



October 10, 2023

City of Culver
Planning Commission
200 West First Street
Culver, Oregon 97734

RE: Shipping Container Ordinance - Staff Report

Report Prepared by: Kirk Fatland, Contract Planner

Procedure Type: Legislative

Decision Date: October 18, 2023 (PC Recommendation)

Request and Background Information: The purpose of this Legislative Hearing is to consider an amendment to the Zoning Ordinance defining Shipping Containers and allowing them as accessory uses in the Industrial Zone only. Additionally, the proposed ordinance establishes provisions for Temporary Portable Storage Containers to be permitted on private property in all zones for a maximum of thirty (30) Days. The Hearing before the Planning Commission will result in a recommendation to the Culver City Council regarding the proposed ordinance.

Notice: The requisite notices were posted in the *Madras Pioneer*, as well as provided to the Department of Land Conservation and Development through the PAPA process.

Recommendation: Planning Staff recommends approval of the amendment.

TITLE 17

Chapter 17.44 - AMENDMENTS

17.44.010 Forms of amendments.

There are two types of amendments to this title:

- A. Amendment to the text (legislative revision);

FINDING: The proposal is an amendment to the Zoning Ordinance and is to be processed as a legislative revision.

17.44.020 Legislative revisions.

A. Proposed amendments to this title shall be deemed legislative revisions if:

1. The proposed amendment involves the text of this title; and/or
2. The proposed amendment involves the map, when such an amendment would have widespread and significant impact beyond the immediate area of the proposed amendment.

B. Legislative revisions shall be initiated by:

1. A majority vote of the city council; or
2. A majority vote of the planning commission; or
3. A request by the city attorney or city planner.

FINDING: The proposed amendment involves the text of this title and has been initiated by the Planning Commission who will hold a hearing to address the legislative revision.

17.44.040 Hearing requirements for legislative or quasi-judicial revisions to the zoning ordinance.

Public hearings, under the provisions of CMC 17.48.050, shall be required for both legislative and quasi-judicial amendments to the zoning ordinance. A public hearing before the planning commission is mandatory. A public hearing before the city council is optional. (See procedures in CMC 17.44.060.) [Ord. 01-02 § 2 (Exh. 2 § 7.4), 2001.]

FINDING: The Planning Commission will hold a public hearing on October 10, 2023, to consider the proposed amendment.

17.44.060 Legislative or quasi-judicial amendment procedural process.

The planning commission shall conduct a public hearing on the proposed amendment. Within 45 days after the hearing, the planning commission shall render a decision. The decision of the planning commission shall then be brought before the city council along with a summary of the planning commission’s proceedings and findings of fact, at the second regular council meeting following said planning commission decision, except that in no event shall the decision be brought to the city council until after the time for appeal has elapsed. The city council shall then review the decision of the planning commission on the record without hearing further evidence. It shall either affirm the decision of the planning commission or set the matter for hearing “de novo” before the city council. The city council must take final action on an amendment request. Amendments shall be made by ordinance.

FINDING: The City will follow the process described in Section 17.44.060 beginning with a public hearing before the Planning Commission.

17.44.070 Legislative amendments.

Legislative amendments are broad-based amendments which impact the whole city, not just a specific neighborhood or area. Most text amendments are legislative. No specific hearing procedure is required. The planning commission and/or city council are acting as legislators, making new law for the city. It is suggested, in order to provide a sound format for the hearing process, that the quasi-judicial procedure be followed.

FINDING: As there are no specific provisions for legislative amendments, the quasi-judicial process is addressed below.

17.44.080 Quasi-judicial hearing requirements.

A. The following criteria must be followed in deciding upon a quasi-judicial proceeding.

- 1. The burden in all land use proceedings is upon the applicant, whether a zone change, conditional use or variance is the subject of the hearing.*

FINDING: The City of Culver is the applicant in this case. The City has determined that it is necessary to develop an ordinance addressing shipping containers.

- 2. The requested zone change or conditional use must be justified by proof that:*

a. The change is in conformance with the comprehensive plan and also the goals and policies of the plan.

FINDING: The proposed text amendment conforms to the Comprehensive Plan, see the relevant goals and policies addressed elsewhere in this report.

b. The showing of public need for the rezoning and whether that public need is best served by changing the zoning classification on that property under consideration.

FINDING: No property will be rezoned as a part of this proposal.

c. The public need is best served by changing the classification of the subject site in question as compared with other available property.

FINDING: No property is proposed to be rezoned, this criterion does not apply.

d. The potential impact upon the area resulting from the change has been considered.

FINDING: The impact has been considered. The intent of the proposal is to limit the impact of shipping containers on residential and commercial zones.

3. Approval Criteria for Amendments.

a. The applicant must show that the proposed change conforms with the comprehensive plan.

