



City of Muscatine



MUSCATINE CITY COUNCIL

Agenda Item Summary – Regular Meeting

Date May 19, 2022

STAFF

Andrew Fangman, Assistant Community Development Director

SUBJECT

Third and final reading of an ordinance regulating cargo containers in residential areas.

EXECUTIVE SUMMARY

A Proposed regulation prohibiting the placement of cargo containers in residential areas, and requiring that cargo containers currently placed in residential areas comply with specific standards by November 15, 2022.

The attached draft regulation reflects action taken by the City Council, on May 5th, at the second reading of this ordinance to remove Section 10-2-5(C)(2)(d).

STAFF RECOMMENDATION

Staff recommends approval of the attached Ordinance.

BACKGROUND/DISCUSSION

Currently City Code does not contain specific regulations regarding cargo containers. Due to the lack of specific regulatory language the placement of cargo containers is regulated under the rules for the placement of prefabricated accessory structures, i.e. sheds. In residential areas the following existing regulations for accessory structures apply to the placement of cargo containers:

- Disallow placement of a cargo container in the front yard.
- Establishes required setbacks of 4' from rear and side property lines if a cargo container is located more than 10' from the main structure on the parcel upon which it is located. If the container is located less than 10' from the main structure, setbacks of 6' from side property lines and 25' from rear property lines apply.
- The square footage of any cargo containers counts towards the maximum allowed cumulative square footage of all attached garages and accessory structures on a parcel; 1,440 square feet for parcels less than 20,000 square feet, or 7.2% of the overall parcel size, up to 2,500 square feet for parcels over 20,000 square feet in size.
- All signage must be painted over or otherwise removed in order to comply with the sign code.

While cargo containers are functionally equivalent to many accessory structures used for storage purposes, they are not designed and built to be aesthetically compatible with a residential setting. On

Agenda Item 11C

December 16, 2021, in response to concerns about the visual impact of the placement of cargo containers on neighborhood aesthetics, City Council directed staff to bring forward options for specific and restrictive regulation of cargo container placement in residential areas. There are two different approaches to regulating the placement of cargo containers in residential areas, that are used in other communities and which could be used in Muscatine.

The first approach is based on a finding that cargo containers are fundamentally incompatible with a residential setting and prohibits the placement of cargo containers in residential locations. The premise of the second approach is the that impact of the placement of cargo containers on neighborhood aesthetics can be mitigated by the adoption of specific regulations that: (a) restrict the number of cargo containers that may be placed on a residential parcel; (b) reduce the visibility of cargo containers through the use of screening requirements and increased setbacks; and (c) requiring cargo containers be painted a single color that matches main structure on the parcel upon which it is placed.

Attached to this memo are versions of draft regulations for both of these approaches. Both options would add a new section to Chapter 20 of City Code, which would regulate the placement of cargo containers. The draft regulation labeled as "Option A" would prohibit the placement of cargo containers in residentially zoned districts. The draft regulations labeled as "Option B" would allow for the restricted placement of cargo containers in residentially zoned districts.

Option A specifically lists all of the non-residential zoning districts in which prohibition would not apply. It also makes allowances for the temporary use of cargo containers in residentially zoned districts in two specific situations. The first situation being when a cargo container is being used for the storage of tools, material, and equipment by a contractor during a construction project for which there is a valid construction permit. The second situation being if a cargo container is actively involved in making a pickup or delivery as part of a household move.

Option B differs from Option A in that it would allow for the placement of a single cargo container on a residentially zoned parcel subject to specific screening and buffering standards and a restriction allowing for the placement of only one cargo container on a residential parcel.

City Council must also decide if an ordinance regulating the placement of cargo containers in residential areas is adopted, should its provision apply to all cargo containers in residential areas, regardless of the placement dates, or if it should apply only to those containers placed after the adoption of such an ordinance. Unless otherwise specified by City Council, cargo containers placed prior to any new regulations governing their placement, would be covered by Chapter 24 of Title 10 of City Code, and be allowed to remain as legal non-conforming (grandfathered).

The City Code provision that allows for a legally built or placed structure or established use to continue after a change to City Code that would otherwise prohibit such a use or structure is rooted in the idea that requiring the demolition of a legally built structure or discontinuance of a legally established use would create an unreasonable hardship on the property owner in question. However, because cargo containers can easily be moved and there is a market for used cargo containers, it can logically be argued that placement of cargo containers should be exempt from being considered a legal non-conforming structure.

