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BOARD OF SUPERVISORS MEETING January 28, 2020

FILE NUMBER: 318.01.53
TYPE OF APPLICATION: Zoning Ordinance Amendment

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County of Lassen
Department of Planning and Building Services

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

January 17, 2020

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TO: Lassen County Board of Supervisors
Agenda Date: January 28, 2020

Zoning & Building
Inspection Requests
Phone: 530 257-5263

FROM: Maurice L. Anderson, Director 

SUBJECT: Public Hearing: Proposed amendment to Title 18 of the Lassen County Code to add section 18.108.300 to regulate the placement of cargo containers in certain districts given particular minimum acreage and color requirements (File #318.01.53).

ACTION REQUESTED:

- 1) Receive report from staff and recommendation of approval from Planning Commission; and
- 2) Conduct public hearing;
- 3) Introduce and adopt, by title only, the proposed ordinance to regulate the placement of cargo containers; or
- 4) Provide direction to staff.

SUMMARY:

The Lassen County Planning Commission held several public hearings beginning on June 17, 2019, through November 13, 2019, to discuss the regulation of cargo containers in the unincorporated areas of Lassen County. Attached with this letter is the draft ordinance that the Planning Commission is recommending to the Board for approval.

The draft ordinance clarifies that cargo containers are subject to zoning and fire safety setback requirements, and shall not be placed in any exclusion areas. In residential districts, new cargo containers would be allowed temporarily while a building permit for a primary or accessory building is active, but would have to be removed upon issuance of the certificate of occupancy unless the property owner were to secure a Class I use permit for any new cargo container. However, existing cargo containers, if lawfully established, would not have to secure a use permit.

Furthermore, in other districts, new cargo containers would be allowed by right on parcels greater than or equal to three acres in size; new cargo containers would be allowed in other districts on parcels that are less than three acres in size only if there were an established primary use (e.g., a residence or agricultural use), or temporarily while a building permit for a primary or accessory building were active.

Lastly, under the draft ordinance, cargo containers are not allowed in the "O-H" Historical Site District, the "O-D" Primitive Area District, or the "O-S" Open Space District.

MLA:smr

Enclosures

S:/PLA/Admin/FILES/318.01.53/BOS 1-28-20/Board Letter



ORDINANCE NO. _____

Ordinance to Regulate the Placement of Cargo Containers throughout Lassen County

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 _____, 2019, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

JEFF HEMPHILL
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: Cargo container(s) placed in required setbacks or applicable exclusion areas were not legally established before adoption of this ordinance and will not be legally established if placed after adoption of the ordinance. Such cargo containers are considered a public nuisance pursuant to Lassen County Code sections 18.126.040 and 1.18.020 because they violate a requirement of Lassen County Code, pertinent State Statute or regulation or another pertinent setback or exclusion area requirement. Further, said placement of cargo containers does not qualify as a nonconforming use as described in Chapter 18.120 of Lassen County Code because the use was not legally established.

SECTION THREE: Add Section 18.108.300 to the Lassen County Code to read as follows:

- (a) The following requirements shall apply to any cargo container that may be allowed pursuant to this section:
- 1) Any cargo container placed shall meet all setback requirements, including but not limited to zoning and fire safety.
 - 2) Any cargo container placed shall not violate any applicable exclusion area required pursuant to sections 16.04.060 or 18.102.100.
 - 3) Any alteration of a cargo container (i.e., in the case that it is used for occupancy other than storage or if any utilities will be connected to it) shall require that a building permit first be secured.
 - 4) Cargo containers shall not be “stacked” (i.e., be placed on top of one another) unless a building permit and a use permit are secured for said purpose.
 - 5) Any cargo container placed within a scenic highway corridor or “D” Design Combining District shall be painted either to match the existing building(s) on the property or dark green or dark brown, unless otherwise approved by use permit.
 - 6) If this section requires a use permit, it shall be a class 1.

- (b) Cargo containers shall be allowed in “R” residential districts, the “R-S” Resort District, the “P.U.D.” Planned Unit Development District, and the “P-C” Planned Community District as follows:
 - 1) Cargo containers shall be allowed in the above districts described by this subsection only if a use permit for any cargo container(s) in said districts is approved by the Planning Commission; or
 - 2) Cargo containers may be allowed in the above districts described by this subsection without a use permit if the cargo container is placed only during the period of time that there is an active, issued building permit for the construction of a primary building, or an active, issued building permit for the construction of an accessory building, provided a primary building has been legally established. Any cargo container allowed under this subsection shall be removed prior to expiration of the building permit or prior to issuance of the related certificate of occupancy.
- (c) Cargo containers are not allowed in the “O-H” Historical Site District, the “O-D” Primitive Area District, or the “O-S” Open Space District.
- (d) Cargo containers are allowed subject to the following (in addition to the standards set forth at subsection “(a)” above) in any district except “R” residential districts, the “P.U.D.” Planned Unit Development District, the “P-C” Planned Community District, the “R-S” Resort District, the “O-H” Historical Site District, the “O-D” Primitive Area, the “O-S” Open Space District:
 - 1) Cargo containers are allowed on parcels that are less than three acres in size only if there is a legally established primary use on the subject parcel, except during the period of time that there is an active building permit for the construction of a primary building or an active building permit for the construction of an accessory building provided a primary use or primary building has been legally established.
 - 2) Cargo containers proposed on parcels greater than or equal to three acres in size in districts other than those described by this subsection shall be allowed by right.
- (e) For the purposes of this section, “cargo container” is defined as a portable shipping container made of metal that is used for the onsite storage of property, equipment, or goods.
- (f) In accordance with subsection “(6)” of section 18.120.050, any cargo container that can be demonstrated to the satisfaction of the Planning and Building Services Department to have been lawfully established prior to the effective date of this ordinance is not required to secure a use permit (if a use permit is required by this

ordinance). However, continued use pursuant to said subsection, without any required use permit, is subject to Chapter 18.120 (Nonconforming Uses).

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.



County of Lassen
Department of Planning and Building Services

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

November 8, 2019

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TO: Lassen County Planning Commission
Agenda Date: November 13, 2019

Zoning & Building
Inspection Requests
Phone: 530 257-5263

FROM: Maurice L. Anderson, Director

MAN FOR

RE: Draft Cargo Container Ordinance (File #318.01.53)

This memorandum follows similar memoranda that were part of the packet for the June 17, 2019, special meeting of the Planning Commission, and its August 6, 2019, September 3, 2019, October 1, 2019, and November 5, 2019, regular meetings. The above public hearing for the ordinance was closed on November 5, 2019, but Planning Commission deliberations were continued to the November 13, 2019, special meeting.

BACKGROUND:

At its November 5, 2019, meeting, the Planning Commission directed staff to recommend to the Board that the draft ordinance be amended to clarify that any new or existing cargo containers in any R, R-S, P.U.D., or P-C district must secure a use permit, except that any existing cargo containers in said districts that are not in a setback or building exclusion area will be considered legally non-conforming and will not require a use permit. This language was presented at said meeting as "Option 2" of four options (see attached).

Furthermore, the Planning Commission directed staff to allow a four month "amortization" (grace) period. It is unclear to staff what circumstances the Planning Commission intended said amortization period to apply to. As presented to the Planning Commission, "Option 2" would not require a use permit for cargo containers that were not placed in a setback or exclusion area (see proposed subsection "(g)" of Section 18.108.300). The only other circumstances the four month amortization period could potentially be applicable to would be cargo containers placed in violation of setback or exclusion area requirements to allow time to secure a use permit (if one is required by the new ordinance). The attached ordinance was drafted accordingly (see subsection "(h)" of Section 18.108.300). However, the Commission could recommend that said subsection be removed, as it is not required. The Department already has the authority to enforce existing setback and exclusion area requirements. Staff has also specified in said ordinance that the use permit required per the ordinance would be a Class I use permit.

In addition to the above changes, staff has also included a second version of the ordinance for the Planning Commission's consideration. This second version removes the restriction that cargo containers in T-P-Z (Timber Production Zone) and similar zones be allowed only temporarily. This second version also allows cargo containers in the O-C-B (Public Campground/Boating/Beach

District) and H-R (Hydroelectric District) zones. This second version also removes the four month amortization period described above for cargo containers placed in setbacks or exclusion areas.

SUMMARY:

The Planning Commission will make a recommendation to the Board of Supervisors in regard to the draft ordinance. The Planning Commission may suggest any changes it deems fit to any of the components of the draft ordinance, including any recommended deletions or further additions. Alternatively, the Planning Commission may direct staff to incorporate changes to the draft ordinance and return to the Planning Commission for an additional hearing prior to making a recommendation to the Board of Supervisors.

MLA:smr

Enclosures: Draft Ordinances
4-Option PowerPoint Slide

S:/PLA/Admin/FILES/318.01.53/PC Memo (for 6th Meeting)

Options

- Option 1: Recommend no action – the problem isn't significant enough to pass a law.
- Option 2: Recommend passing law to require that any new/existing cargo containers in any R, R-S, P.U.D, or P-C district secure a use permit, except that any existing cargo containers in said districts that are not in a setback or building exclusion area will be considered legally non-conforming (and not require a use permit).
- Option 3: Recommend passing law to require that all cargo containers, existing or new, in any R district (or those above) secure a use permit. Existing containers would be provided a "grace" period to secure the required use permit.
- Option 4: Recommend passing law to retroactively ban cargo containers in R districts (or those above).

ORDINANCE NO. _____

Ordinance to Regulate the Placement of Cargo Containers throughout Lassen County

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 _____, 2019, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

JEFF HEMPHILL
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: Cargo container(s) placed in required setbacks or applicable exclusion areas were not legally established before adoption of this ordinance and will not be legally established if placed after adoption of the ordinance. Such cargo containers are considered a public nuisance pursuant to Lassen County Code sections 18.126.040 and 1.18.020 because they violate a requirement of Lassen County Code, pertinent State Statute or regulation or another pertinent setback or exclusion area requirement. Further, said placement of cargo containers does not qualify as a nonconforming use as described in Chapter 18.120 of Lassen County Code because the use was not legally established.

