



**CITY OF TWENTYNINE PALMS
PLANNING COMMISSION STAFF REPORT**

6136 Adobe Road
Twentynine Palms, CA 92277
(760)367-6799 – Fax (760) 367-5400

To: Planning Commission
From: Community Development Director
Date: May 11, 2011

For Commission Meeting Of: May 17, 2011

SUBJECT: PC 09-76 - An amendment to the Municipal Code and Land Use Tables and Accessory Uses of the City's Development Code regarding commercial and non-commercial shooting ranges and the discharge of firearms within all zoning districts, citywide.

RECOMMENDATION

That the Planning Commission open the open, continued Public Hearing, receive comments from the public germane to the issue (those that elect not to comment at the Study Session), then continue the Public Hearing to June 7, 2011, following the conclusion of the scheduled Study Session.

Attachment:

Minute Excerpt from Commission meeting of May 3, 2011

ORDER OF PROCEDURE

- Request Staff Report (Charles LaClaire presenting)
- Commission Questions of Staff
- Open the open, continued Public Hearing
- Receive Public Comment
- Close Public Hearing (only if not continued)
- Commission Discussion
- Motion/Second
- Discussion of Motion
- Call the Question

PROJECT DESCRIPTION

Possible Municipal and Development Code Amendments (PC 09-76) to amend those portions of Municipal Code and Development Code Tables 19.07-A "Permitted and Conditional Uses", 19.08-A "Permitted and Conditional Uses" 19.09-A "Permitted and Conditional Uses", 19.10-A "Permitted and Conditional Uses", 19.12-A "Permitted and Conditional Uses" and 19.14-A "Permitted and Conditional Uses" pertaining to public and private commercial and non-commercial shooting ranges, or like and similar uses, and the discharge of firearms (weapons) within the City of Twentynine Palms in all residential, commercial and industrial zoning districts.

BACKGROUND

The Commission is familiar with this issue from previous Public Hearings and Study Sessions. These discussions were a result of a meeting on November 23, 2010, at which the City Council initiated a Development Code Amendment to further define and address within the Municipal and Development Codes the opportunity and restrictions relating to, and associated with, the discharge of weapons within the community. This issue arose at the November 23rd meeting as

the discharge of firearms, and both public and private shooting ranges or areas where the discharge of firearms and other weapons are allowed, has been a topic of discussion within the community over the past two years.

At each of the Public Hearings and Study Sessions, the Commission received audience comments from various individuals expressing both support and objection to the allowance of weapons discharge within the community. These individuals expressed various concerns, mostly noting that the City needs to allow, but control, ranges and that they should be allowed but in a manner that would not disturb surrounding property owners. Based upon the variety of comments, and most significantly from the guidance staff received from the Commission at its Study Session on May 3, 2011, staff crafted new language for the Commission to consider at its continued Study Session scheduled for its regular meeting of May 17, 2011.

At its meeting of May 3rd, the Commission appeared to have addressed four (4) very fundamental questions. First, it appeared to be the consensus of the Commission that the Council should be asked to confirm that it still wished to have the Commission pursue its efforts to create amendments to the Municipal and Development Codes to address weapon discharge within the community. Second, it appeared to be the consensus of the Commission that the discharge of weapons would be prohibited within all residential zones, regardless of lot size, but that the definition of “weapon” being discharged would be changed (removing weapons with minimal ability to inflict bodily harm such as BB and/or pellet guns). Third, shooting ranges would be allowed within commercial areas (only within indoor ranges) and in industrial areas (indoor and outside), but with City review of a Conditional Use Permit and specific standards. And fourth, with safety as the principle goal, simplify the standards to make them easier to understand and follow (while removing allowances for the Commission to waive standards).

Analysis:

As the Commission shall be conducting the “continued” Study Session on the issue of amending the Development Code regarding shooting ranges later at tonight’s regularly scheduled meeting, it is suggested that the Municipal and Development Code Amendments be continued to the Commission’s next regularly scheduled meeting of June 7, 2011, to allow the Commission the opportunity to complete its review of the topic at the Study Session and afford staff the opportunity to change the language in support of the guidance given by the Commission.

It is noted that interested parties may review the Commission’s Study Session report for May 17, 2011 to receive a more detailed analysis of the issue and details of the language being offered by staff for Commission discussion and guidance.

CEQA Environmental Review

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), the proposal has been reviewed for its potential to impact the environment. It has been determined that the proposal, consisting of an amendment to the language of the Development Code, a narrative change to the rules applicable within the City, cannot by themselves have a direct impact upon the environment. As such, under the provisions of Government Code Section 15305 “Minor Alterations in Land Use Limitations” a change to the narrative of the Development Code is exempt from further CEQA review.

General Plan/Zoning Designations Citywide

Any Development Code Amendment analyzed and considered for adoption by the City Council may affect specific zones or the community as a whole. With guidance from the Commission, staff shall be provided with the details of the specific zones that shall be affected by the proposed change and thus have the opportunity to address this standard section of Commission

Public Hearing reports. At that time, staff shall provide the Commission with Goals and Policies from the General Plan to illustrate how the proposed Amendment does or does not conform to those Goals and Policies. Regarding any future Municipal Code amendment, General Plan and/or Zoning designations do not apply and conformance to Goals and Policies would not be applicable.

