



DOC#2022-0059

## IN-DEPTH ITEM – CITY COUNCIL

DATE: 2/10/22

STAFF: Andrew Fangman, Assistant Community Development Director

### SUBJECT FOR DISCUSSION

Regulation regarding the placement of cargo containers in residential areas

### EXECUTIVE SUMMARY

Presented for City Council's consideration is an overview of how City Code currently regulates the placement of cargo containers. Information is also presented on options for changing City Code to either prohibit the placement of cargo containers in residential areas or limit the placement to locations with a minimal visual impact on the surrounding areas. The presentation is intended to facilitate a discussion that would provide direction to staff for drafting an ordinance regulating the placement of cargo containers in residential areas.

### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. Does Council want to pursue adoption of an ordinance regulating the placement of cargo containers in residential areas?
2. If so, should the placement of cargo containers in residential areas be prohibited (*Option A*) or restricted in a manner that minimizes the visual impact on surrounding areas (*Option B*)?
3. 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 dates that they were placed, or should it only apply to those placed after the adoption of such an 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 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 the following restrictions:

- 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 screened from abutting properties and the right of way, through the use of one or a 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; or
  - 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



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. For this reason both Option A and Option B contain provisions that would require all cargo containers in the City comply with these proposed regulations by December 31, 2022, regardless of when they were initially placed. If City Council so desired, this provision can be removed, and any cargo containers that are now legally placed could qualify as legal-confirming even if there place conflicts with the newly adopted regulations.

In order to proceed with making any changes to City Code regarding the placement of cargo containers in residentially zoned areas, staff requires direction on the following questions.

- Does Council want to pursue adoption of an ordinance regulating the placement of cargo containers in residential areas?
- If so, should the placement of Cargo Containers in residential areas be prohibited (*Option A*) or restricted in a manner that minimizes the visual impact on surrounding areas (*Option B*)?
- Are there any modifications City Council desires in the preferred option?
- 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 dates that they were placed, or should it only apply to those placed after the adoption of such an ordinance?

If the consensus of the City Council is to pursue adoption of an ordinance regulating the placement of cargo containers in residential area, the next step will be presentation of City Council's preference to the Planning and Zoning Commission, as City Code, requires the Planning and Zoning Commission make recommendation on any proposed change to Title 10 of City Code. After this occurs staff will bring the Planning and Zoning Commission's recommendation back to Council for consideration. A public hearing would then be held on the proposed ordinance, after which Council could act on adopting the ordinance.

# 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.

### B. Permitted Locations

1. The placement of a cargo container as an accessory storage use 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 parcel in the approved development plan is non-residential.
2. A cargo container may be temporarily placed within a zoning district not list 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 construction of a building project for which there is a valid construction permit.
  - 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.** All cargo containers, regardless of their date of placement, shall fully comply with applicable provisions of Section 10-20-5 by December 31, 2022.

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### **10-20-5 Cargo Containers**

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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.

#### **B. Permitted Locations for Placement of Cargo Containers**

1. The placement of a cargo container as an accessory storage use 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.
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  - 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 placed as an accessory storage use within a zoning district not listed in Section 10-20-5(B)(1) if all the following criteria is met;
  - a. No more than one cargo container placed on a parcel;
  - b. The placement of a cargo container shall comply with the following setback requirements:
    - i. Property line: 25’;
    - ii. Dwelling unit on a different parcel: 50’;

## *Option B – Cargo Containers Allowed in Residential Areas with Restrictions*

- c. Cargo containers shall be screened from abutting properties and the right of way, through the use of one or combination of the following:
    - i. Opaque fencing of at least six feet in height.
    - ii. Vegetation that is at least six feet in height and is at least 75% opaque year-round.
    - iii. Solid structures.
  - d. Cargo containers shall not be used for any advertising purpose and shall be kept free of all alpha-numeric signage and writing.
  - e. Cargo containers shall be painted a single color that matches the color of the main structure on the parcel upon which the cargo container is located.
- 3. 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 construction of a building project for which there is a valid construction permit.
  - b. A cargo container is actively involved in making a pickup or delivery as part of a household move.

### **4. 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. All cargo containers, regardless of their date of placement, shall fully comply with applicable provisions of Section 10-20-5 by December 31, 2022.