

ORDINANCE 301-2020

AN ORDINANCE OF THE BURNS HARBOR TOWN COUNCIL AMENDING THE TEXT OF CHAPTER 15 ZONING CONCERNING STORAGE AND THE USE OF SHIPPING/CARGO CONTAINERS WITHIN THE TOWN OF BURNS HARBOR, INDIANA.

WHEREAS, the Burns Harbor Town Council has adopted a Zoning Ordinance codified as Chapter 15 of the Town Code of Burns Harbor, Indiana; and

WHEREAS, the Burns Harbor Advisory Plan Commission has initiated certain amendments to the text of the Zoning Ordinance in order to better regulate Storage and the use of Shipping/Cargo Containers in the Town by adding definitions to distinguish between different types of storage and amending the Zoning Form & Function Table to include Cargo/Incidental Storage; and

WHEREAS, notice has been given in accordance with Indiana Code of all proceedings concerning these text amendments; and

WHEREAS, a public hearing has been held before the Burns Harbor Advisory Plan Commission and said Commission has paid reasonable regard, in preparing and considering the proposal, to the factors set forth in Indiana Code § 36-7-4-603, including the Comprehensive Plan; and

WHEREAS, the Commission now certifies its proposal to amend the text portions of the Zoning Ordinance to the Burns Harbor Town Council; and

WHEREAS, the Burns Harbor Town Council concurs with its Advisory Plan Commission and accepts this proposal;

NOW THEREFORE, be it and it is hereby ordained by the Burns Harbor Town Council as follows:

Section 1. That section 15.2 of Chapter 15 of the Town Code of the Town of Burns Harbor Zoning Ordinance shall be amended to include the following definition:

15-2-2 Definitions. 181.2. SHIPPING CONTAINER: a container fabricated for the purpose of transporting freight or goods on a truck, railroad or ship, including cargo containers, shipping containers, storage units, or other portable structures that are placed on private property and used for storage of items, including, but not limited to, clothing, equipment, goods, household or office fixtures or furnishings, materials and merchandise. This definition will include shipping containers used as accessory buildings for temporary storage and shipping containers used as sheds for residential storage. "Shipping Container" shall also include, but is not limited to, storage box shipping containers, storage moving "pods", or any other similar portable storage containers, whether with or without wheels, and whether with or without a chassis.

Section 2. That Section 15.5 of Chapter 15 of the Town Code of the Town of Burns Harbor shall be amended as follows:

15.5 Districts. Table 5-2 Zoning Form & Function Table - k. ACCESSORY USES, add Shipping Container. Permitted in Special Use District. Special Exception in RC1, RC2, and BP.

Section 3. That section 15.13 of Chapter 15 of the Town Code of the Town of Burns Harbor Zoning Ordinance shall be amended to include the following:

15-13-6.1 SHIPPING CONTAINERS

1. A Shipping Container shall conform to the standards found within each corresponding zoning district. However, nothing in this Ordinance shall restrict the placement of a Shipping Container utilized as a temporary moving pod on any parcel when said shipping container is placed on a parcel for no more than ten (10) consecutive days when the occupant(s) of the residential or business parcel are moving in or out of the residence or building located on that parcel, provided that no Shipping Container shall be located in a circulation aisle/lane, fire access, public utility easement or public right-of-way, including streets, alleys, sidewalks, park strips and/or otherwise impede traffic or pedestrians.

