



MEMO

**TO:** Planning and Zoning Commission  
**FROM:** Sheila DeSchaaf, Zoning Administrator  
**DATE:** February 10, 2014  
**SUBJECT:** **Request for Relief – Mobile Storage Unit(s)** **CUP13-005**  
805 S. Beeline Hwy, relief from square footage and duration limitations

**Background**

This is a request for a waiver from the maximum square footage and duration of Mobile Storage Units on C-2 property at 805 S. Beeline Highway pursuant to Unified Development Code (UDC) Section 15-02-003(A)(9). This request has been made by On the Road, LLC, property owner; Payson Automotive Supply (dba CarQuest), applicant; Ralph and Derrie Lucht, agents.

At the time the applicant placed Mobile Storage Units upon the subject property, the following requirements were in effect:

- i. No more than two Mobile Storage Units per parcel may be utilized;
- ii. Each Mobile Storage Unit shall not exceed eight feet in height, eight feet in width, and sixteen feet in length;
- iii. Mobile Storage Units shall not be placed (1) within fifteen feet of any building or adjoining property line, (2) within a front or street side yard, or (3) within required landscape areas, open space, or parking areas;
- iv. Mobile Storage Units shall be screened from view of any adjacent public way or residential use; such screening shall be subject to all applicable Design Review requirements;
- v. No animals or toxic/hazardous materials (as determined by the Fire Marshal and/or the Building Official) may be stored in a Mobile Storage Unit.
- vi. Prior to the placement of a Mobile Storage Unit, a permit shall be obtained from the Community Development Department. Such permit shall be issued for a period not to exceed twelve months and may be renewed annually for up to two additional one year terms if requested by the applicant.

The applicant's use of Mobile Storage Units on this property did not comply with the UDC provisions at the time they were brought to the property. The Mobile Storage Unit use on the property became the subject of a nuisance complaint filed with the Town of Payson's Zoning Department. Subsequent to and as a result of the complaint the Town Council directed staff to work with the Planning & Zoning Commission to recommend changes to the Mobile Storage Unit provisions.

In May 2013 the Payson Town Council passed Ordinance 830 and Resolution 2707 amending the Unified Development Code provisions pertaining to the use of Mobile Storage Containers. The amendments are set to be reviewed by the Planning Commission and Town Council as the changes were enacted for a period of 36 months.

Under the recently amended Mobile Storage Unit provisions, the maximum area allowed to be utilized for Mobile Storage on sites less than one acre in size is 320 square feet. Also, the maximum permit duration for Mobile Storage Unit uses is limited to 12 months. However, a property or business owner is able to request a waiver from the maximum square footage and maximum permit duration at the discretion of the Planning & Zoning Commission through the Conditional Use Permit process. See Ordinance 830 and Resolution 2707 (attached Exhibit B).

### **Analysis**

The applicant wishes to continue using three Mobile Storage Units previously placed on this property as indicated in the attached site plan (Exhibit A). The standards of review for normal conditional use permit consideration of a particular use include the following:

1. Access and Traffic; pedestrian, bicycle and vehicular circulation
2. Noise, light, visual, litter and other pollutants
3. Buffering provisions
4. Impact on public utilities
5. Signage and outdoor lighting
6. Compliance with General Plan
7. Dedication and development of streets adjoining the property
8. Impact on historical/archeological or natural sites
9. Impact on the native vegetation and ecological character of the site
10. Water and air pollution, such as fill, dust, and smoke
11. Any other factors necessary to assure that the proposed use is compatible and not detrimental to the surrounding land uses.

Based upon the one complaint/comment received, the primary concerns related to the proposed Mobile Storage Unit use on this property include the lack of screening and buffering from adjoining properties and the street, as well as the potential to increase drainage problems near the use area.

Existing improvements upon this site are largely legal, non-conforming. The landscaping, parking facilities, and building color and construction do not meet current Unified Development Code Standards. The addition of a 6 foot wood or concrete fence south and west of the storage containers would screen the units from view of the highway and act as a buffer for the adjoining properties south of the site.

