



County of Lassen
Department of Planning and Building Services

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

September 27, 2019

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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.