



# WASHOE COUNTY

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## STAFF REPORT

BOARD MEETING DATE: July 9, 2019

**DATE:** June 7, 2019

**TO:** Board of County Commissioners

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**SUBJECT:** Public Hearing: Second reading and adoption of an ordinance amending Washoe County Code at Chapter 110 (Development Code), within Article 306, *Accessory Uses and Structures*, at Section 110.306.10, *Detached Accessory Structures*, to revise the allowable quantity, location, size, aesthetics, permitting and other standards associated with the placement of cargo containers as detached accessory structures used for storage; within Article 310, *Temporary Uses and Structures*, at Section 110.310.35 (h), *Temporary Contractor or Owner-builder Materials or Equipment Cargo Containers*, to update the point in the permitting process at which a cargo container may be placed upon a vacant piece of property to support construction, and to establish additional timeframes regarding when such a cargo container must be removed; within Article 902, *Definitions* at Section 110.902.15, *General Definitions* to establish a definition for “Cargo Container”; and other matters necessarily connected therewith and pertaining thereto. (All Commission Districts.)

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### SUMMARY

The Washoe County Board of Commissioners (Board) is asked to conduct a second reading and adopt an ordinance amending Development Code standards related to the placement of cargo containers used for storage. This is Development Code Amendment Case Number WDCA18-0005.

Washoe County Strategic Objective supported by this item: Stewardship of our community.

### PREVIOUS ACTION

June 25, 2019 - The Board introduced and conducted a first reading of the currently proposed amendment.

May 7, 2019 – The Washoe County Planning Commission (PC) voted unanimously to recommend approval of Development Code Amendment WDCA18-0005 with two modifications. The first modification limited cargo containers to 200 square feet when placed on a property less than ½-acre in size; the second modification affects cargo containers associated with construction on a

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vacant property, extending the grace period from 6 months to 12 months if the container is placed prior to the building permit being issued.

November 27, 2018 – The Board provided policy direction and introduced an amendment to the Development Code related to cargo containers used for storage.

September 25, 2018 – The Board provided additional policy direction to staff and requested the item come back before the Board for initiation of amendments to the Development Code.

October 11, 2016 – The Board did not introduce an amendment to the Development Code and sent the item back to staff with direction.

September 6, 2016 – The PC voted unanimously to recommended approval of Development Code Amendment DCA16-005 with modifications.

April 26, 2016 – The Board initiated an amendment to the Development Code to create definitions and exceptions to the requirements for permitting cargo containers used as detached accessory structures for storage and directed staff to incorporate policy direction provided by the Board at their March 8, 2016, meeting.

March 8, 2016 – The Board gave policy direction to staff to amend the Washoe County Building Code and Development Code. Discussion centered around possibly waiving, modifying, or removing existing requirements for cargo containers used as detached accessory structures on properties with suburban and rural regulatory zones, as well as possibly allowing cargo containers to be placed on larger properties without a permit.

October 27, 2015 – The Board amended the Development Code for provisions related to cargo containers and gave direction to review Washoe County Code for cargo containers and permitting.

February 10, 2015 – The Board approved more than two hours of staff time to initiate a review of the Development Code related to cargo containers and temporary uses.

## **BACKGROUND**

The intent of Washoe County codes is not only to insure the health, safety, and welfare of our citizens, but to also help define a sense of place to make our communities nice places to live. Along those lines we define densities for development, setbacks for visual appeal, themes for neighborhood development, and uses for properties. In part, these efforts are to preserve property values and the aesthetic nature of our built environment.

Regulating cargo containers in the Development Code was initially proposed and passed due to concerns brought forward by residents regarding the “commercial” nature of cargo containers being placed in neighborhoods for storage, and the concern that they do not fit into the neighborhood look and feel. Many staff and public hours have been expended defining appropriate conditions for the use of cargo containers as accessory structures appurtenant to a primary use. Current practice for the issuance of a permit is to verify that the placement and appearance of cargo containers meets code standards.

The Board’s fall 2018 policy direction for cargo containers resulted in the following guiding principles during the code update process:

- No permit will be required for cargo containers used for residential storage.

- The number of cargo containers on a parcel will be governed by parcel size.
- Existing cargo container regulations have resulted from valuable public input.
- A complaint-driven process will be used to enforce cargo container standards.

Following the Board's direction, the proposed draft language was updated and presented at a public workshop held February 27, 2019. A wide range of viewpoints were presented at the workshop, as well as in subsequent comment letters provided to staff. In general, the topic of cargo containers has proven to be controversial for Washoe County residents, with strong sentiment commonly expressed either for or against container placement on residential and rural properties. The currently proposed draft language attempts to incorporate Board direction and public input while also simplifying code standards for ease of use.

