

**ORDINANCE NO. 99-24**

**AN ORDINANCE ESTABLISHING LANDSCAPING REQUIREMENTS FOR THE CITY OF MERCEDES, TEXAS, PROVIDING FOR AN APPEAL, ENFORCEMENT DUTIES, PENALTIES FOR THE VIOLATION THEREOF, PROVIDING FOR A SAVINGS AND REPEAL CLAUSE, PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MERCEDES, TEXAS THAT:**

**SECTION I. AUTHORITY**

This Ordinance is adopted under the authority of the Constitution and the Laws of the State of Texas and is hereby incremented as part of the Code of Ordinances of the City of Mercedes, Texas.

**SECTION II. PURPOSE**

The purpose of this Ordinance is to provide the orderly, safe and healthful development of the community and to promote the health, safety and general welfare of the City of Mercedes, Texas.

**SECTION III. OBJECTIVES**

- A. The objective of this Ordinance is to establish requirements for the installation and maintenance of landscape elements and other means of site improvements in off street parking areas and other developed properties. The justification for such an Ordinance is threefold:
  1. To aid in regulating and controlling vehicular and pedestrian circulation in parking areas;
  2. To enhance the community's ecological or environmental and aesthetic qualities; and
  3. To protect and conserve the value of property.
- B. The present process of development has a negative effect on the ecological balance of an area. Paved surfaces, automobiles, buildings and other improvements all produce great increases in air temperatures, a problem especially noticeable in this southern region, whereas plants have the opposite effect through transpiration and the creation of shade. Likewise, impervious surfaces created by development generate greater water runoff causing problems from erosion and flooding. This is a particular relevant concern in the Mercedes and the surrounding area due to the lack of gradient and drainage access to the ocean and the consequent need to prevent upsetting the hydrological balance that has evolved.
- C. The increase number, size and complexity of off street parking areas serving ever larger commercial, industrial and other facilities indicates a need for proper traffic control, and vehicular and pedestrian movement or circulation in order to avoid a potential danger to the people's health, safety and welfare.
- D. The importance of preserving and improving the natural environment and maintaining a working ecological balance is of increasing concern. The fact that the use of landscape elements can effectively aid in the control of traffic and at the same time can contribute to the process of air purification, oxygen regeneration, water absorption, and noise, glare and heat abatement as well as the preservation of the community's aesthetic qualities indicates that the use of landscape elements is of benefit to the health, welfare and general well being of the community and therefore it is proper that the use of such elements be required.

## SECTION IV. DEFINITIONS

A. For the purpose of the administration and enforcement of this Ordinance and unless otherwise stated in this Ordinance, the following words shall have a meaning as indicated herein; words used in the present tense shall include the future tense; words used in the singular number shall include the plural number, and words used in the plural number shall include singular numbers; and the word "shall" is mandatory not directory.

1. **Access way:** A paved area intended to provide ingress and egress of vehicular traffic from a public right-of-way to an off street parking area or leaning area.
2. **Buffer:** A visual screen constructed of weck, concrete block, masonry, or landscape material in such a manner that adjacent property will be screened from the use contemplated, so noise, solid waste, or other objectionable influences will be avoided. Such buffer shall be horizontal to the ground, a minimum of six (6) feet in height, and one hundred (100) percent opaque, except where extraordinary circumstances exist where additional height is required by State law or will more adequately accomplish the desired end.

Prior to construction of buffers, as defined above, complete plans showing type of material, depth of bean, and structural support shall be submitted to the building permit office for analysis to determine whether or not:

