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BOARD OF SUPERVISORS’ MEETING

May 16, 2023

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Lassen County Code (File 318.01.65)

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County of Lassen
Department of Planning and Building Services

• Planning • Building • Environmental Health • Code Enforcement • Surveyor • Surface Mining

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May 5, 2023

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TO: Lassen County Board of Supervisors
Agenda Date: May 16, 2023

FROM: Maurice L. Anderson, Director 

SUBJECT: Public Hearing: Proposed ordinance amending Chapter 18.120 (Nonconforming uses) of the Lassen County Code (File 318.01.65).

Summary:

In summary, the proposed amendment would make it easier for residential nonconforming uses, by requiring an administrative permit (Certificate of Conditional Use per County Code Chapter 18.114) as opposed to a use permit to expand or modify a residential nonconforming use.

A nonconforming use is a use of property that was allowed under the zoning regulations at the time the use was established but which, because of subsequent changes in those regulations, is no longer a permitted use. A nonconforming structure is a structure that complied with zoning and development regulations at the time it was built but which, because of subsequent changes to the zoning and/or development regulations, no longer fully complies with those regulations.

Nonconforming uses can continue, provided the use complies with the requirement of Chapter 18.120.

Environmental Review:

The Environmental Review Officer (ERO; Director of the Planning and Building Services Department) has determined that this proposed amendment is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3). Section 15061(b)(3) states that “...CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” The proposed amendment merely establishes the protocol for the continuation of legally established uses. There is no possibility that this project may have a significant effect on the environment and, therefore, the project is not subject to CEQA.

Board of Supervisors
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Adoption:

Zoning ordinances are adopted in accordance with Section 65853 et seq of the California Government Code. The Planning Commission conducted the required public hearing and has recommended that the Board of Supervisors adopt said ordinance (see attached approved Planning Commission minute excerpts). In accordance with Section 65857, the Board of Supervisors may introduce and adopt the ordinance after conducting its own public hearing.

MLA:gfn

Enclosures: Approved minute excerpts of the Planning Commission's April 4, 2023 meeting
 April, 4, 2023, Planning Commission packet:
 Planning Commission staff report
 Proposed amendment to Chapter 18.120
 Existing County Code Chapter 18.120

Pla/admin/files/318.01.65/PC staff report

EXCERPTS
 APPROVED MINUTES
 LASSEN COUNTY PLANNING COMMISSION
 April 4, 2023

The Commission convened in regular session at 1:10 p.m. at 707 Nevada Street Susanville, CA. With Commission members Jeff Askew, Mark Higgins, Carol Clark and John Shaw present. Commissioner Solomon was absent. Also present were Maurice Anderson (Director and Planning Commission Secretary), Planning and Building Services Department staff; and Recording Secretary Dana Hopkins.

(**Note:** The following is summary minutes of this meeting and is not a transcript. Contact the Planning and Building Services Department {530} 251-8269 to determine if an audio recording is available.)

The following are excerpts from the above meeting.

Lassen County, 318.01.65. Make a recommendation to the Board of Supervisors regarding a proposed amendment of Chapter 18.120 (Nonconforming uses) of the Lassen County Code. Location Lassen County. The ordinance would be applicable in all unincorporated areas of Lassen County. Gaylon F. Norwood, Deputy Director presented staff report.

The public hearing was opened at 2: 03 p.m.

The public hearing was closed at 2:04 p.m.

MOTION:

It was moved by Commissioner Askew, seconded by Commissioner Higgins, and carried to recommend that the Board of Supervisors adopt the proposed Lassen County, 318.01.65, amendment of Chapter 18.120 (Nonconfirming uses) of the Lassen County Code. Commissioners Shaw, Clark, Higgins and Askew voted “Aye”. District 3 seat was vacant.

The meeting adjourned at 2:06 p.m.



County of Lassen
Department of Planning and Building Services

• Planning • Building • Environmental Health • Code Enforcement • Surveyor • Surface Mining

March 24, 2023

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TO: Lassen County Planning Commission
Agenda Date: April 4, 2023

Zoning & Building
Inspection Requests
Phone: 530 257-5263

FROM: Maurice L. Anderson, Director

Environmental Health
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SUBJECT: The Planning Commission will make a recommendation to the Board of Supervisors regarding a proposed amendment of Chapter 18.120 (Nonconforming uses) of the Lassen County Code (File 318.01.65).

