



County of Lassen
Department of Planning and Building Services

• Planning • Building Permits • Code Enforcement • Surveyor • Surface Mining

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June 12, 2017

Maurice L. Anderson, *Director*
707 Nevada Street, Suite 5
Susanville, CA 96130-3912
Phone: 530 251-8269
Fax: 530 251-8373
email: landuse@co.lassen.ca.us
website: www.co.lassen.ca.us

TO: Board of Supervisors
Agenda Date: June 27, 2017

FROM: Maurice L. Anderson, Director *MLA*

Zoning & Building
Inspection Requests
Phone: 530 257-5263

SUBJECT: Consider repeal, in its entirety, of Chapter 12.32 (Setback Lines) of the Lassen County Code, because the requirements found therein are no longer considered necessary

ACTION REQUESTED:

1. Receive report; and
2. Introduce the ordinance and read (or waive)

SUMMARY

The purpose of this Board letter is to provide information regarding an ordinance, which is proposed by staff to repeal Chapter 12.32 (Setback Lines) of Lassen County Code. The proposed ordinance, and a copy of Lassen County Code Chapter 12.32 as it currently exists, are attached.

In summary, the ordinance is being proposed because individual Zoning District Setbacks found in Title 18, and the Fire Safety Setbacks found at chapter 9.16.103 (d)(1) of Lassen County code provide adequate consideration of the protection and preservation of the public interest and safety, and make the setback requirements found at Chapter 12.32 unnecessary, redundant, and potentially burdensome to property owners.

Chapter 12.32 of Lassen County Code was adopted in 1962; at that time there were no setback requirements in the zoning ordinance, or in any other section of Lassen County Code. In order to ensure safe and orderly development, the County established a minimum setback requirement, restricting development near public roadways. Currently, Title 18 of the Lassen County Code has numerous setback requirements built in, the extents of which vary by zoning district, parcel size, and neighboring uses. Additionally, in 2005 the County Adopted Ordinance 502 (Codified as Chapter 9.16 of Lassen County Code), which contemplates (and mitigates) threats to current and future development due to wildfire. In part, Ordinance 502 established minimum setbacks (30 ft) for construction of buildings or structures on parcels one acre or more in size.

Again, it is the determination of the Planning and Building Services Department that the setback requirements found in Title 18, and Chapter 9.16, of Lassen County Code, provide sufficient measures to ensure protection and preservation of the public interest and safety. That said, the Department recommends that the Board introduce the ordinance to repeal Chapter 12.32 and adopt said ordinance at a future meeting.

MLA:mcrmm

Enclosures: Proposed Ordinance to Repeal Lassen County Code Sections 12.32
Existing Chapter 12.32

ORDINANCE NO. _____

**ORDINANCE AMENDING TITLE 12 OF LASSEN COUNTY CODE, REPEALING IN
ITS ENTIRETY CHAPTER 12.32 (SETBACK LINES)**

The following ordinance, consisting of four 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 ____th day of _____, 2017, 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 ____th day of _____, 20____.

Deputy Clerk of the County of Lassen Board of
Supervisors

**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: PURPOSE. When adopted in 1962, Chapter 12.32 was a necessary component of Lassen County Code because it was found that the establishment of a minimum setback line was necessary for the protection and preservation of the public interest and safety. Individual Zoning District Setbacks found in Title 18, and the Fire Safety Setbacks found at chapter 9.16.103 (d)(1) of Lassen County Code have made the setback requirements found at Chapter 12.32 unnecessary, redundant, and potentially burdensome to property owners.

SECTION THREE: Chapter 12.32 of the Lassen County Code is hereby repealed.

SECTION FOUR: If any section, subsection, sentence, clause, or phase 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.

Lassen County Code							
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Title 12 BUILDINGS AND CONSTRUCTION							
Article II. Building Setback—Numbering							

Chapter 12.32 SETBACK LINES

12.32.010 Adopted.

A general building setback line is adopted within the unincorporated area of Lassen County, California, as hereinafter specifically provided. (Ord. 355 § 1, 1962).

12.32.020 Purpose.

(a) This chapter is pursuant to the provisions of Article 1, Chapter 4, Title 7 of the Government Code of the state of California.

(b) It is found and declared that all requirements of reference, notice and hearing relative to the adoption of precise plans, under Article 11, Chapter 3, Title 7 of the specified Government Code have been heretofore complied with; and that the Lassen County planning commission has recommended the adoption of the ordinance codified herein to the board of supervisors.

(c) The purpose of this chapter is to provide for and insure the preservation and the orderly, economic and adequate development and expansion of an adequate highway transportation system within the county; and to protect and conserve the public interest, presently and for the future, in streets, highways and roads within the county, having adequate alignment, dimensions and vision clearance, by preventing the encroachment of permanent improvements, the existence of which would render unnecessarily difficult, impracticable and uneconomic the maintenance and expansion of an adequate highway system. It is found and declared that the establishment of a minimum setback line is necessary to the carrying out of the general purposes set forth in this subsection, and to the protection and preservation of the public interest and safety.

(d) The ordinance codified in this chapter shall be known and cited as the "Lassen County setback ordinance." (Ord. 355 § 2, 1962).

12.32.030 Establishment.

A building line setback is established along each side of every street, highway and road which is dedicated to the public use or deeded to the county for road purposes, and is within the unincorporated area of this county. Such building line setback shall be located parallel to and distant fifty feet from and on both sides of the established centerline of each such street, highway and road. The space between the setback lines on either side of each such street, highway and road shall constitute the setback zone, which shall be one hundred feet in width.