## SUMMARY OF PROPOSED AMENDMENTS

### **Article 306, *Accessory Uses and Structures* - Section 110.306.10(g)**

- Provides more flexibility on the placement and appearance of cargo containers;
- Establishes clear limitations on the number of cargo containers allowed based on parcel size;
- Clarifies under what circumstances a cargo container may be used as a support structure;
- Eliminates separate standards for corner lots;
- Allows for limited groupings of cargo containers;
- Eliminates duplicate language for containers associated with commercial/industrial uses;
- Eliminates the requirement for a placement permit under most circumstances;
- Eliminates the prohibition on placement of containers between a home and primary access, except on properties less than 1.25-ac. in size; and,
- Completes other minor updates that address typographical errors or inconsistencies in the current code language.

### **Article 310, *Temporary Uses and Structures* – Section 110.310.35(h)**

- Updates the point in the building permit process at which a cargo container may be placed upon a vacant piece of property to support construction; and,
- Establishes additional timeframes regarding when such a cargo container must be removed if no permit is issued.

### **Article 902, *Definitions***

- Adds a definition for “cargo container” and updates the types of containers subject to these standards.

## FULL TEXT OF PROPOSED AMENDMENTS

- Regular text: no change in language
- ~~Strikeout text:~~ delete language
- **Bold text:** new language
- *Italicized text:* re-located language

Section 110.306.10(g) is recommended to be amended as follows:

- (g) ~~Cargo Containers, to include Sea-land Containers, Cargo Containers or Other Portable Storage Containers not Designed for Independent or “In-tow Trailer” Highway Use.~~ Cargo containers, **as defined within Article 902, *Definitions***, ~~designed and constructed as a standardized, reusable vessel to be loaded on a truck, rail car or ship~~ may be established as a detached accessory structure for the sole purpose of storage ~~with the following restrictions:~~ **subject to the provisions below.**

- (1) **All cargo containers must adhere to the following regulations:**

- (i) ~~(1)~~ Must meet all Washoe County placement standards for a detached accessory structure.;
- (ii) ~~(2)~~ Only one **cargo container of not more than 200 square feet of floor space shall be allowed on a parcel of land less than one-half acre in size; two cargo containers of any size shall be allowed on a parcel of land having less than between one half acre and five acres in size. Parcels larger than five acres are limited to one container (of any size) per acre or portion thereof.** and shall not exceed a maximum size of ten feet wide by nine feet high by 40 feet in length;  
~~(3)~~ In the Suburban and Urban Regulatory Zones, the cargo container shall be:
  - ~~(i)~~ Located within an area fenced by either a six-foot high slatted chain-link fence, wooden fence or other durable and opaque fencing, or
  - ~~(ii)~~ Located within an area screened by existing solid vegetation having a minimum height of six feet. If existing landscaping is used as screening, it shall be indicated on the building plans and photos shall be submitted as evidence or
- (iii) The cargo container shall be painted one, solid, muted color that blends with the surrounding vegetation, or structures, or topography.
- (iv) ~~(4)~~ All cargo containers shall be free from **severe** damage, shall not be structurally altered, **and** shall be free from severe rust, and shall not have exposed bare metal; **The Director of the Planning and Building Division shall have the authority to determine if these standards have been met.**
  - a. **A cargo container may potentially be used as structural support for other elements of a detached accessory structure as long as the container is not structurally altered; the overall design has been stamped by a qualified engineer; and a building permit is obtained for the overall structure.**
- (v) ~~(5)~~ Shall not include plumbing fixtures.;
- (vi) ~~(6)~~ Shall not be stacked; except in the Commercial and Industrial land use designations **regulatory zones with an established commercial or industrial use type**, and then not stacked above two high. Setback requirements shall be determined by the total height of the stacked structure.;
- (vii) ~~(7)~~ Shall not display off-premise advertising, company logos, names, or other markings painted on, or otherwise attached to, the exterior of the cargo container.;
- (viii) ~~(8)~~ Shall not occupy any required off-street parking spaces for the site;  
~~(9)~~ *[text re-located]*  
~~(10)~~ When placed on a parcel fronted by two or more street or road right-of ways, shall be placed at least one 75 feet from all street or road right-of ways, excepts as provided for in ~~(9)~~, above.
  - ~~(i)~~ The Director of the Planning and Development Division shall have the authority to allow a minor deviation in setbacks of up to 25 feet to the standards in ~~(10)~~ above, when the Director is presented with sufficient evidence that the proposed cargo container will be aesthetically enhanced to blend with the surrounding residences.
  - ~~(ii)~~ Aesthetic enhancements, as required in ~~(i)~~ above shall consist of one or more of the following: siding and/or painting to match the residence on the parcel; landscaping to obscure the cargo container from view from off-site; placement of the cargo container to obscure view from off-site; other techniques as proposed by the applicant and acceptable to the Director.

