

**CITY OF TWENTYNINE PALMS
CITY COUNCIL
ORDINANCE NO. 285**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, APPROVING A TEXT MODIFICATION TO THE DEVELOPMENT CODE, SECTION 19.70.060, ALLOWED USES AND DEVELOPMENT STANDARDS – RESIDENTIAL. TO MODIFY THE MAXIMUM ALLOWABLE HEIGHT REGULATIONS FOR ACCESSORY STRUCTURES

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 June 6, 2017, the Planning Commission held a study session to discuss accessory structure height regulations; and,

WHEREAS, on November 24, 2017, a Zoning Text Amendment, PC 17-26, was duly noticed in the Desert Trail, a newspaper of general circulation within the City of Twentynine Palms; and

WHEREAS, on November 24, 2017, in accordance with California Government Code Section 65350 et seq. and California Government Code Section 65853 et seq., the Planning Commission held a public hearing pursuant to the notice required by law for this amendment; and

WHEREAS, on December 5, 2017, the Planning Commission of the City of Twentynine Palms conducted a duly noticed and advertised Public Hearing on PC 17-26, considered the proposed amendment to the Development Code as reflected in "Exhibit A" to this Ordinance; and

WHEREAS, on December 5, 2017, at the above noted Public Hearing for PC 17-26, 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 15075, that the update to Title 19 "Development Code" was anticipated by and incorporated into the environmental analysis of the General Plan EIR; and

WHEREAS, on January 4, 2018, a Zoning Text Amendment PC 17-26 was duly noticed in the Desert Trail, a newspaper of general circulation within the City of Twentynine Palms; and

WHEREAS, on January 16, 2018, the Planning Commission of the City of Twentynine Palms conducted a duly noticed and advertised Public Hearing on PC 17-26, and considered the proposed amendment to the Development Code as reflected in "Exhibit A" to this Ordinance; and

WHEREAS, on January 16, 2018, the Planning Commission found that on the basis of the whole record before it, including any public comments received, that there is no substantial evidence that the text amendment will have a significant effect on the environment and that the proposed CEQA Determination reflects the Planning Commission's independent judgment and analysis; and

WHEREAS, on January 16, 2018, the City of Twentynine Palms Planning Commission in its review of the proposed Development Code Amendment PC 17-26 made the following

“Findings”, and recommended that the City Council adopt such “Findings”, and approve the text amendment to the Development Code:

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

The City has a General Plan. Within the Plan are Goals and Policies which address the need to provide for the protection of the public health, safety and general welfare within the City by the effective implementation of zoning and property development standards. The Planning Commission finds that the proposed text modification is consistent with the City's General Plan.

- B. The Zone Change or Development Code Amendment prescribes reasonable property development; and,

This proposed code change prescribes additional development opportunities for development within the City that is similar in nature to other property in the City.

- C. The Zone Change or Development Code Amendment provides reasonable property development rights while protecting environmentally sensitive land uses and species; and,

The proposed code change prescribes additional development opportunities for development within the City, which contains no environmentally sensitive land uses and species.

- D. The Zone Change or Development Code Amendment ensures protection of the general health, safety and welfare of the community

The proposed code change prescribes additional development opportunities for development within the City. General health, safety, and welfare of the community will be protected through the compliance with the Municipal Code and the Development Code.

WHEREAS, on March 1, 2018, 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 March 13, 2018, 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 March 13, 2018, the City Council of the City of Twentynine Palms conducted a duly noticed and advertised Public Hearing on the proposed amendment to the Development Code as reflected in “Exhibit A” to this Ordinance,

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 17-26, the City Council finds 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 15075, determines that updates to Municipal Code and the Development Code were anticipated by and incorporated into the environmental analysis of the General Plan EIR and therefore, PC 17-26 is 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 text amendment will support implementation of the General Plan and State law.

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

Section 4. That 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.

