

## ORDINANCE NO. 819

### **AN ORDINANCE OF THE CITY OF MEXICO BEACH, FLORIDA AMENDING THE LAND DEVELOPMENT CODE TO MODIFY ARTICLE I, CREATE SECTION 1.12.00, AND MODIFY ARTICLE VII TO ESTABLISH A PROCESS FOR NOTIFICATION AND HEARING PROCEDURES; PROVIDING FOR CODIFICATION, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN 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”) 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, Chapters 163 and 166 of the Florida Statutes provide for the City to regulate zoning and development and implement its Comprehensive Plan through land development regulations, and in 1991, the City Council adopted the Mexico Beach Land Development Code, as required pursuant to §163.3202, F.S.; and

WHEREAS, the Mexico Beach Planning and Zoning Board, acting as the Local Planning Agency, reviewed this amendment to the Land Development Code on October 2, 2023, during a duly noticed public hearing and recommended that said amendment be approved by the Mexico Beach City Council; and

WHEREAS, pursuant to Florida Statute 166,041(3)(c), the Mexico Beach City Council held public hearings on October 10, 2023, and October 24, 2023, to consider the amendment, and after consideration of the public comments received during the public hearing, voted to approve this Ordinance; and

WHEREAS, in the exercise of its authority, the City Council of Mexico Beach finds it necessary and desirable to adopt and does hereby adopt the amendment to the Land Development Code contained herein in order to encourage the most appropriate use of land, water, and resources, consistent with the public interest; and deal effectively with future problems that may result from the use and development of land within the City of Mexico Beach; and

WHEREAS, words with underlined type shall constitute addition and ~~striketrough~~ shall constitute deletions to the original text from the language existing prior to the adoption of this Ordinance, as shown in “EXHIBIT A”.

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

#### SECTION 1. APPROVAL AND ADOPTION OF AMENDMENT.

The City of Mexico Beach hereby amends the Mexico Beach Land Development Code in accordance with “EXHIBIT A”.

#### SECTION 2. REPEAL.

Those parts of the Mexico Beach Land Development Code in conflict herewith are hereby repealed and superseded to the extent of such conflict and shall have no further effect whatsoever.

SECTION 3. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or other portion of this Ordinance, or any particular application thereof shall be held invalid or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining sections, subsections, sentences, clauses, or phrases and their application shall not be affected thereby.

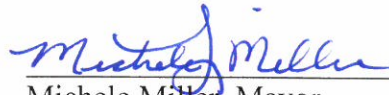
SECTION 4. SCRIVENER'S ERRORS.

The City Attorney may correct any scrivener's errors found in this Ordinance by filing a corrected copy of the Ordinance with the Clerk. A scrivener's error may not include an amendment that changes the context or meaning of the Ordinance.


SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect upon passage.

PASSED, APPROVED, AND ADOPTED at a duly noticed public hearing of the Mexico Beach City Council this 14<sup>th</sup> day of November 2023.

  
Michele Miller, Mayor

ATTEST:

  
Tammy Brunson, City Clerk

# EXHIBIT A

## ARTICLE I GENERAL PROVISIONS, ADMINISTRATION, AND ENFORCEMENT

### 1.00.00 TITLE

This Code shall be entitled the "City of Mexico Beach Land Development Code" and may be referred to herein as the "Code-" or "LDC".

### 1.01.00 AUTHORITY

### 1.02.00 APPLICABILITY

### 1.03.00 FINDINGS

### 1.04.00 INTENT

### 1.05.00 INCORPORATION BY REFERENCE

#### 1.05.01 Technical Manuals

F.D.O.T. "Manual of Uniform Minimum Standards for Design," (most recent edition).