SECTION THREE: Add Section 18.108.300 to the Lassen County Code to read as follows:

- (a) The following requirements shall apply to any cargo container that may be allowed pursuant to this section:
- 1) Any cargo container placed shall meet all setback requirements, including but not limited to zoning and fire safety.
 - 2) Any cargo container placed shall not violate any applicable exclusion area required pursuant to sections 16.04.060 or 18.102.100.
 - 3) Any alteration of a cargo container (i.e., in the case that it is used for occupancy other than storage or if any utilities will be connected to it) shall require that a building permit first be secured.
 - 4) Cargo containers shall not be “stacked” (i.e., be placed on top of one another) unless a building permit and a use permit are secured for said purpose.
 - 5) Any cargo container placed within a scenic highway corridor or “D” Design Combining District shall be painted either to match the existing building(s) on the property or dark green or dark brown, unless otherwise approved by use permit.
 - 6) If this section requires a use permit, it shall be a class 1.

- (b) Cargo containers shall be allowed in “R” residential districts, the “R-S” Resort District, the “P.U.D.” Planned Unit Development District, and the “P-C” Planned Community District as follows:
- 1) Cargo containers shall be allowed in the above districts described by this subsection only if a use permit for any cargo container(s) in said districts is approved by the Planning Commission; or
 - 2) Cargo containers may be allowed in the above districts described by this subsection without a use permit if the cargo container is placed only during the period of time that there is an active, issued building permit for the construction of a primary building, or an active, issued building permit for the construction of an accessory building, provided a primary building has been legally established. Any cargo container allowed under this subsection shall be removed prior to expiration of the building permit or prior to issuance of the related certificate of occupancy.
- (c) Cargo containers shall be allowed temporarily, for no more than 60 days in any six-month period, in the “T-P-Z” Timber Production Zone District, the “F-R” Forest Recreation District, and the “A-F” Agricultural Forest District. This 60-day limitation includes both consecutive days and discrete days.
- (d) Cargo containers are not allowed in the “O-C-B” Public Campground/Boating/Beach District, the “O-H” Historical Site District, the “O-D” Primitive Area, the “O-S” Open Space District, or the “H-R” Hydroelectric District.
- (e) Cargo containers are allowed subject to the following (in addition to the standards set forth at subsection “(a)” above) in any district except “R” residential districts, the “P.U.D.” Planned Unit Development District, the “P-C” Planned Community District, the “R-S” Resort District, the “O-C-B” Public Campground/Boating/Beach District, the “O-H” Historical Site District, the “O-D” Primitive Area, the “O-S” Open Space District, or the “H-R” Hydroelectric District:
- 1) Cargo containers are allowed on parcels that are less than three acres in size only if there is a legally established primary use on the subject parcel, except during the period of time that there is an active building permit for the construction of a primary building or an active building permit for the construction of an accessory building provided a primary use or primary building has been legally established.
 - 2) Cargo containers proposed on parcels greater than or equal to three acres in size in districts other than those described by this subsection shall be allowed by right.

- (f) For the purposes of this section, “cargo container” is defined as a portable shipping container made of metal that is used for the onsite storage of property, equipment, or goods.
- (g) In accordance with subsection “(6)” of section 18.120.050, any cargo container that can be demonstrated to the satisfaction of the Planning and Building Services Department to have been lawfully established prior to the effective date of this ordinance is not required to secure a use permit (if a use permit is required by this ordinance). However, continued use pursuant to said subsection, without any required use permit, is subject to Chapter 18.120 (Nonconforming Uses).
- (h) Any cargo container placed on property prior to the effective date of this ordinance that was not legally established is provided a four (4) month amortization period during which time the use must meet all requirements of this ordinance or any such cargo container must be removed.

SECTION FOUR: 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.

ORDINANCE NO. _____

Ordinance to Regulate the Placement of Cargo Containers throughout Lassen County

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 _____, 2019, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

JEFF HEMPHILL
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: Cargo container(s) placed in required setbacks or applicable exclusion areas were not legally established before adoption of this ordinance and will not be legally established if placed after adoption of the ordinance. Such cargo containers are considered a public nuisance pursuant to Lassen County Code sections 18.126.040 and 1.18.020 because they violate a requirement of Lassen County Code, pertinent State Statute or regulation or another pertinent setback or exclusion area requirement. Further, said placement of cargo containers does not qualify as a nonconforming use as described in Chapter 18.120 of Lassen County Code because the use was not legally established.

SECTION THREE: Add Section 18.108.300 to the Lassen County Code to read as follows:

- (a) The following requirements shall apply to any cargo container that may be allowed pursuant to this section:
- 1) Any cargo container placed shall meet all setback requirements, including but not limited to zoning and fire safety.
 - 2) Any cargo container placed shall not violate any applicable exclusion area required pursuant to sections 16.04.060 or 18.102.100.
 - 3) Any alteration of a cargo container (i.e., in the case that it is used for occupancy other than storage or if any utilities will be connected to it) shall require that a building permit first be secured.
 - 4) Cargo containers shall not be “stacked” (i.e., be placed on top of one another) unless a building permit and a use permit are secured for said purpose.
 - 5) Any cargo container placed within a scenic highway corridor or “D” Design Combining District shall be painted either to match the existing building(s) on the property or dark green or dark brown, unless otherwise approved by use permit.
 - 6) If this section requires a use permit, it shall be a class 1.

- (b) Cargo containers shall be allowed in “R” residential districts, the “R-S” Resort District, the “P.U.D.” Planned Unit Development District, and the “P-C” Planned Community District as follows:
 - 1) Cargo containers shall be allowed in the above districts described by this subsection only if a use permit for any cargo container(s) in said districts is approved by the Planning Commission; or
 - 2) Cargo containers may be allowed in the above districts described by this subsection without a use permit if the cargo container is placed only during the period of time that there is an active, issued building permit for the construction of a primary building, or an active, issued building permit for the construction of an accessory building, provided a primary building has been legally established. Any cargo container allowed under this subsection shall be removed prior to expiration of the building permit or prior to issuance of the related certificate of occupancy.
- (c) Cargo containers are not allowed in the “O-H” Historical Site District, the “O-D” Primitive Area District, or the “O-S” Open Space District.
- (d) Cargo containers are allowed subject to the following (in addition to the standards set forth at subsection “(a)” above) in any district except “R” residential districts, the “P.U.D.” Planned Unit Development District, the “P-C” Planned Community District, the “R-S” Resort District, the “O-H” Historical Site District, the “O-D” Primitive Area, the “O-S” Open Space District:
 - 1) Cargo containers are allowed on parcels that are less than three acres in size only if there is a legally established primary use on the subject parcel, except during the period of time that there is an active building permit for the construction of a primary building or an active building permit for the construction of an accessory building provided a primary use or primary building has been legally established.
 - 2) Cargo containers proposed on parcels greater than or equal to three acres in size in districts other than those described by this subsection shall be allowed by right.
- (e) For the purposes of this section, “cargo container” is defined as a portable shipping container made of metal that is used for the onsite storage of property, equipment, or goods.
- (f) In accordance with subsection “(6)” of section 18.120.050, any cargo container that can be demonstrated to the satisfaction of the Planning and Building Services Department to have been lawfully established prior to the effective date of this ordinance is not required to secure a use permit (if a use permit is required by this

ordinance). However, continued use pursuant to said subsection, without any required use permit, is subject to Chapter 18.120 (Nonconforming Uses).

SECTION FOUR: 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.



County of Lassen
Department of Planning and Building Services

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

October 31, 2019

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TO: Lassen County Planning Commission
Agenda Date: November 5, 2019

Zoning & Building
Inspection Requests
Phone: 530 257-5263

FROM: Maurice L. Anderson, Director

YJA for:

RE: Draft Cargo Container Ordinance (File #318.01.53)

This memorandum follows similar memoranda that were part of the packet for the June 17, 2019, special meeting of the Planning Commission, and its August 6, 2019, September 3, 2019, and October 1, 2019, regular meetings. The above public hearing for the ordinance has been continued to November 5, 2019.

BACKGROUND:

At its October 1, 2019, meeting, the Planning Commission directed staff to ask County Counsel if it were legal for the draft ordinance to be applied retroactively. Although the Department of Planning and Building Services has not received a response from County Counsel at the time of writing of this letter to the Planning Commission, Counsel has indicated that a response will be provided to the Planning Commission for its November 5, 2019, meeting. Please see the attached memorandum to County Counsel, dated October 10, 2019, for more information.

SUMMARY:

The Planning Commission will make a recommendation to the Board of Supervisors in regard to the draft ordinance. The Planning Commission may suggest any changes it deems fit to any of the components of the draft ordinance, including any recommended deletions or further additions. Alternatively, the Planning Commission may direct staff to incorporate changes to the draft ordinance and return to the Planning Commission for an additional hearing prior to making a recommendation to the Board of Supervisors. The language contained in the draft ordinance has not changed since the October 1, 2019, meeting.

MLA:smr

Enclosures: Draft Ordinance
Memorandum to County Counsel, dated October 10, 2019

S:/PLA/Admin/FILES/318.01.53/PC Memo (for 5th Meeting)

ORDINANCE NO. _____

Ordinance to Regulate the Placement of Cargo Containers throughout Lassen County

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 ____th day of _____, 2019, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

JEFF HEMPHILL

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: Add Section 18.108.300 to the Lassen County Code to read as follows:

- (a) The following requirements shall apply to all cargo containers:
- 1) Any cargo container placed shall meet all setback requirements, including but not limited to the zoning and fire safety setback.
 - 2) Any alteration of a cargo container (i.e., in the case that it is used for occupancy other than storage or if any utilities will be connected to it) shall require that a building permit first be secured.
 - 3) Cargo containers shall not be “stacked” (i.e., be placed on top of one another) unless a building permit and a use permit are secured for said purpose.
 - 4) Any cargo container placed within a scenic highway corridor or “D” Design Combining District shall be painted either to match the existing building(s) on the property or dark green or dark brown unless otherwise approved by use permit.
- (b) Cargo containers shall be allowed in “R” residential districts, the “R-S” Resort District, the “P.U.D.” Planned Unit Development District, and the “P-C” Planned Community District as follows:
- 1) Cargo containers shall be allowed in the above districts described by this subsection only if a use permit for any cargo container(s) in said districts is approved by the Planning Commission; or
 - 2) Cargo containers may be allowed in in the above districts described by this subsection without a use permit if the cargo container is placed only during the period of time that there is an active, issued building permit for the construction of a primary building, or an active, issued building permit for the construction of an accessory building, provided a primary building has been legally established. Any cargo container allowed under this subsection shall be removed prior to expiration of the building permit or prior to issuance of the related certificate of occupancy.