Except that in areas subdivided pursuant to any county subdivision ordinance, the side yard minimum setback shall be the same as that which is made applicable by the provisions of Title 18 for a similar land use. (Ord. 365 § 1, 1964; Ord. 355 § 3, 1962).

12.32.040 Structures prohibited within setback zone—Exceptions.

It is unlawful to erect, within any setback zone, any building or structure whatsoever, including but not limited to derricks, windmills, silos, outdoor motion-picture screens, advertising structures, barns, houses,

outbuildings and platforms; or to dig, excavate or install within any setback zone any well or other excavation whether for water or for oil or other hydrocarbon products or for any other purpose, or install subsurface structure of any kind; provided that this section shall not apply to trees, agriculture crops, open fences or public utility installations (exclusive of permanent buildings) erected under authority of law; however, all such trees are subject to removal at the direction of duly constituted authority and each utility is governed by its franchise; nor shall it apply to any building, structure, well, excavation or subsurface structure in existence as of October 1, 1962, all of which existing buildings, structures, wells, excavations and subsurface structures shall be deemed to be nonconforming uses. (Ord. 355 § 4, 1962).

12.32.050 Application.

This chapter shall apply to any street, highway or road within the unincorporated area of this county which is hereafter dedicated or deeded to the county and accepted for the public use, effective as of the date of acceptance of the same for public use by duly constituted authority; provided, that any building, structure, well, excavation or subsurface structure within the setback zone of any such street, highway or road which is in existence at the time of acceptance of the same for public use, shall be deemed to be a nonconforming use and shall not be subject to Section 12.32.040. (Ord. 355 § 5, 1962).

12.32.060 Extension of nonconforming use prohibited.

No nonconforming use, under Section 12.32.040 or Section 12.32.050 shall be enlarged or extended. (Ord. 355 § 6, 1962).

12.32.070 Penalty for violation.

Any person, firm, or corporation who shall erect, locate, install, dig or construct or cause to be erected, located, installed, dug or constructed, any building, well, excavation, or subsurface structure, or who shall enlarge or extend a nonconforming use, contrary to the provisions of this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished according to the provisions of Chapter 1.01. (Ord. 355 § 7, 1962).

12.32.080 General minimum setback zone.

The objective of this chapter is to establish a general, minimum setback zone within the county. It is recognized and declared that it may from time to time in the future become necessary to amend this chapter as a whole, or in respect of individual streets, highways or roads within the county, as the public need and special conditions hereafter found may require. Nothing herein shall be construed as permitting a front yard depth or building setback of a lesser distance than may be provided by any valid contract, deed restriction, covenant, subdivision restriction or district ordinance now in force or hereafter adopted. (Ord. 355 § 8, 1962).

12.32.090 Variance procedure.

(a) Variances from the provisions and requirements of this chapter may be granted in cases of unnecessary hardship in accordance with the procedure and under the conditions set forth in this section.

(b) Procedure shall be as follows:

(1) Each applicant for a variance shall file a written request therefor with the planning commission, which request shall describe the property in connection with which the variance is sought and shall state the nature and extent of the desired variance and the particular reasons and grounds for the request;

(2) Upon the filing of a written request in compliance with subdivision (1), and if the request shows upon its face that good cause does or may exist for the granting of a variance, the planning commission shall hold a public hearing on the request at a regular or special meeting;

(3) Notice of the hearing shall be given not less than ten days prior thereto by postal card or letter to Division of Highways, California Department of Public Works (when affected); Lassen County road department; each owner of real property within a radius of five hundred feet of the site of the proposed variance, as shown on the latest records of the county assessor; and the applicant. Such notice shall state the time and place of the meeting, the name and address of the applicant, the general location of his property and a brief statement of the variance sought;

(4) Hearing upon the request may be adjourned from time to time without further notice other than oral announcement;

(5) Within forty days of the final hearing upon the request for variance, the planning commission shall render its written report to the board of supervisors, which report shall contain the findings and recommendation of the planning commission. A copy of the report shall be mailed to the applicant. The recommendation shall be an approval, a disapproval or a qualified or conditional approval of the request; and may, in case of disapproval, contain alternative recommendations. The planning commission may, as a condition of approval, recommend that the applicant execute a covenant running with the land or such other instrument or agreement as will protect and subserve the public interest for the future;

(6) The board of supervisors shall accept or reject the recommendation of the planning commission or shall return the same for further consideration, and in the latter case a supplemental report of the planning commission shall be submitted to the board of supervisors within ten days after the next regular meeting of the planning commission. An acceptance by the board of supervisors of a recommendation for approval contained in an original or supplemental report of the planning commission, shall constitute the granting of the variance upon such condition, if any, as may be specified in such report.

(c) Grounds, no variance shall be recommended by the planning commission or granted by the board of supervisors unless each of the following facts is found to exist by the planning commission:

(1) That a substantial and unnecessary hardship would be imposed upon the applicant if a strict and literal interpretation of this chapter with regard to his property were made, and the desired variance not granted;

(2) That such hardship is peculiar to the applicant, and not common to other owners of real property in the locality of the desired variance;

(3) That such hardship is not solely financial;

(4) That a granting of the requested variance upon such conditions as may appear necessary in the public interest would not impair or adversely affect the general plan and purpose of this chapter. (Ord. 355 § 9, 1962).

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