The Town Engineer has indicated that the shipping containers placed on this property have been placed across the flow path of storm water, which has the potential to raise the elevation of storm water runoff upstream of this location. Thus, a grading permit shall be required if this waiver request is granted. Fencing installed to screen the units should meet Commercial Design Review Overlay District standards and should be approved in conjunction with the grading permit.

The recent amendments to the Mobile Storage Unit provisions within the UDC are scheduled to sunset after 36 months pending a review and renewal of those provisions by the Town Council. Because of the potential for revisions, it may be appropriate to sunset this request for a waiver, but allow the applicant to request staff to extend this permit if the Mobile Storage Unit use on this site is still in conformance after June 1, 2016.

Recommended conditions of approval of the applicant's request for a waiver are provided below. However, the Commission may add or amend these suggested conditions to mitigate **any** adverse impacts of the proposed use. Unlike a Conditional Use Permit application the Planning and Zoning Commission's decision to approve, to approve with conditions or to deny a waiver under the Mobile Storage Unit provisions is final and may not be appealed.

**Staff Recommendation:**

Staff finds that the applicant's request could be compatible with the surrounding area, if the conditions listed below can be met:

1. A maximum of 480 square feet of this parcel may be utilized for mobile storage units.
2. This permit shall be valid through June 1, 2016. If the current Mobile Storage Unit provisions remain in effect, the applicant may seek an extension of this waiver from staff for ten (10) additional years. The duration of this permit is valid only for as long as the provisions of Ordinance 830 and Resolution 2707 remain in effect and so long as the site is used for commercial retail use. At the expiration of this permit on June 1, 2016 or June 1, 2026 the applicant shall cease use of Mobile Storage Units on this property and have all units removed from the site.
3. No animals or toxic/hazardous materials (as determined by the Fire Marshal and/or Building Official) may be stored in a Mobile Storage Unit.
4. A grading permit shall be obtained within 120 days of the date of this waiver.
5. Units on the south property line shall be screened from view from Highway 87 and from the properties south of this site with a minimum 6 foot high wood or concrete fence. Fence construction and placement shall be approved in conjunction with the grading permit and finished in a manner consistent with Town of Payson Commercial Design Review Overlay regulations.
6. Failure to comply with the above conditions shall be grounds for zoning citations and possible revocation of this permit. If alleged violations of the conditions of this waiver are brought to the attention of the Community Development Department, with a 24 hour notification to the property owner, a zoning inspection shall be allowed at the site. If violations of the conditions of this permit persist, a request for review may be brought before the P & Z Commission at the discretion of the Zoning Administrator.

**Suggested Motion to Approve:**

“I move the Planning & Zoning Commission approve CUP13-005, a request for relief from the maximum square footage and permit duration governing Mobile Storage Units at 805 S. Beeline Hwy, subject to the conditions recommended by staff.”

## **Neighborhood Involvement**

Application for a waiver from the provisions of this section follow noticing guidelines for conditional use permit applications, but are exempt from Citizens Participation Plan and Citizen Participation Report. Property owners within 300' of the subject site were mailed notices of the public hearing for this request, the site was posted with information pertaining to this hearing and a legal notice was published in the local newspaper in accordance with public notice provisions.

### **Attachments:**

Exhibit A – Site plan showing the location of the Mobile Storage Units

Exhibit B – Ordinance 830 and Resolution 2707

Miscellaneous supplemental information pertaining to this application.

P 13-005

**TOWN OF PAYSON  
PLANNING AND ZONING COMMISSION OR  
BOARD OF ADJUSTMENTS APPLICATION**

The undersigned Applicant(s) hereby applies for:

