



STUDY SESSION REPORT

TO: Planning Commission – Study Session (17)
FROM: Interim Community Development Director
MEETING: April 2, 2013

SUBJECT: PC 12-31 – Discussion and possible guidance on an Amendment to Title 19 “Development Code” of the City’s Municipal Code, regarding a comprehensive update and replacement of the entire Code, applicable to all properties within the City of Twentynine Palms.

RECOMMENDATION

Staff recommends that the Planning Commission resume its Study Session discussion of the draft comprehensive update to the Development Code.

ORDER OF PROCEDURE

Request Staff Report (Community Development Director presenting)
Commission Questions of Staff
Receive Public Comment
Commission Discussion
Direction/Guidance to Staff

Attachments

(under separate cover)

Draft Chapters
19.86 Nonconforming Uses
and Structures
19.90 Abandoned Vehicle
Abatement
19.92 Nuisance Abatement
19.93 Unclaimed or
Abandoned Property

PROJECT DESCRIPTION

A Study Session to provide the Commission with the opportunity to examine the draft comprehensive update to the Development Code (created by the consulting firm of Hogle-Ireland, Inc.), which would replace, in its entirety, the City’s current Development Code, applicable to all properties citywide.

BACKGROUND

At a regular meeting held by the Planning Commission on March 5, 2013, the Commission resumed its review of the comprehensive update to the City’s Development Code (following multiple Study Sessions from June, 2012 through February, 2013). At the March 5 meeting, the Commission provided comments on the questions and/or issues that were raised by staff within the report as noted and/or highlighted within the draft Chapters provided for review. The Commission continued to utilize its new approach to the review of the draft Development Code material, which is hoped to allow the Commission to forward its recommendation to the City Council sooner. The new approach allows each Commissioner to review the next new Chapters

in sequence and raise only those issues within the specific Chapters that individuals wished to have the entire Commission discuss. Thus, instead of reviewing each section of each Chapter, the Commission would only discuss those issues an individual Commissioner felt needed discussion in that Chapter's review.

Chapter	Commission Action
19.02 Authority	Not Yet Reviewed by Commission
19.04 The General Plan	Not Yet Reviewed by Commission
19.06 Definitions	Not Yet Reviewed by Commission
19.07 Rural Living	Add'l Corrections Provided By PC
19.08 Single-Family Residential	Add'l Corrections Provided By PC
19.09 Multi-Family Residential	Add'l Corrections Provided By PC
19.10 Commercial	Further Guidance Needed
19.12 Com. Industrial/Service Commercial	Further Guidance Needed
19.14 Open Space Residential	Further Guidance Needed
19.15 Public, Quasi-Public, Floodway and Tribal	Further Guidance Needed
19.16 Specific Plan	Deleted by Commission
19.18 Overlays	Further Guidance Needed
19.20 General Plan Amendments	OK as Written
19.22 Zone Changes/Dev. Code Amendments	OK as Written
19.24 Specific Plans	Further Guidance Needed
19.26 Development Agreements	OK as Written
19.28 Site Plan Review	OK as Written
19.29 CEQA	OK as Written
19.30 Conditional Use Permits	Add'l Corrections Provided By PC
19.31 Minor Use Permit	Delete Entire Chapter
19.32 Temporary Use Permits	Further Guidance Needed
19.33 Peddling/Hawking/Soliciting Permits	Use Recent Council Ordinance
19.34 Variances	OK as Written
19.36 Home Occupations	OK as Written (With Recent Council Ordinance)
19.38 Surface Mining and Land Reclamation Permits	OK as Written
19.40 Application Process & Submittal requirements	Further Guidance Needed
19.42 Fee Deposits	OK as Written
19.44 Public Hearings and Notices	OK as Written
19.46 Appeals	Further Guidance Needed
19.48 Accessory Uses and Structures	Further Guidance Needed
19.49 Outdoor Dining	Not Yet Reviewed by Commission
19.50 Adult Oriented Businesses	OK as Written
19.52 Animal Control	Pulled for rewrite by Staff
19.53 Second Dwelling Units	Change to Conform to State Code
19.54 Bed and Breakfast Uses	OK as Written
19.55 Bingo Games	OK as Written
19.56 Community Care Facilities	Change to Conform to State Code
19.57 Farmer's Markets	OK as Written
19.58 Telecommunications Facilities	Pulled for rewrite by Staff

19.62 Flood Management Regulations	OK as Written
19.64 Hillside Grading, Clearing and Plant Removal	OK as Written
19.66 Commercial Vehicle Parking	OK as Written
19.68 Historic Preservation	OK as Written
19.70 Lighting Standards	Further Guidance Needed
19.72 Mobile Home / RV Parks and Campgrounds	Further Guidance Needed
19.74 Noise Control	OK as Written
19.80 Recycling and Solid Waste Disposal	Further Guidance Needed
19.85 Public Improvements – Delaying or Deferring	Further Guidance Needed
19.86 Non Conforming Uses and Structures	Not Yet Reviewed by Commission
19.90 Abandoned Vehicle Abatement	Not Yet Reviewed by Commission
19.92 Nuisance Abatement	Not Yet Reviewed by Commission
19.93 Unclaimed or Abandoned Property	Not Yet Reviewed by Commission

The Commission stopped its review of the draft material following completion of Chapter 19.85 “Public Improvements – Delaying or Deferring” leaving the Chapters listed above as “Not Yet Reviewed by Commission” as the Chapters to be addressed during the April 2, 2013 regular Planning Commission Study Session.

As noted in previous Study Session reports, staff will not re-summarize the changes directed by the Commission at Study Sessions, instead the Commission directed changes shall be highlighted (similar to the way questions or outstanding issues shall be highlighted) in Chapters attached to the next available report with the notation “Changes as of (date)” so that it shall be easier to track the changes being considered and made.

ANALYSIS

As has been noted within previous Study Session reports, it is essential that as the Commission works through its review of the changes to the Code that it, as a body, considered which uses, if any, would the Commission turn down (i.e., not allow within the City within any zone, or deny a discretionary review for such a use under a Conditional Use Permit) and for what reasons, and which regulations would it not hesitate to enforce. If these reasons for denial can be identified, then standards/limitations can be created and the need for discretionary review removed. If, however, general standards/limitations cannot be created to address most circumstances of a particular use, then that use should continue to require discretionary review such as a Conditional Use Permit (as the Commission has directed the removal of Minor Use Permits). Additionally, if the standards identified within the Code cannot be fully supported by the Commission (and ultimately by the City Council), that being fully enforced upon individual property owners, then the Commission should re-examine those Code standards and replace them with ones that the Commission can fully support.

Findings

Under the provisions of the Development Code, no “Findings” are required to be made for the Commission to undertake a Study Session review of the Development Code. When the Commission progresses to a Code Amendment wherein suggestions for alternative standards applicable to Development Code are discussed, then pursuant to Section 19.22.050 “Findings” of the City’s Development Code (listed below), both the Planning Commission and City Council are required to make four (4) “Findings” of approval in a positive manner prior to recommending

or adopting a Development Code Amendment. At such time as the Public Hearing report is prepared, staff shall provide the Commission with comments to address each “Finding” for consideration and possible adoption, forwarding its recommendation to the City Council.

- A. The Zone Change or Development Code Amendment is consistent with the intent of the goals and policies of the General Plan; and
- B. The Zone Change or Development Code Amendment prescribes reasonable controls and standards to ensure compatibility with other established uses; and
- C. The Zone Change or Development Code Amendment provides reasonable property development rights while protecting environmentally sensitive land uses and species; and
- D. The Zone Change or Development Code Amendment ensures protection of the general health, safety, and welfare of the community.

CEQA Environmental Review

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), the Study Session of a possible future Code Amendment has been reviewed for its potential to impact the environment. It has been determined that the proposal, consisting of a discussion of possible future standards and regulations for inclusion within a new, updated Development Code, cannot, by itself, have a direct impact upon the environment. As such, under the provisions of Government Code Section 15262 “Feasibility and Planning Studies” a Study Session is statutorily exempt from further environmental review. The anticipated future Code Amendment itself shall fall under the Environmental Impact Report (EIR) created for the Update to the City’s General Plan (it was specifically listed within the General Plan’s EIR documentation).