- a. The screen will withstand the pressures of time and nature.
  - b. The screen adequately accomplishes the purpose for which it was intended.
3. **Contiguous:** For the purpose of this chapter, contiguous is defined as adjacent property whose property liens are shared, or are separated by a street, alley, easement or right-of-way.
  4. **Deciduous:** A plant with foliage that is shed annually.
  5. **Evergreen:** A plant with foliage that persists and remains green year-round.
  6. **Frontage:** Lineal distance measured along all abutting street right-of-way.
  7. **Ground cover:** Low growing plants planted in such a manner as to forma contiguous cover over the ground, such as lirirope, low growing varieties of honeysuckle, confederate jasmine, English ivy or others.
  8. **Hedge:** A landscape barrier consisting of a continuous, dense planting of shrubs.
  9. **Irrigation System:** A permanent, artificial water system designed to transport and distributes water to plants.
  10. **Landscape development:** Trees, shrubs, ground cover, vines, or grass installed in planting areas for the purpose of fulfilling the requirements of this Ordinance.
  11. **Mulch:** Nonliving organic and synthetic materials customarily used in landscape design to retard erosion and retain moisture.
  12. **Native Vegetation:** Any plant species with a geographic distribution indigenous to all or part of south Texas.
  13. **Ornamental Tree:** A deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.
  14. **Paved ground surface area:** (Also referred to in this Ordinance as paved area or paved ground area): Any paved ground surface area (except public right-of-way) used for the purpose of driving, parking, storing or displaying of vehicles, boats, trailers, and mobile homes, including new and used car lots and other open lot uses. Parking structures, covered drive-in parking areas to the drip line of the covering or garages shall not be considered as paved ground surface areas.
  15. **Planting area:** Any area designed for landscape planting having a minimum of ten (10) square feet of actual plantable area and at least inside dimension on any side of eighteen (18) inches.

16. **Reconstruction:** Rehabilitation or replacement of a structure or structures on property which either have been damaged, altered or removed or shall be altered to an extent exceeding fifty (50) percent of the assessed valuation of such structure or structures or fifty (50) percent of the combined assessed valuation of such structure and land as shown on the most recent tax roll of the City.
17. **Screen:** A method of reducing the impact of noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof.
18. **Shade Tree:** Usually a deciduous tree-rarely an evergreen, planted primarily for its high crown of foliage or overhead canopy.
19. **Shrub:** Any self-supporting woody evergreen and/or flowering species.
20. **Street line:** That line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the streets.
21. **Street yard:** Shall mean the are of a lot which lies between the street right-of-way line and the front wall building line, determined in accordance with the provisions of Article III.
22. **Tree:** any self-supporting woody plant of species, which normally grow to an overall height of a minimum of fifteen (15) feet in the lower Rio Grande Valley of Texas. Palm trees are also included in this category.
23. **Vines:** any of a group of woody or herbaceous plants which may climb by twining, by means of aerial rootless or by means of tendrils or which may simply sprawl over the ground or other plants.
24. **Xeriscape:** Landscape methods designed to conserve water through the use of drought - tolerant plants and planting techniques.

- B. See general requirements, Section VII, to determine minimum specifications for all plant material for which credit will be given in complying with the requirements of this Ordinance.

## SECTION V. REQUIRED LANDSCAPE INSTALLATION

- A. **Objectives:** In additions to those objectives stated in Section III, the purpose of this section is to ensure the placement of landscape elements within off street paved surface areas so as to:
1. Channel vehicular and pedestrian movement within off street paved ground surface areas into safer and more logical patterns;
  2. To ensure that the off street paved ground area and the adjacent right-of-way are clearly and visually delineated;
  3. That physical access between each is effectively limited to established points of ingress and egress;
  4. That those established and acceptable ingress and egress points are clearly delineated;
  5. To ensure that noise, glare and other distractions of movement within one area do not adversely affect activity within adjacent properties; and
  6. To regenerate oxygen and to reduce heat, glare, water runoff and other conditions concomitant with the construction of expanses of building or pavement within the parcel;
- B. **Requirements:** The amount of landscaping for street yard per zone is listed below:

Two Family Residential – 10% of street yard  
 Medium Density Multi-Family (C) – 15% of street yard  
 High Density Multi-Family (C-1) – 15% of street yard  
 Local Retail (“L” and “A”)– 15% of street yard  
 General Business (“B” and “B-1”) – 15% of street yard  
 Central Business District (“B”) – 5%, as practical; landscaping of right-of-way be substituted where conditions do not permit on-site landscaping.  
 Heavy Commercial (“C”) – 15% of street yard  
 Light Industrial (LI) – 15% of street yard