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Abandonment Request               | <input type="checkbox"/> General Plan or Land Use Plan Amendment | <input type="checkbox"/> Guest Quarters            |
| <input type="checkbox"/> Administrative Appeal             | <input type="checkbox"/> Minor Land Division                     | <input type="checkbox"/> ADU                       |
| <input type="checkbox"/> Code Amendment                    | <input type="checkbox"/> P & Z Commission Appeal                 | <input type="checkbox"/> Annexation                |
| <input checked="" type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Preliminary Subdivision Plat            | <input checked="" type="checkbox"/> Mobile Storage |
| <input type="checkbox"/> Development Master Plan           | <input type="checkbox"/> Temporary Use Permit                    |  |
| <input type="checkbox"/> Devel. Agreement, PAD & SPD       | <input type="checkbox"/> Variance                                |  |
| <input type="checkbox"/> Final Subdivision Plat            | <input type="checkbox"/> Zone Change                             |  |

**RECEIVED**

DEC 16 2013

COMMUNITY DEVELOPMENT  
DEPARTMENT

Jul, 2012

Project Address: 805 S. BeeLine Hwy Tax Parcel Number: 304-16-151B  
 Subdivision: Rim View Addition Lot Number: 13 & 14  
 Name of Applicant(s): Payson Automotive Supply Phone #: 928-474-5224  
 Mailing Address: 805 S. BeeLine Hwy Town: Payson St: AZ Zip: 85541  
 Name of Property Owner(s): On The Road LLC  
 Mailing Address: 603 N. Blue Spruce Rd Town: Payson St: AZ Zip: 85541  
 Contact Person: Ralph Lucht Phone #: 928-970-0918 Fax #: 928-478-6640  
 Payson Business License # PY8989 Sales Tax # 04014212

Detailed Description of Request:

waiver of sq footage + max time limit  
of mobile storage containers.

(Note: Additional Description area can be included in an attachment)

Certification: I hereby certify that the data submitted on or with this application is true and correct, that I am the Owner of the property at this address, or that for the purpose of obtaining this approval I am an authorized agent in his behalf.

Ralph Lucht  
Print Name

Ralph Lucht 12/16/13  
Signature Date  
On The Road, LLC

**STAFF USE ONLY - PERTINENT DATA**

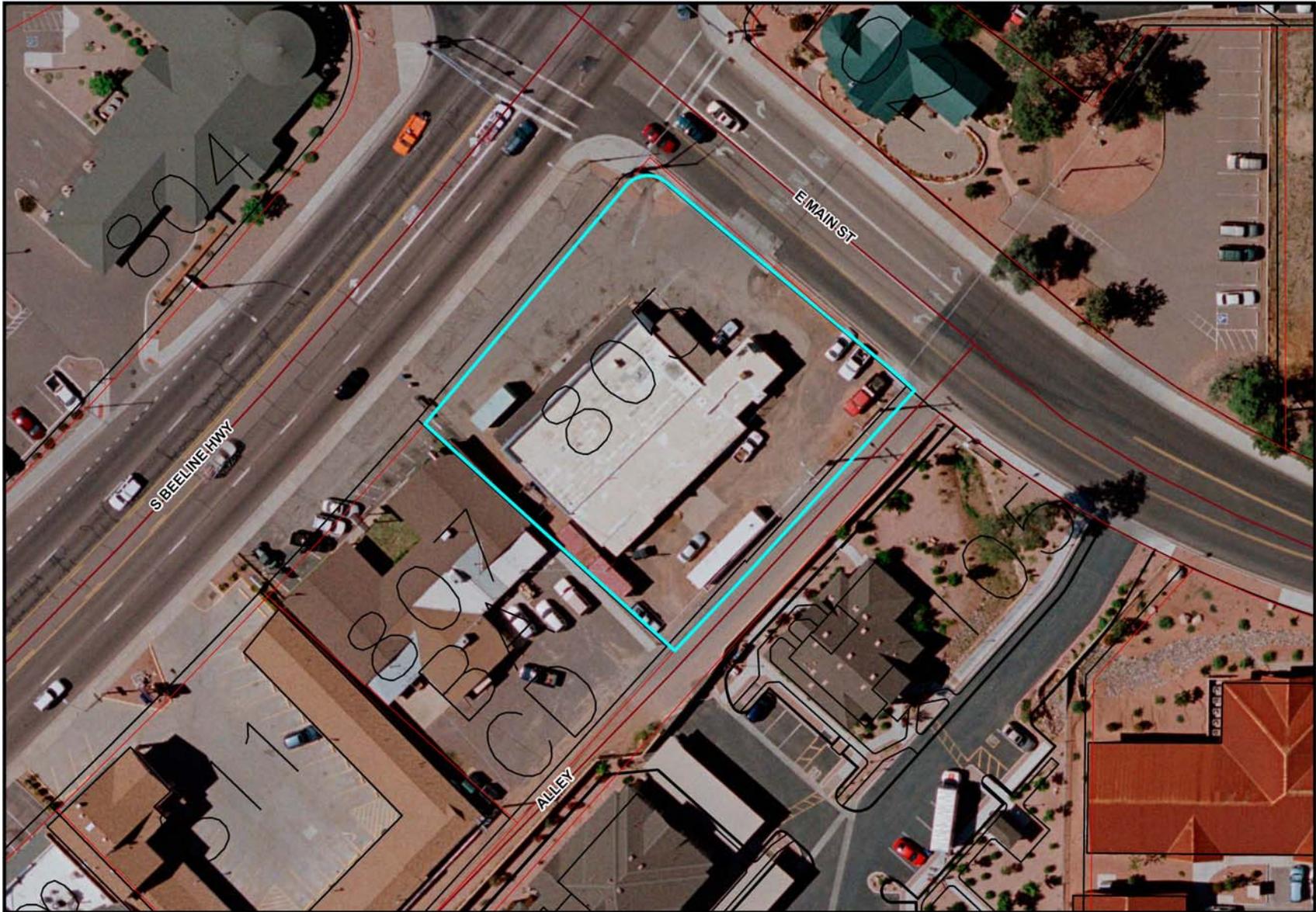
APPLICATION	DATE	INITIALS	APPLICATION FEE:
DATE FILED	12-16-13	SLD	Waiver (CUP) Mobile Storage Unit - Commercial \$ 500. <sup>00</sup>  CHECK NUMBER: 2659 DATE: 12/9/13
COMPLETED APPLICATION	12-16-13	SLD	
NEWSPAPER PUBLICATION	1-24-14	SLD	
300' NOTIFICATION MAILOUT	1-21-14	SLD	
POSTING DATE	1-24-14	SLD	