~~(iii) Approval of a minor deviation to setback standards in (10) above shall be by means of application for a Director's Modification of Standards.~~

(ix) ~~(14) Shall be separated from any other structure, or storage shed or other cargo containers by a minimum of ten feet, when located within 100 feet of any property line; with the following exception:~~

a. **Cargo containers may be placed side-by-side, with no separation between the individual containers, up to a maximum grouping of four containers where more than one cargo container is allowed on a property. Any such grouping of containers shall be a minimum of 20 feet from any other structure, storage shed, or other cargo container(s). This does not allow for placement of cargo containers end-to-end.**

~~(12) A cargo container may be allowed in a Commercial or Industrial land use regulatory zone for storage purposes if there is a lawful, principal established use on the property where it is located, is located to the rear of any principal use, is not located adjacent to a street, does not impact required parking, and is located behind a slatted chain link fence, wooden fence or other acceptable fencing having a minimum height of eight feet, or existing solid vegetation having a minimum height of eight feet.~~

~~(13) Shall obtain an appropriate permit from the Building and Safety Division if the cargo container is over the allowable exempted square footage as established in Article 105, Permits, of Chapter 100 of this Code; and~~

(x) **Cargo containers do not require a placement permit from the Planning and Building Division, except within Commercial or Industrial regulatory zones or as otherwise noted within this section.**

(xi) ~~(14) The Building and Safety Division may additionally require foundations, tie-downs or other safety apparatus to assure compliance with wind load and other safety standards. Any electrical wiring or HVAC components shall require a building permit from the Planning and Building and Safety Division.~~

(xii) ~~(15) Shall not be established as an Agricultural Building as a Main Use pursuant to Article 330, Domestic Pets and Livestock, of this Development Code.;~~

**(2) Cargo containers placed on parcels one and one quarter acre or less in size must also adhere to the following regulations:**

(i) ~~(9) Shall not be placed between a residence and the adjoining street or road right-of-way that provides primary access to the residence.;~~

a. *On a parcel fronted by two or more street or road right-of-ways, the Director of the Planning and Development Building Division shall have the authority to determine the primary access to the residence.*

Section 110.310.35(h) is recommended to be amended as follows:

(h) Temporary Contractor or Owner-builder Materials or Equipment Cargo Containers. Upon **payment of plan review fees for a principal structure supporting an allowed principal use**, issuance of a valid building permit from the Building and Safety Division, a contractor or owner-builder may place temporary cargo containers on a property to support the development **construction** of the project allowed by the permit. The temporary cargo container(s) must be located immediately adjacent to the site of the construction activity. All cargo containers shall be free from **severe** damage, shall not be structurally altered, shall be free from severe rust, and shall not have exposed bare metal. Such cargo containers shall be removed upon the expiration or revocation of the building permit. **If the building permit**

**has not been issued within 12 months of the date of original payment of plan review fees, the cargo container shall be removed from the property at the owner's expense. Issuance of the building permit at a later date will allow the cargo container(s) to be placed on the property again. Any cargo container remaining on-site after issuance of a final building inspection or Certificate of Occupancy shall conform to the standards within Section 110.306.10.**

Section 110.902.15 is recommended to have the following definition added:

**Cargo Container. "Cargo Container" means an Intermodal Container, Sea-land Container, ISO Container, or Conex Box that is not designed for independent or "In-tow Trailer" highway use, and that was originally designed and constructed as a standardized, reusable storage and shipping vessel to be loaded on a truck, rail car or ship.**

### **GRANDFATHERING EXISTING CARGO CONTAINERS (LEGAL NONCONFORMANCE)**

Questions have arisen regarding how existing cargo containers are to be treated in light of the proposed code changes. Staff recommends that the revised standards become the baseline moving forward. This means that any enforcement complaints received about cargo containers will be reviewed against the newly adopted standards. The exception would be if a placement permit had previously been issued for the cargo container that is the subject of the complaint. In that case, if the existing cargo container was legally established at the time of placement, but does not comply with new regulations, it would be subject to Article 904, *Nonconformance* and the limitations and requirements established therein.

### **FISCAL IMPACT**

Currently, a placement permit for a cargo container includes a \$172 site inspection fee. No other fees are associated with the permit. In 2018, 15 placement permits were issued for cargo containers. 7 were issued in 2017. Using 2017 and 2018 as benchmarks, the elimination of placement permits for cargo containers represents a potential loss of approximately \$1,204 – \$2,580 in permit fees annually in the Building and Safety Fund 560.

### **RECOMMENDATION**

It is recommended that the Board conduct a second reading and adopt the ordinance provided as Attachment A and described within the subject of this staff report. It is further recommended the Board set the effective date as established by NRS, as well as affirm the four findings of fact the PC made on May 7, 2019, as recorded in Resolution 19-11 (Attachment B).

### **POSSIBLE MOTION**

Should the Board agree with staff's recommendation, a possible motion would be:

"Move to adopt Ordinance Number (insert ordinance number as provided by the County Clerk), setting the effective date as established by Nevada Revised Statutes and affirming the four findings of fact the Washoe County Planning Commission made on May 7, 2019, as recorded within Resolution Number 19-11."

- Attachments:
- A – Draft Ordinance
  - B – Planning Commission Signed Resolution 19-11
  - C – Planning Commission Staff Report for WDCA18-0005
  - D – Excerpt of Draft Minutes of May 7, 2019 Planning Commission Meeting