

**CITY OF TWENTYNINE PALMS
CITY COUNCIL
ORDINANCE NO. 295**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, APPROVING PC 20-18, REPEALING AND REPLACING CHAPTER 19.134 SECOND DWELLING UNITS OF THE CITY OF TWENTYNINE PALMS DEVELOPMENT CODE.

WHEREAS, the City of Twentynine Palms General Plan was adopted by the City Council on April 24, 2012; and

WHEREAS, the City of Twentynine Palms Development Code was adopted by the City Council on July 26, 2016; and

WHEREAS, on October 09, 2019, the Governor signed SB 13, AB 68 and AB 881, revising the regulations for Accessory Dwelling Units; and

WHEREAS, a local authority must enact regulations that are in compliance with State law; and

WHEREAS, amendments are necessary to the City's Development Code in regards to Accessory Dwelling Units to comply with State law; and

WHEREAS, on September 23, 2020, Development Code Amendment PC 20-18 was duly noticed in the Desert Trail, a newspaper of general circulation within the City of Twentynine Palms; and

WHEREAS, on October 06, 2020, the Planning Commission of the City of Twentynine Palms conducted a duly noticed and advertised Public Hearing on PC 20-18, considered the proposed amendment to the Development Code as reflected in "Exhibit A" to this ordinance; and

WHEREAS, on October 06, 2020, at the above noted Public Hearing for PC 20-18, the Planning Commission considered the potential environmental impacts that may occur with the adoption of the proposed Development Code amendment, and recommended that in accordance with the California Environmental Quality Act (CEQA) Guidelines Section, the proposed zoning text amendment has been reviewed for its potential to impact the environment. Pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act, the activity is covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, on October 06, 2020, at the above noted Public Hearing, the Planning Commission considered any and all testimony from the public, and after due consideration adopted Planning Commission Resolution 20-09, recommending the City Council adopt the proposed Development Code Amendment; and

WHEREAS, on November 11, 2020, Development Code Amendment PC 20-18 was duly noticed in the Desert Trail, a newspaper of general circulation with the City of Twentynine Palms; and

WHEREAS, in accordance with California Government Code Section 65350 et. Seq. and California Government Code Section 65853 et. seq., the City Council held a public hearing pursuant to the notice required by law for this amendment; and

WHEREAS, on November 24, 2020, the City Council of the City of Twentynine Palms conducted a duly noticed and advertised Public hearing on PC 20-18, considered the proposed amendment to the Development Code as reflected in "Exhibit A"; and

WHEREAS, on November 24, 2020, at the above noted Public hearing for PC 20-18, the City Council of the City of Twentynine Palms considered the potential environmental impacts that may occur with the adoption of the proposed Development Code Amendment, and recommended that in accordance with the California Environmental Quality Act (CEQA) Guidelines Section, the proposed zoning text amendment has been reviewed for its potential to impact the environment. Pursuant to Section 15061(b)(3) of the State Guidelines to Implement the California Environmental Quality Act, the activity is covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA: and

WHEREAS, on December 8, 2020 at the regular City Council meeting, the City Council after due consideration, adopted City Council Ordinance No. 295, amending the Development Code; and

WHEREAS, the City Council found that on the basis of the whole record before it, including any public comments received, that there is no substantial evidence that the Development Code Amendment would have a significant effect on the environment and that the proposed CEQA determination reflected the City Council's independent judgement and analysis; and

WHEREAS, the City Council in its review of the proposed Development Code Amendment, PC 20-18, makes the following findings:

- A. That the Zone Change or Development Code Amendment is consistent with the intent of the goals and policies of the General Plan; and

The Development Code Amendment is consistent with the following policies of the General Plan:

Implementation Policy LU-3.3, Provide opportunities for a variety of residential densities to accommodate rural and suburban lifestyles, and housing types for all economic and demographic segments of the City's population, with convenient access to public facilities, employment and shopping.

Implementation Policy HS-2.1 Utilize the Land Use Element, Development Code and other land use controls to provide housing sites that can facilitate and encourage the development of a variety of housing consistent with the City's identified local needs and its regional housing responsibilities.

Implementation Policy HS-2.2 Ensure that the location, timing, and intensity of residential development will maintain and enhance the quality of life for the people of Twentynine Palms and provide family- oriented housing in a wide range of sizes and costs in order to promote and retain the community's hometown character and desert environment.