Heavy Industrial ("A" and "B") – 15% of street yard

C. Credit for Trees: Whereas trees contribute greatly to the quality of the community's environment through carbon dioxide absorption and oxygen generation, air purification by precipitation of dust particles, transpiration, reduction of heat by transpiration and the creation of shade, and to the improvement of the community's aesthetic qualities; and whereas the extent of the above positive contributions are a function of the size of the tree rather than of the size of the planting area in which the tree is planted; therefore, in recognition of the contributions made by trees to the objectives of this Ordinance, credit shall be given for each tree in accordance with the schedule which follows:

1. Trees which are newly planted shall receive credit against the landscape area requirements according to the following schedule:

Large Trees:

Greater than twelve (12) inch caliber\* - 200 square feet.  
Greater than six (6) inch caliber – 100 square feet

Medium Trees:

Between three (3) to six (6) inch caliber – 50 square feet.

\* Caliber: Average diameter of the trees measured four (4) feet above that ground level.

2. In order to encourage the preservation of trees that are already established and growing, an additional credit of one hundred (100) square feet shall be given to existing trees that are preserved rather than cut.
3. These credits shall apply where the tree is in a planting area as required by this Ordinance and whose least dimension is one-half (1/2) the radius of the crown spread of the tree measured from the trunk center. In no case shall this least dimension be less than a radius of two and one-half (2 1/2) feet, measured from the center of the tree trunk to the near edge of the landscape area. The ground surface within such preserved planting areas shall be maintained in a porous or vegetative cover. Credit allowed for trees shall be in addition to the actual square footage of planting area within which the tree is located.

D. Location of Landscaped Area: Landscaped area as required in section V, B. must be provided along the street yard of each lot, corner lots and other lots abutting two (2) or more streets must landscape the street yard for each street. See illustrations attached to this Ordinance, designated as attachment I. The illustrations are intended to show in pictorial form, the requirements of this Ordinance.

## **SECTION VI. APPLICABILITY TO NEW AND EXISTING DEVELOPED AREAS**

A. New development or redevelopment:

1. The requirements and standards for the installation and maintenance of landscape elements and site improvements as set forth herein shall apply to all developed areas within the City of Mercedes.
2. In the event the Zoning Ordinance of the City would otherwise permit in excess of eighty-five (85%) percent total land coverage by building development, the provisions of this Ordinance shall supersede and prevail over such other requirements. In no event, except as herein expressly permitted, shall more than eighty-five (85%) percent of a lot or area be covered by building development.
3. In the event that a principal use and some or all of the parking area (required or otherwise) serving the principal use is located on separate parcels, each parcel shall be

landscaped according to the zone requirements for the principal use, with the exception of the Central Business zoning district, in which case a separate parking area will be landscaped at least five (5) percent of the lot area.

- B. Existing development areas; nonconformance; when compliance required
  - 1. All property with existing development on the effective date of this Ordinance, which is not in compliance with the provisions of this Ordinance, shall be considered non-conforming, and allowed to continue until such time as a building permit is granted to enlarge, extend, construct, reconstruct or structurally alter a structure or parking area on the property. At such time the provisions of this Ordinance shall apply to the previous existing paved areas as well as any new paved areas, and they shall be brought into compliance. A plan showing existing and new development, and the proposed landscaping shall be submitted in accordance with Section VIII.
  - 2. No structure existing on the effective date of this Ordinance shall be required to be altered or moved in order to comply with the provisions of this Ordinance except in the event of reconstruction.