Section 6. Effective Date. This Ordinance shall become effective upon its adoption.

Section 7. 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.

INTRODUCED at a regular meeting of the City Council of the Twentynine Palms held on the 13th day of March 2018, and thereafter,

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Twentynine Palms, California, held on this 27th day of March, 2018.



Cindy Villescas
Cindy Villescas, City Clerk

McArthur Wright
McArthur Wright, 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. 285, introduced on the 13th day of March, 2018 and duly adopted by the City Council of the City of Twentynine Palms in a meeting held on the 27th day of March, 2018, in Twentynine Palms, California by the following vote, to wit:

| | | |
|----------|----------------|---------------------------------------|
| AYES: | COUNCILMEMBER: | BILDERAIN, COLE, KLINK, MINTZ, WRIGHT |
| NOES: | COUNCILMEMBER: | NONE |
| ABSENT: | COUNCILMEMBER: | NONE |
| ABSTAIN: | COUNCILMEMBER: | NONE |

Cindy Villescas
Cindy Villescas, City Clerk

Exhibit “A”

Chapter 19.70 Accessory Uses and Structures

Sections

| | |
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19.70.010 Purpose

This Chapter establishes the regulations and criteria that allow compatible accessory uses to be located within the various land use districts in conjunction with a primary use or incidental to the primary use on the same property. Unless otherwise provided, all accessory uses are subject to the same regulations as the primary use.

19.70.020 Applicability

The regulations and standards contained in this Chapter shall apply only to those structures and uses expressly identified in this Section and shall be in addition to any other development standards and regulations contained elsewhere in this Development Code. For the purposes of this Title, second dwelling units are not considered accessory structures; second dwelling units are governed by the requirements of Chapter 19.134 (Second Dwelling Units) and are exempt from the requirements of this Chapter.

19.70.030 Permit Requirements

- A. All accessory structures, including those accessory structures identified in Section 19.70.040 (Exempt Accessory Structures), are subject to review through the same permit process required for the primary use. Where no permit is required, the accessory structure shall be reviewed through the Zoning Clearance process to ensure consistency with all applicable development standards.
- B. Accessory outdoor display is exempt from the requirement to obtain a permit where such display meets all standards of Section 19.70.080 (Accessory Outdoor Display).

19.70.040 Exempt Accessory Structures

The following accessory structures are exempt from the development standards of this Chapter.

- A. Play equipment that is no greater than 8 feet in height.
- B. Decks or uncovered patios.

- C. Tennis courts.
- D. Pools and spas.
- E. Pool accessories no greater than 8 feet in height, excluding mechanical equipment.
- F. Water wells.
- G. Similar at-grade or below-grade structures.

19.70.050 Allowed Uses and Development Standards – General

- A. In addition to the accessory uses specifically provided for by this Section or elsewhere in the Development Code, each land use shall be deemed to include such other accessory uses which are necessarily and customarily associated with and are clearly incidental and subordinate to the land use. Whenever such accessory uses are questioned, it shall be the responsibility of the Community Development Director to determine if a proposed accessory use meets the criteria set forth in this Chapter.
- B. The combination of accessory structures and primary use structures shall not exceed the maximum lot coverage or floor area ratio (FAR) specified by the land use district. Landscape features, pools, spas and related equipment shall not count toward and are not subject to the maximum lot coverage and maximum FAR requirements.
- C. Permitted accessory structures shall be located on the same parcel as the primary use within the building envelope, except where expressly allowed.
- D. Seagoing cargo containers or similar storage facilities may be used for the purpose of temporary storage or containment of construction cleanup materials, subject to the following:
 - 1. Seagoing cargo containers or similar storage facilities may be located anywhere on the property, except in the clear sight triangles, during the duration of an active Building Permit.
 - 2. Such temporary storage devices must be removed within 30 days of Building Permit finaling or expiration.
 - 3. No permit is necessary for this type of use; however, the contractor is to inform the City of the intended use of these cargo containers and have the fact noted on other issued permit(s).
- E. Seagoing cargo containers or similar storage facilities may be used on a vacant or developed property for the purpose of temporary storage or containment of cleanup material other than construction cleanup materials, subject to the issuance of a Temporary Use Permit in accordance with Chapter 19.34 (Temporary Use Permit and Standards).

