

# Lewis County Setback Proposal

There are many small nonconforming lots in rural parts of the county that were subdivided prior to zoning. Often, the lots contain covenants that show minimum setbacks which were considered the de facto standard setback in the development. These covenant setbacks are usually defined as 5 feet and the county zoning code calls for a 10 foot minimum side setback.

Although some property owners have been permitted to use the covenant setbacks, the county could have a difficult time defending those permits if challenged. To resolve this issue, Community Development looked at setbacks in other counties and how they regulated setbacks on nonconforming lots. The following table shows the information gathered during that research.

Rural residential and/or rural zones comparable to Lewis County. All of the shown counties are required to plan, per GMA.

Jurisdiction	Residential Side Setback in Feet				Nonconforming Lots
	Density DU/acre			LAMIRD <sup>1</sup>	
	1/5	1/10	1/20		
Chelan	5	5	5	5	Note (1)
Clallam	10	-	10	10	Comply with Dev Regs
Jefferson	5	5	5	5	
King	10	10	10		
<i>Lewis</i>	<i>10</i>	<i>10</i>	<i>10</i>	<i>10</i>	
Mason	20	20	20	5	5ft min on smaller lots
Pacific	5	5	5	5	Meet min setbacks
Pierce	5	10	10		Comply with Dev Regs
Skagit	Flexible—minimum building separation 16 ft.				Note (2)
Snohomish	5	5	-	5	Complies with setbacks
Thurston	6	6	6	6	Meet zoning standards
Whatcom	5	5	-	5	Meet zoning standards
Yakima	10	10		5	Must meet min setbacks

<sup>1</sup> In Lewis County, LAMIRDS include the RRC, STMU, and STR-4 zones, among others.

## Notes

- (1) **11.97.020 Nonconforming lots of record.** In any district, any stated permitted use or structure and accessory use may be erected on preexisting legal lot of record which does not meet the minimum lot size or width requirements of the district in which it is located. Setback dimensions and all other applicable county and state requirements not involving lot size or width shall conform to the regulations for the district in which the lot is situated.
- (2) **14.16.810 Setback requirements.** (4) Administrative Reduction of Setbacks. The Administrative Official may reduce the required front, side or rear setbacks where topography or critical areas or the lot's size and configuration impact the reasonable development of the property. To reduce the front or rear setback, the Administrative Official must determine that the public health, safety, and welfare will be maintained. Consultation with the Public Works Department concerning traffic safety may be solicited during this analysis.

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## Recommendation

Staff recommends the following steps to resolve this issue.

1. Change minimum side setback to 5 feet for residential properties.  
*There is also some support for changing the rear setback to 5 feet (addressed in (2) below)*
2. Add a provision for an administrative reduction of side or rear setbacks in special circumstances.
3. Add a provision for specifying that development on nonconforming lots must comply with setback standards.

The following is a proposed DRAFT amendment to the Lewis County Code implementing the above recommendations.

### 17.145.020 Required setbacks.

(1) Unless otherwise designated in this title or Chapter 15.15 LCC, the minimum required setbacks shall be as follows:

~~(1) Minimum setbacks~~

~~(a) Residential:~~

- ~~(i) Front 25 feet from right-of-way;~~
- ~~(ii) Side 10 feet from property line;~~
- ~~(iii) Rear 25 feet from property line, for structures in excess of 100 square feet;~~

~~(b) Commercial:~~

- ~~(i) Front 10 feet from right-of-way;~~
- ~~(ii) Side 10 feet from property line;~~
- ~~(iii) Rear 0 feet, except 25 feet from property line when abutting a residential zone;~~

~~(c) Industrial:~~

- ~~(i) Front 10 feet from right-of-way;~~
- ~~(ii) Side 10 feet from property line;~~
- ~~(iii) Rear 0 feet, except 50 feet when abutting a residential zone.~~

<u>Setback</u>	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>
<u>Front</u> <u>from right-of-way</u>	<u>25</u>	<u>10</u>	<u>10</u>
<u>Side</u> <u>from property line</u>	<u>5</u>	<u>10</u>	<u>10</u>
<u>Rear</u> <u>from property line</u>	<u>25<sup>1</sup></u>	<u>0</u>	<u>0</u>
<u>Rear</u> <u>when abutting a</u> <u>residential zone</u>	-	<u>25</u>	<u>50</u>

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<sup>1</sup> Applies to structures over 200 square feet.