## SECTION VII. GENERAL REQUIREMENTS

- A. Installation: All landscape materials shall be installed in the street yard of a lot and shall be installed in a sound workmanship like manner and according to accepted good planting procedures.
- B. Maintenance: The owner of the building, or his manager or agent, shall be responsible for the maintenance of all landscape areas which shall be maintained so as to present a health, neat and orderly appearance at all times and shall be kept free from refuse and debris. All planted areas shall be provided with readily available water supply and watered regularly to ensure continuous healthy growth and development. Maintenance shall include the replacement of all dead plant material promptly. If it is found that maintenance has not been maintained for a landscape are the enforcing official shall take the necessary procedures as outlined under Section X, (C). Developers are strongly encouraged to use drip irrigation systems and xeriscape methods to conserve water.
- C. Planting Criteria:
  - 1. **Trees:** Trees planted for credit under Section V, (C) should be a minimum of six (6) feet in height when measured immediately after planting. In case of palms, the required measurement should be six (6) feet from ground level to base of palm fronds. Trees should be species having an average mature spread of crown of greater than fifteen (15) feet in the lower Rio Grande Valley (excepting palms) and having trunks which can be maintained in a clean condition for over six (6) feet of mature spread of clear wood measured from the ground. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping the same so as to create the equivalent of fifteen (15) foot crown spread. Trees of species whose roots are likely to cause damage to public roadways or other public works should not be planted closer that twelve (12) feet to such public works.
  - 2. **Shrubs:** Shrubs should be a minimum of one foot in height when measured immediately after planting.
  - 3. **Vines:** Vines should be a minimum of thirty (30) inches in height one year after planting and may be used in conjunction with fences, screens or walls to meet buffer requirements and specifications.
  - 4. **Ground covers:** Ground covers other than grass should be planted in such a manner as to present a finished appearance and reasonably complete coverage within one year after planting.

5. **Lawn grass:** Grass areas should be planted in species normally grown as permanent lawn in Mercedes. Grass areas may be sodded, plugged, sprigged or seeded except that solid sod shall be used in swales or other areas subject to erosion.
6. **Synthetic lawns or plants:** Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements in this Section.
7. **Architectural planters:** The use of architectural planters may be permitted to fulfillment of landscape requirements.

## **SECTION VIII. DETERMINATION, REVIEW AND PLAN APPROVAL**

- A. Appropriate plans showing proposed landscape development including figures to show compliance with this Ordinance shall be submitted to the Planning Department. The plot plan drawn to scale normally of not less than one inch equals thirty (30) feet shall include dimensions and distances, and clearly delineate any existing and proposed landscape development. Such plot plan shall also include detailed drawings of the entire off street parking area and the location of proposed buildings. At a minimum the following information shall be submitted for review:
  1. Location, general type, and quality of existing vegetation;
  2. Existing vegetation to be saved; developers are encouraged to save native plant species;
  3. Methods and details for protecting existing vegetation during construction;
  4. Location and labels for all proposed plants;
  5. Plant lists or schedules showing the proposed quantities and landscape material at the time of planting.
  6. Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas; and
  7. Planting and installation details as necessary to ensure conformance with all required standards.
- B. The following provisions and procedures shall apply to the determination, review and approval of the requirements of this Article.
  - a. **Determination of Street Yard:** For purposes of applying any provisions of requirement of this Code relating to street yards, the street yard shall be determined in accordance with the following provisions:
    1. The "front wall building line" of the street yard shall be determined by drawing a line along the front building wall of each building on the lot facing or fronting the street right-of-way line; and where there is more than one building on the lot, by extending the line in a straight line between the outermost corners of each front building wall line of each building; and by extending the line from the outermost corners of the front building wall line of each building or buildings nearest the side lot lines, parallel to the street, right-of-way line to the side lot lines of the property. (See illustration no. 6)
    2. The front wall building line shall not include porches and steps, and those portions of any sign, roof, window and other projections from the front building wall, which extend beyond the building wall, as located at ground level.
    3. The street right-of-way line to be used in determining the street yard shall be the right-of-way line along all public streets that are not alleys. Where any property is approved with a private street, the street yard of each lot fronting thereon shall be determined by using the curb line of the private street as the right-of-way line.
    4. The street yard shall apply to each separately platted lot, or each portion of each lot, which is leased for a business contained in a separate building.
    5. Where property is developed with more than one building, such that one or more smaller isolated buildings are placed between the street right-of-way line and one or

more other larger buildings located on the property, the street yard shall be determined by the front wall building line drawn along the front wall of the building or buildings which have the most linear feet of front wall facing the street right-of-way line.

