

ORDINANCE NO. 2012-07 (R)

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
TO ADD ARTICLE 36, CARGO CONTAINERS
TO THE ESCONDIDO ZONING CODE

The City Council of the City of Escondido, California, DOES HEREBY ORDAIN
as follows:

SECTION 1. The use of cargo containers for accessory buildings, sheds, storage, and other purposes has increased within the City causing in some instances blight.

SECTION 2. Cargo containers present unique challenges to public safety, health and welfare based on the lack of specific standards for usage as accessory buildings.

SECTION 3. Cargo containers, due to their size and industrial appearance, are not appropriate for use as permanent accessory buildings or storage sheds in certain areas of the City.

SECTION 4. The City desires, in order to protect the health, safety and welfare, to regulate and provide for the use of such cargo containers.

SECTION 5. That cargo containers are portable personal property, commonly sold on the open market and two years from the date of approval provides the owner a reasonable opportunity to recoup the investment if adoption of this ordinance creates a nonconforming use.

SECTION 6. That proper notice of a public hearing has been given and public hearings have been held before the Planning Commission and City Council on this issue.

SECTION 7. That the City Council has determined that this Zoning Code Amendment clarifies a prior interpretation of the Zoning Code and is exempt from the California Environmental Quality Act ("CEQA") in conformance with Title 14 California Code of Regulations section 15061(b)(3) "General Rule" and finds that no significant environmental impact will result from approving this code amendment.

SECTION 8. That upon consideration of the staff report; Planning Commission recommendation; Factors to be Considered, attached as Exhibit "A" to this Ordinance and incorporated by this reference; and all public testimony presented at the hearing held on this project, this City Council finds the Zoning Code Amendment to be consistent with the General Plan and all applicable specific plans of the City of Escondido.

SECTION 9. That Article 36 of the Zoning Code is replaced with the following:

Article 36. CARGO CONTAINER RESTRICTIONS

Sec. 33-720. Definition and Purpose.

- (a) Definition. A Cargo Container is an industrial, standardized reusable metal vessel that was originally, specifically, or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities by commercial trucks, trains and/or ships. A cargo container modified in a manner that would preclude future use by a commercial transportation entity shall be considered a cargo container for purpose of this article.

- (b) Purpose. This article establishes minimum development standards for the placement of metal shipping containers within the City, limits the use of cargo containers in residential zones and addresses requirements in other zones.

Sec. 33-721. Permitted Locations and Prohibitions.

- (a) It shall be unlawful to place, use, allow or maintain Cargo Containers on residential property zoned R-1, R-2, R-3, R-4, or RT; unless specifically exempted pursuant to this article.
- (b) It shall be unlawful to place, use, allow or maintain Cargo Containers on property zoned R-A or R-E; unless specifically authorized or exempted pursuant to this article.
- (c) It shall be unlawful to place, use, allow or maintain Cargo Containers in any commercial or industrial zone unless there is a legal primary use on the property where it is located, required parking is not impacted and access is maintained.
- (d) It shall be unlawful to place, use, allow or maintain Cargo Containers in any planned development or specific plan zone unless specifically authorized by the Director of the Community Development, and consistent with provisions of the specific plan or planned development.
- (e) Where permissible, the placement of cargo containers on private property shall be subject to the issuance of a Minor Development Permit by the Director of Community Development.

Sec. 33-722. Authorized Residential Use.

A cargo container may be allowed in the RA and RE zones only for storage uses if it meets all of the following requirements:

- (a) A parcel within the RE and RA zone must be a minimum of one acre in size. Only one cargo container is allowed for the first one acre and one additional cargo container per every additional five acres.
- (b) A legal primary use exists on the property.
- (c) The cargo container meets all applicable use, development standards and maintenance regulations in the Escondido Municipal and Zoning Codes.
- (d) The cargo container is appropriately screened from public view by fencing, landscaping, terrain, buildings, exterior architectural enhancements to the container (i.e. decorative siding, pitched roof, etc.) or some combination of these methods.

- (e) Cargo containers must meet setback requirements for primary structures, but shall not be allowed closer than ten feet to any property boundary. A container also must maintain a separation of ten feet from the primary structure and other accessory structures, except for other authorized cargo containers.

Sec. 33-723. Cargo Containers in Nonresidential Zones.

- (a) Cargo containers used for the routine transportation of goods and temporarily stored in commercial and industrial zones are exempt from the provisions of this article, but subject to other use restrictions found in both the Escondido Municipal and Zoning Codes. Cargo containers may be used for long term storage on industrial zoned property in areas where open storage has been approved.
- (b) Cargo containers may be used on a temporary basis in commercial zones for additional storage to support seasonal events, but shall not be located on the site for more than 90 consecutive days. The containers shall be located to the rear or other non-conspicuous areas of the site. The containers shall not be located within the front areas of the site or highly visible areas from the public way.
- (c) Cargo containers may be used for long term storage in commercial zones if all of the following requirements are met:
 - (1) The containers meet all applicable use, development standards and maintenance regulations in the Escondido Municipal and Zoning Codes.
 - (2) The cargo container is appropriately screened from public view by fencing, landscaping, terrain, buildings, exterior architectural enhancements to the container (i.e. decorative siding, pitched roof, etc.) or some combination of these methods.

