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**ORDINANCE NO.**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 9, YUCCA VALLEY DEVELOPMENT CODE, BY ADOPTING ARTICLE 1, CHAPTERS 9.01 THRU 9.03.06, AUTHORITY AND APPLICABILITY, AND REPEALING SECTIONS 81.0101 THRU 81.1095, SECTION 81.0305 AND SECTIONS 84.0801 THRU 84.0830 OF TITLE 8 FROM THE YUCCA VALLEY DEVELOPMENT CODE.**

The Yucca Valley Town Council Ordains as follows:

Section I:

**Article 1:  
Authority and Applicability**

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## Chapter 9.01 Purpose and Applicability

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Sections:

- 9.01.010 – Title
- 9.01.020 – Purpose and Intent of Development Code
- 9.01.030 – Authority
- 9.01.040 – Responsibility for Administration
- 9.01.050 – Applicability

### **9.01.010 – Title**

This title shall be known as the "Town of Yucca Valley Development Code" and referred to as the "Development Code."

### **9.01.020 – Purpose and Intent of Development Code**

The purpose of this Development Code is intended to carry out the policies of the Town of Yucca Valley General Plan by classifying and regulating the uses of land and structures within the Town. It is also the intent of this Development Code to promote the orderly and beneficial development of the Town; promote and protect the public health, safety, peace, comfort, and general welfare; and protect the character, social, and economic vitality of neighborhoods.

### **9.01.030 – Authority**

The Development Code is enacted based on the authority vested in the Town of Yucca Valley by the State of California, including but not limited to:

- A. Local Ordinances and Regulations (California Constitution, Article XI, Section 7)
- B. Planning and Zoning Law (Government Code Section 65000 et seq.)
- C. Airport Approaches Zoning Law (Government Code Section 50485 et seq.)
- D. Alquist-Priolo Earthquake Fault Zoning Act (Public Resources Code Section 2621 et seq.)
- E. California Environmental Quality Act (Public Resources Code Section 21000 et seq.)
- F. Desert Native Plants Act (Food and Agricultural Code Section 80001 et seq.)

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- G. Land Conservation Act of 1965 (Williamson Act) (Government Code Section 51200 et seq.)
  - H. Mobilehome Parks Act (Health and Safety Code Section 18200 et seq.)
  - I. Subdivision Map Act (Government Code Sections 66410 et seq.)
  - J. Surface Mining and Reclamation Act of 1975 (Public Resources Code Section 2710 et seq.)
  - K. Z'berg-Nejedly Forest Practice Act of 1973 (Public Resources Code Section 4526 et seq.)

#### **9.01.040 – Responsibility for Administration**

This Development Code shall be administered by the Town Council, the Planning Commission, the Director of Community Development, the Community Development Department, and any other departments, groups, or individuals identified in this Development Code in compliance with Title 2 (Administration and Personnel) of the Town Municipal Code.

#### **9.01.050 – Applicability**

This Development Code applies to all construction, modifications of existing development, land uses, subdivision of property, and development within the Town of Yucca Valley.

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## Chapter 9.02 General Provisions

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Sections:

- 9.02.010 – Rules of Interpretation
- 9.02.020 – Relationship to General Plan
- 9.02.030 – Severability of Any Portion of the Development Code
- 9.02.040 – Legal Defense Fee Responsibility

### 9.02.010 – Rules of Interpretation

- A. Authority.** The Director has the authority to interpret provisions of this Development Code. Whenever the Director determines that the meaning or applicability of a Development Code requirement is subject to interpretation, the Director shall issue a written interpretation. The Director may also refer any issue of interpretation to the Commission for a determination. A decision of the Director may be appealed to the Commission and a decision of the Commission may be appealed to the Council in compliance with Chapter 9.81 (Appeals).
- B. Terminology.** When used in this title, the following rules apply to all provisions of this Development Code:
1. Language. When used in this Development Code, the words "shall," "must," "will," "is to," and "are to" are always mandatory. "Should" is not mandatory but is strongly recommended; and "may" is permissive.
  2. Tense. The present tense includes the past and future tense, and the future tense includes the present.
  3. Number. The singular number includes the plural number, and the plural the singular, unless the natural construction of the words indicates otherwise.
  4. Calculations.

