

Regulation of Shipping Containers

| | |
|-----------------|---|
| Presented To: | Planning Committee |
| Meeting Date: | December 9, 2024 |
| Type: | Managers' Reports |
| Prepared by: | Stephanie Poirier Planning Services |
| Recommended by: | General Manager of Growth and Infrastructure |
| File Number: | N/A |

Report Summary

This report provides a recommendation with respect to amendments to the City's Zoning By-law, respecting shipping containers.

Resolution

THAT the City of Greater Sudbury directs Staff to prepare a Zoning By-law Amendment Application on amendments to Zoning By-law 2010-100Z as set out in Option 2A, as outlined in the report entitled "Regulation of Shipping Containers", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on December 9, 2024.

Relationship to the Strategic Plan, Health Impact Assessment and Climate Action Plans

The regulation of shipping containers aligns with the strategic goals of strengthening quality of life and place including matters of public safety, while also facilitating business retention and growth through the expansion of as-of-right zoning permissions. There is no conflict with the Community Energy & Emissions Plan.

Financial Implications

There are no financial implications with this report.

Report Overview

This manager's report responds to a Planning Committee recommendation ratified by Council on August 15, 2023, directing Staff to undertake a review of shipping container provisions under the Zoning By-law and prepare recommendations based on the key findings as outlined in the report entitled "Regulation of Shipping Containers", from the General Manager of Growth and Infrastructure, presented at the Planning Committee Meeting on August 14, 2023. The report recommends that Council direct Staff to prepare a Zoning By-law Amendment Application with respect to amendments to the zoning by-law as set out in Option 2A in the report.

Background:

On August 14, 2023 Planning Committee received a report which provided an overview of how shipping containers are currently regulated by the City from a zoning perspective, identified issues associated with their use for accessory storage and presented possible options for Council's consideration related to the expanded permission of shipping containers under the Zoning By-law. The following options were set out in the report based on a degree of change from the lowest to highest.

1. Option 1- Maintain the current provisions as set out in the Zoning By-law, where shipping containers are permitted as accessory uses to specific land uses (agricultural, extractive, transport terminal or warehouse);
2. Option 2- Expand the permissions to include Industrial zones and automotive and recreational vehicle sales establishments subject to appropriate zone standards, building permits and site plan control.
3. Option 3- Expand permissions to include all ICI, (Industrial, Commercial, Institutional), zones subject to appropriate zone standards, building permits and site plan control.
4. Option 4- Expand Rural and Agricultural zone permissions to allow shipping containers without a permitted agricultural use;
5. Option 5- Expand permissions to include all zones including Residential zones, where shipping containers would be treated as a type of accessory use subject to appropriate zones standards and building permits.

This report is a response to the August 15, 2023 Council resolution directing staff to undertake a review of shipping container provisions under the Zoning By-law and prepare recommendations based on the key findings as outlined in the report entitled "Regulation of Shipping Containers", from the General Manager of Growth and Infrastructure, presented at the Planning Committee Meeting on August 14, 2023.

Planning Analysis

Option 1- Maintain Current Provisions

The City's current approach to shipping containers, as articulated in the zoning by-law, is based on prohibiting them in certain zones to protect the quality and character of residential areas and other areas that define our community image. Shipping and storage containers are permitted in most of the industrial zones and in the Agricultural and Rural zones as an accessory structure in conjunction with a permitted agricultural, extractive, transport terminal or warehouse use. They are also permitted for the purposes of rental, sale, or distribution in a M2 Light Industrial or M3 Heavy Industrial Zone for use off site. Shipping and storage containers are permitted on a temporary basis to support construction activities, or for up to 14 days to support moving activities. By contrast, shipping and storage containers are not permitted on Residential, Commercial, Business Industrial and Mixed Light Industrial/Service Commercial zoned lots. These zones are associated with the areas of our City where residents live, shop and work, in our higher profile locations such as key nodes and corridors that define our community. Should Planning Committee decide to maintain the current provisions, a site-specific Planning Act application would continue to be required to permit shipping containers on Residential, Commercial, Business Industrial and Mixed Light Industrial/Service Commercial zoned lots. This would allow for staff evaluation of the proposed shipping containers on a case-by-case basis. The current provisions in the zoning by-law can be found below.

Current Provisions as set out in the Zoning By-law

Under Zoning By-law 2010-100Z, the accessory use of shipping containers is currently limited to specific land uses as set out in Section 4.34 as follows:

4.34 Shipping and storage containers

Shipping or storage containers shall not be placed or used on any lot in a Residential (R), Commercial (C), Mixed Light Industrial/Service Commercial (M1) or Business Industrial (M1-1) Zone and shall only be located on a lot:

- a) As an accessory structure used in conjunction with a permitted agricultural, extractive, transport terminal or warehouse use;
- b) For the purposes of rental, sale or distribution in a Light Industrial (M2) or Heavy Industrial (M3) Zone for use off site; or,
- c) In accordance with Sections 4.40.5 and 4.40.7 of this By-law.