Summary:

The purpose of this public hearing is to make a recommendation to the Board of Supervisors regarding a proposed amendment of Chapter 18.120 (Nonconforming uses).

In summary, the proposed amendment would make it easier for residential nonconforming uses, by requiring an administrative permit (Certificate of Conditional Use per County Code Chapter 18.114) as opposed to a use permit to expand or modify a residential nonconforming use.

A nonconforming use is a use of property that was allowed under the zoning regulations at the time the use was established but which, because of subsequent changes in those regulations, is no longer a permitted use. A nonconforming structure is a structure that complied with zoning and development regulations at the time it was built but which, because of subsequent changes to the zoning and/or development regulations, no longer fully complies with those regulations.

Nonconforming uses can continue, provided the use complies with the requirement of Chapter 18.120.

The Environmental Review Officer (ERO) has determined that this proposed amendment is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3). Section 15061(b)(3) states that "...CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." The proposed amendment merely establishes the protocol for the continuation of legally established uses. There is no possibility that this project may have a significant effect on the environment and, therefore, the project is not subject to CEQA.

MLA:gfn

Enclosures: Proposed amendment to Chapter 18.120
Existing County Code Chapter 18.120

ORDINANCE NO. _____

Ordinance Repealing and Replacing Chapter 18.120 (Nonconforming Uses)

The following ordinance, consisting of three sections, was duly and regularly passed and adopted by the Board of Supervisors of the County of Lassen, State of California, at a regular meeting of the Board of Supervisors held on the _____ day of _____, 2023, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

Chairman of the Board of Supervisors,
County of Lassen, State of California

Attest:
JULIE BUSTAMANTE
Clerk of the Board

By: _____
MICHELE YDERRAGA, Deputy Clerk of the Board

I, MICHELE YDERRAGA, Deputy Clerk of the Board of the Board of Supervisors, County of Lassen, do hereby certify that the foregoing ordinance was adopted by the said Board of Supervisors at a regular meeting thereof held on the _____ day of _____, 20____.

Deputy Clerk of the County of Lassen Board of Supervisors

Ordinance Number: _____
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**THE BOARD OF SUPERVISORS OF THE COUNTY OF LASSEN
 ORDAINS AS FOLLOWS:**

SECTION ONE: This ordinance shall take effect thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage a summary shall be published with the names of the members voting for and against the same, once in a local newspaper of the County of Lassen, State of California.

SECTION TWO: Repeal Chapter 18.120 (Nonconforming Uses) and replace it with the following:

18.120.010 Nonconforming land: General regulations.

The lawful use of land existing on the effective date of an ordinance which establishes or changes the effective zoning district in which such land is located, in such cases where such use does not conform to the regulations specified for the effective zoning district, shall be identified as a nonconforming use and may be continued; provided, that no such use shall be enlarged or increased nor be extended to occupy a greater area than that occupied by such use at the time of the adoption of said ordinance without first meeting the requirements of this Chapter. If any such use ceases, as provided in this chapter, the subsequent use of such land shall be in conformity to the regulations specified by this title for the district in which such land is located.

18.120.020 Buildings or land use located on nonconforming land.

The lawful use of a building or land existing on the effective date of an ordinance which establishes or changes the effective zoning of the land upon which the building is located may be continued, and said building or land use may be maintained, without the requirement to secure a certificate of conditional use or a use permit, even if such building or use does not conform to the regulations specified for the district in which such building is located, provided the requirements of this Chapter are met.

18.120.30 Nonconforming buildings: Conformance required for damaged buildings.

Any nonconforming building that is damaged or destroyed by fire, explosion, Act of God or act of the public enemy, to the extent of more than seventy-five percent of the assessed value thereof, according to the assessment by the county assessor for the fiscal year during which such destruction occurs, may only be reconstructed if one of the following requirements are met:

1. If the existing nonconforming use is residential in nature, it may be reconstructed after first securing a certificate of conditional use, pursuant to Chapter 18.114. Any application for such certificate of conditional use must be submitted within one year of the date of destruction. No extensions of this one year period may be allowed; or

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2. Any nonconforming building, other than residential, as detailed above, may be reconstructed provided that in each case a use permit is first secured pursuant to Chapter 18.112. Any application for a use permit must be submitted within one year of the date of destruction. No extensions of this one year period may be allowed.

