

ORDINANCE NO. 4/2 2010-6

AN ORDINANCE OF THE CITY OF MERKEL, TEXAS, AMENDING ORDINANCE NO. 072798 TO ESTABLISH REGULATIONS REGARDING INSTALLATION AND REPLACEMENT OF HUD-CODE MANUFACTURED HOMES WITHIN THE CITY; PROHIBITING THE INSTALLATION OF MOBILE HOMES AND ESTABLISHING REGULATIONS FOR REPLACEMENT OF CERTAIN MOBILE HOMES LOCATED WITHIN THE CITY; REQUIRING SITE PERMITS AND CERTIFICATES OF USE AND OCCUPANCY FOR HUD-CODE MANUFACTURED HOMES AND PROVIDING FOR THE INITIAL AND PERIODIC INSPECTION OF HUD-CODE MANUFACTURED HOMES; ESTABLISHING CERTAIN FEES; CONTAINING A PENALTY PROVISION FOR VIOLATION OF THIS ORDINANCE; ESTABLISHING AN EFFECTIVE DATE; CONTAINING A SEVERABILITY CLAUSE; AND AUTHORIZING PUBLICATION OF THIS ORDINANCE.

WHEREAS, the City Council of Merkel, Texas finds that unpermitted and uninspected HUD-Code Manufactured Homes may create dangerous and hazardous conditions within the City and finds it to be in the best interest of the public safety, health and general welfare of the citizens of Merkel to regulate HUD-Code Manufactured Homes and Mobile Homes within the City; and

WHEREAS, the City Council finds that the amendments contained herein will provide more effective regulation of HUD-Code Manufactured Homes and Mobile Homes within the City;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF Merkel, TEXAS, that this Ordinance shall amend City Ordinance No. 072798 as set forth below:

1. Amendment. Ordinance No. 072798 is hereby amended to include the provisions and prohibitions regarding HUD-Code Manufactured Homes and Mobile Homes within the City of Merkel to read as shown on Exhibit A, incorporated by reference herein for all purposes; and

2. Penalty. Any person violating this Ordinance or any part of this Ordinance, and found guilty by the Judge of the Municipal Court, will be guilty of a Class "C" Misdemeanor, and may be fined not more than \$500.00 (Five Hundred Dollars), except in the case of health and safety violations, for which the offender may be fined not more than \$2,000.00 (Two Thousand Dollars). Each day such violation continues, or shall be permitted to continue, shall be a separate offense; and

3. Effective Date. This Ordinance shall be in full force and effective after the date of publication as provided by Section 52.011 of the *Texas Local Government Code*, and shall remain in full force and effect from and after its final passage as herein provided; and

4. Severability. If any section or part of any section or paragraph of this Ordinance is declared invalid or unconstitutional for any reason, it shall not be held to invalidate or impair the validity, force, or effect of any other part of this Ordinance; and

5. Publication. The City Secretary is hereby authorized and directed to cause the publication of the descriptive caption hereof together with the criminal penalty provisions for violation.

PASSED on the 15th day of April, 2010.

ATTEST:

SIGNED:

Gwen Wetzel
CITY SECRETARY

Rusty Waters
MAYOR

APPROVED:

Claudia Clark
CITY ATTORNEY

EXHIBIT A

II. Enactment. That the following provisions are hereby enacted and adopted as the HUD-Code Manufactured Housing Ordinance for the City of Merkel.

SECTION 1 – DEFINITIONS

A. **Building Official** – Designated inspection authority of the City or its authorized representative.

B. **Certificate of Use and Occupancy** – Certificate issued by the City for the use and occupancy of a building, structure, and/or land, when it is determined by the City that the building, structure, and/or land complies with the provisions of applicable City Codes, Ordinances, and regulations.

C. **City Council** – City Council of the City of Merkel, Texas.

D. **HUD-Code Manufactured Home or Manufactured Home** – A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, and when erected on a site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems. (Also referred to herein as “manufactured home(s)” or “manufactured housing.”)

E. **Mobile Home** – A structure constructed before June 15, 1976, transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on a site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems.

F. **Installation Permit** – Written permit issued by the City permitting the construction, installation, alteration, or replacement of a HUD-Code Manufactured Home under the provisions of this Code.