~~F.D.C.A. "Florida Accessibility Code for Building Construction," 1997.~~

#### 1.05.02 Maps

~~Comprehensive Plan Future Land Use Map~~

~~City Zoning Map~~

~~Flood Insurance Rate Map #12005C0508G~~

### 1.06.00 RULES OF INTERPRETATION

### 1.07.00 REPEAL OF PRIOR PROVISIONS

### 1.08.00 ABROGATION

### 1.09.00 SEVERABILITY

### 1.10.00 EFFECTIVE DATE

The effective date of this Code is ~~February 5, 2019~~ May 21, 1991. All amendments to the Land Development Code are effective as provided by law.

### 1.11.00 RESERVED

### 1.12.00 ENFORCEMENT

#### 1.12.01 Decision Making Procedures

It is the intent of the City Council that any person affected by actions taken as a result of this LDC shall be afforded due process of law. Public hearing and notice requirements are set forth in this section.

1.12.02 Legislative Actions. The following actions by the City Council shall be considered legislative:

A. Any amendment to the Comprehensive Plan, including any amendment to the Future Land Use Map.

B. Any amendment to the text of this Code.

1.12.03 Legislative Hearing Procedures. The following procedures shall apply to legislative actions:

- A. A request for any legislative action shall be made by application on a form provided by the City no less than thirty (30) days prior to the first public hearing when the request will be heard. Any applicable fees shall accompany the application submission. This requirement does not ensure the request will be heard at the next subsequent public hearing. A determination of completeness and compliance must first be made.
- B. Within seven (7) calendar days of receipt of the request, the City Administrator, or their designee, shall determine if the application is complete and sufficient for review and shall notify the applicant of the determination of completeness in writing by electronic mail or by U.S. postal service.
- C. There shall be a minimum of three (3) public hearings to consider any legislative action. The first public hearing shall be conducted by the Planning and Zoning Board, which shall make a recommendation to the City Council. The second and third public hearings shall be conducted at meetings of the City Council, where the ordinance affecting the change(s) shall be considered. This section does not preclude additional hearings from occurring, as either the Planning and Zoning Board or the City Council elects to hold additional meetings based on the conditions of the individual case.
- D. After the applicant receives confirmation of the meeting dates from the City, the applicant is responsible for the provision of notice of the public hearings on a legislative action. The applicant shall notify property owners, as outlined below, with all three (3) hearing dates in the notification package. This shall include the Planning & Zoning Board hearing date and both of the City Council hearing dates. The notice requirements are as follows:
  - 1. For any amendment to the Future Land Use Map:
    - i. A certified letter containing a description of the requests and hearing information shall be mailed to the property owner of record, as published by the Bay County Property Appraiser at the time of the application, to those property owners within three hundred (300) feet of the parcel subject to the request. If multiple parcels are subject to the request, the measurement shall be taken three hundred (300) feet from each parcel. The notice shall be postmarked no sooner than fifteen (15) days prior to the date of the first hearing. The notice must include the following information:
      - 1. A summary which shall include the intent and purpose of the request.
      - 2. The address (if one is assigned) and Bay County Property Appraiser parcel identification number.
      - 3. The location, time, and date of the scheduled hearing.
      - 4. A map indicating the location of the subject parcel with roadways and other locational factors shown (e.g. waterbodies).
    - ii. Within five (5) working days of the first scheduled hearing (one week prior), the applicant shall submit to the City:

1. A copy of the letter and map sent to each of those property owners within the three hundred (300) foot radius of the subject parcel.
2. Each of the certified receipts. A photocopy of all receipts is acceptable.
3. A list of the property owners who were mailed a notice package.

If the applicant does not supply this evidence to the City Administrator or their designee by the deadline provided, the request shall be removed from the scheduled agendas and a re-notice shall be required with the new meeting dates.

If the letter and/or map included in the package does not include all correct and required information for the property owner to adequately understand the purpose, time, and dates of hearings, or location of hearings, the request shall be removed from the scheduled agendas and a re-notice shall be required with the correct and required information.

- E. At least fifteen (15) days, but no more than thirty (30) days prior to the first public hearing, the City of Mexico Beach shall place a notice sign on the subject parcel in a location that is visible from the most vehicular traveled public right-of-way noting the action requested with the time, date, and location of the hearing.
- F. The City shall cause notification to be provided as set forth in §50.0311, F.S., as applicable.

