

ORDINANCE NO. 5-20-2010

AN ORDINANCE OF THE CITY OF MERKEL, TEXAS, AMENDING THE CITY OF MERKEL'S CODE OF ORDINANCES BY ADDING CARGO CONTAINERS REGULATIONS, REQUIRING A PERMIT, AND PROVIDING DEVLEOPMENT STANDARDS; PROVIDING A PENALTY OF FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); PROVIDING A SEVERABILITY CLAUSE;, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, cargo containers are routinely used during the construction or Remodeling phase of work in commercial and industrial areas; and

WHEREAS, cargo containers, while having a valid temporary construction Purpose, are occasionally placed in residential districts which proves to be unsightly; and

WHEREAS, the City desires, in order to protect the health, safety and welfare, to regulate and provide for the use of such cargo containers.

***NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
MERKEL, TEXAS:***

CARGO CONTAINERS

As used in this article, the following terms shall have the meanings subscribed in interpreting the provisions of this article.

Active Building Permit. Means and unexpired and unrevoked building permit for which the Building Official has not performed a final inspection.

Applicant. Means an owner, occupant, authorized agent. Or contractor or person with control of a property or lot.

Cargo Container. Means a standardized, reusable vessel maximum forty feet (40') in length, 8 feet (8') in width, and 8 feet, six inches (8'6") in height that is or appears to be:

- (1) Originally, specifically or formerly designed for or used in the parking, shipping, movement, transportation or storage of freight, articles, goods or commodities; or
- (2) Designed for or capable of being mounted or moved on a rail car; or
- (3) Designed for or capable of being mounted on a chassis or bogie for movement by truck trailer or loaded on a ship.

City. Means the City of Merkel, Texas.

Cargo Container Use.

- (a) No person shall store, maintain or otherwise keep a cargo container on any lot or property without first having obtained a permit issued by the City Manager or his designee.
- (b) *Temporary construction storage use.* A person may store, maintain, or otherwise keep a maximum of two (2) cargo containers on a lot or property within any non-residential zoning district during the period of an active building permit for construction, provided that the Building Official determines that the construction project warrants the use of a cargo container to facilitate the construction, taking into consideration the size of the structure, complexity of the project, and storage options for materials. The cargo container must be placed on an approved surface, and the Building Official must approve its location on the construction site. In the event that a building permit is expired, revoked, or finalized, any cargo container used on the lot or property must be removed within ten (10) calendar days from the expiration, revocation, or finalization of the building permit.
- (c) *Long-term use.* A cargo container may only be stored, maintained, or kept for a long period exceeding twelve (12) months on a lot or property that has been an approved site by the City Manager or his designee. A person whose property meets this qualification is limited to one (1) cargo container for the first three (3) acres, and one (1) additional cargo container per every additional ten (10) acres, but not to exceed five (5) cargo containers total per 100 acres of abutting property.
- (d) No person shall store, maintain or otherwise keep a cargo container on any lot or property after the expiration of ten (10) calendar days of any valid cargo container permit issued under this article.

Temporary Construction Storage Use Permit.

- (a) No person shall store, maintain, or otherwise keep a cargo container as provided in this section without obtaining the required permit, which shall be issued by the City Manager or designee after the applicant complies with the following requirements.
 - (1) The applicant must submit a written permit application identifying the intended temporary use for the cargo container, and provide a scaled site or location plan showing the size and location of any proposed cargo container(s) on the lot or property, and the location of all existing buildings and parking spaces.
 - (2) The applicant shall pay the required permit fee for each cargo container as provided in this article.
- (b) No person shall be issued a permit for the maintenance of a cargo container unless a current, active building permit has been issued for the lot or property where the cargo container shall be located, and the applicant clearly demonstrates the need for such container under the building permit issued for the lot or property. The applicant may provide a written statement identifying the reasons the cargo container(s) are needed during constructions or remodeling activities for which a building permit has been issued.

- (c) The permit for a cargo container shall contain such reasonable conditions which shall minimize the visual clutter and use of adjacent property.

Long-term Use Permits

- (a) No person shall store, maintain, or otherwise keep a cargo container as provided in this Section without obtaining the required permit, which shall be issued by the City Manager or designee after the applicant complies with the following requirements.
- (1) The applicant annually must submit a written permit application for each cargo container, provide a copy of the most recent property tax valuation to establish that the lot or property has an agricultural exemption from ad valorem taxation and provide a scaled site or location plan showing the size and location of the cargo container(s) on the lot or property, any screening features for the cargo container(s), and the location of any existing buildings or structures.
 - (2) The applicant shall pay the required permit fee for each cargo container as provided in this article.
 - (3) If the container is in a non agricultural zoning, the applicant annually must submit a written permit application for each container, provide a specific use for the container, provide a scaled site or location plan showing the size and location of the cargo container(s) on the lot or property, any screening features for the cargo container(s), and the location of any existing buildings. This must be approved by the building inspector to ensure it will not be an eyesore to the area.
- (b) The permit for a cargo container shall contain such reasonable conditions which shall minimize the visual clutter and use of adjacent property.