G. **Authorized Location** – Any location within the City limits of the City of Merkel, Texas where the City Council specifically authorizes the location, use, and occupancy of HUD-Code Manufactured Homes under the provisions of the City Zoning Code.

H. **Manufactured Home District** – An area within the City established as an authorized location for manufactured home subdivision development under the City Zoning Code (MH-1) and containing the characteristics and atmosphere of a standard single family subdivision in which most of the lots and housing units are owner-occupied.

I. **Manufactured Home Park District** – An area within the City established as an authorized location for quality manufactured home park development and maintenance under the City Zoning Code (MH-2). Manufactured home parks are defined as tracts or units of land under sole ownership where lots are rented or leased as space to be used for placement of a manufactured home.

SECTION 2 – RESPONSIBILITY OF CITY OFFICIALS

A. **Building Official** – The Code Enforcement Officer for the City is designated as the City Building Official. This person is responsible for overseeing the permit and certification processes required under this Ordinance and for conducting and/or scheduling inspections required in these processes.

B. **City Manager** – The City Manager will review all applications required under this Ordinance and will approve or disapprove the issuance of all permits and certificates, hereunder, and will insure that City citizens and employees comply with this Ordinance.

C. **City Council** – The City Council shall be the final authority on all matters relating to this Ordinance in the event any person shall appeal a decision of the City Manager.

SECTION 3 – HUD-CODE MANUFACTURED HOMES

A. **Authorized Locations**. HUD-Code Manufactured Homes are permitted only in those areas within the City designated as MH-1 Manufactured Home District or MH-2 Manufactured Home Park District by the City Zoning Code and are prohibited in all other areas of the City.

B. **Exceptions: Legal-Nonconforming Use**. Any HUD-Code Manufactured Home occupied as a residential dwelling in the City on June 14, 2005 and located in an area other than an Authorized Location, as established under the City Zoning Code, shall be considered a legal-nonconforming use under that Code and is permitted under this Ordinance for so long as it remains on the property on which it was located on that date and is in compliance with City regulations.

C. **Original Installation**. A HUD-Code Manufactured Home may be installed in an Authorized Location within the City upon approval and issuance of a Installation Permit to the property owner and may be used as a residential dwelling upon issuance of a Certificate of Use and Occupancy, according to the procedures described in this Ordinance. The manufactured home must be in good and livable condition and in compliance with all requirements of this Ordinance and all other applicable City codes and ordinance.

D. **Replacement in Authorized Location**. A HUD-Code Manufactured Home located in an Authorized Location may be replaced with another HUD-Code Manufactured Home. Any replacement home shall be newer and at least as large in living space as the manufactured home it is replacing. The replacement home must be in good and livable condition and in compliance with all requirements of this Ordinance and all other applicable City codes and ordinances; and it shall be installed according to the provisions of this Ordinance, including issuance of a

Installation Permit and a Certificate of Use and Occupancy. A replacement home shall be located on the same property as the removed or destroyed home.

E. **Replacement of Legal-Nonconforming Manufactured Home**. If a legal-nonconforming HUD-Code Manufactured Home is removed or destroyed, it may be replaced one time only with another HUD-Code Manufactured Home, unless the removal or destruction is due to fire or natural disaster, in which case the replacement will not be counted as a replacement. Any replacement home shall be newer and at least as large in living space as the manufactured home it is replacing. The replacement home must be in good and livable condition and in compliance with all requirements of this Ordinance and all other applicable City codes and ordinances; and it shall be installed according to the provisions of this Ordinance, including issuance of an Installation Permit and a Certificate of Use and Occupancy. A replacement home shall be located on the same property as the removed or destroyed home.

SECTION 4 - MOBILE HOMES

A. **Prohibited**. The installation of mobile homes for use and occupancy in the City is prohibited, and mobile homes are excluded from any and all zoning districts within the City limits under the City Zoning Code.

B. **Exceptions: Legal Nonconforming Use**. Section 4. A., above, shall not apply to any mobile home used and occupied as a residential dwelling in the City on June 14, 2005, so long as the mobile home remains on the property on which it was located on that date and is in compliance with City regulations.