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- a. Number of lots. The fractional/decimal results of calculations of the number of parcels allowed through subdivision based on a minimum lot area requirement shall be rounded down to the next lowest whole number.
  - b. Residential Density. When the number of dwelling units allowed on a site is calculated based on the minimum site area per dwelling unit, any fraction of a unit shall be rounded down to the next lowest whole number.
  - c. Other Calculations. For calculations other than residential density, the fractional/decimal results of calculations shall be rounded to the next highest whole number unless otherwise specified.
5. Conjunctions. “And” indicates that all connected items or provisions shall apply. “Or” indicates that the connected items or provisions may apply singly or in any combination. “Either...or” indicates that the connected items and provisions shall apply singly but not in combination. “Includes” and “including” shall mean “including but not limited to”.
  6. Local Reference. “Town” as used herein means the Town of Yucca Valley and all public officials, bodies, and agencies referenced herein are those of the Town unless otherwise stated.
  7. Definitions. As defined in Article 7 (Definitions) and/or as determined/interpreted by the Director.
- C. Number of Days.** Whenever the number of days is specified in this Development Code, or in any permit, condition of approval or notice issued or given as provided in this Development Code, the number of days shall be construed as calendar days. When the last of the specified number of days falls on a weekend or Town-recognized holiday, time limits shall extend to the end of the next working day.
- D. Conflicting Requirements.** Any conflicts between different requirements of this Development Code, or between this Development Code and other regulations, shall be resolved as follows.
1. Development Code Provisions. In the event of any conflict between the provisions of this Development Code, the most restrictive requirement shall control, except in case of any conflict between the land use zoning district regulations of Article 2 (Zoning Districts and Development Standards) and the provisions of Article 3 (General Development Standards), the provisions of Article 3 shall control.

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2. **Development Agreements or Specific Plans.** In the event of any conflict between the requirements of this Development Code and standards adopted as part of any Development Agreement or Specific Plan, the requirements of the Development Agreement or Specific Plan shall control.
  3. **Town Code Provisions.** In the event of any conflict between requirements of this Development Code and other regulations of the Town, the most restrictive requirement shall control.
  4. **Mitigation Measures.** In the event of any conflict between the requirements of this Development Code and mitigation measures adopted as part of a certified environmental impact report or approved negative declaration, the most restrictive shall control.

**E. Minimum Requirements.** When interpreting and applying the regulations of this Development Code, all provisions shall be considered to be minimum requirements, unless specifically stated otherwise.

**F. Interpretation of Boundaries.** See Chapter 9.05 (Zoning Districts and Zoning Maps).

**G. Illustrations.** The figures, diagrams, and other graphics used throughout this Development Code are for illustration purposes only and to the extent any are in conflict with the written provisions, the written provisions shall govern.

#### **9.02.020 – Relationship to General Plan**

This Development Code is the primary tool used by the Town to carry out the goals, objectives, and policies of the General Plan. It is intended that all provisions of this Development Code be consistent with the General Plan and that any development, land use, or subdivision approved in compliance with these regulations will also be consistent with these documents.

#### **9.02.030 – Severability of Any Portion of the Development Code**

If any portion of this Development Code is held to be invalid, unconstitutional, or unenforceable by a court of competent jurisdiction, such determination shall not affect the validity of the remaining portions of this title. The Council hereby declares that this title and each article, section, subsection, paragraph, subparagraph, sentence, clause, phrase and portion thereof is adopted without regard to the fact that one or more portions of this title may be declared invalid, unconstitutional, or unenforceable.