- (c) Cargo containers shall be allowed temporarily, for no more than 60 days in any six-month period, in the “T-P-Z” Timber Production Zone District, the “F-R” Forest Recreation District, and the “A-F” Agricultural Forest District. This 60-day limitation includes both consecutive days and discrete days.
- (d) Cargo containers are not allowed in the “O-C-B” Public Campground/Boating/Beach District, the “O-H” Historical Site District, the “O-D” Primitive Area, the “O-S” Open Space District, or the “H-R” Hydroelectric District.
- (e) Cargo containers are allowed subject to the following (in addition to the standards set forth at Section 18.108.300(a) above) in any district except “R” residential districts, the “P.U.D.” Planned Unit Development District, the “P-C” Planned Community District, the “R-S” Resort District, the “O-C-B” Public Campground/Boating/Beach District, the “O-H” Historical Site District, the “O-D” Primitive Area, the “O-S” Open Space District, or the “H-R” Hydroelectric District:
 - 1) Cargo containers are allowed on parcels that are less than two acres in size only if there is a legally established primary use on the subject parcel, except during the period of time that there is an active building permit for the construction of a primary building or an active building permit for the construction of an accessory building provided a primary use or primary building has been legally established.
 - 2) Cargo containers proposed on parcels greater than or equal to two acres in size in districts other than those described by this subsection shall be allowed by right.
- (f) *This ordinance shall apply retroactively.* Any cargo container placed in violation of this section shall be deemed a nuisance pursuant to Lassen County Code Section 1.18.020. This section may be enforced through Lassen County Code Chapter 1.18 or through any other applicable laws.
- (g) For the purposes of this section, “cargo container” is defined as a portable shipping container made of metal that is used for the onsite storage of property, equipment, or goods.

SECTION THREE: 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.



County of Lassen
Department of Planning and Building Services

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

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Susanville, CA 96130-3912
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Zoning & Building
Inspection Requests
Phone: 530 257-5263

October 10, 2019

TO: Robert M. Burns, County Counsel

FROM: Maurice L. Anderson, Director *MLA*

SUBJECT: Legality of Applying Cargo Container Ordinance Retroactively

As you may recall, the Planning Commission has met on several occasions (most recently, October 1, 2019) to discuss making a recommendation to the Board of Supervisors regarding consideration of a draft ordinance to regulate cargo containers in Lassen County. Some on the Commission have discussed adding a provision stating that the ordinance shall apply retroactively (see subsection "f" of section two of the attached ordinance). The Commission continued the public hearing of the draft ordinance to November 5, 2019, seeking your counsel as to whether the Board of Supervisors is authorized to adopt and enforce the above provision making the ordinance apply retroactively. Our Department has investigated this question and has found cases that support the retroactive application of an ordinance (e.g. *City of Los Angeles v. Gage (1954)* and *Melton v. City of San Pablo (1967)*), but would like your opinion on this matter. This case law does not represent the Department's position on the matter, but rather is meant to provide information to you.

In addition, we would like to make it clear through the ordinance that any cargo container located in the required setback has not been legally established, and as such, would be considered a public nuisance. Attached for reference is the draft ordinance in its most current form. Our Department may modify (or be directed to modify) said ordinance in the future.

Thank you.

MLA:smr

Enclosures: Draft Cargo Container Ordinance

S:\PLA\Admin\FILES\318.01.53

Options

- Option 1: Recommend no action – the problem isn’t significant enough to pass a law.
- Option 2: Recommend passing law to require that any new/existing cargo containers in any R, R-S, P.U.D, or P-C district secure a use permit, except that any existing cargo containers in said districts that are not in a setback or building exclusion area will be considered legally non-conforming (and not require a use permit).
- Option 3: Recommend passing law to require that all cargo containers, existing or new, in any R district (or those above) secure a use permit. Existing containers would be provided a “grace” period to secure the required use permit.
- Option 4: Recommend passing law to retroactively ban cargo containers in R districts (or those above).

Draft Amortization Language

(Option 3)

- Any cargo container(s) legally placed on property prior to the effective date of this ordinance, but in violation of the requirements of this ordinance, are considered nonconforming, as defined by Lassen County Code section 18.120.010, only during the amortization period established with this ordinance. Any use not in compliance with this ordinance may be continued only during said amortization period. Further, any cargo container that requires a use permit pursuant to this ordinance must secure said use permit within the amortization period regardless of subsection “(6)” of section 18.120.050 or any other section that would allow the use to continue without the use permit that would otherwise be required, otherwise any such cargo container must be removed. After the amortization period established with this ordinance has concluded, cargo containers that were legally placed on property on the effective date of this ordinance, but in violation with the requirements of this ordinance, no longer qualify as a legally established nonconforming use and must be in full compliance with the requirements of this ordinance. Noncompliance with this ordinance and the amortization period provided to meet the requirements of the ordinance is subject to enforcement action.

Setbacks and Building Exclusion Areas

- **SECTION TWO:** Cargo container(s) placed in required setbacks or applicable building exclusion areas were not legally established before adoption of this ordinance and will not be legally established if placed after adoption of the ordinance. Such cargo containers are considered a public nuisance pursuant to Lassen County Code sections 18.126.040 and 1.18.020 because they violate a requirement of Lassen County Code, pertinent State Statute or regulation or another pertinent setback or exclusion area requirement. Further, said placement of cargo containers does not qualify as a nonconforming use as described in Chapter 18.120 of Lassen County Code because the use was not legally established.

EXHIBIT

11/5/19

County of Lassen, California
OFFICE OF COUNTY COUNSEL

Robert M. Burns, Lassen County Counsel
221 South Roop Street, Ste. 2
Susanville CA 96130



November 4, 2019

Mr. Maurice Anderson
Director
Lassen County Planning and Building Services
707 Nevada St., Suite 5
Susanville, CA 96130

RE: Request for Opinion

Dear Mr. Anderson,

I have received your correspondence dated October 10, 2019 requesting an opinion regarding the permissibility of constructing a zoning ordinance related to cargo containers that is retroactive in nature. The obvious question is whether or not you can construct an ordinance which compels the removal of cargo containers that are determined to be non-conforming on the day it becomes effective.

I think you can.

Discussion

No question the Board of Supervisors has the authority to enact a zoning law, as an extension of the police power, to regulate the placement of cargo containers within the various zoning districts within the unincorporated territory of the County of Lassen.

A "non-conforming use" is created when a lawful use exists on the effective date of the zoning restriction and continues beyond that date in non-conformance to the ordinance. City of Los Angeles v. Gage, 127 Cal.App.2d 442, 453. A zoning ordinance which requires the discontinuance **forthwith** of a non-conforming use existing when the ordinance was adopted is a deprivation of property without due process of law unless the use is a public nuisance. Dobbins v. Los Angeles, 195 U.S. 223. Jones v. City of Los Angeles, 211 Cal. 304, 310; Wilkins v. City of San Bernardino, 29 Cal.2d 332, 340.

There are limitations to non-conforming uses though.

This right to continue the non-conforming use is limited to the actual use that existed on the date the ordinance became effective and in all instances the burden of proof to establish the lawful use is on the party claiming the right. Melton vs City of San Pablo (1967) 252 Cal. App. 2d 794.

Mere preparation to use one's property in a non-conforming way is not sufficient to vest one with authority to claim this right (pouring a pad to set a box upon? The law seeks to protect more than just a mere hope). Spindler Realty Corp. v. Monning (1966) 243 Cal. App. 2d 255, 264–265. (grading by permit and completion of engineering and architectural plans insufficient to vest right); Griffin v. County of Marin (1958) 157 Cal. App. 2d 507, 513, 321 P.2d 148 (building permit and expenses incurred thereunder did establish a vested right).

Moreover, the non-conforming must also have been legally established and lawfully conducted. For example, violation of local plumbing, building, and electrical codes has been held to render a use unlawful and defeat a claim to a legal non-conforming use. Melton v. City of San Pablo (1967) 252 Cal. App. 2d 794, 805; Mang v. County of Santa Barbara (1960) 182 Cal. App. 2d 93, 100.

The right to continue a specific existing non-conforming use extends to any substantially similar use. On the other hand, because the concept of a non-conforming use is contrary to zoning's fundamental goal of uniformity, local ordinances may properly ban changes that expand a use, make it more permanent, or substantially change the use. Sabek, Inc. v. County of Sonoma (1987) 190 Cal. App. 3d 163, 167–168; City of Los Altos v. Silvey (1962) 206 Cal. App. 2d 606, 609; Paramount Rock Co. v. County of San Diego (1960) 180 Cal. App. 2d 217, 228–229.

Assuming none of these things have occurred though (more than mere preparation, no illegality, and no significant changes to the use), how does an entity cause the termination of a non-conforming use that is otherwise legally established on the day the ordinance took effect?

There are several ways a non-conforming use may terminate.

Under many local ordinances, if fire or other catastrophic cause destroys a certain percentage of a building's value, the owner may not rebuild and resume a non-conforming use. As long as the percentage figure is not unreasonable or confiscatory, such provisions are valid. Seventy-five percent of value is a commonly used and upheld standard. O'Mara v. Council of the City of Newark (1965) 238 Cal. App. 2d 836, 840 (rule eliminating non-conforming right if 75 percent of value destroyed was valid).

