

ORDINANCE NO. 382

(As Amended by Ordinances 399, 413, 420, 443, 448, 469, 478, 490, and 491)

AN ORDINANCE OF THE CITY OF BLUE LAKE, CALIFORNIA, ESTABLISHING LAND USE DISTRICTS OR ZONES, REGULATING THE USE OF LAND AND BUILDINGS, AND OPEN SPACES ABOUT BUILDINGS, REQUIRING THAT PERMITS BE SECURED FOR CERTAIN OF SUCH USES AND BUILDINGS, ESTABLISHING AND PERMITTING THE ESTABLISHMENT OF CONDITIONS, PRESCRIBING PENALTIES FOR THE VIOLATION OF ANY OF THE PROVISIONS THEREOF, AND REPEALING ORDINANCES 241, 244, 250, 252, 274, 276, 277, 279, 283, 284, 289, 294, 309, 311, 315, 316, 318, 324, 328, 331, 333, 338, 342, 343, 349, 356, 360, 365, 366, 367, 368, 369, 370, 380, AND ALL OTHER ORDINANCES IN CONFLICT THEREWITH.

BE IT ORDAINED by the City Council of the City of Blue Lake, Humboldt County, California, as follows:

ARTICLE I.

TITLE, ADOPTION, OBJECTIVES, APPLICATION

101. TITLE. This ordinance shall be known as the "Zoning Ordinance of the City of Blue Lake, California," and may be cited as such. Said ordinance will be referred to hereinafter as the "Zoning Ordinance," or as the "Zoning Plan," and sections and portions hereinafter referred to shall refer to sections or portions of this ordinance.

102. ADOPTION. There is hereby adopted a Zoning Ordinance of the City of Blue Lake, California, consisting of text in accordance with the provisions of Title 7, Chapter 4, Section 65800 of the Government Code of the State of California.

103. OBJECTIVES. The zoning regulations are adopted to achieve the following objectives:

1. to adhere to the principle of orderly residential development, with well-integrated community facilities and public utilities;
2. to discourage scatter of development and sprawl along the highways;
3. to group residential areas into neighborhoods which are planned in relation with playgrounds, parks, schools and other facilities;

I. Parcel Map Waiver For any ~~residential-second~~ **accessory dwelling** unit for which a special use permit is issued pursuant to this section, the requirement of a Parcel Map is hereby waived pursuant to Government Code Section 66428.

J. Procedure A special use permit for ~~residential-second~~ **accessory dwelling** units pursuant to this section shall not be subject to the procedures set forth in Section 730 through 738, inclusive, of this ordinance, but instead shall be subject to the following procedures:

1. Application for a special use permit shall be filed at City Hall or the office of the City Planner upon a form provided, and shall be accompanied by such information as may be required to describe fully the proposed use for which the permit is sought. Fees must be paid in advance according to the City's current master fee schedule.

2. The application shall be accompanied by an accurate scale drawing of the site and the surrounding area for a distance of at least 300 feet from each boundary of the site.

3. The City Planner may issue a special use permit without a public hearing if the Planner finds from the application that the use complies with the requirements of this section.

4. The granting of the special use permit may be made subject to terms and conditions attached thereto and made a part thereof.

5. The action of the City Planner shall be in writing and shall be filed with the City Clerk as soon as practicable following the taking of the action.

6. Appeals from actions of the City Planner shall be governed by Sections 760 through 765, inclusive, of this ordinance.

7. If a decision of the City Planner denying a special use permit is reversed on appeal, or a decision granting a special use permit is modified on appeal, the ~~City Council~~ **body deciding the appeal** on the basis of the record transmitted by the City Clerk and such additional evidence as may be submitted, shall make the findings requisite to the granting of such special use permit.

8. A special use permit granted pursuant to the provisions of this section shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the special use permit application. (Added by Ord. 469)

628. RIVER, CREEK, AND WETLAND SETBACKS The purpose of this section is to provide minimum setback requirements for properties containing or located adjacent to the Mad River, Powers Creek, or other natural wet areas ~~such as natural ponds, springs, drainages, or wet meadows~~ (exhibiting standing water year-long or riparian vegetation).

A. Definitions

For the purpose of this section, unless otherwise apparent from the context, certain terms used herein are defined as follows:

1. **“Other Wet Areas”** Other wet areas are naturally occurring wet areas exhibiting standing water year-long or riparian vegetation and include ponds, springs, vernal pools, marshes, and wet meadows.

2. **“Riparian Lands”** Riparian lands are comprised of the vegetative and wildlife areas adjacent to perennial and intermittent streams. Riparian areas are delineated by the existence of plant species normally found near freshwater which are referred to as riparian vegetation.

3. **“Top of Bank”** The furthest break in slope of the bank to each side of a creek or river. Where the top of the bank is not clearly defined by an obvious break in slope, the City Planner shall determine the location of the top of bank.

4. **“Wetland”** An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands are lands where the water table is at, or near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent or drastic fluctuations of surface water levels, water flow, turbidity or high concentrations of salt or other substances in the substrate. These wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep water habitats.

A. B. Setback Requirement

No building or parking or storage area shall be constructed within 50 feet horizontal from the following ~~unless the setback would eliminate all reasonable use of the property:~~ 1) the north side of the levee crown or top of bank adjacent to the Mad River; 2) the centerline of the main branch of Powers Creek; and 3) the edge of other natural wet areas (exhibiting standing water year-long or riparian vegetation) ~~such as natural ponds, springs, drainages, or wet meadows (exhibiting standing water year-long or riparian vegetation).~~ The buffer thus created shall be preserved as an area of riparian and natural vegetation. Trails and habitat enhancement projects are allowable within this zone.