Approval Process

As the Commission is aware, under the provision of Development Code Section 19.22.040 “Approval Authority and Notification” (for Development Code Amendments) the Planning Commission is the Review Authority for any changes to the Development Code, with the City Council being the Approval Authority.

Chapter 19.86**NONCONFORMING USES****Sections:****19.86.010 General Provisions****19.86.020 Continuation of Nonconforming Buildings and Uses****19.86.030 Termination of Nonconforming Uses****19.86.040 Alteration of Nonconforming Uses**

19.86.010 General Provisions. The regulations in this chapter shall apply to all existing nonconforming buildings and uses, i.e. buildings or uses that were legally established however do not comply with current codes because of code changes.

19.86.020 Continuation of Nonconforming Buildings and Uses.

- A. Any nonconforming building or use may be continued and maintained, provided there are no structural alterations, except as otherwise specified in this chapter.
- B. Any nonconforming use may be continued provided that the use shall not be increased, enlarged, extended or altered, except as otherwise specified in this chapter.

19.86.030 Termination of Nonconforming Use.

- A. Any part of a building or land occupied by a legally established nonconforming use which is changed to or replaced by a use conforming to the provisions of this Code as they apply to the particular district, shall thereafter be used or occupied only by a conforming use.
- B. Any building, or part thereof, or land occupied by a land use that is not listed as a permitted use within the current Land Use Tables of the underlying zoning district, and which use shall cease for a period of twelve (12)

consecutive months or more, shall thereafter be used or occupied only by a use listed as a permitted use within the current Land Use Tables of the underlying zoning district. The period wherein any building, or part thereof, or land occupied by a land use that is not listed as a permitted use within the current Land Use Tables of the underlying zoning district may be extended by the Planning Commission by up to two (2) additional twelve (12) month increments upon review and approval of a no fee review wherein it is demonstrated to the satisfaction of the Commission that the failure to re-establish the same or similar legally established nonconforming use or re-occupy the legally established nonconforming structure was due to circumstances beyond the control of the property owner and such extension would be in the best interests of the community.

Proof of use or occupancy may include business receipts, delivery receipt for reception of articles for the use at the location in question, rent or lease receipts, utility bills in the name of the legally established nonconforming use, City Business License receipt, affidavit from an individual not affiliated with the property owner or previous use, and other materials to be determined by the Commission.

- C. The provisions of this Chapter shall not

prevent the reconstruction, repairing or rebuilding and continued use of any legally established nonconforming building or buildings damaged by any natural or man-made catastrophe subsequent to the effective date of this Code, wherein the cost of such reconstruction, repairing or rebuilding does not exceed seventy-five percent (75%) of the reasonable value of such building or buildings constituting a single enterprise at the time such damage occurred. The determination regarding reasonable value shall be made by the City's Building Official.

- D. A legally established nonconforming structure that has historic significance to the City of Twentynine Palms (as established under the provisions of Ordinance No. 58) may be reused for its original intended use regardless of the zoning designation of the property wherein it lies if an Historic Resource Evaluation Report has been prepared that confirms the historic significance of the structure subject to the Commission's acceptance of the Report and determination that the reuse is compatible with surrounding land uses.
- E. Nothing contained within this Section shall be construed or implied so as to allow for the continuation of an illegal nonconforming structure and/or use. As provided by Title 19 "Development Code" and State law, any such illegal nonconforming structure and/or use shall be removed immediately upon a determination by the Planning Commission that such nonconforming structure and/or use was established contrary to the allowances and requirements of the Development Code in effect at the time of establishment.
- F. Nothing contained within this Section shall be construed or implied to relieve a property owner from his/her responsibility to conform to the

requirements of the Americans with Disabilities Act (ADA); but further nothing within this Section shall identify a structure or use as a nonconforming structures or use solely for failure to conform to the requirements of the Americans with Disabilities Act (ADA).

19.86.040 Alteration of Nonconforming Uses

- A. A nonconforming use may be altered after review and approval of a Conditional Use Permit with the additional finding that the alteration of the nonconforming use will not result in an expansion of more than twenty-five percent (25%) and that it will not adversely affect surrounding properties or uses.
- B. Any alteration required by governmental or court action shall be exempt from these conditions.
- C. Restrictions and conditions affecting a nonconforming use shall apply to the existing use, land and structures and shall not be affected by ownership changes.
- D. Notwithstanding the provisions regarding Conditional Use Permit or Variance, the Building Official may allow the construction of an additional modification to a legally existing structure within a current yard setback area, as established by an applicable residential Land Use District, when such legally existing building is within the yard setback area, and provided such additional modification does not exceed the projection of the existing structure into such current yard setback area and does not come closer than three (3) feet to any property line.
- E. The requirement for a Conditional Use Permit shall not apply to nonconforming residential uses, provided the following are also met:
 - 1. The uses are being expanded or modified by no more than twenty-five percent (25%) of the floor space or ground area

existing at the time such use became a nonconforming use, and

2. The expansion or modification meets all other code requirement.

- F. The requirement for a Conditional Use Permit shall not apply to any nonconforming use or structure which is being expanded, altered or modified to more closely approximate or exceed the standards of this Code with which it does not currently conform.

Chapter 19.90**ABANDONED VEHICLE ABATEMENT****Sections:**

- 19.90.010 Purpose**
- 19.90.020 Definitions**
- 19.90.030 Supplement to Existing Law**
- 19.90.040 Duty to Abate: Prohibited Uses**
- 19.90.050 Exceptions**
- 19.90.060 Abatement Program and Its Administration**
- 19.90.070 Emergency Removal**
- 19.90.080 Complaints and Requests for Removal**
- 19.90.090 Notice of Abandonment of Intention to Abate a Public Nuisance**
- 19.90.100 Alternative Removal of Abandoned Vehicles Which Will Be Scrapped**
- 19.90.110 Disposal to Dismantler or Scrap Iron Processor of Vehicles Towed**
- 19.90.120 City Not Liable**
- 19.90.130 Penalty for Violation**

19.90.010 Purpose. The purpose of this chapter is to provide for an abatement program for abandoned, wrecked and dismantled vehicles within the City

19.90.020 Definitions. For the purpose of this chapter, unless otherwise apparent from the context, the words and phrases used here shall have the following meanings:

Abandoned. Those vehicles worth \$300 or less as determined by the City Manager which permanently has been deserted and relinquished by its owner.

City Manager. The City Manager of the City of Twentynine Palms or his designee, authorized by Resolution of the City Council to implement this chapter.

Dismantled. A vehicle from which parts have been removed so that the vehicle cannot or will not be made operational, including a partially dismantled vehicle and a vehicle without a hood, fenders, tires, body panels, transmission, headlights, trunk lid, wheels, windows windshields or other parts; a dismantled vehicle includes one with its tires removed and placed

on blocks.

Highway. A way or place of whatever nature, publicly maintained and open to use of the public for the purpose of vehicular travel. "Highway" shall include street or road easement which is publicly maintained, but does not include private property.

Inoperative. A vehicle which has not been dismantled in any way but reasonably presents the exterior appearance of an otherwise operational vehicle awaiting repair, rebuilding reconditioning or restoration.

Lien Sale. A sale of legal ownership of a vehicle under title or requiring registration under the California Vehicle Code.

Owner of the Land. The owner of the land on which the vehicle, or parts thereof, is located, as shown on the last equalized assessment roll.

Owner of the Vehicle. The last registered owner and legal owner of record.

Person. A natural person, firm, partnership, association, or corporation.

Public Property. The property owned and maintained by a public entity but shall not include “highway”.

Roadway. That portion of a highway improved, designed, or ordinarily used for vehicular travel including improved shoulders.

Right-of-way. The strip of land upon which is constructed a road bed, and shall include the land itself, and the entire width of the easement for such road beds.

Storage/Impound Yard. The premises used for the dismantling or wrecking of vehicles where there is buying, selling or dealing in such vehicles, their integral parts, or component material thereof, and the storage, sale or dumping of dismantled, partially dismantled, wrecked or inoperative vehicles

Tow Operation. A business which provides towing service for motor vehicles either on public highways or on private property for compensation which is under contract to the City or holds a franchise with the City to perform such services under this chapter

Vehicle. Any device by which persons or cargo may be propelled, moved, or drawn and shall include all types of motorized vehicles whether or not the motor is intact. “Vehicle” specifically includes boats and trailers; “vehicles” also specifically includes vehicle parts.