#### **9.02.040 – Legal Defense Fee Responsibility**

**A. Applicant's Agreement to Indemnify and Hold Harmless.**

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The applicant shall agree to defend, indemnify and hold harmless the Town of Yucca Valley, its agents, officers and employees, at his sole expense, against any action, claim or proceedings brought against the Town or its agents, officers or employees, to attack, set aside, void, or annul this approval or because of the issuance of such approval, or in the alternative, to relinquish such approval, in compliance with the Town of Yucca Valley Development Code. The applicant shall reimburse the Town, its agents, officers, or employees for any court costs, and attorney's fees which the Town, its agents, officers or employees may be required by a court to pay as a result of such action. The Town may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve applicant of his obligations under this condition. The Town shall promptly notify the applicant of any claim, action or proceedings arising from the Town's approval of this project, and the Town shall cooperate in the defense.

**B. Town's Duty to Notify Applicant and Cooperate in Defense.** Any condition of approval imposed in compliance with this Development Code shall include a requirement that the Town acts reasonably to promptly notify the applicant of any claim, action, or proceeding and that the Town cooperates fully in the defense.

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## Chapter 9.03 Nonconforming Lots, Structures, and Uses

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Sections:

- 9.03.010 – Purpose and Intent
- 9.03.020 – Applicability
- 9.03.030 – Determination, Extension, and Abatement Procedures
- 9.03.040 – Nonconforming Lots
- 9.03.050 – Nonconforming Structures
- 9.03.060 – Nonconforming Uses

### 9.03.010 – Purpose and Intent

- A. **Regulation of legal conformities.** This Chapter establishes uniform provisions for the regulation of legal nonconforming land uses, structures, and parcels. Within the land use zoning districts established by this Development Code, there exist land uses, structures, and parcels that were lawfully in existence before the adoption, or amendment of this Development Code, but which would be prohibited, regulated, or restricted differently under the terms of this Development Code, as amended. This Chapter provides for their eventual elimination, but allows them to exist under the limited conditions identified in this Chapter.
- B. **Intent.** It is the intent of this Development Code to discourage the long-term continuance of these nonconformities in order to promote the public health, safety, and general welfare and to bring the uses and structures into conformity with the goals and policies of the General Plan and any applicable Specific Plan.

### 9.03.020 – Applicability

The provisions in this Chapter apply to existing legal nonconforming structures, uses, and parcels.

### 9.03.030 – Determination, Extension, and Abatement Procedures

- A. **Purpose.** This section sets forth provisions for the abatement of lots, structures, and uses deemed to be nonconforming and subject to abatement pursuant to the provisions of this Article.
- B. **Authority.** The Director shall be the designated Review Authority for determining that a lot, structure, or use is nonconforming, and the Commission shall be the designated Review Authority for action on the abatement procedures and extensions of the nonconforming lots, structures, or uses.

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- C. **Notice and Hearing.** Once the Director has determined that a lot, structure, or use is nonconforming, the Director shall provide required notice for hearing and action by the Commission. The purpose of the hearing is to determine whether the nonconformity should be abated, given a specific term prior to abatement, or granted a time extension. Notice and hearing shall be performed and conducted pursuant to Chapter 9.85 (Public Notices and Hearings).
  - D. **Decision and Findings.** The Commission shall base its decision as to the length of the permitted amortization period on any competent evidence presented, included but not limited to the depreciation schedule attached to the owner's latest federal income tax return. Findings shall be made as to whether or not the balancing of the public interest and the request by the owner for continuance, alteration, or expansion of the nonconformity of the subject property requires a deviation from the's development standards. Findings shall be made in writing and provided to the property owner within 10 days after the decision is rendered.
  - E. **Appeal.** Actions taken by the Commission may be appealed to the Council in accordance with provisions of Chapter 9.81 (Appeals).
  - F. **Extension of Time.** The Review Authority, at its discretion, may grant an extension of time for the abatement of a nonconformity where it finds that an unreasonable hardship would otherwise be imposed on the property or business owner.
  - G. **Revocation of Nonconforming Use or Structure.** The Town may revoke the right to continue a nonconforming use or structure. Revocation procedures, including notice and hearing, shall be in accordance with provisions of Chapter 9.84 (Permit Revocations).
  - H. **No Reversion to Nonconformance.** When any nonconformity is eliminated or brought into conformance with the current regulations of this Development Code, the nonconforming rights and privileges with respect to that nonconformity are terminated and shall not be restored.