C. **Replacement of Mobile Home**. If a legal-nonconforming mobile home is removed or destroyed, it may be replaced one time only with a HUD-Code Manufactured Home, unless the removal or destruction is due to fire or natural disaster, in which case the replacement will not be counted as a replacement. A replacement HUD-Code Manufactured Home shall be located on the same property as the removed or destroyed mobile home. Any replacement home which is a HUD-Code Manufactured Home shall be newer and at least as large in living space as the home it is replacing. The replacement home shall be in good and livable condition and shall be installed according to the provisions of this Ordinance, including issuance of an Installation Permit and a Certificate of Use and Occupancy. It shall also be in compliance with all other requirements of this Ordinance and with all other applicable City Codes and Ordinances. A replacement home shall be located on the same property as the removed or destroyed home.

SECTION 5 – INSTALLATION PERMIT

A. **Installation Permit Required** – A property owner wishing to place or replace a manufactured home on any property within the City must apply for and obtain a written Installation Permit from the City prior to proceeding with installation of the manufactured home on the property.

The City will make every effort to review and make a determination on a completed Installation Permit application in a timely manner.

B. Process and Fee—Upon request from a property owner, the Building Official will provide information regarding application for an Installation Permit. The completed Installation Permit application, including an Installation Permit fee of \$200.00, will be submitted to the Building Official for review. The application must include the information described in the following provisions and demonstrate compliance with the requirements of this ordinance and other applicable regulations. The completed application will be forwarded to the City Manager for review and approval or disapproval. The Installation Permit will be issued upon approval by the City Manager and payment of all utility tap fees, utility deposits, and payment for the cost of installation of drainage culverts, if required.

C. Requirements – Installation in HUD-Code Manufactured Home District (MH-1) – A permit will not be issued for installation of a manufactured home being installed in an MH-1 location unless the lot on which the manufactured home will be located can be defined by lot number, block number (if applicable) and subdivision name. Tracts described by metes and bounds rather than by description of approved plats on file with the County Clerk's office do not meet this requirement; the property must be subdivided and platted according to the requirements of the City Subdivision Ordinance prior to applying for an Installation Permit. The manufactured home must be the only habitable structure on the lot described in the permit. Two manufactured homes or one manufactured home sharing a lot with a permanent habitable structure is prohibited, and an Installation Permit shall not be issued that violates this requirement. Installation must comply with all requirements of the City Zoning Code. This provision shall apply to a manufactured home being installed to replace a manufactured home or a mobile home that is considered a legal non-conforming use under the City Zoning Code located anywhere in the City and which is not located in a mobile home park or manufactured home park.

Installation in HUD-Code Manufactured Home Park District (MH-2) – Development of a Manufactured Home Park must comply with the requirements of Section 8.12 of the City Zoning Code and must be approved by the City Council. Installation of each manufactured home in an MH-2 location within an approved Manufactured Home Park shall require an Installation Permit and a Certificate of Use and Occupancy. The Site Plan shall include the location of the approved Manufactured Home Park and the number of the space or lot on which the manufactured home will be placed. This provision shall also apply to a manufactured home being installed to replace a manufactured home or mobile home that is considered a legal non-conforming use under the City Zoning Code and which is located in a mobile home or manufactured home park anywhere in the City.

3. Installation Permit Application – All Installation Permit applications must include the following information. A separate Site Plan must be submitted for each installation of a manufactured home in a manufactured home park.

(a) A Site Plan which includes the following:

(i) A legal description of the property on which the manufactured home will be installed; the description must comply with Section C.1 and Section C.2, above.

(ii) A plat or scaled graphic rendering of the property and the location and dimensions of the manufactured home on the property, and which includes setbacks, off street parking, drainage, water and sewer and other utility connections, and any fencing or ancillary buildings. A north arrow, the graphic scale and names of adjacent streets shall be included.

(iii) Photographs or renderings of the exterior of the manufactured home from all sides.

(iv) A description of the appearance of the manufactured home and the skirting, including the paint colors, which are required to be consistent and/or complimentary and typical of residential construction in the City.

(v) A description of landscaping.

(vi) A description of parking and walkway surfaces.

(b) The date of manufacture of the home and a copy of the HUD Code certification or seal.

(c) The name, address, and telephone number of the installer and a copy of the installer's license. The installer is required to hold a current

State of Texas Department of Housing and Community Affairs permit to install HUD-Code Manufactured Homes in the State of Texas.

(d) A time schedule including preparation of the site and installation.