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The consensus of City Council at the February 10th meeting was for an ordinance adopting Option A and prohibiting the placement of cargo containers in residential areas be brought forward for action upon. Further, the consensus of City Council is that the ordinance requires that all cargo containers comply with proposed regulations by September 1, 2022, regardless of when they were initially placed.

The proposed regulations on cargo containers would be placed in Chapter 20 of Title 10 (Zoning) of City Code. This chapter deals with garage, accessory building, and accessory use regulations. Section 10-31-6(A) of City Code requires that the Planning and Zoning Commission make a recommendation on any proposed amendment to Title 10. City Council may still approve an amendment the Planning and Zoning Commission recommends disapproval of, however as per City Code section 10-31-6(B) such approval would require the affirmative vote of three-fourths of City Council.

On March 8, 2022, the Planning and Zoning Commission held a public hearing on the proposed regulations. A number of people spoke in favor of and in opposition to the proposed regulations.

After said public hearing the Planning and Zoning Commission voted 5 to 1 to recommend to the City Council to adopt regulations which would prohibit the future placement of cargo containers in residential areas and which would require that by November 15, 2022, all cargo containers currently placed in residential areas comply with the following specific standards by November 15, 2022.

- No more than one cargo container placed on a parcel;
- The placement of a cargo container shall comply with the following setback requirements:
 - Property line: 25', or
 - Dwelling unit on a different parcel: 50';
- Cargo containers shall be placed on a hard and impervious surface capable of bearing the weight of the cargo container.
- Cargo containers shall be screened from abutting properties and right of way, through the use of one or combination of following:
 - Opaque fencing of at least six feet in height.
 - Vegetation that is at least six in height and is at least 75% opaque year-round.
 - Solid structures
- Cargo containers shall not be used for any advertising purpose and shall be kept clean of all alpha-numeric signage and writing; and
- Cargo containers shall be painted a single color that match the color of the main structure on the parcel upon which the cargo container is located.

The attached draft regulations reflect the changes, to remove screening requirements, requested by the City Council at first reading of this ordinance on April 21st, and the second reading of the ordinance on May 5th, to the specific standards that currently places cargo containers must comply with by November 15th. The attached proposed regulations now set the following standards for such containers.

- No more than two cargo containers shall be placed on a parcel.
- Cargo containers shall be placed on a surface and/or foundation capable of bearing the weight of the cargo container in a level manner.
- The placement of a cargo container shall comply with the following setback requirements:
 - Property line: 25'
 - Dwelling unit on a different parcel: 50'
- Cargo containers shall not be used for any advertising purpose and shall be kept clean of all alpha-numeric signage and writing.

Cargo containers shall be painted a single color that match the color of the main structure on the parcel upon which the cargo container is located.

CITY FINANCIAL IMPACT

None.

ATTACHMENTS

1. Ordinance
2. Proposed Regulations Regarding Placement of Cargo Containers in Residential Areas (Attachment A to Ordinance)

ORDINANCE NO. 2022-0162
AN ORDINANCE REGULATING CARGO CONTAINERS IN
RESIDENTIAL AREAS

WHEREAS, current City Code does not contain specific regulations regarding cargo containers;

WHEREAS, due to the lack of specific regulatory language the placement of cargo containers is regulated under the rules for the placement of prefabricated accessory structures, i.e. sheds.;

WHEREAS, while cargo containers are functionally equivalent to many accessory structures used for storage purposes, they are not designed and built to be aesthetically compatible with a residential setting;

WHEREAS, in response to concerns about the visual impact of the placement of cargo containers on neighborhood aesthetics, City Council directed staff to bring forward options for specific and restrictive regulation of cargo container placement in residential areas;

WHEREAS, on March 8, 2022, the Planning and Zoning Commission conducted a public hearing on regulating the placement of cargo containers in residential areas;

WHEREAS, after said public hearing the Planning and Zoning Commission voted 5 to 1 to recommend to the City Council to adopt regulations which would prohibit the future placement of cargo containers in residential areas and which would require that by November 15, 2022, all cargo containers currently placed in residential areas comply with specific standards that would lessen their impact on surrounding properties; and

WHEREAS, a public hearing, April 21, 2022, was conducted by the City Council of Muscatine prior to the adoption of this ordinance.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA:

SECTION 1. The currently adopted version of Chapter 20 of Title 10 of the City Code is hereby amended by the adoption of Exhibit A, as attached, as Section 5 of Chapter 20 of Title 10.

SECTION 2. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. Any Ordinance or part thereof in conflict or inconsistent with the provisions of this Ordinance is repealed.

