



Legislation Details (With Text)

**File #:** 20-1108      **Version:** 1      **Name:** Ordinance: Amending Title XLI, Newark Zoning and Land Use Regulations creating Chapter 22 - Shipping Containers

**Type:** Ordinance      **Status:** Adopted

**File created:** 9/10/2020      **In control:** Law

**On agenda:** 10/7/2020      **Final action:** 10/21/2020

**Title:** AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY AMENDING TITLE XLI, "NEWARK ZONING AND LAND USE REGULATIONS", TO CREATE CHAPTER 22, "SHIPPING CONTAINERS".

**Sponsors:** Council of the Whole

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
10/21/2020	1	Municipal Council	Close on Public Hearing and Adopt	Pass
10/7/2020	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass

**AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY AMENDING TITLE XLI, "NEWARK ZONING AND LAND USE REGULATIONS", TO CREATE CHAPTER 22, "SHIPPING CONTAINERS".**

**WHEREAS,** it has been found and declared that there exist in the City of Newark unused or abandoned Shipping Containers, which are hazardous, dangerous or detrimental to the health, safety, and welfare of the residents of the City of Newark; and

**WHEREAS,** shipping containers, ISO Containers, ISO Shipping Containers, or Twenty-foot Equivalent Unit containers, or TEU's, (collectively "Shipping Containers") are a blight within various residential, commercial, and industrial areas in the City of Newark; and

**WHEREAS,** Shipping Containers present an eyesore and nuisance in the communities and neighborhoods where they have been illegally stored; and

**WHEREAS,** within the proximity to the marine terminals, unused or abandoned shipping containers have become a blight within the City, and

**WHEREAS,** protecting the aesthetics, integrity, vitality, health, safety and welfare of residents affected by stored Shipping Containers is a serious concern in the City; and

**WHEREAS,** such conditions should be curtailed for the public health, safety and welfare of the residents within the City; and

**WHEREAS,** on June 10, 2020, the Municipal Council approved resolution 7R2-h(AS) referring a proposed Ordinance amending Title XLI of the Newark Zoning and Land Use Regulations related to

Shipping Containers (the “Ordinance”) to the Central Planning Board pursuant to N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64; and

**WHEREAS**, on July 20, 2020, the Central Planning Board reviewed the Ordinance and made recommendations for the Administration’s and Municipal Council’s consideration; and

**WHEREAS**, after the Central Planning Board’s review of the Ordinance, the Ordinance was revised to include the Central Planning Board’s recommendations; and

**WHEREAS**, N.J.S.A. 40:48-2 authorizes a municipality to make, amend, repeal and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

**Section 1.** Title XLI, Zoning and Land Use Regulations, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, be amended to add to Chapter 22, entitled “Shipping Containers” as follows:

**41:22-1. Definitions.**

“Shipping Container Operator” means any owner, manager, company, or other entity that stores Shipping Containers, ISO Containers, ISO Shipping Containers, or TEU’s on property within the City of Newark.

“Owner” means a person, group of persons, or corporation with legal ownership of real property within the City of Newark. For the purpose of this Ordinance, Owner may also mean “Shipping Container Operator.”

“Shipping Container,” “ISO Container,” or “ISO Shipping Container” means any standardized shipping container constructed in accordance with the standard sizes promulgated by the International Standards Organization (ISO) for use in international intermodal transportation of goods by ship, rail, or truck, which shall include but shall not be limited to containers that are 20 feet in length and 8 feet in width, 40 feet in length and 8 feet in width, and 53 feet in length and 8 feet in width.

“TEU” or Twenty-foot equivalent unit means a measure of capacity of ISO shipping containers used to approximate the comparable size of the various types of ISO containers. For the purposes of this legislation, the TEU measure for any ISO container shall be the result of dividing the base area measured in feet of any ISO container, determined by multiplying its external length by its external width, by the number 160.

“Shipping Container(s)” shall be defined as any ISO Container(s), TEU, or any other storage unit utilized for the shipment of goods.

“Stored” means placed or left on a property and otherwise not placed in transit for a period of more than 30 days.

“Storage period” means the period of time during which the Shipping Container has been stored on the property.