19.70.060 Allowed Uses and Development Standards – Residential

- A. Accessory Uses. The following uses shall be permitted as accessory uses to each single dwelling unit which is allowed:

1. Guest Housing. Residential occupancy of a living unit, with no kitchen plumbing, located on the same parcel as the primary dwelling unit, but separated from it by at least 10 feet. This housing is for use by the occupants or temporary guests of the occupants of the premises and is not to be rented or otherwise used as a separate dwelling, except as provided in Section 19.70.090 (Accessory Residential Dwellings).
 2. Accessory animal boarding, breeding, housing, lodging, sheltering or raising as specified by Chapter 19.102 (Animal Keeping).
- B. Accessory Structures. The following regulations shall apply to all accessory structures as specified:
1. Architectural Compatibility. All accessory structures that enclose or shelter more than 500 square feet of floor area shall be required to be architecturally compatible with the main building(s) on site. Architectural compatibility shall be determined as follows:
 - a. An accessory structure shall be considered architecturally compatible when the accessory structure possesses at least two of the following architectural features or traits of the primary use structure on-site:
 - i. Equal or lesser height than the primary structure on-site.
 - ii. Wall-covering materials (wood, stucco, metal).
 - iii. Wall texture (smooth, stucco, lace stucco, lap siding).
 - iv. Roofing material (tile, shake, composition, metal).
 - v. Roofing pitch.
 - vi. Structural eaves (present or absent; when present, the extent/distance projecting from supporting wall).
 - vii. Fascia materials (present and, if so, decorative or functional).
 - viii. Mass and scale of structure relative to structural height (short and broad, tall and thin, massive).
 - ix. Windows size (proportionally large and/or small relative to surrounding wall).
 - x. Window characteristics (few or numerous, single-pane, multi-pane, decorative).
 - xi. Decorative treatments (pop-outs, columns, dormers, window surrounds, decorative arches).
 - b. The Planning Commission may determine an accessory building to be architecturally compatible with the main building on a site where the Commission finds that the proposed accessory structure is consistent, compatible and complementary to the main building on-site and/or to the buildings in the immediate area. A Conditional Use Permit shall be required and processed in accordance with Chapter 19.42 (Conditional Use Permit).
 2. Exemptions from Architectural Compatibility.
 - a. All accessory structures, whether or not a Building Permit is required, which enclose or shelter 500 square feet or less of floor area or which are located within the Rural Living (RL) District regardless of size, shall not be required to be architecturally compatible with the primary use

structure on-site.