Wrecked. A destroyed vehicle not useable for parts, distinguished from a dismantled vehicle.

19.90.030 Supplement to Existing Law. The procedures in this chapter are not the exclusive means of abatement or regulation of abandoned, wrecked, dismantled or inoperative material or public nuisances within the City. This chapter shall supplement and be in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the County, the State, or any other legal entity or agency having jurisdiction, or any legal entity or agency having jurisdiction, or any other legal authority available to the City.

19.90.040 Duty to Abate: Prohibited Uses

- A. Except as set out in Section 19.90.050(c), no person shall cause, maintain, permit or otherwise allow an abandoned or wrecked vehicle to remain on such property for more than 15 calendar days. It shall be the duty of the owner, occupant or person in control of such property to remove, abate and prevent retention of such vehicles.
- B. No persons shall cause, maintain, permit or otherwise allow a dismantled vehicle to be stored in a manner not allowed by Section 19.90.050 of this chapter. It shall be the duty of the owner, occupant, or person in control of such vehicle or of real property to remove, abate and prevent storage in violation of this chapter.
- C. Any dismantled vehicle, when placed or kept on real property for more than 15 calendar days in a manner inconsistent with the requirements of Section 19.90.050 of this chapter, shall be deemed to be abandoned or wrecked vehicle and to constitute a prohibited use and is a violation of this chapter, punishable as set out in Section 19.90.130 hereof.

19.90.050 Exceptions. This chapter shall not apply to the following:

- A. A vehicle which is inoperative as defined herein; where maintained intact in a clean and safe manner on the property of the owner or person legally in possession of such vehicles and where the property is zoned for the intended use;
- B. Stored vehicles. A dismantled vehicle or part(s) thereof which is visible from the street or adjoining property may be stored by the owner or person legally in possession thereof where completely covered, weatherproof, opaque cover or stored within a fenced area and where the property is zoned for such use.
- C. Lawfully conducted business. An Abandoned or wrecked vehicle thereof may

be stored within an enclosure surrounded by a fence which obscures a view of the property in a lawful manner on appropriately zoned private property in connection with the business of a licensed dismantler, licensed vehicle dealer, or when the storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

Notwithstanding the foregoing, nothing in this section shall authorize the maintenance of a public or private nuisance as defined under other provisions of law.

19.90.060 Abatement Program and Its Administration.

- A. The City reserves the right to implement a program of towing abandoned, wrecked, dismantled or inoperative vehicles in compliance with this chapter or other applicable authority.
- B. The City may by resolution contract or enter into a franchise with a tow operation or other entity as part of such program or to enforce this chapter and also may authorize the contractor, franchisee or other entity to do so.
- C. The City may establish by resolution fees for towing and storage under this chapter.
- D. Except as delegated by resolution to a contractor, franchisee, or other entity, the provisions of this chapter will be administered and enforced by the City Manager.
- E. In the enforcement of this chapter, the City Manager may enter private or public property to investigate, examine, post, serve notices, cite or tow and the tow operator may enter private property to tow as provided herein; provided, however, that they will use reasonable efforts to give reasonable notice thereof to the owner or occupant of inhabited property.

- F. Upon evidence thereof and as set herein, the City Manager may declare wrecked or dismantled vehicles to be abandoned or a public nuisance and may remove or cause their removal under this chapter or other applicable law.
- G. Determination of Value. The City Manager shall determine the value of any vehicle to be removed and may consult applicable guides or other authority to do so.

19.90.070 Emergency Removal. Public property notwithstanding any other provision of this chapter, vehicles which are:

- A. Parked, resting, or otherwise immobilized on
- B. A highway or public right-of-way and
- C. Lack an engine, transmission, tires, wheels, tires, doors, windshield or other parts necessary for safe operation

may be removed immediately upon discovery by the City Manager without prior compliance with the notice requirement set out in section 22851.3 of the Vehicle Code or this chapter. This section does not apply to private property.

19.90.080 Complaints and Requests for Removal.

- A. If a member of the public notifies the City of an abandoned, wrecked or dismantled vehicle, the City Manager shall obtain the location of the vehicle and other identifying information and determine if the procedures set out in this chapter should be implemented.
- B. If the owner of the land requests removal of an abandoned, wrecked or dismantled vehicle from his property, and the owner of the land also is the owner of the vehicle, the City or tow operator may remove the vehicle upon payment of a fee by the owner without compliance with the requirements of this chapter, upon obtaining the owner's written

consent thereto.

19.90.090 Notice of Abandonment of Intention to Abate a Public Nuisance.

- A. Determination of abandonment. Upon determination by the City Manager that a vehicle has been abandoned (including the value thereof) the City Manager or tow operator may proceed to remove the vehicle as a public nuisance in accordance with the procedures set out here:
- B. Removal of abatement of public nuisance (cost charged to property owner).
 - 1. Except as set out in (C) a ten-calendar day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance shall be mailed by registered or certified mail to the owner of the land and to the owner of the vehicle, except that the vehicle is in such condition that identification numbers are not available to determine ownership, notice shall be sent only to the owner of the land. No notice of intention need be sent if the property owner and the owner of the vehicle have signed releases authorizing removal and waiving further interest in the vehicle or part thereof.
 - 2. The notices of intention shall be substantially in the following forms:

“NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED OR DISMANTLED, VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE” (Name and address of the owner of the land.)

“As owner shown the last equalized assessment role of the land located at (address), you are hereby notified that the undersigned, pursuant to Ordinance No. _____ of the City of Twentynine Palms has determined that there exists upon you’re an (or parts of an) abandoned, wrecked, dismantled or inoperative vehicle registered to _____, license number _____, which constitutes a public nuisance pursuant to the provisions of that ordinance.

“You are hereby notified to abate said nuisance by removal of the vehicle (or parts of such vehicle) within ten calendar days from the date of your receipt of this notice, and upon your failure to do so, the same will be abated and removed by the City of Twentynine Palms and the costs thereof, together with administrative costs, assessed to you as owner of the land on which the vehicle (or the parts of a vehicle) is/are located.

“As owner of the land on which the vehicle (or parts of a vehicle) is/are located, you are hereby notified that you may, within ten days after receipt of this notice of intention, request a public hearing. If such a request for a public hearing is not received by the City Manager of the City of Twentynine Palms within such ten-calendar day period, the City Manager shall have the authority to abate and remove the vehicle (or parts of a vehicle) as a public nuisance and assess the costs as set out here without a public hearing. You may submit a sworn written statement within such ten-day period denying responsibility for the presence of the vehicle (or the parts of a vehicle) on the land, with your reasons for denial, and such statement shall be construed as a request for a public hearing at which your presence is not required, at which your statement will be used. Alternatively, within such 10 day period you may request a public hearing in writing and then must appear in person to deny responsibility for the presence of the vehicle on your land.

Notice Mailed _____/s

Date

”

“NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED,
WRECKED OR DISMANTLED VEHICLE OR PARTS THEREOF AS A
PUBLIC NUISANCE”

(Name and address of last registered and/or legal owner of record of vehicle. Notice should be given to both if different.)

“As last registered (and/or legal) owner of record of (description of vehicle: make, model, license, etc.), you are hereby notified that the undersigned, pursuant to Ordinance No. 35 of the City of Twentynine Palms, has determined that the vehicle (or parts of a vehicle) exist(s) as an abandoned, wrecked or dismantled vehicle at (describe location of public or private property) and constitute(s) a public nuisance pursuant to the provisions of that Ordinance.

“You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within ten-calendar days from the date of receipt of this notice.

“As registered (and/or legal) owner of record of the vehicle (or the parts of a vehicle), you are hereby notified that you may, within ten calendar days after the receipt of this notice of intention, request a public hearing. If such a request is not received by the City Manager of the City of Twentynine Palms within such a ten-day period, the City Manager shall have the authority to abate and remove the vehicle (or parts of a vehicle) without a public hearing.

