

ORDINANCE NO. 740

AN ORDINANCE OF THE CITY OF MEXICO BEACH, FLORIDA AMENDING THE BEACH VENDING PERMIT RULES TO BROADEN THE TIMES THAT A VENDOR MAY USE ATVS AND TO ALLOW CERTAIN WOODEN LOUNGERS TO REMAIN IN PLACE ON THE BEACH; TEMPORARILY WAIVING THE REQUIREMENT THAT AN UPLAND BUSINESS MUST BE OPERATING; REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, the City of Mexico Beach (the "City") adopted Ordinance 664, commonly known as the Leave No Trace Ordinance, pursuant to a citizen initiative and later clarified and amended the Leave No Trace ordinance pursuant to Ordinance 687; and

WHEREAS, the City adopted Ordinance 688 to establish a uniform system for permitting and regulation of beach vending businesses; and

WHEREAS, among other things, Ordinance 688 required the placement of wooden lounge chairs on the Beach to be discontinued after September 30, 2018 due at least in part to Leave No Trace considerations, defined the allowable locations for beach vending businesses, and provided rules for beach vendor vehicles on the Beach; and

WHEREAS, litigation ensued against the City due to the City's implementation of the Leave No Trace ordinance and the litigation expanded following the City's adoption of Ordinance 688; and

WHEREAS, the plaintiff has agreed to dismiss the litigation and the release of all claims if the City amends the rules for use of vehicles on the Beach by holders of Beach Vending Permits and amends the rules for wooden loungers, each as provided herein; and

WHEREAS, the agreed upon amendments are reasonable and adjust the limited waiver from Leave No Trace, but otherwise keep the Leave No Trace rules in place to benefit the City; and

WHEREAS, Ordinance 688 required that certain types of businesses must be operating validly under City and State law in the area upland of the beach vending business and that if the upland business ceases operations for more than one week, the location would not be eligible for a Beach Vending Permit and any existing Beach Vending Permit would automatically be suspended, and

WHEREAS, Ordinance 688 referred to four locations meeting all the criteria to be eligible to sponsor a Beach Vending Permit; and

WHEREAS, on October 9, 2018, those locations were 719 US-98 (the location of Toucans), 903 US-98 (the location of the Beuna Vista Motel), 1701 US-98 (the location of the El Governor Motel); and 2105 US-98 (the location of the Driftwood Inn); and

WHEREAS, Hurricane Michael destroyed each of those businesses or rendered them inoperable; and

WHEREAS, the City adopted Resolution 2019-06 to waive the requirement for the duration of 2019 that the upland hotel, motel, restaurant, tavern, or bar must be operational for the issuance of Beach Vending Permit and the requirement that such business remain operating;

WHEREAS, it could be two more years or longer before the majority of the upland locations that previously qualified under Ordinance 688 to sponsor a Beach Vending Permit have begun operations again; and

WHEREAS, the City Council has determined that it is in the best interest of the City to amend the rules provided by Ordinance 688 to allow for normal operations of beach vending businesses more quickly than that schedule; and

WHEREAS, the City Council wishes to extend the waiver provided by Resolution 2019-06 for two additional years based on the slow progress of reconstruction of the upland beach businesses; and

WHEREAS, the City Council has determined that it would not be prudent to allow all gulf front General Commercial and Tourist Commercial parcels to be able to sponsor a Beach Vending Permit without having an operational upland business and, instead, has determined that parcels that were eligible on October 9, 2018 should retain that eligibility despite the damage to the upland businesses.

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

SECTION I: The City of Mexico Beach hereby amends Ordinance 688 as follows to reduce restrictions on ATV use, allow limited use of wooden loungers, and to temporarily waive certain requirements, with new text **bold and underlined** and deleted text ~~stricken~~:

Section 4. Vehicles on the Beach.

The only types of vehicles allowed on the ~~beach~~ **Beach** pursuant to a Beach Vending Permit are ATVs, as defined by Florida Statute 317.003 as, "any motorized off-highway or all-terrain vehicle 50 inches or less in width, having a dry weight of 1,200 pounds or less, designed to travel on three or more nonhighway tires, and manufactured for recreational use by one or more persons. ATVs must be operated consistent with Florida law. ATVs may only be operated within the permitted area and directly to and from the beach access approved in the permit holder's application. ~~ATVs shall only be allowed~~

~~within the permitted area before 7:00 am and after 7:00 pm. Should an emergency necessitate the use of any vehicle outside the above hours on the beach, permission must be obtained from the City Administrator or his or her designee.~~ Any violation of Florida law related to the use of the ATV in conjunction with activities under the Beach Vending Permit or any violation of the requirements of this paragraph shall be grounds for revoking a Beach Vending Permit.

