

City of South Daytona
Community Development Department

1672 S. Ridgewood Avenue • South Daytona, FL 32121 • 386/322-3022 • Fax 386/322-3018



MEMORANDUM

To: James L. Gillis Jr., City Manager

From: S. Lauren Kornel, AICP
Community Development Director

Date: September 21, 2021

Re: Consideration of approving Ordinance No. 2021-06 which allows for the use and placement of shipping containers in an enclosure on those sites within the Business Heavy Commercial zoning district

AGENDA ITEM

Item # D17

Date: September 28, 2021

This is the second and final reading for an administrative request to amend Article II, Definitions, Section 2.2, Terms Defined, and Article V, Zoning Regulations, Section 5.6, Supplementary Regulations, Subsection A, of the Land Development Code (LDC), adding a definition and regulations for the placement and use of shipping containers.

The City's Land Development Code does not allow shipping containers in any zoning district. This code provision has been enforced for many years. Recently, two business owners contacted staff to see if a compromise can be reached to allow for the use of shipping containers in the City. In consideration of this request, staff began to research how other communities regulate shipping containers. Staff found that most jurisdictions treat shipping containers as temporary vessels which must be removed within an allotted time period, most predominantly found to be within 120 days. The very nature of shipping containers is that they are delivered to a site, loaded with goods and placed on a ship or rail to be transported to another facility. They are not meant to be a permanent fixture on sites.

With this in mind, staff sought to reinforce our prohibition of shipping containers within the City. The reinforcement provision was presented before the Planning and Appeals Board (PAB) on July 21, 2021. The PAB tabled the item and asked staff to reconsider the position and find a way to allow for the use of shipping containers while keeping the architectural integrity of our commercial corridors.

Staff felt it extremely important, if shipping containers were to be considered, to prevent individuals from living or working within them due to life, health and safety concerns. In addition, shipping containers come in all shapes, sizes and conditions which, if left unregulated, would severely detract from the visually appealing commercial corridor staff and the City Council are trying extremely hard to realize in South Daytona.

After much deliberation, staff has developed an ordinance that allows for the use of shipping containers while not detracting from that critical goal of creating and maintaining a visually appealing commercial corridor within South Daytona. Attached is Ordinance No. 2021-06 which allows and regulates the placement of shipping containers.

As contained in the proposed ordinance, shipping containers are restricted to those properties within the Business Heavy Commercial (BHC) zone and on those properties which have an existing non-conforming use that would be permitted within the BHC zoning district. The BHC zone was selected as being the most appropriate zoning district to permit shipping containers, if the City intends to allow shipping containers, because the purpose and intent of the BHC zoning district is to provide for those storage and commercial uses which are considered intensive in relation to the other districts. The ordinance prohibits the use of shipping containers within our Community Redevelopment Area (CRA).

The proposed ordinance also requires qualified properties to be at least one acre in size with two shipping containers being allowed per acre for a maximum of four. To protect the life, health and safety of the public, the proposed shipping containers shall not be permitted as living quarters or office workspace. No plumbing, electric or air conditioning shall be permitted inside of a shipping container to ensure the unit will not be occupied. The material to be stored in the shipping containers are subject to review by the Chief Building Official and Fire Chief to ensure the materials stored within are not hazardous.

Of significant importance is that the shipping containers must be placed in an eight-foot masonry block enclosure with a stucco finish painted to match the color of the principal structure. This enclosure is similar to what is required for a commercial dumpster which is essentially a metal container. The primary purpose for this enclosure is to provide architectural consistency throughout the site. Since shipping containers come in all shapes and sizes, the enclosure will ensure that the containers will be linked architecturally to the principal structure. The enclosure will ensure the visually appealing commercial corridor that we are all trying to achieve. The enclosure also ensures the shipping containers are placed in a uniform manner, side by side, and not haphazardly scattered throughout the site like we have seen code violators do in the past. The shipping containers must also sit on a concrete slab to ensure level placement and prevent weeds from growing in and around them. The location of the enclosure is proposed to be in the rear yard of a property behind the principal structure.