Sections 4.40.5 and 4.40.7 referenced above speak to the temporary use of storage containers for moving and construction purposes:

4.40.5 Temporary Construction Uses

Nothing in this By-law shall apply to prevent the use of any part of any lot for, a tool shed, construction trailer, shipping or storage container, scaffold or other building or structure incidental to construction and the temporary storage of construction supplies and equipment in all Zones within the City on the same lot on which the construction work is in progress or in relation to a road or public utility, so long as it is necessary for the work in progress and until the work is completed or abandoned.

For the purposes of this section, abandoned shall mean the discontinuation of work for more than 90 consecutive days or the failure to maintain a current building permit. (By-law 2011-49Z)

4.40.7 Temporary Shipping or Storage Containers

Nothing in this By-law shall apply to prevent the use of any part of any lot for the placement and use of not more than a total of one shipping or storage container shall be permitted on a residential lot or a lot within a Commercial (C) or Institutional (I) Zone for a maximum of 14 consecutive days for the purposes of being loaded or unloaded where a use, business or the occupants of a dwelling are moving from a premises or lot to another premises or lot.

Option 2- Expand Permissions to include Industrial Zones and automotive and recreational vehicle sales establishments.

Automotive Sales Establishments are permitted in the C2, M1-1 and M1 Zones and Recreation Vehicle Sales and Service establishments are permitted in the C2, C5, C7, M1 and M2 zones. Through research it was determined that automotive and recreational sales establishments are permitted in zone categories that generally can be found along corridors with high visibility and in closer proximity to residential uses. Staff have concerns about the visual impacts to the high profile areas if shipping containers were permitted as an accessory use to automotive and recreational vehicle sales establishments and would prefer to continue to evaluate the appropriateness of shipping containers through a Planning Act application on a case by case basis rather than allow a blanket permission. Additionally, as outlined in the 2023 report, the storage of tires within shipping containers is a fire safety hazard. For these reasons, staff do not recommend permission for shipping containers for automotive and recreational vehicle sales establishments.

In evaluating the appropriateness of allowing shipping containers in the industrial zone categories, staff determined that permission for them in some of the industrial zone categories subject to location criteria, site plan control, and building permits could be supported. As a result, staff have included a revised Option 2, titled Option 2A below.

Option 2A- Expand Permissions to include some Industrial Zones

Staff have reviewed the industrial zone categories, permitted uses in each category, and general location of properties containing industrial zoning. Based on this information, staff would have similar concerns with

aesthetics in allowing shipping containers in the M1-1 Business Industrial and the M1 Mixed Light Industrial/Service Commercial zones. Staff however, are of the opinion that permitting shipping containers as accessory uses in the M2 Light Industrial, M3 Heavy Industrial, M4 Mining Industrial, M5 Extractive Industrial, and M6 Disposal Industrial to be appropriate subject to criteria. This is due to the fact that these zones don't typically front onto major arterial roads and the zones do not permit automotive sales establishments. Staff recommend that permissions restrict the location of shipping containers in these zone categories to the interior yard, meaning not abutting a public road. By restricting the permission of shipping containers to an accessory use and its location to an interior yard, a main building(s) would need to be present on the lot and the shipping container would need to be located in the rear or interior side yard, thereby reducing its visibility somewhat from the public roadway. Additionally, staff recommend that shipping containers be prohibited in yards that abut a residential zone category. Staff are of the opinion that this option would result in modest flexibility to permissions for shipping containers, while protecting urban design standards and public safety throughout the Municipality. Staff would continue to evaluate permission for shipping containers in the commercial, institutional, and residential areas on an individual basis through a Planning Act application.

Option 3- Extend permissions to include all ICI (Industrial, Commercial, Institutional) Zones

Commercial and institutional uses are much more likely to abut residential lots and zones than industrial zones, as many commercial uses and institutional uses such as places of worship and school tends to be neighbourhood focussed. Given that these uses are more integrated locationally with residential areas, permission for shipping containers would not maintain the character of the residential context. Through research it was identified that shipping containers are not designed to be used as accessory buildings and as such may result safety challenges. Staff recommends that shipping containers be located in areas that are separated from residential areas and in zone categories that would benefit from staff review through the site plan control process in order to ensure public safety and compliance with the Ontario Building Code.

Planning staff have considered the issue of the permission of shipping containers in the context of the Downtown, Regional Centres and the existing and proposed Regional Corridors and Secondary Community Nodes and the mix of zoning in the centres and corridors and impact on the use and urban design objectives for these areas. Given the function and high visibility of these areas, special attention to sound urban design principles is essential. Siting buildings to create a sense of street enclosure, locating parking lots to the rear of buildings, screening service entrances and garbage storage, and effective landscaping can aesthetically enhance the appearance of Regional Corridors. Staff do not recommend extending permissions to allow shipping containers in all industrial, commercial, and institutional zones and would see benefits in continuing to evaluate requests to do so on an individual basis.