6. Where property is used solely as a commercial or private parking lot, the street yard shall include the whole property.
  7. Where any property on one lot is to be developed in phases, so that only a portion of the determined street yard is to be used (such as parking lots for the current phase), the department may define or limit the street yard to the area being currently developed or used.
  8. In calculating the area contained within the street yard for purposes of determining the tree and landscaping requirements of this Article, the area occupied by building shall not be counted as the area within the street yard.
- b. Common or Phased Development: When any property is developed in phases, or is a common or unified development including more than one platted lot, the Department may apply the requirements of this Article to each phase of the development, or to all the lots being developed in common as though they were one lot, or otherwise apply the requirements, as is reasonably necessary to carryout the purpose and intent of this Article.
- c. Landscape Site Plan Required: The owner of any property to which this Article applies submit a Landscape Site Plan ("Plan") to the Department, in the form and manner specified by the Department, prior to the issuance of a building permit for any building on the property, or prior to the issuance of a parking lot/driveway permit to any parking lot to which this Article applies. The plan shall contain sufficient detail, as specified by the Department, to show the following:
1. The location of all existing or proposed building, which defines the street yard, and the square footage, included within the defined street yard.
  2. How the tree requirements for the street yard are to be met, including the number, size, and location of all protected trees which are located within the street yard, those which are to be removed, and those which will remain.
  3. How the requirements of landscaping of fifteen percent (15%) of the street yard are to be met, including the location and size of all areas in the street yard that are to be permanently landscaped.
  4. When the internal landscaping requirements for parking lots apply or the requirements of perimeter screening of parking lots applies, the size and location of the parking lot, the number of parking spaces, and how the requirements for screening are to be met.
  5. When the property is required to provide screening for abutting residential uses, how the requirements are to be met.
  6. Such other information, as specified by the Department, as may be reasonably necessary to administer and enforce the provisions of this Article.
- C. This plan must be approved prior to issuance of a building permit.
- D. Two-family residential properties are exempt from the requirements of furnishing a detailed plan as required of other properties. A general schematic lay-out shall be submitted with adequate information for review and approval.

## SECTION IX. EXCEPTIONS

The Board of Adjustments shall have the power to grant a variance in special cases where there are unusual and practical difficulties or unnecessary hardships created in meeting the requirements of this

Ordinance. The guidelines to be used in determining whether an exception should be granted are as follows:

- A. That meeting the requirements of this Ordinance would prohibit an owner of property from using land for a use that the Zoning Ordinance expressly permits.
- B. That the hardships or difficulties of meeting the requirements of this Ordinance are peculiar to that property, and not general in character.
- C. That the lack of landscaping will not be detrimental to adjoining property or to the health, safety and welfare of the general public.
- D. That the hardships and difficulties of the landscaping are greater than the benefits derived by the general public.
- E. Financial hardship due to meeting the requirements of this Ordinance is not sufficient to show unnecessary hardship, unless the financial difficulties amount to confiscation of property.