SECTION 6 – CERTIFICATE OF USE AND OCCUPANCY

A. Certificate of Use and Occupancy Required – An installed manufactured home cannot be occupied and utilities will not be connected to the home until a written Certificate of Use and Occupancy has been issued by the City to the property owner.

B. Process and Fee – Upon completion of installation of the manufactured home, the property owner will submit to the Building Official a written application for a Certificate of Use and Occupancy and the initial inspection fee of \$100.00. Upon receipt of the Application for Certificate of Use and Occupancy and the initial inspection fee, the Building Official will schedule the initial inspection. If the Building Official determines in the initial inspection that the installation does not comply with the approved Site Plan and does not meet City requirements, the Building Official will provide a written description of the deficiencies to the property owner. The Building Official will schedule subsequent inspections at the request of the property owner and payment of an additional inspection fee of \$55.00 for each inspection. When the Building Official determines that the installation complies with the requirements for issuance of a Certificate of Use and Occupancy, he will forward a written inspection report and determination to the City Manager for review. Upon written approval by the City Manager, the Building Official will issue the Certificate of Use and Occupancy within five business days of the date on which the installation passes inspection.

C. Inspection to Obtain Certificate of Use and Occupancy – A Certificate of Use and Occupancy will be issued after the Building Official has conducted a complete inspection of the site and the manufactured home and verifies, in writing, that the manufactured home has been installed in compliance with the Site Plan approved by the City Manager and that the property and installation have passed inspection as to site preparation and utility connections, including the following requirements:

Off Street Parking – HUD-Code Manufactured Homes must comply with the requirements for off street parking established in the City Zoning Code.

Setback Requirements – HUD-Code Manufactured Homes must comply with the setback requirements established in the City Zoning Code.

Address – Address must be posted and visible from the street in front on the home.

Plumbing – General – The City of Merkel requires, in accordance with State law, that all plumbing hook-up work on a manufactured home be conducted by a licensed plumbing contractor. Written verification of compliance with this requirement must be delivered to the inspector.

Sewer Connection –

- (a) A 4-inch line with a 4-inch trap.
- (b) A 4-inch two-way clean out downstream of trap.
 - (c) Connection to trap shall be air tight and made by mechanical means.
 - (d) Clean out and trap shall be no more than 4 feet from the HUD-Code Manufactured Home. Trap and clean out may be under HUD-Code Manufactured Home only if there is a minimum 18 inches vertical and 30 inches horizontal clearance.
 - (e) If the drain line from the home to the trap is exposed above grade, it shall be protected from sunlight and physical damage.
 - (f) Sewer connection must be capped when disconnected from the home to prevent damage to the public sewer system.

Water Connection -

- (a) Shall not be less than $\frac{3}{4}$ -inch nominal size.
- (b) Shall have an accessible shut-off valve, within four feet of the HUD-Code Manufactured Home.
- (c) Connection shall be made with PVC, Copper, Pex, or Qest, or equivalent.
- (d) Above grade connecting line from valve to home hookup must be installed.

Gas Connection (all sources of gas)-

- (a) Gas piping shall be rigid black pipe, and shall be the same size as the HUD-Code Manufactured Home inlet.
- (b) No gas lines may be buried under the HUD-Code Manufactured Home.
- (c) Each HUD-Code Manufactured Home equipped for gas shall have a gas valve and electrically insulated union upstream of said valve.
- (d) The riser shall be so located so that the horizontal piping from the riser to the HUD-Code Manufactured Home does not exceed 4 feet.
- (e) All gas piping shall be tested at a pressure not less than 10 inches nor

more than 14 inches water column and the appliance connections tested for leakage with soapy water or bubble solution.

(f) LP Gas Connections (specific rules):

(1) In general, LP Tanks shall be placed in accordance with LP-Gas Safety rules on file with the Texas Secretary of State's Office.

(2) Specifically, LP Gas Tanks shall not be placed closer than:

(i) 10-feet from adjoining property lines.

(ii) 10-feet from roadways, highways, railroads, pipelines, or utility right of ways including drainage easements.

(iii) 10-feet from the HUD-Code Manufactured Home. If the 10-foot distance from HUD Code Manufactured Home cannot be obtained, the Building Official/Code Enforcement Officer may, in accordance with state law, reduce the minimum to as little as three (3) feet.