When presented before the PAB on August 18, 2021, the board members voted 5-1 to recommend approval of the ordinance to the City Council provided that consideration be given to those properties outside of the BHC, the placement of shipping containers on the ground, the use of landscaping instead of a masonry wall enclosure and the allowance of electric and air conditioning in the units.

Staff believes the recommendation of the PAB is contrary to the City's goal of creating and maintaining aesthetically appealing commercial corridors and could create a condition where individuals could reside in or conduct business within the container. As a result, staff is recommending the approval of the proposed ordinance as originally written. We believe this is a compromise which allows the business community to gain the use of shipping containers for storage while maintaining the integrity of our commercial corridors.

ORDINANCE NO. 2021-06

AN ORDINANCE OF THE CITY OF SOUTH DAYTONA, FLORIDA, AMENDING THE CITY OF SOUTH DAYTONA LAND DEVELOPMENT REGULATIONS ARTICLE II., DEFINITIONS, SECTION 2.2., TERMS DEFINED, AND ARTICLE V. ZONING REGULATIONS., SECTION 5.6., SUPPLEMENTARY REGULATIONS, PROVIDING REGULATIONS FOR SHIPPING CONTAINERS; RENUMBERING SUBSECTIONS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, APPLICABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Chapters 166 and 163, *Florida Statutes*, include authority to enact regulations to protect the health, safety, and welfare, and in the interest of the citizens of the City; and

WHEREAS, the City Council adopted a redevelopment plan in 1997 creating a Community Redevelopment District and programs for selected areas of the City that have been designated as needing redevelopment under State Statute; and

WHEREAS, the City Council desires continued improvement of the appearance and quality of commercial activity throughout the City including the Community Redevelopment District; and

WHEREAS, the Community Redevelopment District Overlay established in 2008 provides for the application of specific regulations modifying the underlying zoning regulations within the Community Redevelopment District; and

WHEREAS, the Community Redevelopment District Overlay was established to enhance the quality and improve property values in the redevelopment district; and

WHEREAS, the permitted uses within the Community Redevelopment District Overlay shall be the same as the underlying zoning classification except for prohibited uses established by this and previous ordinances; and

WHEREAS, adding prohibited uses to the Community Redevelopment District Overlay is essential to a rational and continued improvement of the commercial corridors in the Community Redevelopment District; and

WHEREAS, the addition of prohibited uses in the Community Redevelopment District has received a unanimous and favorable recommendation from the Planning and Appeals Board; and

WHEREAS, the City of South Daytona does not currently contain specific standards for shipping containers in its *Land Development Code*; and

WHEREAS, the City of South Daytona desires to create specific standards for shipping containers in its *Land Development Code*; and

WHEREAS, the City of South Daytona Planning and Appeals Board, serving as the local planning agency, held a public hearing on the 16th day of July, 2021, on a proposed amendment to the *Land Development Code* relating to shipping containers and recommended the item be tabled for further discussion at the August 18, 2021, Planning And Appeals Board meeting; and

WHEREAS, the City of South Daytona Planning and Appeals Board, serving as the local planning agency, held a public hearing on the 18th day of August, 2021, on this proposed amendment to the *Land Development Code* and found the proposed amendment to be consistent with the City of South Daytona *Comprehensive Plan*, and recommended to the City Council adoption of the proposed amendment, with certain recommended revisions; and

WHEREAS, the City of South Daytona City Council finds the proposed amendment to the *Land Development Code* to be consistent with the provisions of the *Comprehensive Plan* of the City of South Daytona, and that it is in the best interest and welfare of the citizens of the City to enact this Ordinance; and

WHEREAS, the City of South Daytona has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance including but not limited to Section 166.041(3)(c)(2), *Florida Statutes*; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~strikethrough~~ shall constitute deletions to the original text.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH DAYTONA, VOLUSIA COUNTY, FLORIDA THAT:

SECTION 1. Recitals. The above recitals are true and correct and are incorporated herein by reference.