#### SECTION X. ENFORCEMENT

- A. The Planning Department or an Official designated by the Planning Director shall be the enforcing official. The enforcing official is charged with the duty of administering the provisions of this Ordinance and securing compliance therewith. In furtherance of this responsibility, the enforcing official shall:
  - 1. Make such inspections as may be necessary to effectuate the purposes and intent of this Ordinance and to initiate appropriate action to bring about compliance with this Ordinance, if such inspections disclose any instance of noncompliance.
  - 2. Investigate thoroughly any complaints of alleged violations of this Ordinance, and indicate clearly in writing as a public record in his office the disposition made of such complaints.
  - 3. Order in writing as set out below the remedy of all conditions or all violations of the Ordinance found to exist in or on any premises.
  - 4. State in the violation order a time limit for compliance herewith as hereinafter set out.
  - 5. Take appropriate legal action upon the failure of the responsible party to comply with such violation order at the time specified therein.
- B. The enforcing official or his agent is authorized and directed to lawfully enter in and upon all premises at reasonable times to determine their conditions insofar as the provisions of this Ordinance are applicable.
- C. Whenever the enforcing official determines that a violation of this Ordinance exists, he shall take action as follows:
  - 1. Give written notice of the violation to the management agent of the owner shown on the most recent tax roll of the City. A copy of such written notice shall be transmitted to the Planning Director.
  - 2. The notice shall include:
    - a. A description of the location of the property involved, either by address or by legal description.
    - b. A statement indicating the nature of the violation and reason or reasons why the notice or the violation is being issued.
    - c. A specification of the Section or Sections of this Ordinance upon which the notice of violation is based.

- d. A general description of the things that are required to be done in order that the premises comply with the provisions of this Ordinance.
- e. A statement showing the time within which the work must be accomplished in order to comply with the provisions of this Ordinance which requirements as to time may not be less than ten (10) days nor more than thirty (30) days from the date of such written notice.
- f. The name or names of the persons upon whom the notice of violation is served.
- g. A statement advising that upon the failure to comply with the requirements of the notice, the City shall take such enforcement procedures as may be required under this Ordinance in order to secure compliance.
- h. A statement advising of the procedures available for review of the action of the enforcing official as set out in this Ordinance.

C. Notice:

1. Service of the written notice required by this Ordinance shall be deemed complete if personally delivered to the person or persons required under the provisions of this Ordinance to be served with such notice, and if the same cannot be personally delivered within the City, then service shall be deemed complete upon sending same by certified mail, return receipt requested, to the last known address of such person or persons and by posting a copy of such notice in a conspicuous place on the premises.
2. The enforcing official shall endorse on the copy of the written notice forwarded to the Planning Director the manner of service of the notice or notices as are hereby required.

**SECTION XI. BOARD OF ADJUSTMENT TO ACT AS APPEALS BOARD FOR VIOLATIONS**

There is hereby established an Appeals Board of Landscape Ordinance violations. The Board of Adjustment of the City shall serve and perform the duties of such Appeals Board under the procedures established for that Board herein contained:

A. If the Appeals Board sustains the enforcing official, it shall find:

1. That the facts as stated in the written notice of violations are correct and that the situation covered by the notice is, in fact, a violation of the Ordinance; and
2. That the remedy stated by the enforcing official in the written notice of violation is the minimum remedial action, which will bring the premises cited into compliance with this Ordinance.

B. If the Appeals Board shall modify or withdraw the notice of violation, it shall find the following, as may be applicable to the specific case:

1. That the facts as stated in the written notice of violation are not correct and that the situation as covered by the notice is not, in fact, a violation of the Ordinance, or that the procedures required of the enforcing official in this chapter have not been complied with; and/or
2. That the remedial action required by the enforcing official is not the minimum remedial action necessary to bring this Ordinance into compliance and that some other remedial action, to be stated by the Appeals Board as a part of the record of the case, is the minimum action necessary to secure compliance with this Ordinance.

C. If the person or persons to whom the order is given fails to comply within the time allowed, the enforcing official shall promptly proceed with all means of enforcement in order to seek compliance with the provisions of this Ordinance and also in order to punish for any continued violation of this Ordinance. The enforcing official shall likewise place a notice on the premises in the form and manner prescribed in Section X, (D) 5.