Discontinuance can terminate the right to a non-conforming use also. City of Los Angeles v. Wolfe (1971) 6 Cal. 3d 326, 337; see Stokes v. Board of Permit Appeals (1997) 52 Cal. App. 4th 1348, 1354 (evidence showing that building had been vacant and its use as a bathhouse discontinued for at least seven years when the plaintiff bought it established an intentional decision to abandon the premises and a discontinued use as a matter of law). Local ordinances frequently prescribe what length of nonuse will terminate the right. Hill v. City of Manhattan Beach (1971) 6 Cal. 3d 279, 286.

A city or county that insists on immediately terminating a non-conforming use may acquire the non-conforming use by eminent domain. Such a forced process provides immediate

abatement and payment of just compensation without the legal conclusion that there was a taking of private property for public use against the citizen's will. United Business Com. v. City of San Diego (1979) 91 Cal. App. 3d 156, 179; Metromedia, Inc. v. City of San Diego (1980) 26 Cal. 3d 848, 881; City of La Mesa v. Tweed & Gambrell Mill (1956) 146 Cal. App. 2d 762, 773.

Saving the best for last though is the likely candidate of choice in this context.

The last and seemingly most appropriate method to consider the termination a non-conforming use is amortization. An amortization period for the non-conforming use's continuation is provided commensurate with the investment and the nature of the use involved. City of Los Angeles v. Gage (1954) 127 Cal. App. 2d 442, 459. The critical factor in determining an amortization scheme's validity is the reasonableness of the grace period. If the amortization period is reasonable, this method of termination is constitutional and is an equitable means of reconciling the public interest in uniform zoning with the private burden of lost investment. United Business Com. v. City of San Diego (1979) 91 Cal. App. 3d 156, 179; City of Los Angeles v. Gage (1954) 127 Cal. App. 2d 442, 460. On the other hand, an unreasonably short amortization period is a deprivation of property without due process or just compensation. City of Santa Barbara v. Modern Neon Sign Co. (1961) 189 Cal. App. 2d 188, 194–196.

The reasonableness of an amortization period as applied to a specific property is a factual issue to be resolved on a case-by-case basis. National Advertising Co. v. County of Monterey (1970) 1 Cal. 3d 875, 871. The owner bears the burden of proving the amortization period unreasonable. National Advertising Co. v. County of Monterey (1970) 1 Cal. 3d 875, 817. A ruling that a particular period is unreasonable for a particular non-conforming use does not preclude its application to another property or use, nor does it invalidate the ordinance as a whole. Bohannon v. City of San Diego (1973) 30 Cal. App. 3d 416, 426.

The reasonableness of an amortization period has been evaluated by various criteria. One test focuses on the following factors (see City of Los Angeles v. Gage (1954) 127 Cal. App. 2d 442, 460):

- The extent of incongruity between the use and other nearby development;
- The restriction's severity, measured by both prohibited and remaining uses;
- Compliance costs such as moving expenses; and
- Adequacy of notice to the user.

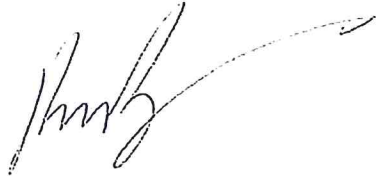
Conclusion

Zoning ordinances are generally viewed as prospective in nature unless specifically identified as retroactive. In the context of cargo containers, should it be the planning commissions desire to apply a prohibition of cargo containers retroactively, I would recommend that those persons who are in nonconformance on the day the ordinance becomes effective be given sufficient notice, ample time to come into compliance (a

year?), and some due process mechanism to appeal the enforcement effort.

I hope I answered your question.

Regards,

A handwritten signature in black ink, appearing to read 'R. Burns', with a long, sweeping horizontal stroke extending to the right.

Robert M. Burns
Lassen County Counsel



County of Lassen
Department of Planning and Building Services

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

September 27, 2019

Maurice L. Anderson, Director
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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: Lassen County Planning Commission
Agenda Date: October 1, 2019 *SR*

Zoning & Building
Inspection Requests
Phone: 530 257-5263

FROM: Maurice L. Anderson, Director *For:*

RE: Draft Cargo Container Ordinance (File #318.01.53)

This memorandum follows similar memoranda that were part of the packet for the June 17, 2019, special meeting of the Planning Commission, and its August 6, 2019, and September 3, 2019, regular meetings. The Planning Commission took no action at the former meeting, however, because of a lack of a quorum, and subsequently continued its public hearing from both its regular August and September meetings to the current date.

BACKGROUND:

In an attempt to address potentially noxious visual impacts, the draft ordinance requires that cargo containers meet the pertinent zoning and fire safety setback requirements, and in certain cases, (such as in "D" Design Combining Districts and scenic highway corridors) the draft ordinance requires that cargo containers be painted to match existing buildings or be painted dark green or dark brown, unless approved by use permit. Also per the draft ordinance, cargo containers are only allowed by use permit in "R" residential districts (and others) except during the period of time that a building permit for a primary or accessory building is active. In addition, the ordinance allows for temporary cargo containers in T-P-Z (Timber Production Zone) districts and other similar forestry-oriented districts, while prohibiting cargo containers in a few selected districts. Lastly, as written, the ordinance would apply retroactively. Ultimately, the Board of Supervisors will determine whether or not the ordinance would apply retroactively, taking into the account any recommendations from the Planning Commission.

During the ordinance drafting process, staff contacted Plumas and Modoc County to discuss their regulations for cargo containers. Although neither county has any zoning regulations for cargo containers (except that cargo containers meet the required zoning setbacks), both counties require that a building permit be secured for any cargo container. The draft ordinance only requires a building permit for cargo containers that are either structurally modified (e.g., stacked) or that have utilities connected.

Previously, at its August 6, 2019, meeting, staff was directed to meet with Mr. Terry Mallery. Department of Planning and Building Services' staff met with Mr. Terry Mallery on August 22, 2019, following his comments at the Planning Commission's August 6, 2019, meeting, to listen to any additional comments Mr. Mallery might have. Amongst other comments, Mr. Mallery stated that CC&Rs (covenants, conditions, and restrictions) already can address any issues with cargo containers,

and that he is opposed to any ordinance to regulate cargo containers in Lassen County, as his business depends on the sale and rental of cargo containers.

SUMMARY:

The Planning Commission will make a recommendation to the Board of Supervisors in regard to the draft ordinance. The Planning Commission may suggest any changes it deems fit to any of the components of the draft ordinance, including any recommended deletions or further additions. Alternatively, the Planning Commission may direct staff to incorporate changes to the draft ordinance and return to the Planning Commission for an additional hearing prior to making a recommendation to the Board. Supervisors.

MLA:smr

Enclosures: Draft Ordinance

S:/PLA/Admin/FILES/318.01.53/PC Memo (for 4th Meeting)

ORDINANCE NO. _____

Ordinance to Regulate the Placement of Cargo Containers throughout Lassen County

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 ____th day of _____, 2019, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

JEFF HEMPHILL
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: Add Section 18.108.300 to the Lassen County Code to read as follows:

- (a) The following requirements shall apply to all cargo containers:
- 1) Any cargo container placed shall meet all setback requirements, including but not limited to the zoning and fire safety setback.
 - 2) Any alteration of a cargo container (i.e., in the case that it is used for occupancy other than storage or if any utilities will be connected to it) shall require that a building permit first be secured.
 - 3) Cargo containers shall not be “stacked” (i.e., be placed on top of one another) unless a building permit and a use permit are secured for said purpose.
 - 4) Any cargo container placed within a scenic highway corridor or “D” Design Combining District shall be painted either to match the existing building(s) on the property or dark green or dark brown unless otherwise approved by use permit.
- (b) Cargo containers shall be allowed in “R” residential districts, the “R-S” Resort District, the “P.U.D.” Planned Unit Development District, and the “P-C” Planned Community District as follows:
- 1) Cargo containers shall be allowed in the above districts described by this subsection only if a use permit for any cargo container(s) in said districts is approved by the Planning Commission; or
 - 2) Cargo containers may be allowed in in the above districts described by this subsection without a use permit if the cargo container is placed only during the period of time that there is an active, issued building permit for the construction of a primary building, or an active, issued building permit for the construction of an accessory building, provided a primary building has been legally established. Any cargo container allowed under this subsection shall be removed prior to expiration of the building permit or prior to issuance of the related certificate of occupancy.

- (c) Cargo containers shall be allowed temporarily, for no more than 60 days in any six-month period, in the “T-P-Z” Timber Production Zone District, the “F-R” Forest Recreation District, and the “A-F” Agricultural Forest District. This 60-day limitation includes both consecutive days and discrete days.
- (d) Cargo containers are not allowed in the “O-C-B” Public Campground/Boating/Beach District, the “O-H” Historical Site District, the “O-D” Primitive Area, the “O-S” Open Space District, or the “H-R” Hydroelectric District.
- (e) Cargo containers are allowed subject to the following (in addition to the standards set forth at Section 18.108.300(a) above) in any district except “R” residential districts, the “P.U.D.” Planned Unit Development District, the “P-C” Planned Community District, the “R-S” Resort District, the “O-C-B” Public Campground/Boating/Beach District, the “O-H” Historical Site District, the “O-D” Primitive Area, the “O-S” Open Space District, or the “H-R” Hydroelectric District:
 - 1) Cargo containers are allowed on parcels that are less than two acres in size only if there is a legally established primary use on the subject parcel, except during the period of time that there is an active building permit for the construction of a primary building or an active building permit for the construction of an accessory building provided a primary use or primary building has been legally established.
 - 2) Cargo containers proposed on parcels greater than or equal to two acres in size in districts other than those described by this subsection shall be allowed by right.
- (f) *This ordinance shall apply retroactively.* Any cargo container placed in violation of this section shall be deemed a nuisance pursuant to Lassen County Code Section 1.18.020. This section may be enforced through Lassen County Code Chapter 1.18 or through any other applicable laws.
- (g) For the purposes of this section, “cargo container” is defined as a portable shipping container made of metal that is used for the onsite storage of property, equipment, or goods.