Notice Mailed _____/s
Date

_____”

C. Prior notice is not required:

1. Prior notice is not required for the removal of certain vehicles from private property where the are:
 - a. On agricultural or on vacant, commercial or industrial property; or
 - b. Zoned for agricultural use or not improved with a residential structure containing one or more dwelling units; and
 - c. Abandoned and inoperable due to the absence of a motor, transmission, or wheels and incapable of being towed;
 - d. Valued at less than two hundred dollars (\$200.00) by the City Manager;
 - e. Is determined by the City Manager to be a public nuisance as defined herein presenting an immediate threat to public health and safety;
 - f. The property owner has signed a release authorizing removal and waiving further interest in the vehicle or part(s) thereof.
2. Prior to final disposition of such vehicle or part for which evidence of registration has been recovered from the Department of Motor Vehicles, the City Manager shall provide notice to the registered and legal owners of the vehicle of the City's intent to dispose of the vehicle or its parts. If the vehicle or part is not claimed and removed within 15 calendar days after notice is mailed, final disposition may proceed.

D. If no written request for a public hearing is received by the City Manager within the time allowed, the City Manager shall have

the authority to abate and remove the vehicle without a hearing.

E. Public Hearing and Procedure.

1. If within 10 days after receipt of the Notice of Intention to Abate, the owner of land or the owner of the vehicle files with the City Manager a written request for a public hearing, such a public hearing shall be held on the issued of:
 - a. Abatement and removal of the vehicle or part thereof as an abandoned, wrecked or dismantled (including the determination of value thereof); and
 - b. The assessment of the administrative costs and the cost of removal of the vehicle or part thereof against the property on which it is located.
2. Notice of such hearing shall be mailed at least ten days before the hearing by registered or certified mail, with a five-day return requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that identification numbers are not available to determine ownership. If any of the foregoing notices are returned as undeliverable by the United States Post Office, the hearing shall be continued to a date not less than ten days from the date of the return and may then be conducted on the date to which continued whether or not the party attempted to be notified.
3. Notice of hearing to the Highway Patrol and Chief of Police. Notice of hearing shall also be given to the California Highway Patrol and the Chief of Police of the City, identifying the vehicle or part thereof proposed for removal. Such

notice shall be mailed at least ten days prior to the public hearing.

F. Hearing Officer. All hearings under this chapter shall be held before a Hearing Officer. The City Manager, or his designee, shall be the Hearing Officer or the City.

1. Hearing Officer – Powers and duties. The hearing Officer shall hear all facts and testimony which he deems pertinent. The facts and testimony may include testimony on the condition or value of the vehicle or parts thereof and the circumstances concerning its location on the private or public property. The Hearing Officer shall not be limited by the technical rules of evidence, but may consider any evidence upon which a prudent person might rely in arranging his own affairs. The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for such denial.
2. Findings and determination by the Hearing Officer. The hearing Officer may impose such conditions and take such other action as he deems appropriate under the circumstances to carry out the purpose of this chapter. The Hearing Officer may delay the time for removal of the vehicle or parts thereof if, in his opinion, the circumstances justify it. After the conclusion of the public hearing, the Hearing Officer will issue written findings, and may find that a vehicle or part thereof has been abandoned, wrecked or dismantled, on private or public property. The Hearing Officer in writing order it removed from the property as a public nuisance or disposed of as provided in this chapter and determine the administrative costs and the costs of removal to be charged

against the owner of the parcel of land on which the vehicle or part thereof is located. The order requiring removal shall include a description of the vehicle or part thereof and, if reasonably ascertainable, the correct identification number and license number of the vehicle.

The written decision (findings and order) of the Hearing Officer shall be mailed to all parties to whom notice was given within 10 (ten) calendar days of the decision. If an interested person makes written presentation to the Hearing Officer but does not appear, he shall be notified in writing of the decision.

3. Determining Costs. The Hearing Officer, after hearing all testimony, may determine that the cost of removal and cost of administration be paid by the owner of the land, the owner of the vehicle, or the City.
4. Administrative costs. The City Council shall from time to time determine and fix an amount to be assessed as administrative costs (excluding the actual cost of removal of any vehicle or part thereof) under this chapter.

G. Appeal to the City Council. A part or other interested person may appeal the decision of the Hearing Officer by filing a written notice of appeal with the City Clerk within ten days after the date of mailing of the decision. The Clerk then shall give written notice to the time and place of the hearing to the appellant, owner of the land, owner of the vehicle, and any other interested person receiving the decision.

1. Decision by Council. The appeal shall be heard by the City Council at a regular or special public meeting. The Council may affirm, amend, or reverse the order of the Hearing Officer or take such other action as the Council may deem to be

appropriate. In conduction the hearing, the City Council shall follow the hearing procedures and exercise the same powers as are set forth in this Section for the Hearing Officer. The decision of the City shall be final.

H. Removal of vehicle— Disposal. Ten days form the date of mailing of notice of the decision by the Hearing Officer (if not appealed) or 15 days after the decision of the City Council authorizing removal following appeal, the vehicle or parts thereof may be disposed of by the City Manager, by removal to a storage or impound yard. After a vehicle has been removed, it shall not thereafter be reconstructed or made operable unless it qualifies for historical or horseless carriage vehicle plates.

1. Notice to responsible agencies. Within five calendar days after the date of removal of the vehicle or parts thereof, notice shall be given to the Department of Motor Vehicles, the California Highway Patrol, and the Chief of Police of the City, identifying the vehicle or part thereof removed. At the same time, there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certification, certificates of title, and license plates.

2. Abatement cost as a lien. If the administrative costs and the costs of removal, which are charged against the owner of a parcel of land are not paid within 30 days of the final disposition of any appeal, the costs shall be assessed against the parcel of land under Government Code Section 38773.5 and shall be transmitted to the tax collector/ auditor. The line shall have the same priority as property taxes.

A. Provided the requirements set out in this section are met, any city police officer or the City Manager, who has reasonable grounds to believe that a vehicle has been abandoned, may remove the vehicle form a highway or from public or private property.

1. The vehicle is estimated by the City Manager to have a value at the time of proposed removal of \$300 or less.

2. Not less than 72 hours before the vehicle is removed the persons causing the removal of the vehicle or his agent shall securely attach to the vehicle a distinctive notice in the form attached hereto which states that the vehicle will be removed by the public agency. This requirement shall not apply to vehicles whose estimated value is \$100 or less.

3. Any notices required by Section 19.90.100(2) hereof shall be substantially in the following form:

**19.90.100 Alternative Removal of
Abandoned Vehicles Which Will Be
Scrapped.**

NOTICE OF INTENTION TO TOW, ABATE AND REMOVE AN ABANDONED,
WRECKED OR DISMANTLED, VEHICLE OR PARTS THEREOF AS A PUBLIC
NUISANCE

Notice attached to vehicle: date: time:

TO ALL WHOM THIS DOCUMENT MAY COME, you are hereby notified that the undersigned, pursuant to Ordinance No. 35 of the City of Twentynine Palms has determined that there exists upon the land commonly described as (insert address) an (or parts of an) abandoned, wrecked or dismantled vehicle registered to (insert reg. owner) , license number (insert license no.) , which constitutes a public nuisance pursuant to the provisions of that chapter.

If you have any interest in the above-described vehicle you are hereby notified to abate said nuisance by removal of the vehicle (or parts of such vehicle) within 72 hours from the date at the top of this notice, and upon your failure to do so, the same will be abated and removed by the City of Twentynine Palms.

This car will be towed away on date unless you contact (name) , at (phone) .”

19.90.110 Disposal to Dismantler or Scrap Iron Processor of Vehicles Towed Pursuant to Section 19.90.100.

A. Notice. Immediately after the removal of the vehicle, the person causing the removal or his agent shall:

1. Notify the stolen vehicle system of the Department of Justice in Sacramento of the removal.
2. Shall obtain a copy of the names and addresses of all persons having an interest in the vehicle, if any, from the Department of Motor Vehicles either directly or by use of the California law enforcement telecommunications system.
3. Within 48 hours of the removal, excluding weekends and holidays, send a notice to the registered legal owners at their addresses on record with the Department of Motor Vehicles, to any other person known to have an interest in the vehicle, and to the tow operator storing the vehicle. Notice shall be sent by certified first class mail. The notice shall include all of the following information and shall be substantially in the form provided in subsection (4) hereof.
 - a. Name, address and telephone number of the public agency providing the notice.
 - b. The location of the place of storage and description of the vehicle which shall include, if available, the vehicle make, license plate number, the vehicle identification number and mileage.
 - c. The authority and purpose of the removal of the vehicle.
 - d. The statement that the vehicle will be disposed of 15 days form the date

of the mailing of the notice.