Findings

Pursuant to Section 19.22.050 "Findings" of the City's Development Code, 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 (listed below). Following receipt of guidance from the Commission and final drafting of proposed language, 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.

No "Findings" are applicable to a Municipal Code amendment.

Approval Process

Under the provision of Development Code Section 19.22.040 "Approval Authority and Notification" (for Development Code Amendment) the Planning Commission is the Review Authority for any changes to the Development Code, with the City Council being the Approval Authority. With the Commission's adoption of proposed new language, or rejection of the concept to change the Code relative to the discharge of firearms, at a Public Hearing by the adoption of a Commission Resolution, a recommendation shall be forwarded to the Council for its final action. Although the Planning Commission is not mandated by the Municipal Code to comment upon a Municipal Code amendment, as the Study Session proposed language to add a new Chapter 11.34 "Unlawful Discharge of Weapons" would be taken as the Commission's recommendation to the Council on this topic.

FISCAL IMPACT

No fiscal impact, positive or negative, is expected at this time with the proposed amendment of the Municipal or Development Code relative to the establishment of new allowances, procedures or prohibition of the discharge of firearms within the community of Twentynine Palms.

TWENTYNINE PALMS PLANNING COMMISSION
6136 Adobe Road
Twentynine Palms, CA 92277
www.ci.twentynine-palms.ca.us
Tuesday, May 3, 2011
6:00 P.M.

DRAFT MINUTES (EXCERPTS)

- 1.0 CALL TO ORDER-** Chair Easter called the meeting to order at 6:00 p.m.
PLEDGE OF ALLEGIANCE- Vice Chair Alderson led the Pledge of Allegiance.
ROLL CALL- The following Commissioners were present: Alderson, Benton, Whitten and Easter. Commissioner Mendoza had an excused absence.

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11.0 STUDY SESSION/COMMUNITY WORKSHOP

- 11.2** PC 09-76 – A Continued Study Session to consider a possible amendment to the Land Use Tables and Accessory Uses of the City’s Development Code regarding commercial and non-commercial shooting ranges and the discharge of firearms within all zoning districts, citywide.

RECOMMENDATION: Staff recommends that the Planning Commission review the enclosed language at a Study Session open to the public and then provide guidance regarding possible changes to portions of Tables 19.07-A “Permitted and Conditional Uses”, 19.08-A “Permitted and Conditional Uses” 19.09-A “Permitted and Conditional Uses”, 19.10-A “Permitted and Conditional Uses”, 19.12-A “Permitted and Conditional Uses” 19.14-A “Permitted and Conditional Uses” and 19.48 “Accessory Uses and Structures” pertaining to public and private commercial and non-commercial shooting ranges, or like and similar uses, and the discharge of firearms within the City of Twentynine Palms in all residential, commercial and industrial zoning districts, citywide.

Director LaClaire presented a staff report to the Planning Commission.

It was the consensus of the Planning Commission to amend the Code to separate commercial and residential shooting activities so that they would fall under different parts of the code, and to create a new Ordinance to suggest that the City Council address the discharge of firearms.

It was the consensus of the Planning Commission to prohibit a weapons discharge and ranges in all Residential zonings.

Chair Easter noted on page five (5) of fourteen (14) it should read “Direct or Indirect” in every case.

Walt Kaufman, Twentynine Palms, said the City Ordinance suggested by Mr. Whitten sounded good. He said the community should be able to review the proposed Ordinance. He suggested consulting with experts because California state law does not give the authority to use lethal or deadly force in defense of

property and the word property should be removed.

Douglas Cooper, Twentynine Palms, commended the Planning Commission on their approach to the item and said if it was made simple it would be much appreciated by the public and said the ten (10) acre minimum sounds like a good safety area.

Steve Donnel, Twentynine Palms, spoke in favor of shooting ranges.

Vice Chair Alderson said on page nine (9) of fourteen (14) item L should read "property" not "properties".

C.J. Horn, Twentynine Palms, suggested bringing in someone who teaches classes on concealed weapons.

12.0 ADJOURNMENT- Chair Easter adjourned the meeting at 9:10 p.m.

Respectfully Submitted,

Jacqueline Palmer, Deputy City Clerk



City of Twentynine Palms
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Twentynine Palms, CA 92277
(760) 367-6799 FAX (760) 367-5400

MEMO

Date: May 17, 2011
To: Planning Commission
From: Charles K. LaClaire, Community Development Director
Re: Commission Discussion of Development Code Section 19.02.100, Subsection "G. Powers of the Planning Commission"

At its regularly scheduled meeting of May 3, 2011, Planning Commissioner Whitten requested that an item be placed upon a future agenda to discuss Development Code Section 19.02.100 "Planning Commission", Subsection "G. Powers of the Planning Commission". Presented below is an excerpt from the Development Code giving the Section in question.

