

**CITY OF TWENTYNINE
PALMS CITY COUNCIL
ORDINANCE NO. 311**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, ADOPTING A DEVELOPMENT CODE AMENDMENT AMENDING CHAPTER 19.134 ACCESSORY 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, California Government Code Section 65580 et. Seq. requires the periodic updating of the City's Housing Element based on a pre-determined schedule; and

WHEREAS, the 6th cycle planning period and its associated Regional Housing Needs Assessment is from October 2021 to October 2029; and

WHEREAS, on December 13, 2022, the City Council approved the revisions to the Housing Element and other elements; and

WHEREAS, on July 18, 2023, the Planning Commission of the City of Twentynine Palms conducted a duly noticed and advertised Public Hearing on the Development Code Amendment for Chapter 19.134 Accessory Dwelling Units; and

WHEREAS, on August 09, 2023, the Development Code Amendment was duly noticed in the Desert Trail, a newspaper of general circulation within the City of Twentynine Palms; and

WHEREAS, on August 22, 2023, the City Council of the City of Twentynine Palms conducted a duly noticed and advertised Public Hearing on the Development Code Amendment as reflected in "Exhibit A" in accordance with the California Government Code Section 65350 et. seq. and California Government Code Section 65853 et. seq., required by law for this amendment; and

WHEREAS, a Public Hearing was held by the City Council on August 22, 2023, at which time the Council introduced Ordinance No. 311 amending Chapter 19.134 Accessory Dwelling Units of the Development Code; and

WHEREAS, on August 22, 2023, at the above noted Public Hearing for the Development Code Amendment, 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, the City Council found that on the basis of the whole record before it, including any public comments received, 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 judgment and analysis; and

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

- A. The Development Code Amendment is consistent with the intent of the goals and policies of the General Plan, insofar as it directly implements the policies and programs adopted in the recent Housing Element Update.
- B. The Development Code Amendment prescribes reasonable controls and standards to ensure compatibility with other established uses and assures that the City does not impede the development of housing during the 2021-2029 planning period for the Housing Element.
- C. The Development Code Amendment provides reasonable property development rights while protecting environmentally sensitive land uses and species, insofar as the changes in the Code allow more flexibility and more clearly define land uses and simplify the entitlement process for housing.
- D. The Development Code Amendment ensures protection of the general health, safety and welfare of the community.

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

Section 1. Based upon the review of the proposed amendment of the Development Code, Chapter 19.134 Accessory Dwelling Units, the City Council finds that the proposed amendment does not have the potential to have an adverse impact on the environment and, in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), 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.

Section 2. 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 the implementation of the General Plan and State law.

Section 3- The City Council approves and adopts the "Findings" required for approval of the Development Code update as set forth above.

Section 4. The City Council of the City of Twentynine Palms amends the Development Code as reflected in Exhibit "A."

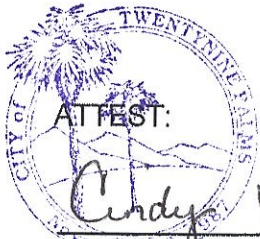
Section 5. Notice of Adoption. The City Clerk of the City of Twentynine Palms shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted by Section 36933 of the Government Code of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

Section 6. Introduction Date. Ordinance No. 311 was introduced by Council action on the 22nd day of August 2023.

Section 7. Effective Date. Ordinance No.311 becomes effective thirty (30) days after 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 at a regular meeting of the City Council of the City of Twentynine Palms, California, held on this 26 day of September 2023.



Cindy Villescas
Cindy Villescas CMC, City Clerk

McArthur Wright
McArthur Wright, Mayor

APPROVED AS TO FORM:

A. Patrick Munoz
A. Patrick Munoz, City Attorney

I hereby certify that the foregoing is a true copy of Ordinance No. 311, introduced on the 22nd day of August 2023 and duly adopted by the City Council of the City of Twentynine Palms in a meeting held on 26th day of September 2023, in Twentynine Palms, California by the following vote, to wit.

AYES: COUNCILMEMBER: BILDERAIN, KLINK, MINTZ, SCOTT, WRIGHT
NOES: COUNCILMEMBER:
ABSENT: COUNCILMEMBER:
ABSTAIN: COUNCILMEMBER:


Cindy Villescas CMC, City Clerk

EXHIBIT A

Chapter 19.134 Accessory Dwelling Units

Sections

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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:
 - 1. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
 - 2. 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.
- F. Junior accessory dwelling unit or JADU. A residential dwelling unit that:
 - 1. Is not less than 150 square feet and not 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. If the applicant requests a delay, the sixty (60)-day time period shall be tolled for the period of the delay.
 - 3. If the director denies an application for an accessory dwelling unit or junior accessory dwelling unit, the director shall, within the time period described above, return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.
 - 4. The director shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.

- 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. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
- 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 shall be a minimum of 220 square feet.
 2. Junior Accessory Dwelling Units shall be a minimum of 150 square feet.
 3. The maximum size of a detached or attached ADU is 850 square feet for a studio or one-bedroom unit.

4. The total floor area for a new detached accessory dwelling unit with more than one bedroom shall not exceed one thousand two hundred (1,200) square feet.
 5. Junior Accessory dwelling units 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.
 6. All Accessory Dwelling Units and Junior Accessory Dwelling Units shall comply with the California Building Code. The construction of an accessory dwelling unit shall not constitute a Group R occupancy change under the building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or Code Compliance officer makes a written finding based on substantial evidence in the record that the construction of the accessory dwelling unit could have a specific, adverse impact on public health and safety. Nothing in this clause shall be interpreted to prevent the Building Official from changing the occupancy code of a space that was unhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.
 7. A demolition permit for a detached garage that is to be replaced with an accessory dwelling unit be reviewed with the application for the accessory dwelling unit and issued at the same time. The applicant shall not be required to provide written notice or post a placard for the demolition of a detached garage that is to be replaced with an accessory dwelling unit, unless the property is located within an architecturally and historically significant historic district.
- 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. The front yard setback of the underlying zone shall apply, unless either the attached or detached unit does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other development standards.
- I. Height.
1. A height limitation of sixteen (16) feet on a lot with an existing or proposed single family or multifamily dwelling unit.
 2. A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code.
 3. An additional two feet in height to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.
 4. A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

5. A height of 25 feet or the height limitation that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling.

J. 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.
 - f. When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed in this subsection.
- 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.
4. A junior accessory dwelling unit shall not require parking in addition to that required for the proposed or existing single-family residence.

K. 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.