If one of the above criteria are not met, any such building shall be subject to all regulations specified by this title, for the district in which such building is located.

18.120.040 Nonconforming buildings and/or land use: Conformance required for abandoned buildings and/or land use.

- (a) If the actual operation of a nonconforming use of a building or nonconforming use of land use ceases for a continuous period of one year or more, unless the legal owner can establish valid proof to the contrary, such cessation of the nonconforming building or use shall be considered abandonment. Then, without further action by the County of Lassen, said building and the land on which said building is located shall be subject to all the regulations specified by this title for the district in which such land and building is located.
- (b) The Director of the Planning and Building Services Department shall determine if any nonconforming use has been abandoned pursuant to this section. Any such written determination is appealable in accordance with the procedure detailed in Chapter 18.122 (Interpretive Action) and Section 18.120.080 (Appeal).

18.120.050 Nonconforming buildings and uses: Additional regulations.

The following additional regulations shall apply to nonconforming uses and nonconforming buildings:

- (a) The enlargement, extension, reconstruction, conversion, or structural alteration of a nonconforming building or the expansion of a nonconforming use may be permitted in accordance with the following:
 - i. If the existing nonconforming use is residential in nature, it may be enlarged, extended, reconstructed, or structurally altered after first securing a certificate of conditional use, pursuant to Chapter 18.114; or
 - ii. Any nonconforming use of a building, other than residential, as detailed above, may be enlarged, extended, reconstructed, or structurally altered provided that in each case a use permit is first secured pursuant to Chapter 18.112.

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- (b) Ordinary maintenance and repairs may be made to any nonconforming building; provided, that such work does not exceed twenty-five percent of the assessed value in any one-year period, without the requirement that a certificate of conditional use or use permit first be secured. Any maintenance greater than twenty-five percent of the assessed value in any one-year period requires that a certificate of conditional use be secured pursuant to Chapter 18.114 if the use is residential or a use permit pursuant to Chapter 18.112 if the use is nonresidential.
- (c) Regardless of any provision in this title to the contrary, if a nonconforming building or land use was lawfully established as a matter of right under the zoning regulations in place at the time the use or building was established, then, if the same use is allowed in the new zoning regulations subject to securing a use permit or certificate of conditional use, said use permit or certificate of conditional use shall not be required, and such use shall not be considered nonconforming and may continue. However, any such use must conform to all applicable requirements of this Code.

18.120.060 Nonconforming buildings: Under construction before zoning change.

Nothing contained in this title shall be deemed to require any change in the plans, construction, or designated uses of any building or any use upon a parcel where a building permit has been issued, provided said building permit is finalized prior to its expiration,

18.120.070 Applicability of chapter regulations

The provisions of this chapter shall also apply to nonconforming uses in districts hereafter changed.

18.120.080 Appeal

The Director of the Planning and Building Services Department shall be responsible for making determinations pursuant to this Chapter. Any such written determination made by the Director of Planning and Building Services may be appealed in accordance with the protocol established at Chapter 18.122 (Interpretive Action).

SECTION THREE: If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Existing County Code

Lassen County, California County Code

Title 18 ZONING

Chapter 18.120 NONCONFORMING USES

18.120.010 Nonconforming land—General regulations.

18.120.020 Building on nonconforming land.

18.120.030 Nonconforming buildings—Conformance required for damaged buildings.

18.120.040 Nonconforming buildings—Conformance required for abandoned buildings.

18.120.050 Nonconforming buildings and uses—Additional regulations.

18.120.060 Nonconforming buildings—Under construction before zoning change.

18.120.070 Applicability of chapter regulations.

18.120.010 Nonconforming land—General regulations.

The lawful use of land existing on the effective date of an ordinance which establishes or changes the effective zoning district in which such land is located, in such cases where such use does not conform to the regulations specified for the effective zoning district, shall be identified as a nonconforming use and may be continued; provided, that no such use shall be enlarged or increased nor be extended to occupy a greater area than that occupied by such use at the time of the adoption of said ordinance. If any such use ceases, as provided in this chapter, the subsequent use of such land shall be in conformity to the regulations specified by this title for the district in which such land is located. (Ord. 467 § 42, 1984).