**41:22-2. Prohibition of Shipping Containers within Residential (R-1 through R-6), Commercial Zones (C-1, C-2, and C-3), Mixed Use Zones (MX-1, MX-2, and MX-3), Institutional Zones, and all redevelopment areas subject to a redevelopment plan, unless expressly permitted in the Plan, including Newark’s River Public Access and Redevelopment Plan, which includes industrial districts.**

No property within the prohibited zones and redevelopment areas shall contain any stored Shipping Containers on such Property. Any Owner violating this Ordinance shall be assessed fines per container, as specified below:

<u>Storage period</u>	<u>Maximum fine per day of storage</u>
From day 1 through day 30	\$100.00
From day 31 through day 60	\$125.00
From day 61 through day 90	\$150.00
In excess of 90 days	\$200.00

**41:22-3. License Requirement of Shipping Containers Operators.**

Any operator or owner of a company storing shipping containers within any zoning district in the City of Newark must apply for a “Shipping Container Storage License” from the Zoning Office of the City of Newark to continue operations. The license must be renewed yearly.

**41:22-4. Fees for Shipping Container License**

a. Fee for the Shipping Container License are specified as follows:

<u>Number of Containers</u>	<u>License Fee (per year)</u>
1-500	\$1,000.00
501-1000	\$2,000.00
Greater than 1000	\$2,000.00 for the first 1,000 containers plus \$500.00 for each additional container over 1000 containers.

b. Daily Fee for storage of Shipping Containers that are stored for more than thirty (30) days shall be as follows:

From day 1 through day 30	No daily fee.
From day 31 through day 60	\$0.20 per container per day
From day 61 through day 90	\$0.30 per container per day

In excess of 90 days

\$1.00 per container per day

#### **41:22-5. Reporting**

1. On the last business day of each month, Shipping Container Operators shall provide the following information to the City of Newark's Office of Planning and Zoning:
  - a. Report indicating total number of containers at the site.
  - b. The report must indicate how many containers have been at the site for periods of 30 days, 60 days, 90 days, and greater than 90 days.
  - c. Shipping Container Operator must indicate in its report any fees or penalties owed to the City, based upon the fee schedule in 41:22-4 of this Ordinance, and remit payment with report.
  - d. Shipping Container Operator must certify to the reported figures under penalty of perjury, license revocation, and personal liability of the Owner.
2. Reporting shall be administered by the Office of Special Taxes and Licensing, which shall create a publicly accessible form and a report submission protocol.

#### **41:22-6. Shipping Container Zoning Regulations:**

- a. Applications for storage of shipping containers that are compliant with the zoning regulations shall be reviewed and permitted by site plan approval by the Central Planning Board of the City of Newark. The Central Planning Board shall review issues regarding whether the stored shipping containers occupy a substantial area of the parcel, grading, drainage, environmental conditions, and other aspects of site plan. Prior to the Central Planning Board review, a preliminary review shall be performed by the Board Planner and Department of Engineering.
- b. Maximum stack height within permitted zones shall be four (4) Shipping Containers.
- c. Sufficient spacing must be created between containers to permit proper inspection and rodent control.
- d. Surveillance cameras must be installed on site to prevent trespassers and criminal activity.

#### **41:22-7. Penalty for operating without a License or for violation of Shipping Container Zoning Regulations**

Any Shipping Container Operator found to store shipping containers within the City of Newark without a Shipping Container License shall be subject to daily fines as specified below:

<u>Storage period</u>	<u>Maximum fine per day of storage</u>
From day 1 through day 30	\$100.00 plus \$0.10 for each container
From day 31 through day 60	\$125.00 plus \$0.13 for each container
From day 61 through day 90	\$150.00 plus \$0.15 for each container
In excess of 90 days	\$200.00 plus \$0.20 for each container

Violators shall be additionally obligated to remit unpaid license fees based upon the fee schedule in 41:22-4 of this Ordinance.

**Section 2.** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

**Section 3.** The Provisions of this Ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of this Ordinance shall be declared invalid, illegal or unconstitutional, such clause, phrase, sentence, paragraph or provision shall be served and shall be inoperative and the remainder of this ordinance shall remain operative and in full force and effect.

**Section 4.** This Ordinance shall take effect upon final passage and publication and in accordance with the laws of the State of New Jersey.

### STATEMENT

This ordinance amends Title XLI, Zoning and Land Use Regulations, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, to add a new Chapter 22, entitled "Shipping Containers".