1.12.04 Quasi-judicial Actions. The following actions made by the City Council shall be considered quasi-judicial:

- A. A variance request from the requirements of this LDC.
- B. Issuance of development orders or permits that are not issued administratively.
- C. Development Agreements.
- D. Appeals from administrative decisions.
- E. Subdivision plats.
- F. Changes to the Zoning Map.
- G. Adoption of a Planned Unit Development (PUD).

1.12.05 Quasi-judicial Hearing Procedures. The following procedures shall apply to quasi-judicial actions:

- A. A request for any quasi-judicial action shall be made by application on a form provided by the City no less than thirty (30) days prior to the first public hearing that will schedule the request. Any applicable fees shall accompany the application submission. This requirement does not ensure the request will be heard at the next subsequent public hearing. A determination of completeness and compliance must first be made.

- B. Within seven (7) calendar days of receipt of the request, the City Administrator, or their designee, shall determine if the application is complete and sufficient for review and shall notify the applicant of the determination of completeness in writing by electronic mail or by U.S. postal service.
- C. There shall be a minimum of two (2) public hearings to consider any quasi-judicial action. The first public hearing shall be conducted by the Planning and Zoning Board, which shall make a recommendation to the City Council. The second public hearing shall be conducted at a meeting of the City Council, where the request shall be considered. This section does not preclude additional hearings from occurring, as either the Planning and Zoning Board or the City Council elects to hold additional meetings based on the conditions of the individual case. Additionally, any request that requires action by adoption of an ordinance shall have a minimum of three (3) hearings.
- D. After the applicant receives confirmation of the meeting dates from the City, the City applicant is responsible for the provision of notice of the public hearings for this type of action. The applicant shall notify property owners, as outlined below, with all applicable hearing dates in the notification package. This shall include the Planning & Zoning Board hearing date and both of the City Council hearing dates. The notice requirements are as follows:
1. For any quasi-judicial decision:
    - i. A certified letter containing a description of the requests and hearing information shall be mailed to the property owner of record, as published by the Bay County Property Appraiser at the time of the application, to those property owners within three hundred (300) feet of the parcel subject to the request. If multiple parcels are subject to the request, the measurement shall be taken three hundred (300) feet from each parcel. The notice shall be postmarked no sooner than fifteen (15) days prior to the first date of the hearing. The notice must include the following information:
      1. A summary which shall include the intent and purpose of the request.
      2. The address (if one is assigned) and Bay County Property Appraiser parcel identification number.
      3. The location, time, and date of the scheduled hearing.
      4. A map indicating the location of the subject parcel with roadways and other locational factors shown (e.g. waterbodies).
    - ii. Within five (5) working days of the first scheduled hearing (one week prior), the applicant shall submit to the City:
      1. A copy of the letter and map sent to each of those property owners within the three hundred (300) foot radius of the subject parcel.
      2. Each of the certified receipts. A photocopy of all receipts is acceptable.
      3. A list of the property owners who were mailed a notice package.

If the applicant does not supply this evidence to the City Administrator or their designee by the deadline provided, the request shall be removed from the scheduled agendas and re-notice shall be required with the new meeting dates.

If the letter and/or map included in the package does not include all required information for the property owner to adequately understand the purpose, time, and dates of hearings, or location of the hearing, the request shall be removed from the scheduled agendas and a re-notice shall be required with the correct and required information.

- E. At least fifteen (15) days, but no more than thirty (30) days prior to the first public hearing, the City of Mexico Beach shall place a notice sign on the subject parcel in a location that is visible from the most vehicular traveled public right-of-way noting the action requested with the time, date, and location of the hearing.
- F. The City shall cause notification to be provided as set forth in §50.0311, F.S., as applicable.

