

ORDINANCE NO. 669

AN ORDINANCE OF THE CITY OF MEXICO BEACH, FLORIDA AMENDING THE CITY'S LAND DEVELOPMENT REGULATIONS TO PROHIBIT METAL BUILDINGS FROM BEING APPROVED FOR RESIDENTIAL USE OR BEING CONVERTED TO RESIDENTIAL USE; DEFINING METAL BUILDING; REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

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 of Mexico Beach, Florida, (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, Chapters 163 and 166 of the Florida Statutes provide for the City to regulate zoning and development through land development regulations; and

WHEREAS, the Florida Supreme Court has determined "[z]oning solely for aesthetic purposes is an idea whose time has come; it is not outside the scope of the police power" [*City of Lake Wales v. Lamar Advert. Ass'n of Lakeland, Florida*, 414 So. 2d 1030, 1032 (Fla. 1982); see also *Kuvin v. City of Coral Gables*, 62 So. 3d 625, 628 (3rd DCA 2010)];

WHEREAS, Objective 1.4 of the Future Land Use Element of the City's Comprehensive Plan provides that "[t]he City will enforce the procedures set forth in the Land Development Code for the elimination or reduction of land uses inconsistent with the character of the City and the future land uses designated in its Plan;" and

WHEREAS, Policy 1.4.1 of the Future Land Use Element of the City's Comprehensive Plan provides that "[t]he City shall restrict proposed development, which is inconsistent with the character of the community and will incorporate provisions for the elimination of non-conforming land uses into its land development regulations;" and

WHEREAS, Policy 1.2.3 of the Future Land Use Element of the City's Comprehensive Plan provides that "[t]he City shall use this Plan and its land development regulations to promote compatibility of adjacent land uses and reduce the potential for

nuisances;" and

WHEREAS, Objective 3.4 of the Housing Element of the City Comprehensive Plan provides that the City will "[i]ncorporate provisions in the land development regulations, which address structural and aesthetic improvement of existing housing; and

WHEREAS, the City Council finds that using Metal Buildings for residential use is inconsistent with the character of the community, aesthetically unacceptable to the City, and detrimental to property values; and

WHEREAS, the City has determined it is in the public interest to adopt this Ordinance pursuant to the City's police and zoning powers to protect the health, safety and welfare of the public.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MEXICO BEACH:

SECTION 1. From and after the effective date of this ordinance, Subsection A. of Section 2.02.02 of the Land Development Regulations of the City of Mexico Beach related to types of activities allowed under use categories is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

A. Residential

1. The category of residential uses includes single-family dwellings, accessory apartment uses, multi-family dwellings in a variety of housing types, and modular homes, but specifically excludes mobile homes and recreational vehicles. (Recreational vehicle parks are considered commercial uses.)

2. While a district may be designated for residential use, it does not follow that any housing type (single-family, apartment, townhouse, etc.) is allowed. Certain areas are limited to one or more housing types in order to preserve the established character of the area. Refer to the table of density and dwelling unit types in Section 2.02.04 for regulations on housing types.

3. **Metal Buildings shall not be approved for residential use, meaning new Metal Buildings proposed for residential use are not permissible and Metal Buildings in existence before the effective date of this Ordinance in any zoning district or constructed for another use in any zoning district may not be converted to residential use. For the purposes of this paragraph, a "Metal Building" includes a preengineered or prefabricated building with a substantial amount of steel or other**

metal components, any building intended to be constructed from a kit that includes a substantial amount of steel or other metal building components, or any building that has metal materials or veneer visible on more than 10% of its exterior walls, porches, and other architectural features below the soffits of the building (ceiling surfaces, lights, and fixtures for window and doors shall not be counted toward the 10%). In the event that a property owner disagrees with the conclusion of the building official or City staff that a structure is a Metal Building pursuant to this paragraph, the property owner's application will be referred to the Planning and Zoning Board for evaluation and recommendation, and then forwarded to the City Council for action pursuant to 7.02.02 of these Land Development Regulations. In such event, the decision of the building official or City staff may be overturned only based on clear and convincing evidence that the structure does not meet the definition of a Metal Building or if the City Council concludes that the building under consideration is clearly residential in character and consistent with the character of nearby residential structures.

SECTION 2. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Mexico Beach Land Development Regulations. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 3. This Ordinance shall take effect immediately upon passage.

INTRODUCED at the Regular Meeting of the City Council on the 13th day of June, 2017.

Adopted at the Regular Meeting of the City Council on the 11th day of July, 2017.


MAYOR

ATTEST:

CITY CLERK