Option 4 - Expand Permissions to the Rural and Agricultural Zone

The current provisions permit shipping containers accessory to an agricultural use or extractive use, however, would not permit them as of right on rural or agricultural parcels that are used for residential purposes. Rural and agricultural areas are located outside of settlement areas, are typically larger in size in comparison to within the settlement areas, and generally contain more naturalized areas in the form of trees and rock. The rural area also includes existing undersized lots, making it challenging to create a 'one size fits all' policy approach to shipping containers in the rural and agricultural zone categories.

Residential accessory buildings in the rural and agricultural areas are governed by the same accessory building standards for all residential lots, except for increased height provision of 6.5 m. Staff note that the maximum lot coverage for accessory buildings is 10%, which could result in larger parcels of land containing many shipping containers, altering the character of the rural areas to that of more industrial in nature. Additionally, the height provisions could allow for stacked containers, which is a safety concern. Given the diverse character of the rural and agricultural zoned parcels, staff would recommend that permission for shipping containers continue to be done on a site-specific basis. Staff do not support permission for shipping containers as a residential accessory use in the rural area.

Option 5- Expand Permissions to include all Zones, including Residential

Typical backyard sheds are constructed of wood with a pitched roof similar to most dwellings and are visually unassuming in a residential setting. A smaller 10 ft. or 20 ft. long shipping container would generally be comparable in size to a typical backyard shed. Shipping containers, however, have corrugated metal sides with a flat roof with an entry typically from one end and does not look like a typical garden shed.

Zoning By-law 2010-100Z restricts where accessory structures can be located on a Residential Lot, how large they can be, and how tall they can be. Structures accessory to a residential dwelling, are permitted up to a maximum height of 5 m (16.4 ft.) on a residential lot, and in the Agricultural and Rural Zones up to a height of 6.5 m (21.3 ft.). Accessory structures 2.5 m (8.2 ft.) and less in height can be no closer than 0.6 m (2 ft.) from the rear or side lot lines and those greater than 2.5 m in height can be no closer than 1.2 m (3.9 ft.) from the rear or side lot lines. As most shipping containers are 2.4 m (8 ft.) high they would be able to be located at 0.6 m from the rear or side lots.

Accessory buildings or structures on a residential lot are generally not permitted within a required front yard or required exterior side yard. However, this could still allow for an accessory structure to be located beyond the minimum required front yard (6 m in most Residential zones and 10 m in most Rural zones) or required exterior side yard on a corner lot (4.5 m in most Residential zones and 10 m in Rural and Agricultural Zones and 3 m in Rural Shoreline and Seasonal Limited Service Zones). In such instances where the shipping container were to be located within the front yard, it would most likely be highly visible to the public.

While restrictions can be put in place in the bylaw to control the placement of shipping containers as accessory uses, it is difficult to control the appearance of these uses. Additionally, residential developments under 10 units do not benefit from the site plan control process.

Of the 14 municipalities surveyed in 2023, only 4 permitted shipping containers in all zones including residential. Staff are concerned about the aesthetics and the potential proliferation of their use as accessory structures on residential lots and in Residential zones. Planning staff do not support the permission of shipping containers in Residential Zones on a permanent basis.

Conclusion:

Staff recognize that shipping containers are a more affordable alternative to traditional building materials. Additionally, based on the researched conducted in 2023, it is apparent that shipping containers are being established on properties without benefit of Building Permit and in areas where the use is not permitted within the current provisions of the Zoning By-law. It is also recognized that the improper use of shipping containers can cause public safety concerns, and that they are visually considered unsightly. Based on these reasons, staff are of the opinion that some flexibility in permissions when it comes to shipping containers is warranted in some of the industrial zone categories, subject to location criteria. It is also noted that most industrial uses are subject to the Site Plan Control process, which would allow staff the opportunity to review any proposed accessory shipping containers in more detail. Staff therefore recommend that Planning Committee provide staff with direction on proceeding to prepare a zoning by-law amendment application based on Option 2A- Expand the permissions to include some Industrial Zones subject to appropriate zone standards, building permits and site plan control.

It should be noted that staff do not recommend any changes to the temporary provisions section for shipping containers in any of the options above. Additionally, staff recommend that a definition of shipping container be included in the future zoning by-law amendment application for clarification purposes.

In all potential options listed above, a Building Permit is required for the installation of shipping containers to ensure compliance with the Ontario Building Code. Obtaining a Building Permit is essential for safety purposes.

Resources Cited

1. Regulation of Shipping Containers Report, August 14, 2023

<https://pub-greatersudbury.escribemeetings.com/filestream.ashx?DocumentId=50482>

2. Municipal Review Shipping Containers 2023

<https://pub-greatersudbury.escribemeetings.com/filestream.ashx?DocumentId=50483>