Standards for Cargo Containers

- (a) The following development standards shall apply to all cargo containers:
- (1) The cargo container(s) shall be constructed of steel or aluminum with a minimum 14-gauge thickness, except for a wood floor within the metal shell. Structural plans and calculations are not required.
 - (2) The cargo container(s) shall not exceed forty feet (40') in length, eight feet (8') in width, and eight feet, six inches (8'6") in height.
 - (3) The cargo container(s) shall not have any factory-built or field-applied electrical, plumbing, heating, or air conditioning systems. Further, the cargo container(s) shall not be connected to a power system.
 - (4) No fixtures, mechanicals, or equipment of any kind may be affixed to the cargo container, with the exception of a locking device.
 - (5) The cargo container(s) shall be installed and maintained in a level and plumb condition with a maximum differential settlement to grade of two inches (2"). For long-term use, the container must be placed on a permanent foundation.

- (6) The cargo container(s) shall be a solid, flat, non-reflective neutral color. Cargo containers with a long-term use permit must be painted a solid, flat, non-reflective color that matches the surrounding natural environment.
 - (7) No signage, lettering, text, or artwork may be placed on any cargo container except when located in a commercial zoning and is approved by the City Manager or his designee.
- (b) The following standards shall apply to the placement and location of all cargo containers:
- (1) The cargo container(s) may not occupy any required off-street parking spaces or loading/unloading areas or fire lanes in any district.
 - (2) The cargo container(s) shall not block, obstruct, or reduce in any manner any required exits, windows, vent shafts, parking spaces, and/or access driveways.
 - (3) The cargo container(s) shall conform to the setback and building line requirements of the zoning district where it will be placed. No cargo container shall be permitted in a location which is nearer to the public street than the main building, except for projects with an active building permit as defined in the City of Merkel's Zoning Ordinance.
 - (4) The cargo container(s) shall not be stacked on top of each other or on any other structure.
 - (5) The cargo container(s) may not be placed closer than 1,000 feet to any existing inventoried wetland or identified floodplain/floodway.
 - (6) The cargo container(s) with a long-term use permit must not be visible from the portion of any public road that abuts the lot or property. Acceptable screening features for a cargo container include landscaping, fencing, pole barns, terrain, or a combination of these features. Applicant must provide a detailed, to scale site plan for the cargo container(s), which show any screening features. All structures and fences used for screening must be permitted through the Building Department.
- (c) The following standards apply to use of all cargo containers:
- (1) The cargo container(s) shall not be used for human habitation or commercial business purposes.
 - (2) The cargo container(s) shall not be used to store hazardous materials.
 - (3) Refuse and debris shall not be stored in, against, on, or under the cargo container(s).
- (d) A person may only place a cargo container on a property or lot that has:
- (1) An active building permit issued by the City, and on which construction has commenced; or an active cargo permit issued by the City.
- (e) The cargo container(s) shall be secured, structurally sound, stable, and in good repair. Any cargo container that becomes unsecured, unsound, unstable or otherwise dangerous shall be immediately repaired or removed from the property. The Building

Official shall provide the permit holder for the cargo container(s) of any condition in violation of this section. After notice to the permit holder, any cargo container stored or kept in such a manner deemed a dangerous condition and a public nuisance as determined by the Building Official may be immediately removed by the City.

- (f) Any cargo container in violation of this article shall be removed by the City, and any cost or expense associated with the removal shall be the responsibility of the property owner where the cargo container is located. All associated costs, including but not limited to legal fees and court costs, shall constitute a debt due and owed to the City, and shall be recordable as a lien upon the land of the cargo container storage facility and/or property owner.

Revocation and Appeal.

SECTION 1.

- (a) Any permit issued under this article may be revoke upon ten (10) days written notice to the owner, occupant or person in control of the property if such person is storing, maintaining or otherwise keeping a cargo container in violation of this article or permit herein issued.
- (b) Any person aggrieved by a decision of the City Manager or designee to revoke a permit may appeal to the Planning and Zoning Board whose decision shall be final.”

SECTION 2. That all provisions of the Ordinances of the City of Merkel, Texas, in conflict with the provisions of this ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. If any article, paragraph or subdivision, clause or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of the Ordinance as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

SECTION 4. Any person, firm or corporation violating any of the provisions of this ordinance or the provisions of the Code of Ordinances of the City of Merkel, Texas, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Merkel, Texas, shall be subject to a fine not to exceed the sum of five hundred (\$500.00) dollars for each offense, and each and every day such offense shall continue shall be deemed to constitute a separate offense.

SECTION 5. This Ordinance shall take effect immediately from and after the publication of its caption, as the law in such cases provides.

DULY PASSED by the City Council of the City of Merkel, Texas, on the 20th day of May 2010.

APPROVED: _____

RUSTY WATTS, MAYOR

ATTEST:

GWEN WETSEL, CITY SECRETARY

APPROVED AS TO FORM:

CLAUDIA E. CLINTON, CITY ATTORNEY