- B. The Zone Change or Development Code Amendment prescribes reasonable controls and standards to ensure compatibility with other established uses; and

The Development Code Amendment is to modify the regulations for Accessory Dwelling Units to comply with changes in State law. These changes provide standards to ensure that newly constructed ADU's are compatible with existing residential structures.

- C. The Zone Change or Development Code Amendment provides reasonable property development rights while protecting environmentally sensitive land uses and species; and
The Development Code amendment provides regulations in compliance with State law to allow the installation of Accessory Dwelling Units on sites with an existing or proposed single family residence.
- D. The Zone Change or Development Code Amendment ensures protection of the general health, safety and welfare of the community.

The Development Code Amendment provides regulations on the size and location of Accessory Dwelling Units to protect the health, safety and welfare of the surrounding community.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, TAKES THE FOLLOWING ACTIONS:

Section 1. Based upon review of the proposed amendment of the Development Code by way of PC 20-18, that the Council find that the proposed amendment does not have the potential to have an adverse impact upon the environment and in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15601 the Development Code amendment is Categorically Exempt from further environmental review.

Section 2. That the City Council finds that the proposed Amendment is consistent with the City's adopted General Plan Goals and Policies as the proposal will support implementation of the General Plan and State law.

Section 3. That the City Council approve and adopt the "Findings" required for approval of the Development Code update as set forth above.

Section 4. That the City Council amends the Development Code as reflected in Exhibit "A".

Section 5. Notice of Adoption. The City Clerk of the City of Twentynine Palms shall certify to the adoption of this ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted by Section 36933 of the Government Code of the State of California.

Section 6. Introduction Date. Ordinance No. 295 was introduced by Council action on the 24th day of November, 2020.

Section 7. Effective Date. Ordinance No. 295 becomes effective thirty (30) days after the 8th day of December, 2020 the second reading by City Council.

Section 8. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications and, to this end, the provisions of this Ordinance are declared to be severable.

PASSED, APPROVED and ADOPTED this 08th day of December, 2020.



Cindy Villescas
Cindy Villescas CMC, City Clerk

Joel A. Klink
Joel A. Klink, Mayor

APPROVED AS TO FORM:

A. Patrick Muñoz
A. Patrick Muñoz, City Attorney

I hereby certify that the foregoing is a true copy of Ordinance No. 295, introduced on the 24th day of November, 2020 and duly adopted by the City Council of the City of Twentynine Palms in a regular meeting held on 08th day of December, 2020, in Twentynine Palms, California by the following vote, to wit.

AYES:	COUNCILMEMBER:	BILDERAIN, MINTZ, O'GILVIE, WRIGHT, KLINK
NOES:	COUNCILMEMBER:	NONE
ABSENT:	COUNCILMEMBER:	NONE
ABSTAIN:	COUNCILMEMBER:	NONE

Cindy Villescas
Cindy Villescas CMC, City Clerk

Chapter 19.134 Accessory Dwelling Units

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19.134.010 Purpose

The purpose of this Chapter is to provide regulations and criteria for the establishment and location of accessory dwelling units and junior accessory dwelling units in compliance with Government Code Sections 65852.2 and 65852.22. It is the intent of the City to protect and preserve existing neighborhoods while providing affordable housing.

19.134.020 Applicability

- A. New Accessory Dwelling Units. The development standards of this Chapter shall apply to all new accessory dwelling units and junior accessory dwelling units.
- B. Modification and Expansion of Existing Accessory Dwelling Units. Whenever an existing permitted accessory dwelling unit is modified or expanded such that it creates an increase of more than 10 percent in the floor space, the development standards of this Chapter shall apply.

19.134.030 Definitions

- A. Accessory dwelling unit or ADU. An attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:
 - i. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
 - ii. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.
- B. Accessory Dwelling Unit, Attached. A residential dwelling attached to a primary residence by at least one wall.
- C. Accessory Dwelling Unit, Detached. A residential dwelling unit which does not share any portion of a wall with the primary residence but may be attached by a breezeway or roof structure that is open on at least two sides.

- D. Complete independent living facilities. A dwelling unit that contains permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the proposed or existing single-family or multifamily dwelling.
- E. Efficiency Unit. A residential dwelling which provides occupancy for not more than two persons, having a minimum floor area of 220 square feet.
- G. Junior accessory dwelling unit or JADU. A residential dwelling unit that:
 - 1. Is no more than 500 square feet in size.
 - 2. Is contained entirely within an existing or proposed single-family structure.
 - 3. Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure.
 - 4. Includes provisions for cooking.
 - 5. Has exterior access that is independent from that of the primary residence.