B. C. Exceptions Justification

1. Accessory buildings, parking, and storage areas in R, C, or MU zones may be constructed within 25 feet horizontal of the water features listed in subsection A above as long as no removal of riparian vegetation is required.

2. No building or parking or storage area shall be constructed within 10 feet horizontal from the edge of manmade water features including channels, ditches, ponds, low impact development (LID) or other stormwater features.

3. The ~~required~~ setback required in subsection A above may be reduced in R, C, or MU zones for main buildings where the City Planner determines that it will not result in a significant impact to fish, wildlife, riparian habitat, or soil stability. In no such case shall development be permitted to occur closer than 25 feet to the water features listed in subsection A above. Such a determination will require the applicant to submit technical evidence from a biologist or other similar competent professional justifying the reduction. Criteria for allowing a reduction from the setback required in subsection A above includes, but is not limited to:

- a. The required setback would eliminate all reasonable use of the property.
- b. The location of existing development on the property.
- c. The lack of riparian vegetation in the proposed development area.
- d. The proposed development area is located outside of the 100-year flood hazard area.
- e. Habitat enhancements or protective measures such as riparian plantings, barriers, invasive species removal, or other enhancements are proposed that compensate for the reduced setback.

629. MAJOR VEGETATION REMOVAL The purpose of this section is to: 1) preserve and protect major vegetation within the City that directly and indirectly prevents soil erosion, landslide, and flood hazard; and 2) protect property values and the local economy by maintaining the visual quality of the City, while respecting and recognizing individual rights to develop, maintain and enjoy private property to the fullest extent possible.

A. Applicability

These regulations shall apply to major vegetation removal as defined in this section, except that the following activities shall be exempt:

~~1. Routine maintenance of vegetation such as trimming, pruning, or other normally accepted horticultural practices. that do not result in the loss of any layer of vegetation and do not require earth disturbance.~~

~~2.~~ 2. Major vegetation removal necessary to carry out activities authorized by: 1) a use permit; or 2) satisfying improvement requirements of an approved subdivision.

~~3.~~ 3. Major vegetation removal associated with general agriculture, in zones where agriculture is a principally permitted use, except where the City Planner determines that the major vegetation removal may result in a significant environmental impact.

~~4.~~ 4. Trees, meeting the definition of major vegetation in this section, may be removed if they pose an imminent danger to people or structures, subject to approval of the Public Works Director. At the discretion of the Public Works Director, technical evidence justifying the imminent danger may be required to be submitted by an arborist or other similar competent professional.

5. Habitat restoration activities for the purpose of removing exotic and/or invasive vegetation species.

~~5.~~ 6. Timber management and timber harvesting activities regulated by the California Department of Forestry and the Board of Forestry.

B. Site Plan Review Required

Major vegetation removal may be permitted in any zone ~~subject to~~ and shall require Site Plan Review by the Planning Commission. For the purposes of this section major vegetation removal shall be defined to include one or more of the following:

1. The removal of ~~one~~ three or more trees with a ~~circumference~~ diameter of ~~twenty-four inches (24")~~ ~~twelve (12")~~ eighteen (18") inches or more measured at four and one-half feet (4.5') vertically above the ground.

2. The removal of trees or other woody vegetation within a total aggregate contiguous or non-contiguous area or areas exceeding ~~2,500~~ 1,000 s.f., measured as the total of the area(s) located directly beneath the tree and/or woody vegetation canopy.

3. The City Planner may determine that any proposal to remove trees or other woody vegetation constitutes major vegetation removal if the City Planner finds that it may result in a significant environmental impact. In making a finding that the proposed major vegetation removal may result in a significant environmental impact, the City Planner shall review the proposal and determine if any of the following conditions exist or are proposed:

- a. The major vegetation removal involves the use of heavy equipment.
- b. The major vegetation removal is proposed on either a steep slope (15% or greater), or on a slope designated as a “medium risk” or “high risk” slope/soil stability hazard area in the Public Safety Element, other relevant publications (e.g. Humboldt County Hazard Mitigation Mapping), or as determined by the Building Official and/or City Engineer.
- c. The major vegetation removal may result in soil erosion or landslide.
- d. The major vegetation removal is located within or adjacent to an environmentally sensitive habitat.
- e. The major vegetation removal may result in significant exposure of adjacent trees to wind damage.

630. SOLAR SITING AND SOLAR ACCESS The City recognizes the importance of protecting solar energy use. The purpose of this section is to maximize access to sunlight for City residents. This section is intended to implement the California Solar Rights Act and the California Solar Shade Control Act, as well as to strive to meet the City’s energy policy goals as outlined in the Energy Element of the General Plan. The provisions of this section are intended to protect access to solar energy for future development by serving as a guideline for new development. This is done by setting limits on the amount of shading permitted by new construction and requiring that new buildings be sited to maximize solar access. Property building siting and orientation is required to fully utilize solar energy. The potential economic and environmental benefits of solar energy use are considered to be in the public interest; therefore, local governments are authorized to encourage and protect access to direct sunlight for solar energy systems. Solar easements are appropriate to assuring continued access to direct sunlight for solar energy systems, and may be created and privately negotiated.

A. Applicability

The provisions of this section shall apply to all development within the City in all zoning districts.

B. Definitions

For the purpose of this section, unless otherwise apparent from the context, certain terms used herein are defined as follows:

- 1. “Adequate Solar Access” Building Orientation such that the south sloped roof and wall down to ground level of the principal building on the lot, shall not be