- e. A statement that the owners and interested persons, or their agents have the opportunity for a post-storage hearing before the public agency which removed or caused removal of the vehicle to determine validity of the storage if request for a hearing is made in person, in writing or by telephone within 10 days from the date of the mailing of the notice; that, if the owner or interested person, or his agent, disagrees with the decision of the public agency, the decision may be reviewed by an Administrative Law Judge pursuant to Section 11523 of the Government Code; that during the time the decision is being reviewed, pursuant to Section 11523 of the Government Code, the vehicle in question shall not be disposed of.
4. Any notices required by Section 19.90.110(A) hereof shall be substantially in the following form:

“NOTICE THAT VEHICLE HAS BEEN TOWED

To: REGISTERED OWNER AND TOW OPERATOR OF TOWED VEHICLE

From: City of Twentynine Palms
6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799

The City of Twentynine Palms has caused the vehicle described below to be towed pursuant to Ordinance 35 of the City Council of the City of Twentynine. The vehicle was removed because its presence constituted a public nuisance.

The vehicle will be destroyed 15 days from the date of the mailing of this notice.

Vehicle location: _____

Color: _____

Make: _____

Model: _____

License: _____

Vehicle I.D. Number: _____

Mileage: _____

Any owner of the vehicle or person interested who disagrees with the City's action in this matter is entitled to a hearing to determine the validity of the towing and destruction of the car. To get a hearing you must call (name of city person) at 367-6799 before 10 days from the date of this notice was mailed. Any owner or interested person also has the right to petition for a hearing in front of an administrative Judge pursuant to Government Code Section 11523. If such petition is filed the vehicle will not be destroyed until the Judge has made a ruling in favor of the City of Twentynine Palms.

B. Hearing. Any hearing requested under Section B hereof shall be conducted within 48 hours of the request, excluding weekends and holidays. Failure of any interested persons to request or to attend a scheduled hearing shall satisfy the post-storage validity hearing requirement of this section.

1. The city shall be responsible for the costs incurred for towing and storage if it is determined in the hearing that there were on reasonable grounds to believe that the vehicle was abandoned.

C. Disposal of Vehicle. If, after 15 days from the notification date, the vehicle remains unclaimed, the towing and storage fees have not been paid, and no request for a post-storage hearing was received or post-storage hearing was not attended, the city shall provide to the tow operator storing the vehicle, on a form provided by the Department of Motor Vehicles, authorization to dispose of the vehicle. The tow operator may request the public agency to provide the authorization to dispose of the vehicle.

1. If the names and addresses of the registered and legal owners of the vehicle are not available from the records of the Department of Motor Vehicles, either directly or by use of the California law enforcement telecommunications system, the public agency may issue to the tow operator who stored the vehicle an authorization for disposal at any time after 15 days.
2. Disposal of the vehicle may only be to a licensed dismantler or scrap iron processor.
3. A vehicle disposed of pursuant to this section shall not be reconstructed or made operable, unless it is a vehicle which qualifies for either horseless carriage license plates or historical

vehicle license plates.

D. Payment of Towing Fees. If the vehicle is claimed by the owner or his agent within 15 days of the notice date set out in Section 19.90.1100(B), the tow operator who is storing the vehicle may collect reasonable fees from the vehicle owner from services rendered.

19.90.120 City Not Liable. Neither the City, its officers, agents, employees or attorneys shall be liable for any damage caused to a vehicle or parts thereof in removal under this chapter.

19.90.130 Penalty for Violation. It shall be unlawful and an infraction punishable as set out in City Ordinance No. 22, for any person to violate the provisions of this chapter or refuse to abate the nuisance or remove a vehicle or parts thereof when ordered to do so.

Chapter 19.92**NUISANCE ABATEMENT****Sections:**

- 19.92.010 Purpose**
- 19.92.020 Definitions**
- 19.92.030 Public Nuisance Prohibited**
- 19.92.040 Abatement of Public Nuisance**
- 19.92.050 Notice of Abatement**
- 19.92.060 Emergency Procedure**
- 19.92.070 Abatement of Buildings as Public Nuisance**
- 19.92.080 Authority to Inspect**
- 19.92.090 Posting of Unsafe Structures**
- 19.92.100 Record of Cost of Abatement**
- 19.92.110 Confirmation and Assessment of Costs**
- 19.92.120 Payment of Abatement Costs**
- 19.92.130 Special Assessment**
- 19.92.140 Nuisance Abatement Lien**
- 19.92.150 Appeal Procedure**
- 19.92.160 Property Owner Request for Abatement by City**
- 19.92.170 Violation**
- 19.92.180 Penalty for Violation**

19.92.010 Purpose. The purpose of this Chapter is to establish regulations for the abatement of weeds, garbage, rubbish and junk and other public nuisances.

19.92.020 Definitions. As used in this Chapter, the following words shall have the following meanings:

A. Dangerous Building shall include any of the following:

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide a safe and adequate means of exit in case of fire, panic or other emergency.
2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as not to provide safe and adequate means of exit in case of fire, panic or other emergency.
3. Whenever the stress in any materials, member or portion thereof, due to dead and/or live loads, is greater than the working stress or stress then allowed in the Uniform Building Code for similar buildings, structures, purposes or locations.
4. Whenever any portion of a building or structure has been damaged by fire, earthquake, wind, flood or by any other cause, to the extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Uniform Building Code.
5. Whenever any portion or member or appurtenance of a building or structure is likely to fail or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

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| <p>6. Whenever any portion of a building or structure, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of that specified in the Uniform Building Code.</p> <p>7. Whenever any portion of a building or structure has been wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar construction.</p> <p>8. Whenever the building or structure, or any portion thereof, is likely to partially or completely collapse because of:</p> <ul style="list-style-type: none">(a). dilapidation, deterioration or decay,(b). faulty construction,(c). the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building, or(d). the deterioration, decay or inadequacy of its foundation. <p>9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.</p> <p>10. Whenever the exterior walls or vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle third of the base.</p> <p>11. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or</p> | <p>50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.</p> <p>12. Whenever the building or structure has been abandoned or vacated and left open, or has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children or a harbor for vagrants or homeless, or for unlawful activities.</p> <p>13. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction, faulty gas connection, wiring, facilities, or otherwise, is determined by the code enforcement officer to be unsanitary, unsafe, unfit for human habitation or in such a condition that is likely to cause sickness or disease.</p> <p>14. Whenever any building or structure, because of dilapidated condition, deterioration, damage, faulty construction, faulty electric wiring, gas or plumbing connections, or heating apparatus, or other cause, is determined by the code enforcement officer, building official, or fire marshal to be a fire hazard.</p> <p>B. "Weeds" include all the following:</p> <ul style="list-style-type: none">1. Any dry grass, brush, weeds or other flammable material which by its size, volume, nature or proximity to structures or other improvements endangers the public safety by creating a fire hazard to adjacent or surrounding property,2. Any poisonous plant or growth when the conditions of growth are such as to constitute a significant hazard to the public health, and |
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3. Dead trees, which by their size, nature, or proximity to structures, endanger the public safety by creating a fire hazard or other hazard.

Notwithstanding anything in this Chapter to the contrary, the term “weeds” shall not include plants protected under state or federal law.

