

ORDINANCE 709

AN EMERGENCY ORDINANCE OF THE CITY OF MEXICO BEACH, FLORIDA, ESTABLISHING A 90 DAY TEMPORARY MORATORIUM ON THE ISSUANCE OF BUILDING PERMITS, DEVELOPMENT ORDERS, AND APPROVALS FOR SUBSTANTIAL CONSTRUCTION; DEFINING SUBSTANTIAL CONSTRUCTION; DIRECTING STAFF TO EVALUATE THE ADEQUACY OF LOCAL CONSTRUCTION AND DEVELOPMENT STANDARDS AND THE GUIDANCE OF APPLICABLE AGENCIES AND PROPOSE AMENDMENTS TO THE CITY COUNCIL IN RESPONSE TO THE DAMAGE BY HURRICANE MICHAEL AND TO MAXIMIZE ELIGIBILITY FOR FEDERAL AND STATE REIMBURSEMENTS FOR HURRICANE RESPONSE EXPENSES; 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 Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of Mexico Beach and City of Mexico Beach participates in the National Flood Insurance Program and derives substantial benefits from the program; 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 or to rebuild substantially damaged structures; and

WHEREAS, the City is conducting the substantial damage determination process for all structure in the City pursuant to applicable law and the guidance of State and federal emergency agencies; and

WHEREAS, the City is in the process of researching the adequacy of the currently applicable building and development standards in the Florida Building Code, the City of Mexico Beach Comprehensive Plan, the City of Mexico Beach Land Development Regulations, the City of Mexico Beach Floodplain Ordinances, and other City ordinances (collectively, the “Standards”); and

WHEREAS, the City anticipates strengthening at least some of those applicable Standards, in part as an effort to maximize federal and state reimbursement of the ongoing Hurricane Michael response project; and

WHEREAS, prioritizing the repair of structures with relatively minor damage over new construction and reconstruction projects is in the best interest of the City; and

WHEREAS, the anticipated massive influx new building permits that would be reviewed based on present Standards that may be inadequate for the health, safety, and welfare of the City and that may jeopardize the City’s eligibility for various federal and state reimbursements for Hurricane Michael response costs presents an emergency to the City requiring a temporary moratorium on approvals for Substantial Construction in the City; and

WHEREAS, the City desires to place the public and all interested parties on notice that it is considering amendments to the Standards; and

WHEREAS, the purpose of this ordinance is to place a temporary moratorium on the acceptance or approval of new applications for Substantial Construction for a period of time reasonably necessary for the City to investigate the adequacy of current Standards as a matter of public policy and in relation to eligibility for federal and state reimbursement programs, and if

necessary, to promulgate amendments to the City's Standards for construction and development; and

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

WHEREAS, pursuant to the City Charter, an emergency ordinance may be adopted with or without amendment at the meeting at which it is introduced, but the affirmative vote of at least two-thirds (2/3) of all Council members shall be required for adoption.

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

SECTION 1. FINDING OF EMERGENCY. The City Council finds an emergency exists, as more fully described by the foregoing recitals, due to the ongoing Hurricane Michael response effort and the need to evaluate and potentially amend City Standards for construction and development prior to allowing Substantial Construction in the City that could be inadequate for the health, safety, and welfare of the City and that could jeopardize the City's eligibility for reimbursement of various Hurricane Michael response costs. Due to this emergency, this ordinance shall not follow the normal requirements of two readings or advanced notice in a newspaper of general circulation.

SECTION 2. 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. TEMPORARY MORATORIUM. Beginning immediately upon adoption of this Ordinance and continuing for ninety (90) days, a moratorium is hereby imposed on the acceptance or approval of applications for building permits, development orders, and any other construction or development approvals which would involve the approval of Substantial Construction.

"Substantial Construction" means the construction of any new building or the placement of a mobile home or a manufactured home, the repair or reconstruction of any structure determined to be substantially damaged pursuant to the City's applicable substantial damage determination process (generally meaning that repair costs exceed 50% of the value of the building prior to the damage), the repair or reconstruction of any structure declared to be unsafe by any authorized official, or any increase in the square footage of a structure.

SECTION 3. STUDY AND RECOMMENDATIONS. During the moratorium period described in Section 2 of this ordinance, City staff is hereby directed to study the City's existing Standards and their impact on the health, safety, and welfare of residents and businesses located within the City and to develop and recommend amendments and recommendations for consideration by the City Council and Planning Board.

SECTION 5. 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 6. 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 7. PUBLICATION. After its adoption, this ordinance shall be published and printed as prescribed for other adopted ordinances.

SECTION 8. 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 7. 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 6 day of November, 2018.

  
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William A. Cathey, Mayor

ATTEST:  
  
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CITY CLERK