18.120.020 Building on nonconforming land.

The lawful use of a building existing on the effective date of an ordinance which establishes or changes the effective zoning of the land upon which the building is located may be continued, although such building or use does not conform to the regulations specified for the district in which such building is located. (Ord. 467 § 42, 1984).

18.120.030 Nonconforming buildings—Conformance required for damaged buildings.

If at any time any building in existence on the effective date of an ordinance which establishes or changes the zoning district of the land upon which the building is located does not conform to the regulations for said zoning district, and such building is damaged or destroyed by fire, explosion, Act of God or act of the public enemy, to the extent of more than seventy-five percent of the assessed value thereof, according to the assessment by the county assessor for the fiscal year during which such destruction occurs, then such building and land shall be subject to all regulations specified by this title, for the district in which such land and buildings is located. (Ord. 467 § 42, 1984).

18.120.040 Nonconforming buildings—Conformance required for abandoned buildings.

If the actual operation of a nonconforming use of a building ceases for a continuous period of six months, unless the legal owner can establish valid proof to the contrary, such cessation of the nonconforming use shall be considered abandonment. Then, without further action by the planning commission, the said building and the land on which said building is located shall be subject to all the regulations specified by this title for the district in which such land and building is located. (Ord. 467 § 42, 1984).

18.120.050 Nonconforming buildings and uses—Additional regulations.

The following additional regulations shall apply to nonconforming uses:

- (1) The nonconforming use of a building or parcel may be changed to a use of the same or more restricted nature provided that in each case a use permit is first secured;
- (2) The nonconforming use of a portion of a building or parcel may be extended throughout the building provided that in each case a use permit is first secured.
- (3) The enlargement, extension, reconstruction or structural alteration of a nonconforming building or the expansion of a nonconforming use may be permitted provided that in each case a use permit is first secured.
- (4) Ordinary maintenance and repairs may be made to any nonconforming building providing no structural alterations are made and; provided, that such work does not exceed twenty-five percent of the assessed value in any one-year period, without the requirements that a use permit be secured.
- (5) Notwithstanding any provision in this title to the contrary, if a lawfully established nonconforming dwelling is damaged or destroyed, the dwelling may be reconstructed upon first securing a use permit.
- (6) Notwithstanding any provision in this title to the contrary, if a nonconforming building or use was lawfully established as a matter of right under the zoning regulations in place at the time the use or building was established, then, if the same use is allowed in the new zoning regulations subject to securing a use permit, such use shall not be considered nonconforming.

(7) Where lawfully established buildings or accessory structures have been rendered nonconforming as a result of a change in front, side or rear yard setback requirements, such buildings or structures may be reconstructed at the same location, provided there is no greater degree of nonconformity, and provided that in each case a use permit shall first be secured. (Ord. 467-AC § 32, 2003; Ord. 467-W § 11, 1998; Ord. 467 § 42, 1984).

18.120.060 Nonconforming buildings—Under construction before zoning change.

Nothing contained in this title shall be deemed to require any change in the plans, construction, or designated uses of any building or any use upon a parcel where actual construction was lawfully begun prior to the effective date of an ordinance which establishes or changes the zoning district of the parcel upon which the building or use is located. "Actual construction" is defined to be the actual placing of construction materials in their permanent position, fastened in a permanent manner, or actual work in excavating a basement, provided that in all cases actual construction work shall be diligently carried on until the completion of the building or structure involved. (Ord. 467-W § 12, 1998; Ord. 467 § 42, 1984).

18.120.070 Applicability of chapter regulations.

The provisions of this chapter shall also apply to nonconforming uses in districts hereafter changed. (Ord. 467 § 42, 1984).

Contact:

Clerk of the Board of Supervisors: 530-251-8427

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