- C. “Rubbish” or “Garbage” is defined as any material, including but not limited to, unused or discarded matter or material having no substantial market value, rubble, asphalt, plaster, tile, rocks, building material, concrete, bricks, soil, crates, cartons, litter, trash, waste paper, wood, trimmings from plants or trees, cans, bottles or barrels, other flammable material of any kind, garbage, including decayed waste, animal waste, human waste, discarded food, meat, fish, animal or vegetable refuse, dead animals, putrid or offensive animal or vegetable matter, and any hazardous materials or waste, paint, adhesives, flammable liquids, oil, gasoline or diesel products any of kind which by their location, size, volume, or nature, is unsightly or interferes with the reasonable enjoyment of property by neighbors or detrimentally affects property values in the surrounding neighborhoods or community, or which would materially hamper or interfere with the prevention or suppression of fire upon the premises, is a likely habitat for vermin or vectors, or which would endanger the public safety by creating a health or fire hazard.
- D. “Junk” includes any second hand and/or used machinery or parts thereof, scrap metal, and other pieces of metal, ferrous or non-ferrous, including but not limited to appliances, tools, implements, or parts or portions thereof, as well as rubber, rope, rags, plastic, furniture or parts thereof, inoperative vehicles, unused vehicles, junk or wrecked vehicles, vehicle bodies, trailers, recreational vehicles and/or parts thereof, and any other scrap, waste, or debris of any type or nature that is unsightly or interferes with the reasonable enjoyment of property by neighbors or detrimentally affects property values in the surrounding neighborhoods or community, or which would materially hamper

or interfere with the prevention or suppression of fire upon the premises, or which would endanger the public safety by creating a health or fire hazard.

- E. “Polluted Water” is water contained in a swimming pool, pond, or other body of water which contains bacterial growth, including, but not limited to, algae, remains of insects, remains of deceased animals, reptiles, rubbish, garbage, debris, papers, or any other foreign matter or material which because of its nature or location constitutes an unhealthy, unsafe or unsightly condition.
- F. “Zoning Violation” shall include but is not limited, to a use of property in violation of any federal, state or local law or regulation.
- G. “Responsible Party” shall refer to the owner of any property upon which a violation of this Chapter exists. This term shall also include any non-owner, occupant or other person or entity in control of the property or person living or renting the property who is creating, causing, or maintaining any condition in violation of this Chapter. This term shall also include any person who is creating or causing any condition in violation of this Chapter on any public or private property within the City of Twentynine Palms.

19.92.030 Public Nuisance Prohibited.

- A. It shall be unlawful for any responsible party to commit, assist in the commission of, fail to remove, abate and/or prevent the occurrence or reoccurrence of any public nuisance, as defined in this section, upon any property or inside any building or structure.
- B. The following constitute a public nuisance:
 1. A dangerous building as defined in Section 19.92.020 of this chapter.
 2. A building or structure that is defective, unsightly, including but not limited to buildings or structures with peeling or faded paint, or in such condition of

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| <p>deterioration or disrepair that it causes or will cause a decrease in the property values of surrounding properties or is otherwise materially detrimental to adjacent or nearby properties.</p> <p>3. Any occupied residence that lacks water service to interior plumbing.</p> <p>4. An abandoned or vacated building or structure that is open or accessible to unauthorized persons.</p> <p>5. Weeds, rubbish, garbage, or junk of any kind, existing or maintained upon private or public property which, by reason of their location, size, volume or nature, are unsightly or interfere with the reasonable enjoyment of property by neighbors, detrimentally affects adjacent property values, is a likely habitat for vermin or vectors, or otherwise constitutes a significant hazard to the public health, constitutes a fire hazard to any building, improvements, or other property, or could interfere with the prevention or suppression of fire upon the property or upon adjacent property.</p> <p>6. Any violation of any provision of the Municipal Code of the City of Twentynine Palms.</p> <p>7. Any zoning violation.</p> <p>8. Failure to obtain or comply with the requirements of a Conditional Use Permit, Minor Use Permit, Temporary Use Permit, Building Permit, Grading Permit, or any other permit or license issued by the City.</p> <p>9. Any swimming pool, pond or other body of water which is abandoned, unattended, unfiltered, or not otherwise maintained, resulting in the water becoming stagnant and/or polluted.</p> <p>10. The intentional outdoor burning of any material, structure, matter or thing unless</p> | <p>authorized by the Twentynine Palms Fire Department.</p> <p>11. Ground saturated with chemicals or petroleum products in a manner inconsistent with their intended use.</p> <p>12. Any violation of the Uniform Housing Code, or any other Uniform Code or California Code adopted by City.</p> <p>13. Outdoor or unscreened parking or storage of construction equipment and/or vehicles including, but not limited to, construction trailers, road graders, back-hoes, and dump trucks, on property not zoned for the parking or storage of such equipment or vehicles, except for the time during which an active Building Permit is effective, or as authorized by a Temporary Use Permit or Conditional Use Permit.</p> <p>14. To have or keep any domestic or wild animals or fowl so as to be offensive to, annoy, disturb, or make life uncomfortable for any other persons.</p> <p>15. To place, deposit, dump or maintain, or cause to be placed, deposited, dumped or maintained, any personal property, weeds, rubbish, garbage, or junk in or upon any public or private highway or road, including any portion of the right-of-way thereof, or any public property, or in or around any public structure or into a flood control channel, or upon any public park without the consent and proper approval from the City of Twentynine Palms.</p> <p>16. Living in a recreational vehicle or motor home, except as authorized under an approved Temporary Use Permit or on a construction site, as temporary living quarters, while a building permit is active.</p> <p>17. Paying rent, directly or indirectly, performing any service or giving</p> |
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anything of value whatsoever for the privilege of continuing to reside in, use or occupy, for any purpose of human use, occupation or habitation, any residence, building, or structure that has been posted as unsafe pursuant to Section 19.92.090 of this Chapter.

18. Receiving rent, directly or indirectly, or receiving anything of value whatsoever for providing, for any purpose of human use, occupation or habitation, any residence, building, or structure that has been posted as unsafe pursuant to Section 19.92.090 of this Chapter.
19. Occupying a residence, building, or structure that has been posted by the City, pursuant to Section 19.92.090 of this Chapter, with a notice that the residence, building or structure is unsafe to occupy.
20. Anything which is injurious to health or is indecent and offensive to the senses, or loud noises which disturb any considerable number of persons, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property by any person or considerable number of persons.
21. Failing to lock or otherwise secure any open, vacant, or abandoned building or structure. If a vacant building is locked or secured using boards or plywood, the boards or plywood shall be painted the same color as the building; the boards used shall be exterior grade plywood, minimum half-inch thickness, and shall have straight edges and 90-degree corners.

19.92.040 Abatement of Public Nuisance (except buildings or structures). For abatement of buildings or structures see Section 19.92.070 of this Chapter.

If a responsible party fails or neglects to remove or

otherwise take action to abate the public nuisance within the time specified in a Notice to Abate, issued pursuant to Section 19.92.050 of this Chapter, the Code Enforcement Division may, subsequent to the expiration of the time allowed for an appeal, cause the nuisance to be abated. In addition to any other method authorized by law, such abatement may be performed through inspections and directives to remediate the violation or legal proceedings designed to secure enforcement of the City's Municipal Code. The abatement work and disposal of abated material may be done by City crews, private contractor(s), or any person or firm hired by the City. Where appropriate, no such abatement action shall occur without securing a warrant.

Abandoned or vacated buildings or structures may be secured or otherwise boarded up by the City crews, private contractor, or any person or firm hired by the City.

19.92.050 Notice to Abate.

- A. Whenever the City Manager, or his/her designee deems it necessary to abate a public nuisance (other than a building or structure), he or she shall issue a "Notice to Abate" by both of the following methods:
 1. By posting the notice conspicuously on the property, and
 2. Mailing to the owner of record of the property at their address as shown on the tax rolls and to any occupant of the property, by certified mail, return receipt requested. The mailing shall be certified to at the time of service by written declaration under penalty of perjury executed by the persons effecting mailing of the Notice to Abate, declaring the date on which the Notice was mailed. The declaration, together with the receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice and retained by the issuing officer.

- B. The "Notice to Abate" shall be substantially in the following form:

NOTICE TO ABATE

DATE: _____

By virtue of _____ of the Twentynine Palms

NOTIFIED TO ABATE FROM YOUR PROPERTY

Assessor's Parcel Number _____

Located at _____

County of San Bernardino Assessor's records which list

Public Nuisance: _____

If said items are not removed within:

_____ Ten (10) days from the date of this notice

_____ Twenty-one (21) days from the date of this notice

_____ Thirty (30) days from the date of this notice

(When it is determined by the issuing officer, or other authorized person, that a public nuisance exists which constitutes an immediate health and safety hazard exists which constitutes an immediate health and safety hazard to the public welfare, and it is deemed necessary to abate this hazard and the items are removed immediately.