**RECOMMENDATION**

**DECISIONS**

By:	Date:	By:	Date:
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## Exhibit A



303 North Beeline Highway  
Payson, Arizona 85541  
(928) 474-5242 [www.ci.payson.az.us](http://www.ci.payson.az.us)  
GIS/PaysonGIS\_Master.mxd 11/28/2007



This map has been provided for informational purposes only and is not accurate for engineering design. Every effort has been made to ensure this map is as accurate as possible. The Town of Payson shall assume no liability for the base information contained in this map.





## Exhibit B

ORDINANCE NO. 830

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING THE PROVISIONS OF SECTION 15-02-003 OF THE UNIFIED DEVELOPMENT CODE RELATING TO MOBILE STORAGE UNITS, RAILROAD CARS, TRACTOR TRAILER UNITS, AND SHIPPING CONTAINERS AND ADDING A DEFINITION FOR THE TERM 'MOBILE STORAGE UNIT.'

WHEREAS, the Town of Payson regulates the placement and use for storage of Mobile Storage Units, Railroad Cars, Tractor Trailer Units, and Shipping Containers; and

WHEREAS, on October 4, 2012, the Town Council directed Town Staff to work with the Planning and Zoning Commission to explore options for amending the Town's restrictions on the use of these types of containers for storage; and

WHEREAS, the Planning and Zoning Commission held Public Hearings on December 10, 2012, January 14, 2013, and March 11, 2013 concerning options for amending the Town's restrictions on the use of these type of containers for storage; and

WHEREAS, on March 11, 2013, the Planning and Zoning Commission recommended that the Town Council amend Section 15-02-003 of the Unified Development Code relating to Mobile Storage Containers; and

WHEREAS, the Town desires to amend Sections ~~15-05-005(A)(9)~~<sup>15-11</sup> and add a definition for 'Mobile Storage Containers;' and