19.134.040 Permit Required

- A. Any application for an accessory dwelling unit or junior accessory dwelling units that meets the location and development standards contained in this Chapter shall be approved ministerially without discretionary review or public hearing.
 - 1. If there is an existing dwelling on the property, the City must act on the application for the ADU or JADU within sixty (60) days of receiving the completed application.
 - 2. If the application for an ADU or JADU is submitted with the application for a new single-family dwelling, the City may delay acting on the permit for the ADU or JADU until the permit for the single-family dwelling is approved.
- B. Accessory dwelling units shall be reviewed as part of the established Building Permit process, and compliance with the standards of this Chapter will be verified through the Planning Division.

19.134.050 Development Standards

- A. Density. For the purposes of this Chapter, accessory dwelling units are not considered for the purposes of evaluating the density requirements established in the General Plan
- B. Accessory Dwelling Unit standards shall not be considered in the application of any local ordinance, policy or program to limit residential growth.
- C. The correction of non-conforming zoning conditions shall not be a requirement for the approval of permit for the creation of an ADU or JADU.

- D. The installation of fire sprinklers shall not be required in an ADU or JADU if sprinklers are not required for the primary residence.
- E. Accessory dwelling units may be rented separate from the primary dwelling unit but shall not be sold or otherwise conveyed separate from the primary residence.
- F. Location.
 - 1. One ADU or JADU may be located on any residential lot zoned for single-family dwellings upon which an existing single-family dwelling exists or is proposed.
 - 2. One ADU may be permitted on any lot zoned as Mixed Use on which an existing or proposed single-family dwelling exists.
 - 3. Not more than two detached ADU's may be located on any residential lot that allows for multi-family dwelling units upon where an existing multi-family dwelling unit exists.
 - 4. One attached accessory dwelling unit shall be allowed within the portions of a multi-family structure that are not used for living space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements and garages. In addition, no more than two detached accessory dwelling units shall be allowed for every lot upon which a multi-family structure sits.
- G. Size Requirements.
 - 1. Accessory Dwelling Units and Junior Accessory Dwelling Units shall be a minimum of 220 square feet.
 - 2. The maximum size of a detached or attached ADU is 850 square feet for a studio or one-bedroom unit and 1,200 square feet for a unit of two or more bedrooms.
 - 3. Application of other development standards, such as FAR or lot coverage, might further limit the size of the ADU, but no application of FAR, lot coverage, or open-space requirements may require the ADU to be less than 800 square feet.
 - 4. Junior Accessory dwelling units shall be a minimum of 220 square and shall not exceed 500 square feet. Junior Accessory Dwelling Units shall only be located in a primary dwelling and shall not be located within an accessory structure.
 - 5. All Accessory dwelling units and Junior Accessory Dwelling Units shall comply with the California Building Code.
- H. Setbacks. Accessory dwelling units shall conform to the setbacks of the applicable land use district, except that side and rear yard setbacks may be four feet, but shall not encroach into any required non-buildable easements.

I. Height. Accessory dwelling units shall not exceed 16 feet in height.

K. Parking Requirements.

1. One off-street parking space shall be provided for each ADU. These spaces may be provided as tandem parking on a driveway.
2. Exception. No off-street parking is required in the following instances:
 - a. The ADU is located within one-half mile walking distance of public transit.
 - b. The ADU is located within an architecturally or historically significant housing district.
 - c. The ADU is part of the proposed or existing primary residence or accessory structure.
 - d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - e. When there is a car share vehicle located within one block of the accessory dwelling unit.
- 3.. When a garage, carport or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, those off-street parking spaces are not required to be replaced.

L. Utilities.

1. Accessory dwelling units shall have a septic system per standards established by the Building Code, unless the property is served by a public sewer. All septic systems on properties with an accessory dwelling unit shall have adequate additional reserve leach area, as required by the Building Official or the San Bernardino County Department of Environmental Health, unless the property is served by a public sewer.
2. Separate utility service may be established for an accessory dwelling unit located on a portion of the lot that could legally be separated by lot division. Separate utility service may not be established for an accessory dwelling unit located on a portion of the lot that could not legally be separated by lot division.
3. All applicable county, state and federal laws will be adhered to in regard to allowing accessory dwelling units.