The Code Enforcement Officer may issue a citation and order for the removal of items and/or structures deemed to be a public nuisance. If the owner, employees, private contractor, or other person or firm fails to remove the items, removal shall be levied and assessed against the property owner. An Abatement Lien, or billed directly to the property owner.

Any appeal from this order must be brought prior to the date specified in this notice, and directed to the Community Development Commission for Hearing before the Planning Commission and the City Council.

Name and Title of Issuing Officer

19.92.060 Emergency Procedure. Whenever it is determined by the Code Enforcement Division that there exists an immediate threat to life or property or a detriment to the public health, such that abatement must be undertaken in less than ten days, he or she may take the steps necessary to protect life, property or the public health without first giving notice as required in Section 19.90.050 of this Chapter. However, in the event emergency procedures are initiated, the Code Enforcement Officer shall give as much notice and opportunity to be heard as is reasonably possible under the circumstances. Notice issued pursuant to this Section shall be given as soon as possible after such abatement begins.

19.92.070 Abatement of Buildings or Structures as Public Nuisance.

- A. To commence the abatement of a building or structure, the Code Enforcement Division shall give not less than fifteen (15) days written notice of a hearing to determine whether a building or structure constitutes a public nuisance.
- B. The notice shall indicate the nature of the alleged public nuisance, the description and location of the property involved, and the designation of the time and place of the hearing to determine whether the same constitutes a public nuisance, and the manner of its proposed abatement.
- C. The failure of any person to receive the notice shall not affect the validity of any proceedings under this chapter.
- D. If the property owner or other responsible party takes necessary corrective measures in advance of the hearing and so notifies the Community Development Director or develops a plan to correct the problems which is acceptable to the Director, the hearing may be canceled or postponed based upon the determination of the Director.
- E. The hearing to determine whether a public nuisance exists shall be conducted by the

Planning Commission. At the hearing, the Planning Commission shall consider all relevant evidence. The Planning Commission shall give any interested person a reasonable opportunity to be heard regarding the matter. Based on the evidence presented, the Planning Commission shall determine whether a public nuisance, within the meaning of this Chapter, exists, and the manner of abatement.

- F. If the Planning Commission determines that a public nuisance exists, the Planning Commission shall adopt an Order of Abatement. An Order of Abatement shall include a determination that the building or structure must be repaired, vacated and secured, or demolished.
- G. Within ten days after a Planning Commission Order of Abatement, the Code Enforcement Division shall give written notice to the property owner and any other person who has requested notification, setting forth the nature of the public nuisance, its location, and the time and manner for its abatement.
- H. If the public nuisance is not abated by the owner within the time specified in the Order of Abatement, the Code Enforcement Division is expressly authorized to enter upon the premises for the purpose of abating the nuisance.

19.92.080 Authority to Inspect. When it is necessary to make an inspection to enforce the provisions of this Chapter, the Code Enforcement Division may enter such building or premises at all reasonable times to inspect the same, provided that if such building or premises is occupied, proper credentials shall be presented and entry shall first be requested; and if such building or premises are unoccupied, a reasonable effort to locate the owner or other person having charge or control of the building or premises shall be attempted to request entry. If such entry is refused, the Code Enforcement Division shall have recourse to every remedy provided by law to secure entry.

19.92.090 Posting of Unsafe Structures. The

Code Enforcement Officer may cause to be posted at each building determined to constitute a dangerous building pursuant to this Chapter, a notice which states, "DO NOT ENTER, UNSAFE TO OCCUPY." Such notice shall remain posted until the required repair, demolition, or removal are completed, and shall not be removed without written permission of the Code Enforcement Officer or Building Official. It shall be unlawful for any person to enter the building except for the purpose of making the required repairs or demolishing the building.

19.92.100 Record of Cost of Abatement. The Code Enforcement Division shall keep an itemized account of the costs of abatement of a public nuisance, including incidental expenses, and shall render an itemized report in writing to the City Council showing the total cost of the abatement. "Incidental expenses" shall include fees, as adopted by the City Council by resolution, administrative overhead, the cost of printing, advertising and/or posting provided for in this Chapter, compensation of the person appointed by the City to take charge of and supervise any of the work authorized under this Chapter, legal expenses, the cost of preparing resolutions, notices and other required documentation, the cost of Hearing(s) and other proceedings and such work, and any other expenses necessary for the completion and inspection of the work.

19.92.110 Confirmation and Assessment of Costs.

- A. All costs of abatement shall be confirmed by the City Council.
- B. The record of costs and a notice of the date, time, and place of the City Council hearing shall be sent to all owners, as determined by the tax rolls, at least ten (10) days prior to the hearing. The notice shall state that the City intends to either make the outstanding abatement costs a Special Assessment against the subject property, or authorize the recordation of a Nuisance Abatement Lien against the subject property.
- C. At the hearing, the City Council shall consider

all evidence presented by any interested party. At the conclusion of the hearing, the City Council shall approve, by motion or resolution, the accounting and record of costs either as submitted or as modified or corrected. The accounting and record of costs, as confirmed by the City Council, shall be deemed immediately due and payable; and shall be delinquent if not paid within ten (10) days thereafter.

- D. At the hearing, the City may make any delinquent nuisance abatement costs a Special Assessment, or collect its costs of abatement by Nuisance Abatement Lien pursuant to the procedures authorized by Government Code Sections 38773.1 and 38773.5, as described in Section 19.92.130 and/or 19.92.140.

19.92.120 Payment of Abatement Costs.

- A. Following the hearing at which the City Council confirms the cost of abatement, the City shall mail to each owner of record at their address, as shown on the most recent tax rolls, an invoice itemizing all costs and expenses confirmed by the City. The invoice shall be due immediately.
- B. If paid within ten (10) days of the confirmation of cost hearing, no further action by the City, pursuant to this Chapter, shall be necessary.
- C. If not paid within ten (10) days following the confirmation of cost hearing, the City may recover the cost of abatement pursuant to Section 19.92.130 or 19.92.140 below.

19.92.130 Special Assessment. The City may make any outstanding nuisance abatement costs a Special Assessment against the offending property pursuant to procedures authorized by Government Code Section 38773.5, as follows:

- A. The City Council may adopt a Resolution making the outstanding costs of abatement a Special Assessment against the parcel(s), as shown on the latest available assessment roll, where the abatement activities occurred. The

Resolution shall explicitly authorize the Special Assessment and shall be filed with the County Auditor.

B. The County Auditor shall enter each assessment in the County tax roll opposite the parcel(s) against which the assessment is to be made. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale, in case of delinquency, as provided for ordinary municipal taxes. All laws applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to the Special Assessment. However, if any real property to which the costs of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection. Notices or instruments relating to the abatement proceeding or Special Assessment shall be entitled to recordation.

C. All or any portion of any such Special Assessment, penalty, or costs entered pursuant hereto shall, on order of the City Council, be canceled by the City Treasurer if uncollected, or, except in the case provided for below, refunded by the City Treasurer if collected, in the event it or they were entered, charged or paid:

1. more than once;
2. through clerical error;
3. through the error or mistake of the City Council or the public officer with respect to any material fact;
4. illegally; or,

5. for land acquired after the lien date by the State or by any county, city, school district, or other political subdivision and because of this ownership, is not subject to sale for delinquent taxes.

19.92.140 Nuisance Abatement Lien. The City may collect its costs of abatement by a Nuisance Abatement Lien pursuant to the procedures authorized by Government Code Section 38773.1, as follows:

- A. The City Council may adopt a Resolution assessing the outstanding costs of abatement as a lien(s) against those parcel(s) as shown on the latest available assessment roll where abatement activities occurred. The Resolution shall explicitly authorize the recordation of a Nuisance Abatement Lien.
- B. The Nuisance Abatement Lien shall be recorded in the County Recorder's office in the County in which the subject parcel is located and from the date of filing shall have the force, effect, and priority of a judgement lien.
- C. The Nuisance Abatement Lien authorized by this Section shall specify the amount of the lien, the name of the agency on whose behalf the lien is imposed, the date of the abatement order, the street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed and the name and address of the record owner of the parcel.
- D. In the event that the lien is discharged, released or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in this Section shall be recorded by the City. A Nuisance Abatement Lien and the release of the lien shall be indexed in the grantor-grantee index.
- E. A Nuisance Abatement Lien may be foreclosed by an action brought by the City for a money judgment.
- F. The City may recover from the responsible

party any costs incurred regarding the processing and recording of the lien and costs incurred in providing notice to the property owner as part of its foreclosure action to enforce the Lien.

