

ORDINANCE 715

AN ORDINANCE OF THE CITY OF MEXICO BEACH, FLORIDA PROVIDING FOR A LIMITED WAIVER OF SETBACKS TO REBUILD A PRIMARY STRUCTURE WITHIN ITS PRE-HURRICANE MICHAEL FOOTPRINT; PROVIDING FOR SEVERABILITY, REPEAL, AND AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, on October 10, 2018, Hurricane Michael struck the City of Mexico Beach (the "City") as a Category 4 hurricane resulting in massive damage to structures within the City;

WHEREAS, many parcels where homes and businesses were located will require construction of entirely new buildings rather than just repairs; and

WHEREAS, the City recently updated its Comprehensive Plan and Land Development Code and provided some consideration to situations involving rebuilding structures that were nonconforming uses that typically would lose their grandfathered status after sustaining damages in excess of 50% of their fair market value; and

WHEREAS, as part of those updates, the City modified certain development requirements to reduce limitations on rebuilding something similar to what existed prior to Hurricane Michael, but did not address setback requirements; and

WHEREAS, in some cases the applicable setbacks make parcels unbuildable and in other cases the applicable setbacks would prevent rebuilding something similar to previous building; and

WHEREAS, despite that some buildings in the City did not comply with setback requirements, in some cases the buildings met the rules that existed at their time of construction and the City is unaware of instances when a person built or subdivided in deliberate disregard of the City's rules or orders; and

WHEREAS, the City Council has determined the process and limited waiver provided by this ordinance is an efficient, fair way to facilitate rebuilding of the City and that notice and deliberation on a uniform City-wide rule is preferable to numerous notices and hearings for individual variance requests; 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, since the Mexico Beach Comprehensive Plan does not govern setbacks, this Ordinance is consistent with the Mexico Beach Comprehensive Plan; and

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

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. LIMITED SETBACK WAIVER. For thirty-six months following the effective date of this ordinance, the City will consider development order applications with reduced setbacks as provided below and may approve those applications if all the following requirements are met:

- A. the limited setback waiver allows a new primary structure to be built in the same footprint as the previous primary structure as that footprint existed on October 9, 2018;
- B. this waiver does not apply if the use of the property will change (*e.g.* building a dwelling unit where a business was located or building a business where a dwelling unit was located);
- C. this waiver does not apply if the number of dwelling units on the parcel will increase;
- D. this waiver does not apply to accessory structures, which must comply the applicable current rules;
- E. this waiver follows the land, rather than being personal to an owner;
- F. the waiver expires upon the expiration of the development order, but if the project was constructed pursuant to the development order, it will be protected by the City's regular non-conforming use rules thereafter;
- G. the request for this limited setback waiver must be part of normal development order application and only the regular application fee will apply to it;
- H. applicants must complete forms prescribed by the City Administrator or her designee and provide surveys, building plans and other relevant documents if requested to either confirm the boundaries of the prior building footprint or its distance from the property boundaries or to determine whether the requirements of this ordinance have been met;
- I. all development orders granted with this limited setback waiver shall state that the requirements of this ordinance have been met and shall describe the reduced setbacks or buildable area applicable to the parcel; and

- J. the City shall deny any application that does not strictly meet the requirements of this ordinance, but such requests may be considered under standard variance procedures upon subsequent application by the owner.

Approval of this limited setback waiver does not reduce or modify any obligation to comply with all other rules promulgated by the City and the Florida Building Code.

SECTION 3. 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.

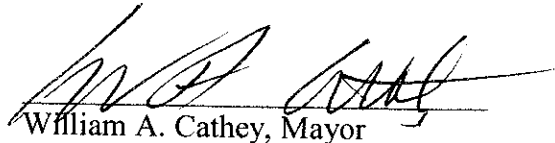
SECTION 4. SCRIVENER'S ERROR. The city attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the city clerk.

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

SECTION 6. REPEAL. All Codes, Ordinances and/or Resolutions or parts of Codes, Ordinances and/or Resolutions in conflict herewith are hereby repealed to the extent of the conflict.

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 23rd day of April, 2019.


William A. Cathey, Mayor

ATTEST:


CITY CLERK