- b. Any accessory structure which, by its location, is not visible from any individual at ground or second-story level from any public right-of-way or adjoining property shall not be required to be architecturally compatible with the primary use structure on-site.
3. Accessory structures which enclose or shelter more than 500 square feet of floor area shall not be located within any required front, side, street side or rear yard setback area.
4. Accessory structures which enclose or shelter more than 120 square feet of floor area, up to and including 500 square feet of floor area, may be located within the required side or rear yard setback area, subject to compliance with all other applicable requirements of this Code.
5. Accessory structures which enclose or shelter 120 square feet of floor area or less may be located within the required side, street side, or rear yard setback area, subject to compliance with all other applicable requirements of this Code.
6. Color. All accessory structures, regardless of size, shall be painted a color compatible with the primary use structure on-site. This requirement shall also apply to those accessory structures that are exempt from the architectural compatibility requirements of Subsection 19.70.060.B(1), above.
7. In the Single-Family Residential (RS) Districts, the cumulative total area of all accessory structures upon a recorded lot may not exceed 50 percent of the area of the main structure or 1,000 square feet, whichever is larger. Within the Rural Living (RL) Districts, the cumulative total area of all accessory buildings upon a recorded lot may not exceed 100 percent of the area of the main structure or 2,500 square feet, whichever is larger. A second dwelling unit as permitted under Chapter 19.134 (Second Dwelling Units) shall not be included within the cumulative total of allowed square footage for accessory structure(s). A greater size may be approved through a Conditional Use Permit.
8. In the RS ~~and RL~~ Districts, an accessory structure may not be higher than the height of the established primary use structure **or sixteen feet (16'), whichever is greater**. A greater height may be approved through a Conditional Use Permit.
9. In the RL District, accessory structures may be constructed up to the maximum height allowed within the land use district in which it is located, regardless of the height of the primary use structure. A greater height may be approved through a Conditional Use Permit.
10. In the Multi-Family Residential (RM) District, the cumulative total area of all accessory structures upon a recorded lot may not exceed 50 percent of the cumulative total habitable area of all primary structures on-site containing a residential unit and shall be subject to the height, setback and lot coverage limitations of the RM Land Use District.
11. In all residential districts, when the height of an accessory structure is greater than the required yard setback, the accessory structure shall be located a

minimum distance from the property line equal to that of the height of the accessory structure.

C. Seagoing cargo containers and similar storage facilities may be permitted as permanent storage facilities on a lot containing a residence subject to the following conditions:

1. Approval of a Site Plan Review where it is demonstrated that the requested container(s) is to be located within the rear one-half of the lot and shall be screened from view of any public rights-of-ways or adjacent residential properties by residential structures, landforms or physical features of the lot, landscaping or opaque fencing of up to 6 feet in height, with any visible remaining exterior portion of the container(s) painted in a manner compatible with the principal residence on-site.
2. Screening shall be waived if the container(s) is/are completely encased within an on-site, stick-built skin and eaves, which are architecturally consistent with the primary residence on-site and located no closer than 50 feet to any adjoining property line.
3. Containers shall be maintained in reasonable aesthetic condition at all times, as determined by the Community Development Director; shall not exceed 50 percent of the floor area of the primary residence on-site, inclusive of all accessory structures; shall not be stacked one atop another; and shall not be used for habitation of persons or animals.
4. Alternative allowances, including size, screening, condition, location, or habitation, may be considered and approved by the Planning Commission under review and approval of a Conditional Use Permit.

19.70.070 Allowed Uses and Development Standards – Commercial and Industrial

A. Accessory Uses. The following uses shall be permitted as accessory uses to primary commercial or industrial uses which are allowed by a land use district:

1. Accessory residential dwellings as specified in Section 19.70.090 (Accessory Residential Dwellings).
2. Accessory outdoor sales or display areas subject to the standards set forth in Section 19.70.080 (Accessory Outdoor Display).

B. Accessory Structures. The following regulations shall apply to all accessory structures as specified:

1. Permanent use of seagoing cargo containers and similar storage facilities may be used as accessory structures on lots designated for commercial or industrial uses and containing an existing use subject to the following conditions:
 - a. Approval of a Site Plan Review where it is demonstrated that the requested container(s) shall not be located within any required setback area, shall not be located closer than 50 feet to any public rights-of-way when located between the right-of-way and any structure on-site, and shall be screened from view of any property used for residential purposes and/or the public rightsof-way by on-site structures, landforms or physical features of the lot, landscaping or opaque fencing of up to 8

feet in height, wherein any visible remaining exterior portion of the container(s) shall be painted in a color compatible with the primary use structure on-site.