SECTION THREE: 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.



County of Lassen
Department of Planning and Building Services

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

August 28, 2019

Maurice L. Anderson, Director
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Susanville, CA 96130-3912
Phone: 530 251-8269
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email: landuse@co.lassen.ca.us
website: www.co.lassen.ca.us

TO: Lassen County Planning Commission
Agenda Date: September 3, 2019

Zoning & Building
Inspection Requests
Phone: 530 257-5263

FROM: Maurice L. Anderson, Director *MMA*

RE: Draft Cargo Container Ordinance (File #318.01.53)

This memorandum follows similar memoranda that were part of the packet for both the June 17, 2019, special meeting of the Planning Commission, and its August 6, 2019, regular meeting. The Planning Commission took no action at the former meeting, however, because of a lack of a quorum, and continued its public hearing from its regular August meeting to the current date. At its August 6, 2019, meeting, staff was directed to meet with Mr. Terry Mallery.

Department of Planning and Building Services' staff met with Mr. Terry Mallery on Thursday, August 22, 2019, following his comments at the Planning Commission's August 6, 2019, meeting, to listen to any additional comments Mr. Mallery might have. Amongst other comments, Mr. Mallery stated that CC&Rs (covenants, conditions, and restrictions) already can address any issues with cargo containers, and that he is opposed to any ordinance to regulate cargo containers in Lassen County, as his business depends on the sale and rental of cargo containers. Attached with this packet are flyers from Mr. Mallery's business, Lassen Rents, Inc.

BACKGROUND:

In an attempt to address potentially noxious visual impacts, the draft ordinance requires that cargo containers meet the pertinent zoning and fire safety setback requirements, and in certain cases, (such as in "D" Design Combining Districts and scenic highway corridors) the draft ordinance requires that cargo containers be painted to match existing buildings or be painted dark green or dark brown. Also per the draft ordinance, cargo containers are only allowed temporarily in "R" residential districts. The draft ordinance also allows for "portable moving containers," which are defined differently than "cargo containers," for a maximum 30-day period, only in certain districts.

Staff also contacted Plumas and Modoc County to discuss their regulations for cargo containers. Although neither county has any zoning regulations for cargo containers (except that they meet the required zoning setbacks), both counties require that a building permit be secured for any cargo container.

SUMMARY:

The Planning Commission will make a recommendation to the Board of Supervisors in regard to the draft ordinance. The Planning Commission may suggest any changes it deems fit to any of the components of the draft ordinance, including any recommended deletions or further additions. Alternatively, the Planning Commission may direct staff to incorporate changes to the draft ordinance and return to the Planning Commission for an additional hearing prior to making a recommendation to the Board. Supervisors.

MLA:smr

Enclosures: Draft Ordinance
Lassen Rents, Inc. Flyer

S:/PLA/Admin/FILES/318.01.53/PC Memo (for 3rd Meeting)

ORDINANCE NO. _____

Ordinance to Regulate the Placement of Cargo Containers throughout Lassen County

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 ____th day of _____, 2019, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

JEFF HEMPHILL

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: Add Section 18.108.300 to the Lassen County Code to read as follows:

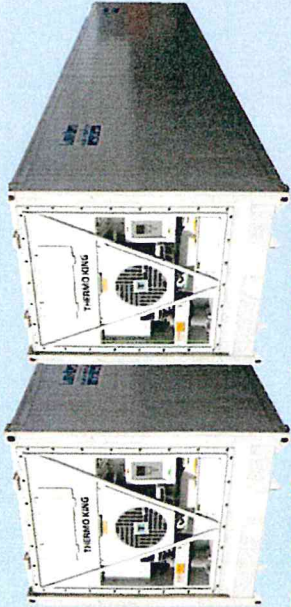
- (a) In any district except “R” residential districts, the “P.U.D.” Planned Unit Development District, the “P-C” Planned Community District, the “R-S” Resort District, the “O-C-B” Public Campground/Boating/Beach District, the “O-H” Historical Site District, the “O-D” Primitive Area, the “O-S” Open Space District, the “T-P-Z” Timber Production Zone District, the “F-R” Forest Recreation District, the “A-F” Agricultural Forest District, the “H-R” Hydroelectric District, or the “Y-C” Airport Commercial District, cargo containers are allowed subject to all of the following requirements:
- 1) On parcels that are less than two acres in size, cargo containers are allowed only if there is a legally established primary use on the subject parcel, except during the period of time that there is an active building permit for the construction of a main building, or an active building permit for the construction of a building dedicated to the storage of property, equipment, or goods, such as a garage or a shop. Any cargo container shall be removed prior to expiration of the building permit or issuance of a certificate of occupancy.
 - 2) Any cargo container placed shall meet all setback requirements, including but not limited to the zoning and fire safety setback.
 - 3) Any alteration of a cargo container (i.e., in the case that it is used for occupancy other than storage or if any utilities will be connected to it) shall require that a building permit first be secured.
 - 4) Cargo containers shall not be “stacked” (i.e., be placed on top of one another) unless a building permit is secured for said purpose.
 - 5) Any cargo container placed within a scenic highway corridor or “D” Design Combining District shall be painted to match the existing building(s) on the property or dark green or dark brown.
- (b) Cargo containers are prohibited in any “R” residential district, except during the period of time that there is an active, issued building permit for the construction of a main building, or an active building permit for the construction of a building dedicated to the storage of property, equipment, or goods, such as a garage or a

shop. Any cargo container shall be removed prior to expiration of the building permit or issuance of a certificate of occupancy.

- (c) Portable moving containers may be allowed in any district except for the “P.U.D.” Planned Unit Development District, the “P-C” Planned Community District, the “R-S” Resort District, the “O-C-B” Public Campground/Boating/Beach District, the “O-H” Historical Site District, the “O-D” Primitive Area, the “O-S” Open Space District, the “T-P-Z” Timber Production Zone District, the “F-R” Forest Recreation District, the “A-F” Agricultural Forest District, the “H-R” Hydroelectric District, or the “Y-C” Airport Commercial District. Portable moving containers are allowed in any of the districts not identified above in this subsection for a period of not more than 30 days in any six-month period. This 30-day limitation includes both consecutive days and discrete days.
- (d) Any cargo container or portable moving container placed in violation of this section shall be deemed a nuisance pursuant to Lassen County Code Section 1.18.020. This section may be enforced through Lassen County Code Chapter 1.18 or through any other applicable laws.
- (e) For the purposes of this section, “cargo container” is defined as a portable shipping container made of metal that is used for the onsite storage of property, equipment, or goods.

“Portable moving containers” are containers that are normally rented by a user for a short period of time for the purpose of moving personal goods. “Portable moving containers” include Portable on Demand Storage (PODS) containers or similar containers. A “cargo container” is not a “portable moving container,” nor is a “portable moving container” a “cargo container,” for the purposes of this section.

SECTION THREE: 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.



Forklift Service Available for the guys that need them stacked or placed into a tight area.



Delivery with Tiltbed Trailers for accurate placement. Drive away room is required for delivery equipment.

Lassen Rents, Inc. does not offer a rent to own option. Rentals are available on a month to month basis. Cash-Check-Visa M/C

Compliance with Local Ordinances is Responsibility of Buyer.

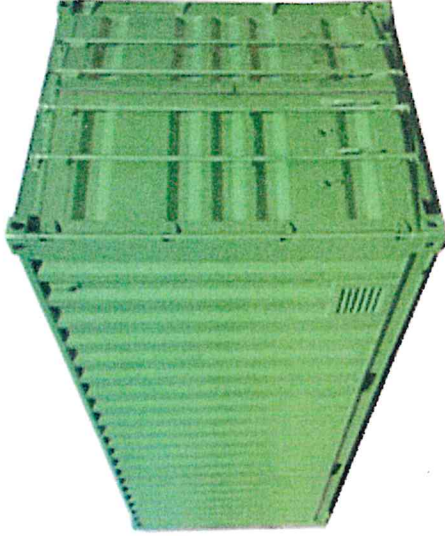


Buy Local—Lassen Rents, Inc.

Supports Community Events:
Susanville Little League, Elementary
Cross-Country Team, 4-H, FFA,
Jr. Livestock Auction.

CUSTOM ORDER NEW & USED CONTAINERS

Customize Your Container
With A Variety Of Options



PAINTING & WELDING

LASSEN RENTS, INC.
PO Box 270684
Susanville, CA 96127

530-257-3865
lassenrents.com
lassenrents@gmail.com



LASSEN RENTS^{ON}

ONSITE STORAGE CONTAINER RENTALS & SALES



530.257.3865



NATIONAL PORTABLE
STORAGE ASSOCIATION
MEMBER

TRUCKING SERVICES

"TINY-TAINERS"

20' & 40' CONTAINERS

"TUNNEL-TAINERS"



Great for tack rooms. Ideal for yard tools.

6' x 7' x 9' ♦ 8' x 8' x 8' ♦ 8' x 8' x 10'

High Cube Available

Open Side Available. Great
For Items Needing Fork Lift

Perfect for when you just need a

little more storage room.

8' x 8' x 20' ♦ 8' x 9' x 20' ♦ 8' x 8' x 40' ♦ 8' x 9' x 40'

Great for Drive-Thru Garage.

Great for Easy-Access to storage.

8' x 8' x 20' ♦ 8' x 8' x 40'

Quality Rentals All Sizes!



CONTAINER FEATURES

- ♦ Your House ♦ Your Lock ♦ Security ♦ *Mouse Proof ♦ Purchase New or Used
(*Rodent Proof as long as you close the doors.)
- ♦ All Containers are Cargo Worthy at Time of Delivery.
- ♦ All Containers have Marine Grade Plywood Floors.
- ♦ All Purchased Containers are Delivered in an "As Is" Condition.
- ♦ Preview Before you Buy of Inventory on-Hand at Time.



Ideal for AG use. Great for when large storage area is needed.