WHEREAS, because of concerns associated with Proposition 207 (The Private Property Rights Protection Act), the Town Council desires that the amendments related to Mobile Storage Units be enacted for a period of 36 months with a review process to take place during the 6 months prior to their expiration,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. That the amendments to Section 15-02-003(A)(9) (relating to Mobile Storage Units, Railroad Cars, Tractor Trailer Units, and Shipping Containers) of the Unified Development Code of the Town of Payson set forth in Exhibit A to Resolution 2707 were declared to be a public record, and that the amendments are hereby referred to and adopted by this reference as though all the provisions thereof were set forth in full in this Ordinance.

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Prepared by Town of Payson Legal Department

APR 18 2013

APR 18 2013 G. Z. B

Approved Resolution MAY 02 2013 G. Z. C

cc a...  
Page 1  
Public...  
MAY 02 2013

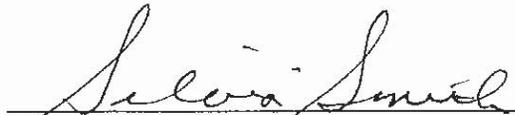
- Section 2. That the amendment to Section 15-11 (Definitions) of the Unified Development Code of the Town of Payson adding a definition for 'Mobile Storage Unit,' set forth in Resolution 2707 was declared to be a public record, and is hereby referred to and adopted by this reference as though all the provisions thereof were set forth in full in this Ordinance.
- Section 3. If any section, subsection, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.
- Section 4. That the amendments set forth in this Ordinance shall expire 36 months after the approval of this Ordinance unless such amendments are extended by the Council.
- Section 5. That Town Staff is directed to present a report to the Planning and Zoning Commission on the effects of the amendments 30 months after the approval of this Ordinance; and following the receipt of such report, the Planning and Zoning Commission shall make recommendation to the Town Council on permanently extending, temporarily extending, or letting the amendments expire.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this 2<sup>nd</sup> day of May, 2013, by the following vote:

AYES 7 NOES 0 ABSTENTIONS 0 ABSENT 0

  
 \_\_\_\_\_  
 Kenny J. Evans, Mayor

ATTEST:

  
 \_\_\_\_\_  
 Silvia Smith, Town Clerk

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 Timothy M. Wright, Town Attorney

RESOLUTION NO. 2707

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING THE PROVISIONS OF SECTION 15-02-003 OF THE UNIFIED DEVELOPMENT CODE OF THE TOWN OF PAYSON RELATING TO MOBILE STORAGE UNITS, RAILROAD CARS, TRACTOR TRAILER UNITS, AND SHIPPING CONTAINERS, ADDING A DEFINITION FOR THE TERM 'MOBILE STORAGE UNIT,' AND DECLARING SUCH AMENDMENTS TO BE A PUBLIC RECORD.

WHEREAS, the Code of the Town of Payson was declared to be a public record by Resolution Number 1536 and was adopted as a public record by Ordinance Number 588; and

WHEREAS, it is the intention of the Town of Payson to amend the provisions of the Unified Development Code of the Town of Payson relating to Mobile Storage Units, Railroad Cars, Tractor Trailer Units, and Shipping Containers; and

WHEREAS, such amendments may be enacted by reference, pursuant to A.R.S. § 9-802,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. Section 15-02-003(A)(9) (Mobile Storage Units, Railroad Cars, Tractor Trailer Units, and Shipping Containers) of the Unified Development Code of the Town of Payson is hereby amended, is declared to be a public record, and as amended shall read as set forth in Exhibit A.

Section 2. The Definition of "Mobile Storage Unit" under Section 15-11 (Definitions) of the Unified Development Code of the Town of Payson is hereby added, is declared to be a public record, and shall read as follows:

Mobile Storage Unit – A structurally unaltered portable storage container that may be transported by truck and/or trailer that is used as an accessory structure and is not designed for human/animal occupancy nor connected to utilities. Mobile Storage Unit shall not include containers used as part of a recycling program approved by the Town council.