Sec. 33-724. Cargo Containers for Sports Fields.

- (a) Cargo containers may be used for storage purposes in conjunction with schools that maintain sports fields, and also for parks, golf courses, governmental facilities, and other similar uses as determined by the Director of Community Development.
- (b) The container(s) shall be located in a non-conspicuous location on the site and conform to the setbacks of the underlying zone, but no closer than ten feet to any exterior property boundary. Appropriate screening may be required, as determined by the Director of Community Development.

Sec. 33-725. Temporary Storage.

- (a) Cargo containers are allowed on private property in all zones temporarily to store building materials and/or construction tools during construction pursuant to an active building permit on the same property. If the building permit is expired or finalized, the container shall be removed within ten calendar days of the permit expiration or building permit final. If construction ceases for a period of thirty days or is abandoned, the container shall be removed no later than ten calendar days after notice to remove is issued by the City. The temporary placement on lots smaller than one acre shall never exceed 180 days in any calendar year.

Sec. 33-726. Permit Administration

- (a) A Minor Development Permit shall be required prior to the placement of a cargo container on private property, unless expressly exempted by this article. An application for a Minor Development Permit shall be made to the Planning Division on forms prescribed by the Director of Community Development. The application shall be accompanied by the following:
 - (1) Three copies of a detailed site plan showing the location of the proposed container, including, but not limited to setbacks from property lines and other structures located on the site, drive aisles, parking spaces, etc.).
 - (2) Details regarding the container (including height, width, length, color, etc.).
 - (3) Method of screening.
 - (4) Such other information the Director of Community Development may require to adequately review an application
 - (5) Minor Development Permit fee, as adopted by City Council Resolution.

Sec. 33-727. Standards.

- (a) It shall be unlawful for any property owner, tenant or other responsible party to use, allow or maintain a cargo container in violation of any standard provided in this section.
- (b) Cargo containers shall not be stored in a manner that impedes access to public right-of-ways, public utility or drainage easements or adjacent structures and buildings. The cargo container(s) shall not block, obstruct, or reduce in any manner any required exits, windows, vent shafts, parking spaces, and/or access driveways.
- (c) Cargo containers may be used for storage only and shall not be used for human habitation or for commercial business purposes.

- (d) Cargo containers shall not be used to store hazardous materials in violation of any local, state or federal requirements.
- (e) Cargo containers may not occupy any required off-street parking spaces, loading/unloading areas, or fire lanes. Parking spaces may be used for temporary storage in commercial zones to support seasonal events provided the amount of spaces is not more than 20% of the required parking spaces for the sponsoring business or 5% of the overall spaces within a commercial center containing multiple tenants.
- (f) No signage shall be allowed on any permanent cargo container.
- (g) Cargo containers shall not be stacked on top of each other or on another structure.
- (h) Containers shall be prohibited from having windows, heating and cooling, plumbing, or multiple entrances. Cargo containers may include passive systems to provide appropriate ventilation. Utility services shall not be provided to the container.
- (i) All cargo containers shall be operated in a safe manner, and be structurally sound, stable and in good repair. The container shall not contain any holes, peeling paint, rust, damage or structural modifications.
- (j) Cargo Container(s) used for long-term storage shall not be visible from the portion of any public or private road that abuts the lot or property. Acceptable screening features for a cargo container include landscaping, fencing, terrain, existing structures, exterior architectural enhancements, or a combination of these features.
- (k) Cargo container(s) used for temporary storage in commercial zones may not be placed within any designated landscape or storm water facility.
- (l) Cargo container(s) shall be painted a non-reflective neutral color that is compatible with the primary structure or to blend in with the surrounding environment.

Sec. 33-728. Nonconforming Use Expiration

- (a) A cargo container that was lawfully on private property prior to the effective date of this ordinance may be allowed to continue as a nonconforming use for two years after the effective date.

SECTION 10. SEPARABILITY. If any section, subsection sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by

any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 11. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 12. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the City of Escondido.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 20th day of June, 2012 by the following vote to wit:

AYES : Councilmembers: DIAZ, GALLO, MORASCO, WALDRON, ABED

NOES : Councilmembers: NONE

ABSENT : Councilmembers: NONE

APPROVED: 5/0



SAM ABED, Mayor of the
City of Escondido, California

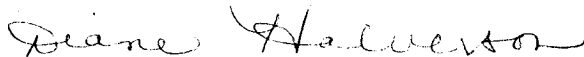
ATTEST:



DIANE HALVERSON, City Clerk of the
City of Escondido, California

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO : ss.
CITY OF ESCONDIDO)

I, DIANE HALVERSON, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2012-07R passed at a regular meeting of the City Council of the City of Escondido held on the 20th day of June 2012, after having been read at the regular meeting of said City Council held on the 13th day of June, 2012.



DIANE HALVERSON, City Clerk of the
City of Escondido, California

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