#### **9.03.040 – Nonconforming Lots**

- A. **Continuation of Legal Nonconforming Lots.** Any lawfully created lot which becomes nonconforming with regard to lot area, street frontage, lot width, lot depth, or accessibility may continue indefinitely with such nonconformity and may be developed and used as if it were a conforming lot.
- B. **Modification of Legal Nonconforming Lots.** Legal nonconforming lots may not be modified in any manner that increases the degree of nonconformity. Where feasible, parcel modifications (through lot merger or lot line adjustment) are encouraged to eliminate or minimize the degree of nonconformity.

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### 9.03.050 – Nonconforming Structures

**A. Continuation of Structure.** Any legally established nonconforming structure that does not conform to the provisions of this Development Code with regard to maximum permitted height, minimum required setback, lot coverage, and/or maximum permitted encroachment into required yard areas may be continued indefinitely.

**B. Exceptions.** The following are the exceptions to the indefinite continuation of a legal nonconforming structure:

1. Residential Structures. Any increase in the number of residential units for buildings designed and occupied for residential use shall be prohibited.
2. Nonresidential Structures. Any nonresidential building, structure, or facility designed or intended only for uses which are nonconforming shall be removed, or the design and use thereof shall be made conforming in all respects within 25 years from the date of construction or the effective date of creation of the nonconformity, whichever is later.
3. Utilities. Any new or replacement utility/mechanical facilities, equipment, or construction shall conform to the maximum extent feasible, as determined by the Director.
4. Encroachments in Commercial Zones. Within the commercial zones, any nonconforming encroachment into required yards may be required to be removed or reduced upon review by the Review Authority as follows:
  - a. When an expansion in floor area which is greater than 50 percent of the existing floor area is proposed for any structure maintaining a nonconforming encroachment, or
  - b. When an expansion in floor area is proposed anywhere within an integrated development which is greater than 50 percent of the total floor area of all structures within the integrated development.
5. Trash Facilities, Outdoor Storage, and Display. Trash areas or facilities, outdoor storage areas, and outdoor display areas shall be made fully conforming at the time of any expansion or intensification of use on the site.

**C. Modification or Expansion of Legal Nonconforming Structure**

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1. A legal nonconforming structure shall not be modified in a manner that expands, extends, or enlarges the use in any manner beyond its existing scope upon the date the nonconformity was created, except as follows:
    - a. The modifications are, in and of themselves, in conformance with the provisions of this Development Code.
    - b. The modifications are limited to minor alterations, improvements, or repairs that do not increase the degree of nonconformity present and do not constitute or tend to produce an expansion or intensification of a nonconforming use.
    - c. The modifications are required by other laws.
    - d. The modifications are incidental to the public acquisition of a portion of a site, no greater degree of nonconformity will be created other than that caused as a result of the public acquisition, and the changed development will conform to current regulations to the maximum extent feasible.
  2. No change made to any development or use shall be construed as automatically permitting an extension of any time limit for the termination of a nonconformity.

#### **D. Destruction of Legal Nonconforming Structure**

1. A nonconforming structure(s) involuntarily damaged or partially destroyed by fire, act of nature, or act of the public enemy may be repaired or rebuilt and re-occupied only as follows:
  - a. If the cost of repairing or replacing the damaged portion of the structure(s) does not exceed 75 percent of its reasonable value, the structure may be restored, provided the following conditions are met:
    - (1) The reconstruction meets current Building Code requirements.
    - (2) Reconstruction begins within 12 months of the date of damage, unless otherwise allowed by the Director, and is diligently pursued to completion.