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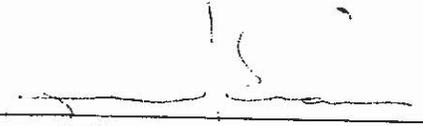
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6116 5000

11,55,00

**PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF  
THE TOWN OF PAYSON** this 2<sup>nd</sup> day of May, 2013, by the following vote:

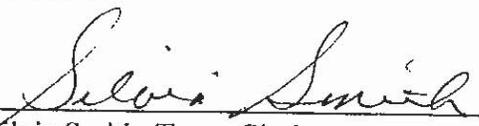
AYES 7 NOES 0 ABSTENTIONS 0 ABSENT 0

  
Kenny J. Evans, Mayor

APPROVED AS TO FORM:

  
Timothy M. Wright, Town Attorney

ATTEST:

  
Silvia Smith, Town Clerk

## Mobile Storage Units, Railroad Cars, Tractor Trailer Units, and Shipping Containers

- a. Construction/Demolition - Mobile Storage Units may be used in all Zoning Districts in conjunction with and during the period of a valid building and/or demolition permit.
- b. Prohibited Storage - No animals or toxic/hazardous materials (as determined by the Fire Marshal and/or the Building Official) may be stored in a Mobile Storage Unit, railroad car, tractor trailer unit, or shipping container.
- c. District Uses
  - i. Industrial Districts - Mobile Storage Units, railroad cars, tractor trailer units, and shipping containers may be used as accessory structures within Industrial Districts.
  - ii. Commercial Districts, Multifamily districts and Non-residential uses within Single Family Residential districts - Mobile Storage Units may be used as accessory structures within Commercial and Residential Districts that have commercial or multifamily uses established subject to the following;
    - (1) Mobile Storage Units shall be limited to a maximum of 320 square feet on parcels less than one acre and a maximum of 640 square feet total on parcels one acre or larger.
    - (2) Mobile Storage Units shall not be stacked nor placed:
      - (a) within three feet of any adjoining property line
      - (b) within a front or street side yard, nor
      - (c) within required landscape areas, open space, or parking areas;
    - (3) Mobile Storage Units shall be painted to match the primary structure's exterior and/or complement the surroundings. Mobile Storage Units may not display markings or advertisements and shall be maintained free of rust, graffiti, and other visual nuisances.
    - (4) Prior to the placement of a Mobile Storage Unit, a permit shall be obtained from the Community Development Department.
    - (5) Mobile Storage Unit permit shall be issued for a period not to exceed twelve months.
  - iii. Single Family Residential Districts and Single Family uses within all districts— Mobile Storage Units are an allowed accessory use subject to the following;
    - (1) Mobile Storage Units shall be limited to a maximum of 320 square feet on parcels less than one acre and a maximum of 640 square feet total on parcels one acre or larger.
    - (2) Mobile Storage Units shall not be stacked nor placed
      - (a) within three feet of any adjoining property line
      - (b) within a front or street side yard, nor
      - (c) within required landscape areas, open space, or parking areas;
    - (3) Mobile Storage Units shall be painted to match the residence's exterior and/or complement the surroundings. Units may not display markings or advertisements and shall be maintained free of rust, graffiti, and other visual nuisances.

## EXHIBIT A TO RESOLUTION 2707

d. Waivers

- i. A request for a waiver seeking relief from the provisions of subsection (c)(ii)(1) (square footage limitations) may be filed with Community Development Department. Such request shall be processed in the same manner as a request for a Conditional Use Permit except that (1) a citizens participation plan and report is not required; and (2) the decision of the Planning and Zoning Commission shall be final and not subject to appeal.
- ii. A request for a waiver seeking relief from the provisions of subsection (c)(ii)(5) (twelve month time limit) may be filed with the Zoning Administrator. The Zoning Administrator shall disapprove or approve with conditions such requests. In considering a request for such waiver the Zoning Administrator shall review the application based on the Standards of Review utilized for the evaluation of Conditional Use Permits.
- iii. If a request for relief from both subsections (c)(ii)(1) and (c)(ii)(5) is filed, such request shall be processed in accordance with subsection (i) above.