19.92.180 Penalty for Violation. Any person or entity violating any of the provisions of this Chapter shall be deemed guilty of an infraction.

19.92.150 Appeal Procedure. Any person who is affected by a Notice to Abate or Order of Abatement, as set forth herein, may appeal pursuant to Chapter 19.46, *Appeals*, of the Development Code. In cases where an appeal is filed, abatement by the City shall be stayed until such time as a decision is rendered by the Appeal Authority.

19.92.160 Property Owner Request for Abatement by City. Notwithstanding the forgoing, any property owner may request that the City remove and abate from his or her property, weeds, rubbish, garbage and junk not generated or placed on his or her property by the property owner or occupant. The property owner shall provide the City with written consent, in a form provided by the City, granting consent to City's personnel and/or contractors to enter upon the property for the purpose of removing such weeds, rubbish, garbage and junk. The City may make the cost of abatement performed at the request of the property owner a Special Assessment against the offending parcel or property. Alternatively, the City may record a Nuisance Abatement Lien against the property.

19.92.170 Violation. It shall be unlawful for any person or entity owning, leasing, renting, occupying, managing, or having control of any premises to:

- A. Violate any provision of this Chapter.
- B. Fail to comply with the requirements in a Notice to Abate or Order of Abatement in accordance with this Chapter.
- C. Interfere with the performance of the duties herein specified by any of the officers named in this Chapter or their deputies, employees or contractors or interfere in any manner whatsoever with said officers, deputies, employees or contractors in the removal or abatement of any Public Nuisance.

Chapter 19.93**UNCLAIMED OR ABANDONED PROPERTY****Sections:**

- 19.93.010 Purpose**
- 19.93.020 Definitions**
- 19.93.030 Littering or dumping a Public Nuisance**
- 19.93.040 Parking on private property**
- 19.93.050 Storage of vehicles**
- 19.93.060 Abandoned mobile home or modular unit**
- 19.93.070 Procedure for disposal of unclaimed property**
- 19.93.080 Sale of scrap wood, metal, paper, debris, etc.**
- 19.93.090 Deposit of proceeds**

19.93.010 Purpose. The purpose of this Chapter is to detail the circumstances under which the City may dispose of abandoned or unclaimed property seized by the City from anywhere within the City of Twentynine Palms.

19.93.020 Definitions.

“Mobile home.” As it used in this Chapter, “mobile home” shall mean a motorized or non-motorized recreational vehicle, or a residential structure manufactured elsewhere and transported on wheels or a flatbed trailer, regardless of whether or not the wheels remain attached or removed at the location where it is set down or parked in the City.

“Abandoned property” or “unclaimed property.” As used in this Chapter, the term “abandoned property” or “unclaimed property” shall mean property that is either unclaimed by its rightful owner for the time specified in this Chapter or property which the rightful owner has not claimed in that the owner has failed to complete or satisfy the City’s conditions or terms imposed for claiming said property.

19.93.030 Littering or dumping a Public Nuisance. It is unlawful and a public nuisance for any person or entity to place, litter, deposit, dump or park any structure (or portion thereof, mobile or permanently affixed), debris, junk or rubbish as defined in the City’s Nuisance Abatement Code, on any private or public property, or to assist in such action, without the applicable City approval or appropriate Building Permit for new construction.

19.93.040 Parking on private property. It is unlawful to park, store, leave or abandon any vehicle(s), trailer(s) or mobile home(s), on any private property without the property owner’s permission. All such parking of vehicles shall conform to the requirements and specifications of Section 19.82.100 “Parking in Private Driveway or on Private Property” of the Development Code.

19.93.050 Storage of vehicles. It is unlawful for any person to store, keep or park, any vehicle on a property used in a residential manner, regardless of zoning classification, when such vehicle(s) are not owned by, or have the express permission of, the current resident of the

property to store, keep or park said vehicle(s). Whether owned by or under the control of the current resident, or with the express permission of the current resident of the property, all such parking of vehicle(s) shall conform to the requirements and specifications of Section 19.82.100 "Parking in Private Driveway or on Private Property" of the Development Code and all other applicable Titles, Chapters and Sections of the Twentynine Palms Municipal Code.

19.93.060 Abandoned mobile home or modular unit.

- A. It shall be unlawful to abandon, park or leave a mobile home, whether the wheels are attached or not, on private property without first obtaining the required City Building Permit. If a Building Permit has not been issued by the City within 180 days of the mobile home or manufactured home being placed on the property, the mobile home is deemed to be abandoned and unclaimed, and therefore may be scheduled for a public hearing before the Planning Commission pursuant to Chapter 19.92 (Nuisance Abatement) of the Development Code. Should the Planning Commission order the disposal, sale or auction of such mobile home or modular unit, such action shall be taken in accordance with this Chapter.
- B. It shall be unlawful to fail to obtain a Certificate of Occupancy or pass a "Final" Building Inspection for a mobile home or modular unit pursuant to the plans that were approved and Building Permit issued. A mobile home or modular unit that has been affixed pursuant to a Building Permit but whose installation and/or construction has ceased without full compliance with the terms and conditions of that Permit is deemed to be abandoned if the permit

applicant has not passed a Final Building Inspection within 180 days of the last inspection successfully passed for such home or unit. It shall be the permit applicant's obligation to make a written or telephonic request for such Final Building Inspection. Any such home or unit considered to be abandoned may be scheduled for a Public Hearing before the Planning Commission pursuant to Chapter 19.92 (Nuisance Abatement) of the City's Development Code. Should the Planning Commission order the removal and disposal, sale or auction of the mobile home or modular unit, such order shall be carried out in accordance with this Chapter.

19.93.070 Procedure for disposal of unclaimed property.

- A. Any unclaimed property that is found, recovered, confiscated or held by the City, the City's Police Department, or any other agent or designee of the City, which the City Manager or his or her designee desires to dispose of may be sold or disposed of after complying with the provisions of this Chapter and Section 2080.4 of the Civil Code as the same now exists or may hereinafter be amended.
- B. All such unclaimed property that appears to have value shall be held by the City for no less than ninety (90) days prior to disposal disposition. After the prescribed period has elapsed, the unclaimed property may be placed for sale at a public auction, sold or disposed of as scrap, taken to a recycler or disposed of at a landfill. If the property is to be auctioned, the City shall provide notice of the public auction at least five

- (5) days prior to the auction date by publication once in a newspaper, which publishes the City's legal notices.
- C. After said notice of auction is given, the sale shall be conducted by any City employee or employed professional auctioneer designated by the City Manager or his or her designee. Property for which no bid has been received within the prescribed time period shall be retained for public use, given to a nonprofit charitable organization or summarily disposed of by the City.
- D. Notwithstanding the foregoing, if the City Manager or his or her designee determines that unclaimed property held for no less than ninety (90) days is needed for a public purpose or use, he or she may retain such property for such use. The City Manager or his or her designee shall thereafter account for such property as though it had been acquired by the City through regular purchasing procedures.
- E. Removal and disposal of vehicles shall be performed consistent with the provisions of Vehicle Code § 22660 et seq.

19.93.080 Sale of scrap wood, metal, paper, debris, etc. Items of junk, rubbish, debris, scrap, metal, paper, wood and the like or any other item or items, whether City-owned or unclaimed, deemed by the City to both have a *de minimis* value and no longer serve a useful purpose for the City, may be sold or disposed of by the City Manager or his or her designee at any time without public auction upon the designation of said property as scrap by the City Manager.

19.93.090 Deposit of proceeds. Any and all

proceeds, money or alternative compensation, received from the sale or exchange of any property under this Chapter shall be deposited within the City's General Fund.