasible to place a recreational vehicle or camper, in the sole discretion of the City, the City may grant a permit under Paragraph B. above to allow a recreational vehicle or camper to be placed on an adjacent lot with the written permission of the owner of that adjacent lot. Adjacent lot means the two lots share a portion of a boundary or that the two lots are directly across the street from one another. Only one recreational vehicle or camper may be placed on a lot pursuant to this Paragraph C. and only if such lot does not already have a lot placed on it pursuant to Paragraph B. above.

SECTION 3. COMMERCIAL USES.

A. Food trucks may be placed on and operated at any location that operated as a restaurant or other business that primarily sold food or drinks immediately prior to Hurricane Michael, but that was destroyed or is no longer inhabitable. Food truck means a vehicle licensed by the State of Florida as a Mobile Food Dispensing Vehicle or any successor program used by the State to license what is generally understood to be a food truck. All Food Trucks so placed must either comply with all normal City requirements or be removed 365 days after the effective

date of this Ordinance. No permit from the City is required, but the City will require any Food Truck to be removed that does not comply with this Paragraph A. or which does not qualify as a Food Truck.

B. Notwithstanding any City restrictions on design, Commercial modular buildings may be placed on any parcel where a business was located prior to Hurricane Michael but is now either destroyed or damaged to point of being uninhabitable. This Paragraph B. shall only apply to modular buildings certified by the Department of Community Affairs or any successor State agency and shall not apply to (i) buildings that only qualify as storage sheds or any other modular building that is exempt from Florida Building Code requirements or (ii) mobiles homes, which are residential units constructed to standards promulgated by the U.S. Department of Housing and Urban Development (HUD). All modular buildings placed under this Paragraph B. shall either comply with all normal City requirements or be removed 365 days after the effective date of this Ordinance.

SECTION 4. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 5. SCRIVENER'S ERROR. The city attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the city clerk.

SECTION 6. PUBLICATION. After its adoption, this ordinance shall be published and printed as prescribed for other adopted ordinances.

SECTION 7. REPEAL. Pursuant to the City Charter of Mexico Beach, this emergency ordinance shall automatically stand repealed as of the ninety-first (91st) day following the date on which it was adopted, but this shall not prevent reenactment of this ordinance under regular procedures, or if the emergency still exists, in the manner specified in the City Charter. This emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

SECTION 8. EFFECTIVE DATE. This ordinance takes effect immediately upon adoption.

PASSED, APPROVED AND ADOPTED at the special meeting of the City Council of the City of Mexico Beach, Florida, this ____ day of _____, 2018.

William A. Cathey, Mayor

ATTEST:

CITY CLERK