40' CONTAINERS

MODIFICATIONS AVAILABLE:

- ♦ Roll-Up Doors ♦ Offices
- ♦ Whirly Birds ♦ Painting
- ♦ Man Doors ♦ Shelving
- ♦ Lock Boxes ♦ Pipe Racks
- ♦ Windows ♦ Refrigerated
- ♦ Vents ♦ Railroad Ties



Authorized Agent for
insta modifications
WINDOWS · DIVIDERS · DOORS
SHELVING AND PIPE RACKS
LOCK BOXES · MASTER LOCKS
SOBO BLOCK LOCKS · VENTS



WE GLADLY ACCEPT





County of Lassen
Department of Planning and Building Services

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

July 25, 2019

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: Lassen County Planning Commission
Agenda Date: August 6, 2019

Zoning & Building
Inspection Requests
Phone: 530 257-5263

FROM: Maurice L. Anderson, Director *MTM FOR*

RE: Draft Cargo Container Ordinance (File #318.01.53)

BACKGROUND:

As a result of public complaints and the Planning Commission's input, interest has been expressed in the adoption of a cargo container ordinance. As such, the Department of Planning and Building Services has prepared the attached draft ordinance amending Title 18 (Lassen County's Zoning Ordinance) for your review.

In an attempt to address potentially noxious visual impacts, the draft ordinance requires that cargo containers meet the pertinent zoning and fire safety setback requirements, and in certain cases, (such as in "D" Design Combining Districts and scenic highway corridors) the draft ordinance requires that cargo containers be painted to match existing buildings or be painted dark green or dark brown. Also per the draft ordinance, cargo containers are only allowed temporarily in "R" residential districts. The draft ordinance also allows for "portable moving containers," which are defined differently than "cargo containers," for a maximum 30-day period, only in certain districts.

This memorandum follows a similar memorandum that was part of the packet for the June 17, 2019, special meeting of the Planning Commission. The Planning Commission took no action, however, because of a lack of a quorum.

SUMMARY:

The Planning Commission will make a recommendation to the Board of Supervisors in regard to the draft ordinance. The Planning Commission may suggest any changes it deems fit to any of the components of the draft ordinance, including any recommended deletions or further additions. Alternatively, the Planning Commission may direct staff to incorporate changes to the draft ordinance and return to the Planning Commission for an additional hearing prior to making a recommendation to the Board. Supervisors.

MLA:smr

Enclosures: Draft Ordinance

S:/PLA/Admin/FILES/318.01.53/PC Memo

ORDINANCE NO. _____

Ordinance to Regulate the Placement of Cargo Containers throughout Lassen County

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 ____th day of _____, 2019, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

JEFF HEMPHILL
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: Add Section 18.108.300 to the Lassen County Code to read as follows:

- (a) In any district except “R” residential districts, the “P.U.D.” Planned Unit Development District, the “P-C” Planned Community District, the “R-S” Resort District, the “O-C-B” Public Campground/Boating/Beach District, the “O-H” Historical Site District, the “O-D” Primitive Area, the “O-S” Open Space District, the “T-P-Z” Timber Production Zone District, the “F-R” Forest Recreation District, the “A-F” Agricultural Forest District, the “H-R” Hydroelectric District, or the “Y-C” Airport Commercial District, cargo containers are allowed subject to all of the following requirements:
- 1) On parcels that are less than two acres in size, cargo containers are allowed only if there is a legally established primary use on the subject parcel, except during the period of time that there is an active building permit for the construction of a main building, or an active building permit for the construction of a building dedicated to the storage of property, equipment, or goods, such as a garage or a shop. Any cargo container shall be removed prior to expiration of the building permit or issuance of a certificate of occupancy.
 - 2) Any cargo container placed shall meet all setback requirements, including but not limited to the zoning and fire safety setback.
 - 3) Any alteration of a cargo container (i.e., in the case that it is used for occupancy other than storage or if any utilities will be connected to it) shall require that a building permit first be secured.
 - 4) Cargo containers shall not be “stacked” (i.e., be placed on top of one another) unless a building permit is secured for said purpose.
 - 5) Any cargo container placed within a scenic highway corridor or “D” Design Combining District shall be painted to match the existing building(s) on the property or dark green or dark brown.
- (b) Cargo containers are prohibited in any “R” residential district, except during the period of time that there is an active, issued building permit for the construction of a main building, or an active building permit for the construction of a building dedicated to the storage of property, equipment, or goods, such as a garage or a

shop. Any cargo container shall be removed prior to expiration of the building permit or issuance of a certificate of occupancy.

- (c) Portable moving containers may be allowed in any district except for the “P.U.D.” Planned Unit Development District, the “P-C” Planned Community District, the “R-S” Resort District, the “O-C-B” Public Campground/Boating/Beach District, the “O-H” Historical Site District, the “O-D” Primitive Area, the “O-S” Open Space District, the “T-P-Z” Timber Production Zone District, the “F-R” Forest Recreation District, the “A-F” Agricultural Forest District, the “H-R” Hydroelectric District, or the “Y-C” Airport Commercial District. Portable moving containers are allowed in any of the districts not identified above in this subsection for a period of not more than 30 days in any six-month period. This 30-day limitation includes both consecutive days and discrete days.
- (d) Any cargo container or portable moving container placed in violation of this section shall be deemed a nuisance pursuant to Lassen County Code Section 1.18.020. This section may be enforced through Lassen County Code Chapter 1.18 or through any other applicable laws.
- (e) For the purposes of this section, “cargo container” is defined as a portable shipping container made of metal that is used for the onsite storage of property, equipment, or goods.

“Portable moving containers” are containers that are normally rented by a user for a short period of time for the purpose of moving personal goods. “Portable moving containers” include Portable on Demand Storage (PODS) containers or similar containers. A “cargo container” is not a “portable moving container,” nor is a “portable moving container” a “cargo container,” for the purposes of this section.

SECTION THREE: 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 Rents, Inc.

P.O. Box 270684
Susanville, CA 96127
530-257-3865

7-31-2019

RECEIVED

JUL 31 2019

To: Lassen County Planning Commission

Subject: Cargo Container Ordinance Rebuttal

LASSEN COUNTY DEPARTMENT OF
PLANNING AND BUILDING SERVICES
CITY MANA CC. GEN. SR

This letter is written in favor of unregulated Storage Container use.

Be it known that I, Terry Mallery, own and operate Lassen Rents, Inc. in Lassen County, CA, which is in the business of selling and renting Storage Containers.

In reference to the letter drafted by Maurice L Anderson, dated June 14, 2019.

If the Planning Department has received public complaints about Storage Containers, then the complaints should be in writing, on proper forms and made public with this ordinance proposal.

In addressing "potentially noxious visual impacts", that is in the eye of the beholder. I personally think that solar panels and utility poles are "visually noxious". How can the County tell someone that their Storage Container can only be 1 of 2 colors? These colors are pre-chosen by the Planning Commission. Many people choose to paint their Storage Container a color of their choice, usually matching existing buildings. Some people choose not to paint their Storage Container because it does not really mean anything to them.

If a landowner wishes to purchase a Storage Container, I am sure that his intent is to keep it for more than 30 days. Most people like a long term investment. Having a time limit on a Storage Container is unacceptable. Many homeowners have a Storage Container for the purpose of remodeling, making home repairs or just needing extra storage space. Having a time limit on such activities is unimaginable. Obtaining permits, hiring a contractor and following the process in Lassen County

is longer than 30 days. Storage Containers are used by all types and classes of people. They are used as an inexpensive and fast way to create storage. Storage Containers actually help to clean a property as they are used for housing items that would otherwise be left outside. I believe that your complaint is with the individual property owner, not the Container Industry.

Storage Containers are a great security measure. Some people, who are not residents, use containers to lock up their belongings while they are away. Many people have remote properties and need a Storage Container.

People love Lassen and the freedoms that we enjoy here. No one wants to be told what they can and cannot do with their property. Don't regulate ourselves. Storage Containers are a poor man's garage. Not everyone can afford a stick built garage. Storage Containers are used by Farmers, Ranchers, Department Stores, Contractors, Home Owners, Recreationalists, Businesses, Federal, State, County, Individuals and just about anybody who has property. Storage Containers are considered portable and therefore setbacks and regulations should not apply.

In the effort to best serve the public all proposed ordinances should be reevaluated and discarded.

I operate an environmentally clean business which contributes greatly to the tax income that Lassen County enjoys. I also request that all Storage Container Rentals be excluded from any Ordinance in Lassen County.

Respectfully

A handwritten signature in blue ink that reads "Te Mall". The signature is stylized with a large 'T' and a cursive 'e'.

Terry Mallery

Lassen Rents, Inc.

P.O. Box 270684
Susanville, CA 96127
530-257-3865

7-31-2019

To: Lassen County Planning Commission

Subject: Conflict of Interest

John Shaw, who is a member of the Lassen County Planning Commission, has a direct Conflict of Interest pertaining to Cargo Container Ordinances. He should respectfully remove himself from all discussions and votes concerning Storage Containers.

Mr. Shaw owns ABC Mini Storage which is in direct competition with Storage Containers. ABC Mini Storage also has several modified Storage Containers for rent at his facility.

Mr. Shaw owns the prior Jeld Wen property in Lassen County. This property is rented out for storage. This is also in direct competition with Storage Containers.

Mr. Shaw, who owns Susanville Real Estate, is also a Lassen County Realtor who sells and rents properties in Lassen County. Mr. Shaw will sell or rent any Real Estate property, with or without a Storage Container.

John Shaw has a personal financial interest to gain in the regulation of Storage Containers. Any views or comments previously expressed by Mr. Shaw should be disregarded and voided.



Terry Mallery

RECEIVED

JUL 31 2019

LASSEN COUNTY DEPARTMENT OF
PLANNING AND BUILDING SERVICES

Orig. MLE cc: GFM, SR



County of Lassen
Department of Planning and Building Services

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

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

June 14, 2019

Zoning & Building
Inspection Requests
Phone: 530 257-5263

TO: Lassen County Planning Commission
Agenda Date: June 17, 2019

FROM: Maurice L. Anderson, Director

RE: Draft Cargo Container Ordinance (File #318.01.53)

BACKGROUND:

As a result of public complaints and the Planning Commission's input, interest has been expressed in the adoption of a cargo container ordinance. As such, the Department of Planning and Building Services has prepared the attached draft ordinance amending Title 18 (Lassen County's Zoning Ordinance) for your review.