- E. Discontinuance of Legal Nonconforming Structure.** If any legal nonconforming structure is abandoned or the use thereof discontinued for a period of 180 consecutive days or more, all future

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development of the land shall be in conformity with the provisions of this Development Code. Maintenance of a valid business license shall of itself not be considered a continuation of the use.

- F. Off-site Relocation.** When a structure is relocated to another lot, it shall be made conforming in all respects with the provisions of this Development Code and all other applicable laws and regulations.

### **9.03.060 – Nonconforming Uses**

Except as otherwise listed below, a legal nonconforming use may continue indefinitely.

- A. Nonconforming Commercial and Industrial Uses.** Nonconforming commercial and industrial uses shall be terminated or made conforming as to use within 10 years from the date on which the Town rendered the use nonconforming.
- B. Other Nonconforming Nonresidential Use.** Other nonconforming non-residential uses shall be terminated or made conforming as to use within 10 years from the date on which the Town rendered the use nonconforming.
- C. Nonconforming Mobile Home Park.** A mobile home park that is nonconforming as to use shall be terminated within 20 years from the date on which the Town rendered the use nonconforming.
- D. Nonconforming Animal Keeping.** Any nonconforming animal keeping, whether a primary use or an accessory use, shall be terminated or made conforming within three years from the date on which the Town rendered the use nonconforming.
- E. Nonconforming Use Eligible for Conditional Use Permit or Other Approval.** Any nonconforming use that is eligible to be considered for a Conditional Use Permit, Land Use Compliance Review, or other discretionary approval under this Development Code shall be considered to be a nonconforming use unless and until such permit or other such approval is granted.
- F. Modifications and Extensions to Legal Nonconforming Uses**
1. A legal nonconforming use shall not be modified in any manner that expands, extends, or enlarges the use beyond its existing scope upon the date the nonconformity was created, except as specified below.

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- a. The changes are, in and of themselves, in conformance with the provisions of this Development Code.
  - b. The changes are limited to minor alterations, improvements, or repairs that do not increase the degree of nonconformity present and do not constitute or tend to produce an expansion or intensification of a nonconforming use. A minor alteration shall not increase the area of the nonconforming structure by more than 120 square feet cumulative.
  - c. The changes are required by other laws.
  - d. The changes are incidental to the public acquisition of a portion of a site, no greater degree of nonconformity will be created other than that caused as a result of the public acquisition, and the changed development will conform to current regulations to the maximum extent feasible.
2. No change made to any development or use shall be construed as automatically permitting an extension of any time limit for the termination of a nonconformity.
  3. Notwithstanding the provisions regarding Conditional Use Permit or variance, the Director 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.
  4. The requirements for a Conditional Use Permit shall not apply to nonconforming residential uses, where such 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.

#### **G. Discontinuance of Legal Nonconforming Use**

1. If any legal nonconforming use is discontinued for a period of 180 consecutive days or more, subsequent use of the land shall be in conformity with the provisions of this Development Code. Maintenance of a valid business license shall of itself not be considered a continuation of the use.
2. This section shall not apply to any use for which a different period of discontinuance or abandonment is specified under other provisions of this Development Code.

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**Section 2: Repeal of County Code as Adopted and Amended by the Town:** The Town Council hereby repeals Sections 81.0101 thru 81.1095, Section 81.0305, and Sections 84.0801 thru 84.0830 of Title 8 from the Yucca Valley Development Code.

**Section 3. 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 of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The Town Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

**Section 4. Certification; Publication:** The Town Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the Town of Yucca Valley, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the Town Clerk in accordance with Government Code § 36933.

**Section 5. Effective Date:** This Ordinance shall become effective thirty (30) days from its adoption.

**APPROVED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2014.

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MAYOR

APPROVED AS TO FORM:

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TOWN ATTORNEY

ATTEST:

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TOWN CLERK

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