#### 1.12.06 Quasi-judicial hearing standards

The following standards shall apply to quasi-judicial hearings held before the Planning and Zoning Board and before the City Council:

- A. Ex parte communications shall be disclosed prior to any testimony or presentation of the case.
- B. Any party or intervenor to the hearing may present evidence, cross-examine witnesses, and be informed as to all of the facts upon which the City Council acts. The attorney for the presiding body shall make rulings on any evidentiary issue presented. Any presentations made by the applicant or any party or intervenor in an evidentiary presentation shall not be limited in time.
- C. The presiding body shall make decisions based on findings of fact that are available to all parties involved. The presiding body shall specifically state the reasons for denial of an application or request.
- D. A record of the hearing shall be compiled and preserved. The record must be in sufficient detail as to provide for judicial review of the legal sufficiency of the evidence to support the findings of fact made, the legal sufficiency of the findings of fact supporting the reasons given, and the legal adequacy under applicable law. Any person wishing to appeal any decision must ensure that a verbatim recording of the proceeding is made.
- E. All witnesses shall testify under oath and witness testimony shall not be limited in time.

#### 7.02.02 Review of Development Activity

D. Once the application has been deemed complete by the City Administrator or designee, the City Administrator shall:

2. For Canal and Major Commercial Development Orders, the proposal shall be placed on the agenda for the next meeting of the Planning and Zoning Board which ~~allows sufficient public notice was noticed pursuant to Article I for providing an opportunity for affected persons or interested persons to provide comments on the proposed development.~~

#### 7.08.00 FEES

- A. Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters shall be charged to applicants for tree permits, driveway permits, fence permits, sign permits, concurrency determination, and development review.
- B. Fees shall be paid upon submission of a signed application.

#### ~~7.08.01 — Property Owner Notifications~~

~~It shall be the responsibility of the City of Mexico Beach City Administrator to notify affected property owners of any variance or rezoning requests or if a commercial parking lot is to be placed on a residentially zoned parcel.~~

- ~~A. In the case of a variance request, notification is not limited to abutting property owners. Upon receiving the application for a variance, the City shall place a sign on the subject property for the purpose of notifying interested parties in the area.~~
- ~~B. Rezoning request notifications are not limited to abutting property owners and may encompass an entire neighborhood. The City Administrator shall render the decision on the scope of such notifications. Upon receiving the application for a rezoning, the City shall place a sign on the subject property for the purpose of notifying interested parties in the area.~~
- ~~C. Method of notification to adjacent homeowners shall be by certified mail. Cost of such mailing will be passed on to the variance or rezoning requester and shall be paid prior to the requests being heard by the Board.~~
- ~~D. Failure to respond to the certified mailings on the part of the addressee will be counted as a favorable response for the requester.~~

#### **7.09.00 PROCEDURE FOR AMENDING THIS CODE OR THE COMPREHENSIVE PLAN RESERVED**

##### 7.09.01 Application

~~Any person may apply to the City to amend this Code or the Comprehensive Plan by submitting a written request to the City Administrator specifying the nature of the proposed amendment.~~

##### 7.09.02 Amending this Code



~~The City Administrator shall refer the proposed amendment to the Planning and Zoning Board for consideration at the next scheduled public hearing that allows sufficient public notice. The Planning and Zoning Board shall hold an administrative hearing and shall make a recommendation on the City of Mexico Beach Land Development Regulations proposal to the City Council. The City Council shall hold an administrative hearing and may enact or reject the proposal, or enact a modified proposal.~~

#### ~~7.09.03 Amending the Comprehensive Plan~~

~~The City Administrator shall refer the proposed amendment to the Planning and Zoning Board for consideration at the next scheduled public hearing that allows sufficient public notice. The Planning and Zoning Board shall hold an administrative hearing and shall make a recommendation on the proposal to the City Council. The City Council shall hold an administrative hearing and may decide to reject the proposal or submit the proposal or a modified proposal to the state land planning agency for review, subject to the requirements of Chapter 163, Florida Statutes.~~