In an attempt to address potentially noxious visual impacts, the draft ordinance requires that cargo containers meet the pertinent zoning and fire safety setback requirements, and in certain cases, (such as in "D" Design Combining Districts and scenic highway corridors) the draft ordinance requires that cargo containers be painted to match existing buildings or be painted dark green or dark brown. Also per the draft ordinance, cargo containers are only allowed temporarily in "R" residential districts. The draft ordinance also allows for "portable moving containers," which are defined differently than "cargo containers," for a maximum 30-day period, only in certain districts.

SUMMARY:

The Planning Commission will make a recommendation to the Board of Supervisors in regard to the draft ordinance. The Planning Commission may suggest any changes it deems fit to any of the components of the draft ordinance, including any recommended deletions or further additions.

MLA:smr

Enclosures: Draft Ordinance

S:/PLA/Admin/FILES/318.01.53/PC Memo

ORDINANCE NO. _____

Ordinance to Regulate the Placement of Cargo Containers throughout Lassen County

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 ____th day of _____, 2019, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

JEFF HEMPHILL
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: Add Section 18.108.300 to the Lassen County Code to read as follows:

- (a) In any district except “R” residential districts, the “P.U.D.” Planned Unit Development District, the “P-C” Planned Community District, the “R-S” Resort District, the “O-C-B” Public Campground/Boating/Beach District, the “O-H” Historical Site District, the “O-D” Primitive Area, the “O-S” Open Space District, the “T-P-Z” Timber Production Zone District, the “F-R” Forest Recreation District, the “A-F” Agricultural Forest District, the “H-R” Hydroelectric District, or the “Y-C” Airport Commercial District, cargo containers are allowed subject to all of the following requirements:
- 1) On parcels that are less than two acres in size, cargo containers are allowed only if there is a legally established primary use on the subject parcel, except during the period of time that there is an active building permit for the construction of a main building, or an active building permit for the construction of a building dedicated to the storage of property, equipment, or goods, such as a garage or a shop. Any cargo container shall be removed prior to expiration of the building permit or issuance of a certificate of occupancy.
 - 2) Any cargo container placed shall meet all setback requirements, including but not limited to the zoning and fire safety setback.
 - 3) Any alteration of a cargo container (i.e., in the case that it is used for occupancy other than storage or if any utilities will be connected to it) shall require that a building permit first be secured.
 - 4) Cargo containers shall not be “stacked” (i.e., be placed on top of one another) unless a building permit is secured for said purpose.
 - 5) Any cargo container placed within a scenic highway corridor or “D” Design Combining District shall be painted to match the existing building(s) on the property or dark green or dark brown.
- (b) Cargo containers are prohibited in any “R” residential district, except during the period of time that there is an active, issued building permit for the construction of a main building, or an active building permit for the construction of a building dedicated to the storage of property, equipment, or goods, such as a garage or a

shop. Any cargo container shall be removed prior to expiration of the building permit or issuance of a certificate of occupancy.

- (c) Portable moving containers may be allowed in any district except for the “P.U.D.” Planned Unit Development District, the “P-C” Planned Community District, the “R-S” Resort District, the “O-C-B” Public Campground/Boating/Beach District, the “O-H” Historical Site District, the “O-D” Primitive Area, the “O-S” Open Space District, the “T-P-Z” Timber Production Zone District, the “F-R” Forest Recreation District, the “A-F” Agricultural Forest District, the “H-R” Hydroelectric District, or the “Y-C” Airport Commercial District. Portable moving containers are allowed in any of the districts not identified above in this subsection for a period of not more than 30 days in any six-month period. This 30-day limitation includes both consecutive days and discrete days.
- (d) Any cargo container or portable moving container placed in violation of this section shall be deemed a nuisance pursuant to Lassen County Code Section 1.18.020. This section may be enforced through Lassen County Code Chapter 1.18 or through any other applicable laws.
- (e) For the purposes of this section, “cargo container” is defined as a portable shipping container made of metal that is used for the onsite storage of property, equipment, or goods.

“Portable moving containers” are containers that are normally rented by a user for a short period of time for the purpose of moving personal goods. “Portable moving containers” include Portable on Demand Storage (PODS) containers or similar containers. A “cargo container” is not a “portable moving container,” nor is a “portable moving container” a “cargo container,” for the purposes of this section.

SECTION THREE: 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.

UNAPPROVED MINUTES
LASSEN COUNTY PLANNING COMMISSION
SPECIAL SESSION
November 13, 2019

The Commission convened in special session at 1:10 p.m. in the Board of Supervisors' Chambers, 707 Nevada Street, Susanville, CA. Vice Chairman Mark Solomon presided with Commission members Mike McGrath and John Shaw present. Commissioners Purdy and McGrath were absent. Also present were Maurice Anderson (Director and Planning Commission Secretary), Planning and Building Services Department staff, and Recording Secretary Anetia Elliott.

(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.

PUBLIC HEARING: (Continued from the November 5, 2019, Planning Commission Meeting) RECOMMENDATION TO THE BOARD OF SUPERVISORS File #318.01.53, Amendment to Title 18 of the Lassen County Code to regulate the placement of cargo containers in Lassen County. Proposed amendment to Title 18 of the Lassen County Code to add section 18.108.300, to define "cargo containers" and to regulate their placement in certain districts given particular minimum acreage and color requirements. Located Countywide. Stefano Richichi, Associate Planner, presented the staff report.

A brief synopsis of the Commission's direction from the November 5, 2019, meeting was provided which was to prepare an ordinance to capture "Option 2", which is contained in packets, together with an alternative ordinance which does not include the amortization 'grace' period; staff believes there are already code enforcement mechanisms in place to address these concerns. Further discussion was held on the difference between the two draft ordinances and the applicability of the ordinance. Staff recommends the second ordinance in the packet (excluding the amortization language).

MOTION:

It was moved by Commissioner Shaw, seconded by Commissioner McGrath and carried to recommend that the Board of Supervisors amend Title 18 of the Lassen County Code to regulate the placement of cargo containers in Lassen County, recommending adoption of the second ordinance contained in the packet reflecting "Option 2," which excludes the amortization language. Commissioners McGrath, Solomon and Shaw voted "Aye". Commissioner Buckman voted "No". Commissioner Purdy was absent.

There being no more further business, the meeting adjourned at 2:01 p.m.

UNAPPROVED MINUTES
LASSEN COUNTY PLANNING COMMISSION
November 5, 2019

The Commission convened in regular session at 1:10 p.m. in the Board of Supervisors' Chambers, 707 Nevada Street, Susanville, CA. Vice Chairman Mark Solomon presided with Commission members Mike McGrath and John Shaw present. Commissioner Purdy and Buckman were absent. Also present were Maurice Anderson (Director and Planning Commission Secretary), Planning and Building Services Department staff, and Recording Secretary Anetia Elliott.

Commissioner Buckman arrived at 1:13 p.m.

(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.

PUBLIC HEARING: (Continued from the October 1, 2019, Planning Commission Meeting)
RECOMMENDATION TO THE BOARD OF SUPERVISORS File #318.01.53, Amendment to Title 18 of the Lassen County Code to regulate the placement of cargo containers in Lassen County. Proposed amendment to Title 18 of the Lassen County Code to add section 18.108.300, to define "cargo containers" and to regulate their placement in certain districts given particular minimum acreage and color requirements. Located Countywide.

Mr. Anderson reminded the Commission that the reason for the most recent continuance was to explore the question as to whether the County can retroactively disallow cargo containers. The answer is yes, and is detailed in County Counsel's response. If you do disallow cargo containers, Counsel suggested a grace period to allow owners to get it right or get rid of it. He emphasized that this response isn't meant to be a recommendation, but simply an answer to a question posed to County Counsel.

Exhibit C: Response letter from County Counsel Robert Burns dated November 4, 2019, to a Request for Opinion letter from the Department of Planning and Building Services.

Recess from 2:20 p.m. to 2:26 p.m. to read County Counsel's response.

Mr. Anderson explained the four options available for the Commission's consideration as presented in the power point presentation. In summary: Option 1, no action; Option 2, use permit needed in certain zoning districts with special provisions that use permits not be required for non-confirming uses; Option 3, all containers in R districts secure use permit; Option 4, retroactively ban containers in R districts. Also reviewed was draft amortization language (Option 3), as well as setbacks and building exclusion areas. Staff supports Option 2 at this point. Further discussion was held.

Commissioner Shaw suggested that the timeframe recommended by Counsel to remove a container should be reduced to three months; the colors in the draft ordinance be expanded to include the color tan, possibly other earth tones; anything under three acres requires a use permit.

Responding to Commissioner Solomon, Mr. Anderson explained the criteria for requiring a use permit, which provides for public input as well as allows for conditions to be applied. Further

discussion was held concerning use permit provisions and sunset clauses, and the number of existing containers in the County. Discussion was held concerning enforcing the various options.

Discussion was held concerning complaints received about cargo containers, how other jurisdictions require building permits, and the desire to maintain the scenic beauty of this area. Commissioner Shaw observed that many other jurisdictions do require building permits; he does want to see the aesthetic maintained.

The public hearing was opened at 2:47 p.m.

No one spoke in favor or opposition.

The public hearing was closed at 2:48 p.m.

Commissioner Buckman expressed support for Option 1; if there's already a mechanism in place to address the issues, he doesn't want to infringe on property owner's rights. He doesn't believe the issues rise to the threshold of needing to enact a new law.

Commissioner Shaw expressed support for Option 2.

Commissioner McGrath stated that he's fluctuating between Option 1 and 2.