SECTION 4. This ordinance shall be in effect from and after the passage and approval and publication of this ordinance, as provided by law

PASSED, APPROVED, AND ADOPTED by the City Council for the City of Muscatine, Iowa, on this, the 19th day of May 2022.



Carol Webb (May 23, 2022 15:09 CDT)

Carol Webb
City Clerk

**By the City Council of the City of
Muscatine, Iowa**

First Reading: 4-21-22
Second Reading: 5-5-22
Third Reading: 5-19-22
Publication:



Brad Bark (May 23, 2022 15:08 CDT)

Dr. Brad Bark, Mayor

Attachment A

Chapter 20 – Garage, Accessory Building, & Accessory Use Regulations

10-20-5 Cargo Containers

A. Definition and Scope

“Cargo containers” include standardized reusable vessels that were:

1. Originally designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities; and/or
2. Originally designed for or capable of being mounted or moved by rail, truck or ship by means of being mounted on a chassis or similar transport device; and/or
3. Containers that are designed to be used for storage and appear to be cargo containers, yet do not meet the specifications for commercial shipping, packing, or transportation of freight, shall comply with the requirements of this section.
4. Does not include containers incorporated, in a manner that is fully compliant with adopted building code, as habitable space in dwelling units.

B. Permitted Locations

1. The placement of cargo containers is limited to the following zoning districts:
 - a. AG Agricultural District.
 - b. C-1 Neighborhood and General Commercial District.
 - c. C-2 Central Commercial District.
 - d. C-3 Planned Commercial District.
 - e. M-1 Light Industrial District.
 - f. M-2 General Industrial District.
 - g. S-1 Special Development District, if the allowed use for a given parcel in the approved development plan is non-residential.
 - h. S-3 Large Scale Mixed Use Development District, if the allowed use for a given in the approved development plan is non-residential.
2. A cargo container may be temporarily placed within a zoning district not listed in Section 10-20-5(B)(1) if;
 - a. A cargo container is being used for the storage of tools, material, and equipment by a contractor during building construction of a project for which there is a currently valid construction permit.

Attachment A

- b.** A cargo container is actively involved in making a pickup or delivery as part of a household move.

3. Setbacks

Cargo containers placed for accessory storage use shall maintain setbacks equivalent to the required setbacks for accessory structures in the zoning district in which a cargo container is placed.

C. Compliance

- 1.** All cargo containers placed after the effective date of the ordinance codified in Section 10-20-5, shall fully comply with all applicable provisions of Section 10-20-5, at the time of their placement.
- 2.** Cargo containers, regardless of their date of placement and which are not located within a zoning district not listed in Section 10-20-5(B)(1), shall comply with the following provisions by November 15, 2022.
 - a.** No more than two cargo containers shall be placed on a parcel.
 - b.** Cargo containers shall be placed on a surface and/or foundation capable of bearing the weight of the cargo container in a level manner.
 - c.** The placement of a cargo container shall comply with the following setback requirements:
 - a.** Property line: 25'
 - b.** Dwelling unit on a different parcel: 50'
 - d.** Cargo containers shall not be used for any advertising purpose and shall be kept clean of all alpha-numeric signage and writing.
 - e.** Cargo containers shall be painted a single color that match the color of the main structure on the parcel upon which the cargo container is located.

***** Proof of Publication *****

The undersigned, being first duly sworn, on oath does say that he/she is an authorized employee of THE MUSCATINE JOURNAL, morning edition, a daily newspaper printed and published by Lee Enterprises, Incorporated, in the City of Davenport, Scott County, Iowa, and that a notice, a printed copy of which is made a part of this affidavit, was published in said THE MUSCATINE JOURNAL, on the dates listed below.

CITY OF MUSCATINE- Legals account

215 Sycamore Street
MUSCATINE, IA 52761

ORDER NUMBER 127558

The affiant further deposes and says that all of the facts set forth in the foregoing affidavit are true as he/she verily believes.

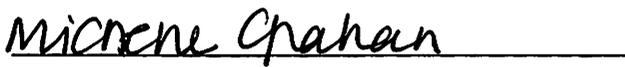


NOTICE
ORDINANCE NO. 2022-0162
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Carol Webb
City Clerk
First Reading: 4-21-22
Second Reading: 5-5-22
Third Reading: 5-19-22
Publication:

Section: Notices & Legals
Category: 2627 Miscellaneous Notices
PUBLISHED ON: 05/31/2022

TOTAL AD COST: 45.87
FILED ON: 5/31/2022

Subscribed and sworn to before me by said affiant this 31 day of May 2022.



Notary Public in and for Scott County, Iowa