SECTION 2. Adoption. The City Council of the City of South Daytona hereby amends Article II of the Land Development Code of the City of South Daytona, entitled “Definitions”, Section 2.2., entitled “Terms defined”, and Article V of the Land Development Code of the City of South Daytona entitled “Zoning Regulations”, Section 5.6., entitled “Supplementary regulations,” as follows:

ARTICLE V. - ZONING REGULATIONS

Sec. 2.2. Terms defined.

o. Shipping Container.

(i) Definition.

“Shipping Container” is defined as a reusable steel vessel that is originally, specifically or formerly designed for or used in the packing, shipping, movement, or transportation of freight, articles, goods, or commodities and is also designed for or capable of being mounted or moved on a rail car, truck trailer or loaded on a ship.

Sec. 5.6. - Supplementary regulations.

R. Shipping Containers. Shipping containers placed on a parcel for more than 14 days shall be governed by the following regulations:

1. Shipping containers shall only be permitted within the Business Heavy Commercial (BHC) zoning district or in conjunction with an existing non-conforming use that would be permitted within the BHC zoning district.
2. Shipping containers shall be prohibited within the Community Redevelopment Area.
3. Shipping containers shall only be permitted in conjunction with a principal use, provided that they are recognized as clearly incidental and subordinate to the principal use.
4. The site shall have a minimum lot size of one (1) acre with a limit of two shipping container units per acre with a maximum of four shipping containers units per parcel.
5. All shipping containers shall comply with the Florida Building Code and Florida Fire Prevention Code.
6. A 4” concrete slab is required prior to placement of a shipping container and the slab shall meet or exceed the minimum requirements per the Florida Building Code.
7. Shipping containers shall require screening with a three-sided enclosure consisting of an eight (8) foot masonry wall with a rounded top or decorative cap finished with stucco and painted to match the colors of a principal structure. The masonry wall shall meet or exceed the minimum requirements per the Florida Building Code.
8. Shipping containers shall be located behind the front plane of a principal structure and shall not be located within the principal rear and side yard setbacks of the BHC zoning district.
9. Shipping containers shall not be located within any easement.
10. Shipping containers shall be freshly painted to match the color of the principal structure and containers shall be maintained in good condition at all times.
11. Shipping containers shall not be permitted for any advertising purpose and shall be kept clean of all alpha-numeric signage and writing except where markings, labels and placards may be required in accordance with the United States Department of Transportation Emergency Response Guide.
12. Shipping containers shall be used for storage purposes only and shall not be permitted or retrofitted as living quarters or office workspace.
13. No plumbing, electric, or air conditioning shall be permitted inside of a shipping

container.

14. Material stored within shipping containers are subject to review by the Chief Building Official and the Fire Chief.

15. Shipping containers shall not be rented out or leased.

16. Shipping containers shall be stand-alone steel units without fabrication including but not limited to roofs, overhangs, porches, additional doors or windows and internal partitions.

17. In the instance where more than one shipping container may be permitted, they shall not be stacked.

18. Shipping containers shall not occupy required off-street parking spaces, vehicular accesses or drive aisles, pedestrian facilities or landscape areas for a site.

SECTION 3. Applicability. This ordinance shall not apply to applications for development approval for a project for which a pending application for a zoning approval, site plan approval, building permit, or other development order has been submitted to the City before the date the proposed revisions contained in this ordinance first appeared on an agenda of the Planning and Appeals Board (July 16, 2021).

SECTION 4. Administrative Actions. The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes and rules.

SECTION 5. Codification. The provisions of this Ordinance, including its recitals, shall become and be made a part of the City of South Daytona Land Development Code and the Sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 1, 3, 4, 5, 6, 7, and 8 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 6. Conflicts. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 7. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 8. Effective Date. This Ordinance shall take effect immediately upon enactment.

APPROVED upon first reading on the 13th day of September, 2021 at a regular meeting of the City Council of the City of South Daytona.

APPROVED AND ADOPTED upon second and final reading on the _____ day of _____, 2021 at the regular meeting of the City of South Daytona City Council.

CITY OF SOUTH DAYTONA:

ATTEST:

William C. Hall, Mayor

James L. Gillis, Jr., City Manager

CERTIFIED AS TO FORM:

Wade C. Vose, City Attorney