2. No Shipping Container shall be located in a

2. No Shipping Container shall be located in a circulation aisle/lane, fire access, public utility easement or public right-of-way, including streets, alleys, sidewalks, park strips, and/or otherwise impede traffic or pedestrians.
3. Except for the use stated above, the use of any Shipping Container requires permit approval from the Burns Harbor Building Commissioner.
4. A Shipping Container may be used for shipping and receiving merchandise and goods in a commercial use, provided that the Shipping Container does not remain on a parcel for more than ten (10) days, and provided that the Shipping Container is not kept in the front setback area or landscaped area, designated parking area, fire access, public right-of-way, in an area visible from the property's primary street.
5. A single Shipping Container may be used in all residential zoning districts when a building permit has been issued for construction of a residential unit on that parcel. The Shipping Container shall be allowed on the residential parcel during construction only. The Shipping Container shall be removed within ten (10) days after the final building inspection upon completion of the residential unit or ten (10) days after the end of construction period defined within the building permit issued for the parcel, whichever comes first.
6. Each Shipping Container used for construction purposes must be approved by the Burns Harbor Building Commissioner prior to placement when used during construction for less than twelve (12) months.
7. No Shipping Container shall be permitted on a vacant parcel unless the vacant parcel is adjacent to the parcel where a construction or a remodeling project has been approved by the Burns Harbor Building Commissioner.
8. No Shipping Container shall otherwise be allowed when any portion of the property contains a residential dwelling unit.
9. A Shipping Container may not be used as a dwelling or living quarters, nor for camping, cooking or recreation purposes for any amount of time in any district.
10. The number of shipping containers allowed per business is limited to one (1).
11. In all districts, any Shipping Container must be kept in good repair, be secured against unauthorized entry, and comply with health regulations.
  - A. A Shipping Container is not in a state of good repair when it is incapable of being moved intact, holes in the container exist due to damage or rust, or it has been infested with vermin or other pests.
  - B. Any Shipping Container that has deteriorated and is not in a state of good repair must be removed immediately.
12. Vertical Stacking of Shipping Containers and stacking of any other materials on top of or around any Shipping Container shall be prohibited in all districts.
13. Any Shipping Container existing on any property in the Town of Burns Harbor on the date of final passage of this ordinance shall either be removed from such property or be brought into compliance with the provisions of this section within ninety (90) days of final passage of this ordinance.
14. Districts: Except as noted above in 15-13-6.1 -
  - A. Residential Open Space District: The use of a Shipping Container in a Residential Open Space ("ROS") District is prohibited.
  - B. Residential District: The use of a Shipping Container in a Residential ("R") District is prohibited.
  - C. Downtown District: The use of a Shipping Container in a Downtown ("DD") District is prohibited.
  - D. Residential/Commercial District 1: The use of a Shipping Container in a Residential/Commercial 1 ("RC1") District is prohibited.
  - E. Residential/Commercial 2: The use of a Shipping Container in a Residential/Commercial 2 ("RC2") District is prohibited, except for the following uses:
    - i. Shipping Container may be used for shipping and receiving merchandise and goods in a

and receiving merchandise and goods in a commercial use, provided that the Shipping Container does not remain on a parcel for more than ten (10) days, provided that the Shipping Container is not kept in the front setback area or landscaped area, designated parking area, fire access, public right-of-way, alleys, or in an area visible from the property's primary street.

ii. A Shipping Container may be used for storing merchandise or goods, including long-term storage, provided that the Shipping Container is not kept in the front setback area or landscaped area, designated parking area, fire access, public right-of-way, alleys, in an area visible from the property's primary street.

iii. A Shipping Container shall not impede traffic or pedestrians. No Shipping Container shall be located in a circulation aisle/lane, fire access, public utility easement or public right-of-way, including streets, alleys, sidewalks, and park strips.

iv. Any Shipping Container intended for more than ten (10) days use and visible from any public right of way must be a solid neutral color or match the structure.

F. Business Park District: The use of a Shipping Container is permissible.

i. A Shipping Container may be used for storing merchandise or goods, including long-term storage, provided that the Shipping Container is not kept in the front setback area or landscaped area, designated parking area, fire access, public right of way, alleys, or in an area visible from the property's primary street.

ii. Any Shipping Container intended for more than ten (10) days use and visible from any public right of way must be a solid neutral color or match the structure.

G. Special Use District: The use of a Shipping Container is permissible in a Special Use District, except where the Special Use District's primary use is residential, and provided the Shipping Container is not stored on public right of way, in fire access, alleys, in landscaped or front setback areas or in an area visible from the property's primary street.

15. Permit Fees: No application for any permit shall be considered unless it is accompanied by payment for fees pursuant to the fee schedule.

16. Penalties for Violations:

A. Any person found in violation of any provision of this chapter shall be punishable by a fine of: \$500.00 for a first offense; \$1,000.00 for a second offense, and an additional \$250.00 for each subsequent day the violation occurs after receiving notice of a second offense; and \$2,500.00 for a third offense and the Town will remove the storage container. The owner will be held responsible for all costs of removal and storage of the storage container, the Town will lien property for all costs and fines, and any further permits will be revoked.

B. For the purpose of this section, a second and third offense occurs when: a violation of the provisions of this chapter is committed by the same person and the violation is of the same provision of this chapter as the previous violation; or the person found to be in violation of the provisions of this chapter fails to remove the storage container in violation of the provisions of this chapter within 7 days of receiving notice of the first or second offense.

Section 4. This Ordinance shall be effective upon its adoption and publication.

All of which is ADOPTED this 11th day of November, 2020.

Town Council of the  
Town of Burns Harbor  
Nicholas Loving, President  
Eric Hull, Vice-President

Toni Biancardi  
Roseann Bozak  
Angie Scott

Attest:  
Jane M. Jordan, IAMC, MMC, CPFA, CPFIM  
Clerk-Treasurer  
11/19/20 hspaxlp