FINDING: The proposal is consistent with the Comprehensive Plan, in particular Statewide Planning Goal 2- Land Use Planning. Both the Planning Commission and City Council have requested specific limitations on shipping containers. The City is following the correct planning procedure to adopt an ordinance impacting orderly development within the City.

b. A plan or land use regulation amendment significantly affects a transportation facility if it:

i. Changes the functional classification of an existing or planned transportation facility;

- ii. *Changes standards implementing a functional classification system;*
- iii. *Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or*
- iv. *Would reduce the level of service of the facility below the minimum acceptable level identified in the transportation system plan.*

c. *Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the transportation system plan. This shall be accomplished by one of the following:*

- i. *Limiting allowed land uses to be consistent with the planned function of the transportation facility;*
- ii. *Amending the transportation system plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the transportation planning rule; or*
- iii. *Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.*

FINDING: The proposed amendment will not significantly impact a transportation facility as listed in this section.

B. *The courts will require a “graduated burden of proof” depending upon the drastic nature of the proposed rezoning.*

FINDING: No land is proposed to be rezoned, this criterion does not apply.

C. *Procedural Process of a Quasi-Judicial Hearing.*

1. *Parties at a rezoning hearing must have an opportunity to be heard, to present and rebut evidence.*
2. *There must be a record which will support the findings made by the decision makers.*

3. *Pre-hearing contact must be disclosed by the decision-makers at the outset of the public hearing. [Ord. 01-02 § 2 (Exh. 2 § 7.8), 2001.]*

FINDING: The Planning Commission will follow the process delineated in this section.

ORDINANCE NO. 23-08

CITY OF CULVER, OREGON

ADOPTING AN ORDINANCE UPDATING)
THE CITY’S ZONING ORDINANCE TO)
DEFINE AND ALLOW SHIPPING)
CONTAINERS IN THE M-1 ZONE ONLY)

LEGISLATIVE FINDINGS:

1. The City has determined Shipping Containers as defined are unsuitable as primary or accessory structures in the C-1, R-1, R-2, OS Zones.
2. The purpose of the Zoning Ordinance text amendment is to define Shipping Containers and to permit them as accessory uses in the Industrial Zone only.
3. Notice of the proposed amendment was submitted to the Department of Land Conservation and Development.
4. The City duly advertised public hearings before the Planning Commission and City Council in the *Madras Pioneer*.
5. The City Planning Commission conducted a public hearing on October 16, 2023 and recommended approval of the attached Zoning Text to the City Council.
6. The City Council met on _____, 2023, to consider the Planning Commission recommendation.

NOW, THEREFORE, THE CITY OF CULVER DOES ORDAIN THE FOLLOWING

1. The revised Zoning Ordinance Text (attached as Exhibit I) amending the text of Sections 1.3 – Definitions and adding Section 4.16 – Storage Containers to Article 40 Supplementary Provisions.

Presented for the first time at a regular meeting of the City Council held on _____ 2023, and the City Council finally enacted foregoing ordinance this _____ day of _____, 2023.

Donna McCormack, City Recorder

Bart Carpenter, Mayor

Article 1 -Introductory Provisions

SECTION 1.3 - DEFINITIONS.

Storage Container – A new or used prefabricated container, in excess of 120 square feet, manufactured and used for the storage of agricultural, commercial, or industrial products and materials, accessory to the principal building or use. Examples include but are not limited to containers that can be transported by mounting on a chassis or transported on a flatbed trailer or truck trailer/van boxes that do not have a chassis or wheels. This definition does not include Temporary Portable Storage Containers, also defined in this chapter.

Temporary Portable Storage Container – A transportable unit designed and used for the temporary storage of household goods, personal items, construction materials and supplies and other materials which are placed on a site for the use of occupants of a dwelling or building on a limited basis. Portable storage units include but are not limited to certain trade named units called “PODS” and like portable on-demand storage containers. Temporary Portable Storage Containers are allowed on private property in all zones for a maximum of thirty (30) Days. Temporary Portable Storage Units may not be located within the public right-of-way. This definition does not include Storage Containers which are defined elsewhere in this Chapter.

Article 4 - Supplementary Provisions

SECTION 4.16 – Storage Containers

As defined in Section 1.3 are permitted only in the Industrial Zone and when accessory to a primary permitted use on the same lot or parcel. Administrative approval as set forth in Section 17.48.040 is required for the placement of a storage container and is subject to the following standards.

- (1) A storage container is an allowed accessory use and must meet the zoning regulations as specified in the Industrial Zone including setback requirements.
- (2) A storage container shall not be modified to be used for any other purpose than the storage of the property owner’s items unless land use and building permits are obtained prior to the modification.
- (3) Storage containers shall not be stacked.
- (4) Shall be located on a level surface to prevent shifting, rolling, or other movement.