**D. Request for Extensions of Time:**

1. In addition to the authority herein before given to the Appeals Board, such Board shall have the authority upon good cause shown therefor in writing to grant an extension of time within which such person may be required to comply with a notice of violation which has been issued by the enforcing official, provided such written request for the extension of time is presented to the Board prior to the expiration of time originally stated in the written notice of violation.
2. The enforcing official shall be furnished immediately with a copy of such written request for an extension and shall immediately file a written report regarding the request, which shall be considered by the Appeals Board at the same time the requested extension shall be considered.
3. The authority of the Appeals Board in hearing requests for extension of time as herein given shall be in each instance limited to either granting or denying the request for such extension, and shall not be considered as an appeal from the terms of the notice of violation, and the Appeals Board shall not have the authority to modify or vary the terms of the notice of violation except as to the time of performance.
4. In granting or denying the request for extensions of time, the Appeals Board shall consider such factors as are appropriate, including the good faith effort to comply, the availability of materials and workman necessary, and such other factors as the Appeals Board may deem appropriate and consistent with the intent of this Ordinance.
5. All requests for extension of time shall be considered at the next meeting of the Appeals Board occurring not less than three (3) days after the filing of such request, and the person seeking the extension of time as well as the enforcing official shall be notified of the time and place of such hearing.
6. In granting or denying the request, the Appeals Board shall, in each instance, state its reasons therefor and state the length of time, if it is extended, during which time in no instance, may be greater than ninety (90) days after the time period stated in the original of violation.

- E. An appeal or request for extension of time properly filed within the time and in the manner as herein provided shall state all action or enforcement appealed from or sought to be extended until final disposition thereof by the Appeals Board.

**SECTION XII. STATUS OF APPEALS ACTION; REVIEW**

- A. If the Appeal Board sustains or modified the written notice of violation given by the enforcing officer, it shall be deemed an order and action shall be taken by the enforcing official to enforce the same. Any notice of violation served pursuant hereto shall become a final order.
- B. Any person or persons or any Board, taxpayer, Department of the City government aggrieved by such decision and order of the Appeals Board shall have the right to appeal to a court of competent jurisdiction in accordance with law and shall file notice of appeal with the Planning Director of the City within ten (10) days after receipt of notice of its ruling. Upon the filing of such suit in a court of competent jurisdiction, the Planning Director shall immediately, after notice thereof, forthwith transmit to such court all of the papers constituting the record upon which the action appealed from was taken. Any order or action thereon appealed from shall be stayed pending the outcome of the trial of the cause in said court of competent jurisdiction.

**SECTION XIII. CONFLICT WITH OTHER ORDINANCES**

Whenever the standards and specifications in this Ordinance conflict with those contained in another ordinance, the most stringent or restrictive provision shall govern.

**SECTION XIV. PENALTIES**

Any person violating any provision of this chapter within the corporate limits of the City shall be guilty of a misdemeanor, and upon conviction, shall be fined an amount not to exceed two hundred dollars (\$200). Each day that such violation continues shall be a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of this Ordinance.

**SECTION XV. SEVERABILITY AND REPEAL CLAUSE**

That if any portion, section, subsection, phrase, sentence or clause of this Ordinance shall for any reason be held invalid, such invalidity shall not effect the remaining provisions of this Ordinance, or their application of other persons or sets of circumstances, and to this Ordinance are declared to be severable, and all Ordinances in conflict herewith are hereby repealed.

**SECTION XVI. EFFECTIVE DATE**

That this Ordinance shall become and be effective in accordance with the City Charter of the City of Mercedes, Texas and the laws of the State of Texas.

**PASSED, APPROVED AND ADOPTED ON FIRST READING, THIS THE 7<sup>TH</sup> DAY OF DECEMBER 1999.**

**PASSED, APPROVED AND ADOPTED ON SECOND READING, THIS THE 21<sup>ST</sup> DAY OF DECEMBER 1999.**

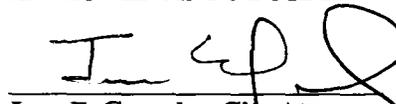
**CITY OF MERCEDES**

  
Miguel Castillo, Jr., Mayor

**ATTEST:**

  
Arcelia Felix, City Secretary

**APPROVED AS TO FORM:**

  
Juan E. Gonzalez, City Attorney