(2) The Administrator may reduce the required side or rear setbacks where topography, critical areas or the lot's size and configuration impact the reasonable development of the property. An administrative reduction will be considered if:

(a) Justification for the request is included in the application; and

(b) The reduction will not adversely affect health and safety; and

(c) It is demonstrated that the use of the proposed reduction cannot be reasonably accommodated elsewhere on the lot; and

(d) If granted, the reduction would be the minimum necessary for reasonable use of the lot.

(3) Additional setbacks may be required near resource lands in accordance with sections 17.30.500, 17.30.660, 17.30.810 and 17.40 of the Lewis County Code.

## **17.155.065 Nonconforming lots of record.**

Any permitted use or structure is allowed on legal lots of record which do not meet the minimum lot size or width requirements of the zone, provided setback requirements and all other applicable requirements conform with Lewis County regulations.

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## NOTES

### Setbacks by Zone?

Should different setbacks be established for RDD and LAMIRDs?

### 17.10.214 Setback.

“Setback” means a distance from a fixed boundary, property line, or right of way as set forth in Title 17 LCC. **A front setback is measured to the street or point of access.** A side setback is measured to an abutting property on the same street or access. A rear setback is the side of the structure away from the street or point of access, provided a structure may have two fronts, but only one rear and is measured to the nearest property line. [Ord. 1170B, 2000]

### Exempted structures

Change exemption to 200 square feet for consistency with the Residential building code, Section R105.2(1), that exempts accessory structures up to 200 square feet.

### 17.10.241 Yard, front.

“Front yard” means an open space on a lot, **between the road right of way (front property line) and the requisite minimum front yard setback line.** Where a lot lies at the corner of two or more roads, it shall have a front yard setback area extending back from each road right of way. If the exact location of the right of way is not known, it shall be assumed that the improved traveling surface of the road is in the center of the road right of way. If the width of the road right of way is not known, it shall be assumed to be the statutory 60 feet. [Ord. 1170B, 2000]

### 17.10.245 Yard, side.

“Side yard” means one of two open spaces found on a typical lot, bounded by the front yard, rear yard, the side lot line and the building closest to the side lot line. [Ord. 1170B, 2000]

### 17.10.243 Yard, rear.

“Rear yard” means an open space on a lot, between the rear property line and the building closest to the rear property line. In the case of a lot with more than one road frontage and consequently two rear property lines, the rear yard shall be deemed to be the yard abutting the shorter rear property line; the other yard shall be treated as a side yard. In cases of doubt, the Administrator shall make the determination. [Ord. 1170B, 2000]

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## 17.160.050 Administrative approval uses.

(1) Home occupation.

(2) Temporary second dwelling.

(3) Process.

(a) The applicant shall submit an Administrative Approval Use Checklist/Approval Form to the community development department, together with appropriate documentation of compliance with approval requirements, a filing fee, names, addresses, and stamped, addressed envelopes for all property owners within 500 feet of the external boundaries of the subject property or the nearest resident property owner adjacent to the subject property but only within 1500 feet of the project site, and at least three copies of a site plan at an appropriate scale showing locations of property boundaries; locations and sizes of structures, access, and parking areas; locations and types of water and sewer services; and locations and types of structures on adjacent properties.

(b) Upon receipt of application materials per paragraph (1) above, the community development department shall send a notice of the proposal to all owners of property as identified in LCC 17.160.050(3)(a) at least 10 days prior to the decision date. The applicant shall also post public notices of the proposal on all road frontages of the subject property so as to be visible to adjacent property owners and to passing motorists. Said notices shall be provided to the applicant by the community development department and shall remain in place for at least 10 days prior to the decision. An affidavit of posting that shall be signed and returned at least one week prior to the decision shall also be provided at the time of application. Property owners who have been thus notified of the proposal shall have a period of 10 days from the date printed on the mailed notice or 10 days from the posting of notice on the property, whichever is later, within which to submit to the community development department written request for a public hearing. Such request shall document valid grounds for holding a hearing, specifying how the proposal adversely impacts him or her. The community development department shall submit the application to the hearing examiner, who shall hold a public hearing and approve or deny the administrative approval use application. The hearing examiner shall base a decision upon compliance with the criteria established for the proposed use in the appropriate zone district, the requirement of this section, and of 17.160.030. The community development department shall approve or deny all administrative approval use applications that do not require a public hearing.

(c) If the permit is denied, the applicant shall be notified in writing. The grounds for denial and the applicant's right to appeal shall be set forth in this notification.

(d) Any party of record may appeal the decision. For purposes of administering this section, parties of record shall be defined as the applicant, the owner of the property, any person who has submitted a written response to the proposal, and any person who has testified at a required hearing. Each application for appeal of an administrative approval shall be accompanied by a fee. [Ord. 1170B, 2000]