Section 5. Permissible Locations.

Beach Vending Permits may only be granted for Beach locations that are part of or immediately behind (*e.g.* not across the street) a parcel of property that meets all of the following conditions:

1. the parcel is zoned General Commercial or Tourist Commercial,
2. the parcel is the location of a hotel, motel, restaurant, tavern, or bar that currently operates validly under City and State law; if such use discontinues for more than seven consecutive days (such as for going out of business or seasonal closure), the Beach Vending Permit is automatically suspended and will go back into effect when the hotel, motel, restaurant, tavern, or bar reopens for continuous long-term operations, and
3. the location is not on Beach deeded to the City or another public agency.

The goods permitted by this ordinance to be placed upon the Beach for rental or sale shall be displayed, or stored or placed so as to avoid being an obstacle to emergency and other permitted vehicles.

For the remainder of the 2019 calendar year and the entirety of 2020 and 2021, the City waives the above Condition 2. of this Section 5 for the locations that were eligible on October 9, 2018 to sponsor a Beach Vending Permit. Those locations are 719 US-98 (the location of Toucans), 903 US-98 (the location of the Beuna Vista Motel), 1701 US-98 (the location of the El Governor Motel); and 2105 US-98 (the location of the Driftwood Inn). Beach protection and restoration construction projects will be ongoing for many months, so as a condition of permit issuance, all holders of Beach Vending Permits must comply with any temporary closure of a portion of the Beach and any directives of the City relating to safety generally or construction on any portion of the Beach near the location covered by the Beach Vending Permit. Such directives may include a requirement to temporarily remove all beach vendor property from the Beach or to adjust activities to avoid damage to newly constructed projects on the Beach.

Section 7. Permissible Activities.

The holder of a Beach Vending Permit may solicit, sell, or rent the following goods or services at the location covered by a Beach Vending Permit:

1. Umbrellas;
2. Hobie Cats, Sunfish, Prindles and similar sailboats;
3. Jet skis and other motor driven floating devices;
4. Cabanas;
5. Aqua cycles (same as water cycles);
6. Floats and surfboards;
7. Chairs;
8. Parasail rides, kite rides, and watersled rides;
9. Sailboards (but not kite boards);
10. Kayaks, canoes and similar hand paddled boats;
11. Beach photography, including photographs subsequently purchased and delivered off the Beach.

The purpose of allowing these activities pursuant to a Beach Vending Permit is to reasonably permit the solicitation and immediate sale or rental of certain goods and services which serve a public need to certain commercially oriented locations of the Beach and that are not themselves a nuisance or detriment, without unreasonably interfering with the flow, recreation, enjoyment and privacy of persons otherwise upon the Beach.

~~Heavy, difficult to move~~ Wooden lounge style chairs may be prohibited on the Beach, except that a single row of wooden lounge chairs may be placed in each licensed area equidistant from the mean high water line and the seawall or the toe of the sand dune, or, if neither exists, then the paved surface adjoining the Beach. The location of the row of chairs may be adjusted, if approved in writing in advance by the City Administrator not be placed on the Beach or rented under a Beach Vending Permit after September 30, 2018.

Section 9. Limited Exemption from Leave No Trace.

Booths and storage boxes used by a holder of a Beach Vending Permit to conduct business or store items are exempt from the City's Leave No Trace requirements if they are located immediately next to a seawall or the toe of the sand dune or, if neither exists, then immediately next to a paved surface adjoining the Beach. ~~Heavy~~ Wooden loungers may be left unattended on the Beach overnight within the area covered by the Beach Vending Permit only as provided by Section 7, until and including September 30, 2018 if they are located immediately next to a seawall or the toe of the sand dune, or, if neither exists, then immediately next to a paved surface adjoining the Beach. In addition, it is not a violation of the Leave No Trace ordinance for a holder of a Beach Vending Permit to leave other items and equipment unattended on the Beach overnight within the area covered

by the Beach Vending permit if (1) they are typical for the type of business activities approved under the Beach Vending Permit and (2) they are moved landward to the seawall or the toe of the sand dune or, if neither exists, then immediately next to a paved surface adjoining the Beach.

SECTION II. Repealer.

All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION III. Codification.

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 City of Mexico Beach Code of Ordinances. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION IV. Effective Date.

This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Mexico Beach, Florida, this 10 day of December, 2019.

CITY COUNCIL
CITY OF MEXICO BEACH, FLORIDA



William A. Cathey, Mayor

ATTEST:



Jenny Myrick, City Clerk