- b. Screening shall be waived if the container(s) is/are completely encased within an on-site, stickbuilt skin and eaves, which are architecturally consistent with the primary residence on-site and located no closer than 50 feet to any adjoining property line.
- c. Containers shall be maintained in reasonable aesthetic condition at all times, as determined by the Community Development Director; shall not exceed 500 square feet of container per acre of land; shall not be stacked one atop another; and shall not be used for habitation of persons or animals. Further, containers may be mobile if all possible future locations of such container(s) are identified, screening is provided, and the locations are approved under the Site Plan Review.
- d. No seagoing cargo container(s) shall be utilized for any purpose other than that directly associated with the primary activity on-site, nor shall the container(s) be allowed to be rented, leased or hired for compensation of any means.
- e. Alternative allowances, including size, screening, condition, location, or habitation, may be considered and approved by the Planning Commission under review and approval of a Conditional Use Permit.

19.70.080 Accessory Outdoor Display

The intent of this Section is to provide for the appropriate location and design of outdoor sales and display areas and to mitigate any adverse impacts that such uses may have on adjacent properties and rights-of way.

- A. Accessory Outdoor Sales and Display Permitted. Outdoor sales and display shall be permitted as an accessory use only in commercial and industrial land use districts, subject to the following requirements:
 - 1. Outdoor sales and display shall only be permitted in an area not greater than 500 square feet or 10 percent of the gross floor area of the ground floor of the building, whichever is less, and shall be located at least 50 feet from any residentially zoned property.
 - 2. Outdoor sales and display shall not be permitted within any required setback area, except as allowed under Subsection 19.70.080.A.4.
 - 3. Stacked items shall not exceed 6 feet in height. No material or display items shall be located within 3 feet of any building entry.
 - 4. Vending machines and accessory outdoor sales and display may be permitted outside of the building and within a required setback when located against and parallel to the building facade, extending up to 4 feet in depth from the building. These items shall count toward the total outdoor sales and display area permitted by this Section. Public telephones and mailboxes are excluded from these regulations.

5. Outdoor sales and display of items shall be located on a permanent durable surface.
6. No outdoor sales and display shall be allowed in areas set aside, required or designated for driving aisles, driveways, maneuvering areas, emergency access ways, off-street parking or unloading/loading.
7. Outdoor sales and display items may be located on sidewalks in the public right-of-way only if permitted in accordance with Chapter 19.56 (Transient Seller's and Sidewalk Vending Licenses). Outdoor sales and display items shall be permitted on privately owned walks or other areas intended for pedestrian movement provided an unobstructed, continuous path with a minimum 4-foot width is maintained. Materials located at the edge of a pedestrian way adjacent to a driving aisle shall not extend more than 10 feet without providing a break of not less than 4 feet in width to allow for unobstructed access onto the pedestrian way.
8. Items for outdoor sale and display shall be completely screened from view from any abutting residentially zoned property.
9. No outdoor sales, storage or display areas shall be located in the clear sight triangle as defined by this Code, or located in any manner that would restrict or limit adequate sight distances for interior or exterior vehicular movements.
10. Any outdoor display or sale item located outdoors in a manner constituting a sign must conform to the appropriate sign ordinance or regulations.
11. In the City of Twentynine Palms, outdoor sales and display shall only be accessory to a principal nonresidential use where such use conducts its activities within a completely enclosed building or group of buildings on the same property, shall be conducted by employees of the principal use, and shall be owned by the owner of the principal use and not a consignment operation or arrangement.

19.70.090 Accessory Residential Dwellings

The following dwelling is allowed as an accessory use to a primary agricultural, commercial, industrial or institutional use where such use demonstrates the need for on-site residency of one or more people to maintain, operate and/or secure the primary nonresidential land use on the property.

- A. Caretaker's Residence. Residential occupancy of a dwelling unit by the owners, operators, or caretaker employed to maintain, operate or guard part or all of the property on which the caretaker dwelling is located as an accessory use. The caretaker dwelling unit may be located either above the first floor or behind a primary use structure. Caretaker housing shall be processed in accordance with the permit requirements identified in the applicable land use district chapters contained in Article 2 of this Development Code.