

ORDINANCE NO. 256

AN ORDINANCE AMENDING ORDINANCE NO. 242, ARTICLE VII, ADDING 7.11.00 PROHIBITING NUISANCES, UNLAWFUL ACCUMULATIONS, AND GROWTHS; DEFINING SUCH NUISANCES, UNLAWFUL ACCUMULATIONS AND GROWTHS; PROVIDING FOR NOTICE TO ABATE; PROVIDING PROCEDURES FOR ABATING NUISANCES; PROVIDING A PENALTY FOR VIOLATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Mexico Beach, Florida, has determined that it is to the best interests to the health and welfare of the citizens that an ordinance prohibiting unlawful accumulations, and prohibiting nuisances, and growths shall be passed:

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

SECTION 1. Definitions.

As used in this article the following term shall have the meanings ascribed to it in this section:

Nuisance: The term "nuisance" shall mean any of the following:

- (1) Any accumulation of rubbish, trash, junk, and other abandoned materials.
- (2) Any excessive accumulation of untended growth of weeds, undergrowth or other dead or living plant life upon a developed lot.
- (3) Any underbrush or weeds which exceed 36 inches in height.
- (4) Any unsafe dwelling or structure.
- (5) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (6) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- (7) Unsheltered storage for a period of thirty (30) days or more within the corporate limits of this city of vehicles, boats, machinery, implements, or equipment or personal property of any kind which are no longer safely usable for the purposes for which they were manufactured.
- (8) For the purpose of this article, the term nuisance shall include, but is not limited to, any of the following:

abandoned, discarded, unused objects or equipment such as automobiles, boats, furniture, stoves, refrigerators, freezers, cans or containers.

SECTION 2. Criminal Penalties.

- (a) It shall be unlawful for any landowner to suffer, maintain or permit to remain any accumulation of rubbish or trash, abandoned vehicles, boats, refrigerators, stoves, household articles, other appliances, furniture, junk, abandoned equipment or other nuisances as defined in Section 1.
- (b) It shall be unlawful for the owner of any previously developed lot located within Mexico Beach to suffer, maintain or permit to remain dangerous trees or any accumulation of weeds or undergrowth as defined in Section 1.
- (c) Any person violating the provisions of this section is guilty of a misdemeanor of the second degree punishable by a term of imprisonment not to exceed sixty (60) days, or a fine not exceeding Five Hundred (\$500.00) Dollars, or both.

SECTION 3. Duty to Remove.

It shall be the duty of the owner of any previously developed lot to remove or cause to be removed from such lot all excessive growth of weeds, underbrush or dangerous trees, and to remove or cause to be removed all debris, rubbish, trash, abandoned vehicles, boats, refrigerators, and other articles as defined in Section 1.

SECTION 4. Determination of Nuisance.

The City Code Enforcement Officer shall identify and respond to any complaints of nuisance.

SECTION 5. Notice to Abate Nuisance - To Be Given.

Should the owner of any previously developed lot fail, refuse or neglect to remove or cause to be removed therefrom any accumulation of debris, rubbish, trash, abandoned vehicles, boats, refrigerators and other household items, or dangerous trees, or should the owner of any previously developed lot fail, refuse or neglect to remove or cause to be removed therefrom all excessive growth of weeds, underbrush, or dangerous trees, such owner, if the real estate is unoccupied, or such owner and occupant of occupied real estate, shall be served in writing directing such owner to abate the nuisance. Such notice shall further state that, in default of the performance of the above condition, the City may, as set forth in Section 7, cause the same to be done, and charge the cost and expense incurred in doing or having such work done, to the owner of such property, and that suit may be filed seeking all such costs and expenses, as well as injunctive relief, and all attorney's fees and costs incurred in such litigation.

SECTION 6. Same - Service.

Service upon the owner of the Notice of Violation shall either be by personal service or by mailing the notice to the addressee's last known address as the same appears on the records of the City. In the event the lot is unoccupied and the address of the owner is unknown, service of the notice shall be made upon the owner by posting the same on such lot with a like notice to be published in a newspaper of general circulation.

SECTION 7. City Action with Failure to Comply.

- (a) In the event that the owner or other parties in interest shall fail to comply with an order made pursuant to the provisions of this ordinance, the City, acting through the City Administrator or Mayor, is authorized to vacate, demolish or remove or otherwise abate the nuisance in accordance with such order, either with City forces or by independent contractor.
- (b) Summary Abatement. In addition to the remedies prescribed by this ordinance, and cumulative thereof, if it shall be brought to the attention of the City Council, and it shall be determined that any such nuisance, or nuisances, are likely to have an immediate adverse effect upon the public health, comfort or safety, then and in that event the City Council may, by appropriate resolution or motion, order such nuisance or nuisances summarily abated by the City in a reasonably prudent manner.

SECTION 8. Recovery by City of Expenses of Nuisance Removal.

- (a) The City is damaged by the creation of a nuisance within the City, and the cost of nuisance removal has become a significant expense of the City. It is intended that persons responsible for such expenses shall bear the costs of same. In order to recover the cost of nuisance removal, the City may bring a civil action against any person believed to be responsible for creation of a nuisance. The City may, in order to avoid the necessity of the institution of such action, make an offer of settlement to any person believed to be responsible for creation of a nuisance. If the settlement offer is accepted, no action will be instituted by the City.
- (b) If such action is brought, all costs and expenses of nuisance removal shall be recoverable, as well as injunctive relief to prevent such actions in the future, and further, the City shall be entitled to recover all reasonable and actual attorney's fees and costs incurred in said litigation, including appellate attorney's fees and costs.

SECTION 9. Severability Clause.

Should any part of this ordinance be declared unconstitutional, such finding or declaration shall not affect the remainder of the ordinance.

SECTION 10. Conflicting Ordinances.

All ordinances and parts of ordinances in conflict herewith are repealed.

SECTION 11. This ordinance shall take effect as provided by law.

INTRODUCED at a regular meeting of the City Council on November 12, 1991, and ADOPTED on December 10, 1991.

CITY OF MEXICO BEACH, FLORIDA

Tom Hudson

Tom Hudson
Mayor-Councilman

ATTEST:

Patricia L. Hutchinson

City Clerk