(iv) 10-feet from any source of ignition.

Electrical Requirements –

(a) Power Supply – Must be permanent installation or of power cord assembly type.

(b) Power Cord Assembly – Must not be more than one 50 amperes, factory molded cord cap. Length of such assembly shall not exceed 36.5 feet in total length nor should be shorter than 21 feet. Cord assembly must be marked "for use with HUD-Code Manufactured Home-50 amperes" or "for use with HUD-Code Manufactured Home-40 amperes."

(c) Meter Loop – Point of attachment from utility company shall be a minimum of 10 feet above finished grade.

(d) Disconnect – Shall be a minimum of 100 amperes for gas homes and weatherproof. Shall be a minimum of 200 amperes for all-electric homes and weatherproof.

(e) Underground Feeders – Wires or cables shall be a minimum of 18- inches deep.

(f) Ditches – Underground installation shall be a minimum of 18-inches deep.

(g) Wire Sizes – Minimum fused service shall be 100 amperes, three each #4 THHN/THWN with one #8 AWG for ground to service the HUD-Code Manufactured Home facility. An 8-foot ground rod must be driven and bonded to service disconnect, meter base, and HUD-Code Manufactured Home with continuous continuity.

(h) Central Air outside the home shall be connected by separate 100 amp service.

HVAC Requirements – Condensing units shall be installed prior to a use and occupancy inspection if electrical power for condensing units and/or disconnect are provided by outside disconnect and whip.

Skirting – Skirting shall be installed that enhances the appearance of the HUD-Code Manufactured Home. This shall be installed to protect pipes and prevent rodents from entering the home.

Floors – Floor and subfloors must be structurally sound with no sagging or soft spots. All flooring must be completely intact, securely and completely installed, and in usable condition; this includes carpet, tile, wood, or any other type of material used as flooring.

Walls and Ceilings – Walls and ceilings must be sound and not have any holes or stains; patches and repairs should not be noticeable.

Windows and Doors – All windows must be free of cracks and breaks and must have screens. All window screens must be in good repair with no tears or holes. Doors must be in good working order, must open close and latch, and cannot have cracks or holes. All doors must have knobs and a dead bolt lock.

Cabinets – Doors and drawers must be in good working order. Hinges must be in good working order.

Toilets – Toilets must be properly seated and in good working order, and must flush and not allow water to run after flushing.

Light Plugs and Switches – Light plugs and switches must have covers that are not cracked or broken, and must have GFCI protection in wet areas. All plugs will be tested and must be in good working order.

Light Fixtures – All light fixtures must all be complete and in good working order.

Texas Department of Housing and Community Affairs Inspection – This inspection may be done by the City of Merkel Building Official should the City enter into an agreement with the TDHCA. Such inspection shall be in accordance with TDHCA rules and regulations.

Compliance with City Building Codes and Ordinances – All HUD-Code Manufactured Homes and Mobile Homes in the City are subject to and must be in compliance with the City of Merkel Structural Standards Code, Ordinance No. 2006-002, and any amendment thereto.

SECTION 7 – APPEALS

Any property owner may appeal any determination of the City Manager regarding an Installation Permit to the City Council by filing a written request with the City Secretary for a hearing before the City Council at the next regularly scheduled meeting of City Council;

this request must be made prior to preparation and posting of the agenda such meeting. The City Council shall make the final decision in all such cases. Any property owner may appeal a determination by the Building Official regarding the Certificate of Use and Occupancy to the City Manager by submitting a written request to the City Manager for reconsideration of the issue. The City Manager shall meet with the property owner within 10 business days of receipt of the request.

SECTION 8 – REQUIREMENT TO MAINTAIN

Any property owner installing a manufactured home on property within the City under this Ordinance shall be required to maintain the property as represented in the Site Plan and shall be required to make an application to the City Manager to make any modification in the Site Plan, including, but not limited to, the appearance and location of the manufactured home. Failure to comply with this requirement will be considered a violation of this Ordinance.

SECTION 9 – PERIODIC INSPECTION

The Building Official shall have the authority to conduct periodic inspections of all manufactured homes within the City when it appears that a manufactured home within the City does not comply with the requirements of this Ordinance or when a complaint alleging noncompliance is filed with the Building Official.