MOTION:

It was moved by Commissioner Shaw and seconded by Commissioner McGrath to recommend that the Board of Supervisors amend Title 18 of the Lassen County Code to regulate the placement of cargo containers, incorporating the provisions contained in Option 2 as presented by staff (File #318.01.53).

DISCUSSION:

Discussion was held concerning limiting the grace period timeframe to four (4) months. The Commission concurred that the agenda item be continued to a Special meeting of the Planning Commission scheduled for next Wednesday, November 13, 2019, to allow staff to present an updated draft ordinance, and for further discussion prior to finalizing a recommendation to the Board.

VOTE:

The motion on the floor was not voted upon; motion failed.

There being no further business, the meeting adjourned at 3:00 p.m.

UNAPPROVED MINUTES
LASSEN COUNTY PLANNING COMMISSION
October 1, 2019

The Commission convened in regular session at 1:10 p.m. in the Board of Supervisors' Chambers, 707 Nevada Street, Susanville, CA. Chairman Tim Purdy presided with Commission members Mark Solomon, Mike McGrath, Bill Buckman and John Shaw present. Also present were Maurice Anderson (Director and Planning Commission Secretary), Planning and Building Services Department staff, and Recording Secretary Anetia Elliott.

(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.

Commissioner Purdy recused himself from the following agenda item due to a conflict of interest and left the meeting.

Vice Chairman Solomon assumed the chair.

PUBLIC HEARING: (Continued from the September 3, 2019, Planning Commission Meeting) RECOMMENDATION TO THE BOARD OF SUPERVISORS File #318.01.53, Amendment to Title 18 of the Lassen County Code to regulate the placement of cargo containers in Lassen County. Proposed amendment to Title 18 of the Lassen County Code to add section 18.108.300, to define "cargo containers" and to regulate their placement in certain districts given particular minimum acreage and color requirements.

Mr. Anderson stated that he didn't feel that the draft ordinance had been perfected to make a well informed recommendation to the Board, principally because one of the options discussed is whether or not the Ordinance would be retroactive. That question needs to be further analyzed because he's sure the Board of Supervisors will also want to know if that's a possibility as well. Another issue that needs further analysis is whether cargo containers need a building permit, and what mechanism triggers the requirement to obtain a use permit. After some discussion, Mr. Anderson stated he would like staff to meet with County Counsel to make an informed decision as to the legality of allowing retroactive placement in R (Residential) zones.

Further discussion was held concerning retroactive laws, the issue of requiring use permits for containers in R zones, and what brought this topic before the Commission for consideration. Mr. Anderson discussed the Commission's role in having discussions such as this when considering possible amendments to the zoning ordinance; it's possible that the recommendation be that no changes take place.

Chairman Solomon (pro tem) suggested, and the Commission concurred, that this agenda item be tabled until the November 5, 2019, Planning Commission meeting.

Commissioner Purdy resumed the Chair for the remainder of the meeting.

APPROVED MINUTES
LASSEN COUNTY PLANNING COMMISSION
September 3, 2019

The Commission convened in regular session at 1:10 p.m. in the Board of Supervisors' Chambers, 707 Nevada Street, Susanville, CA. Chairman Tim Purdy presided with Commission members Mark Solomon, Mike McGrath and John Shaw present. Commissioner Bill Buckman was absent. Also present were Maurice Anderson (Director and Planning Commission Secretary), Planning and Building Services Department staff; and Recording Secretary Anetia Elliott.

(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.

PUBLIC HEARING: (Continued from the August 6, 2019, Planning Commission Meeting)
RECOMMENDATION TO THE BOARD OF SUPERVISORS File #318.01.53,
Amendment to Title 18 of the Lassen County Code to regulate the placement of cargo containers in Lassen County. Proposed amendment to Title 18 of the Lassen County Code to add section 18.108.300, to define "cargo containers" and to regulate their placement in certain districts given particular minimum acreage and color requirements. Located Countywide. Stefano Richichi, Associate Planner, presented the staff report and power point presentation.

Mr. Anderson reported the August 6, 2019, meeting was tabled to allow Mr. Mallery to meet with staff and convey his opinion about the proposed draft Ordinance. A letter summarizing the meeting is included in Commissioners packets. Mr. Anderson also stated there was no sense of urgency to make a decision at this time if the Commission would like to continue discussing it and come back with an Ordinance reflecting their direction.

Mr. Norwood stated that staff spoke with surrounding Counties regarding their permitting; Plumas and Modoc Counties don't require Design Reviews and restrictions on cargo containers, but they do require building permits and have setback requirements.

Discussion was held on the placement of cargo containers in certain areas such as R-1 districts and also the engineering of cargo containers. Most of the complaints on cargo containers have come from residential areas and the placement of containers in front of their houses.

The public hearing was opened at 2:35 p.m.

Terry Mallery, local business owner of Lassen Rents, Inc., stated his opposition to the ordinance and responded to some concerns expressed by the Commission. He never places containers above leach lines, septic tanks, in muddy areas or any infrastructures, and many of them are only temporary to serve a specific purpose. As a business owner, he's concerned that the burden of explaining the regulations to customers will fall on him. He discussed CC&R's, questioned why wood sheds aren't also being examined like cargo containers, and added that Washoe County has no regulations on 20' containers.

Staff addressed some of Mr. Mallery's concerns by explaining to the Commission that CC&R's (which were discussed at Mr. Mallery's meeting with staff) are civil agreements between parties and not enforceable by the government. Mr. Anderson pointed out that woodsheds have limitations on size and occupancy.

Vice Chairman Solomon stated that this is not an easy subject, and suggested that this discussion be tabled to the next meeting to allow staff to examine 20' containers/pods, which are typically smaller than shipping containers, and bring more information back to the Commission.

The Commission concurred.

There being no further business, the meeting adjourned at 2:42 p.m.

APPROVED MINUTES
LASSEN COUNTY PLANNING COMMISSION
August 6, 2019

The Commission convened in regular session at 1:10 p.m. in the Board of Supervisors' Chambers, 707 Nevada Street, Susanville, CA. Chairman Tim Purdy presided with Commission members Bill Buckman, Mark Solomon, Mike McGrath and John Shaw present. Also present were Maurice Anderson (Director and Planning Commission Secretary), Planning and Building Services Department staff; and Recording Secretary Anetia Elliott.

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The following are excerpts from the above meeting.

PUBLIC HEARING: RECOMMENDATION TO THE BOARD OF SUPERVISORS File #318.01.53, Amendment to Title 18 of the Lassen County Code to regulate the placement of cargo containers in Lassen County. Proposed amendment to Title 18 of the Lassen County Code to add section 18.108.300, to define "cargo containers" and to regulate their placement in certain districts given particular minimum acreage and color requirements. Located Countywide. Stefano Richichi, Associate Planner presented staff report and power point presentation.

Commissioner Purdy recused himself due to a conflict of interest.

Mr. Anderson discussed that at the June 17, 2019, special meeting the project was tabled due to the lack of a quorum. He put the project on the agenda today to start a dialogue so choices and decisions could be made. This is something we could reagendaize or table, no decisions have to be made today. Generally, the primary complaints received are in residential zones, where people are in close concentration with each other. There are not a lot of complaints about containers in agricultural zones or industrial zones.

Discussion was held about the difference between A2 residential district and R residential districts.

Commissioner Solomon asked about the letter in the packet dated July 31, 2019, from Terry Mallery signature raising the question as to whether or not Commissioner Shaw should be able to vote on this particular issue.

Mr. Anderson explained the letter in the packet was an opinion from the public and placing the decision making upon the Commissioner. The Commissioner is the one that has to decide whether or not they have a conflict of interest.

Commissioner Shaw stated he had no conflict of interest.

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

Terry Mallery, local business owner of Lassen Rents Inc., has storage containers for rent and sale stated that he did author a letter concerning Commissioner Shaw. He also stated if this Ordinance is adopted it punishes a person with a small piece of property that needs storage. The business does not sell poor quality containers. He supports his family on the container business and people choose to use storage containers for storage on their property. Commissioner McGrath asked what impact the Ordinance would have on Mr. Mallery's business in R-1 districts.

Mr. Mallery responded it would have an impact on the business and explained what the storage containers were used for in R-1 districts for people relocating, remodeling and such.

Discussion was held on ways to utilize the containers, whether it be a rental or permanent use on small properties. Options discussed were making it discretionary in an R-1 district through a use permit process and with public input; conditional certificates that would be available over the counter that were only temporary; or some type of verbiage that asks for renewals or extensions to have the container on an R-1 property. Mr. Anderson stated that there are people actively right now that want to build homes out of cargo containers, but overall the business at hand is storing containers on property.

Mr. Anderson suggested that this item be tabled to the next meeting or the following meeting to allow staff to meet with Mr. Mallery and discuss things that can be agreed upon or disagreed on to have a more meaningful conversation the next time the Planning Commission meets, and to solicit information from others as well. The purpose of this meeting is to have more dialogue.

Commissioner McGrath, Buckman, Solomon and Shaw concurred. Commissioner Purdy was recused.

There being no further business, the meeting adjourned at 2:22 p.m.

APPROVED MINUTES
LASSEN COUNTY PLANNING COMMISSION
SPECIAL SESSION
June 17, 2019

The Commission convened in special session at 1:10 p.m. in the Board of Supervisors' Chambers, 707 Nevada Street, Susanville, CA. Chairman Tim Purdy presided with Commission members Mark Solomon and John Shaw present. Commissioner Buckman was absent. District 5 seat vacant. Also present were Maurice Anderson (Director and Planning Commission Secretary), Planning and Building Services Department staff; and Recording Secretary Anetia Elliott.

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Matters Initiated by the General Public

None

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Commissioner Purdy recused himself due to a conflict of interest.

Mr. Anderson recommended that, due to the lack of a quorum present to make a unanimous decision, the project be tabled to the next regular scheduled meeting. Discussion was held that it was too late to go to the July 2, 2019, regular scheduled meeting so the project was tabled until August 6, 2019, regular scheduled Planning Commission meeting.

Commissioners Shaw and Solomon concurred.

There being no further business, the meeting adjourned at 2:05 p.m.