19.02.100 Planning Commission.

A. Powers of the Planning Commission.

1. The Planning Commission shall perform the following functions and shall have the power, except as otherwise provided by law, to:
 - (a) Act as the Planning Agency for the City of Twentynine Palms.
 - (b) Prepare and implement the General Plan. Such duties to include:
 - i.* Review public works projects for consistency with the General Plan,
 - ii.* Review discretionary projects and determine consistency with the General Plan,
 - iii.* Promote public interest in the General Plan regarding its implementation.
2. Provide an annual report to the City Council on the status of the General Plan.
3. Recommend regulations for future growth, development, and beautification of the City, in respect to its public and private buildings and works, streets, schools, parks, grounds and vacant lots.
4. Recommend plans, consistent with the future growth and development of the City, to secure sanitation, proper service of public utilities, and transportation facilities.

5. Recommend to the City Council approval, conditional approval, or disapproval of tentative maps of proposed subdivision of land.
 - (a) The Council hereby designates the Planning Commission as its advisory agency with respect to the design and improvement of proposed subdivisions.
 - (b) Every such map or plat shall, prior to its final approval or disapproval by the Council, be submitted to the Commission for action thereon.
6. Hold Public Hearings to review and approve or deny, or make recommendation to the City Council on development and land use applications as identified on table 19.40.040-A of the Development Code.
7. Perform other duties as shall be necessary to carry out the provisions of this article and the provisions of the Conservation and Planning Act of the State, amendments or any act substituted therefor.



**CITY OF TWENTYNINE PALMS
PLANNING COMMISSION STAFF REPORT**

6136 Adobe Road
Twentynine Palms, CA 92277
(760)367-6799 – Fax (760) 367-5400

To: Planning Commission – Study Session (Continued)
From: Community Development Director
Date: May 10, 2011

For Commission Meeting Of: May 17, 2011

SUBJECT: PC 09-76 – A Study Session to consider a possible amendment to the Land Use Tables and Accessory Uses of the City’s Development Code regarding commercial and non-commercial shooting ranges and the discharge of firearms within all zoning districts, citywide.

RECOMMENDATION

Staff recommends that the Planning Commission review the enclosed language at the Study Session, open to the public, and then provide guidance regarding possible changes to portions of Tables 19.07-A “Permitted and Conditional Uses”, 19.08-A “Permitted and Conditional Uses” 19.09-A “Permitted and Conditional Uses”, 19.10-A “Permitted and Conditional Uses”, 19.12-A “Permitted and Conditional Uses” and 19.14-A “Permitted and Conditional Uses” pertaining to public and private commercial and non-commercial shooting ranges, or like and similar uses, and the discharge of firearms within the City of Twentynine Palms in all residential, commercial and industrial zoning districts, citywide.

<p>Attachment:</p> <p>None.</p>

ORDER OF PROCEDURE

- Request Staff Report (Charles LaClaire presenting)
- Commission Questions of Staff
- Receive Public Comment
- Commission Discussion
- Direction to staff

PROJECT DESCRIPTION

A study session to consider a possible Development Code Amendment (PC 09-76) that may amend those portions of Tables 19.07-A “Permitted and Conditional Uses”, 19.08-A “Permitted and Conditional Uses” 19.09-A “Permitted and Conditional Uses”, 19.10-A “Permitted and Conditional Uses”, 19.12-A “Permitted and Conditional Uses” and 19.14-A “Permitted and Conditional Uses” pertaining to public and private commercial and non-commercial shooting ranges, or like and similar uses, and the discharge of firearms (weapons) within the City of Twentynine Palms in all residential, commercial and industrial zoning districts.

BACKGROUND

At several regularly scheduled meetings, the most recent being May 3, 2011, the Planning Commission began and continued its review of possible Code Amendments to address the current Municipal and Development Code standards and criteria for shooting ranges and the discharge of firearms within the community. Those discussions were a result of a Council meeting on November 23, 2010, at which time the City Council initiated a Code Amendment to

further define and address within the Municipal and Development Codes, the opportunity and restrictions relating to, and associated with, the discharge of weapons within the community.

At its meeting of May 3rd, the Commission appeared to have addressed four (4) very fundamental questions. First, it appeared to be the consensus of the Commission that the Council should be asked to confirm that it still wished to have the Commission pursue its efforts to create amendments to the Municipal and Development Codes to address weapon discharge within the community. Second, it appeared to be the consensus of the Commission that the discharge of weapons would be prohibited within all residential zones, regardless of lot size, but that the definition of “weapon” being discharged would be changed (removing weapons with minimal ability to inflict bodily harm such as BB and/or pellet guns). Third, shooting ranges would be allowed within commercial areas (only within indoor ranges) and in industrial areas (indoor and outside), but with City review of a Conditional Use Permit and specific standards. And fourth, with safety as the principle goal, simplify the standards to make them easier to understand and follow (while removing allowances for the Commission to waive standards).

In addressing the above, the Commission raised and discussed such issues as establishing standards based upon the capacity of the projectiles to cross property lines, the minimum property size for allowed weapon discharges, “Surface Danger Zones” (see below), separation distances, unintended discharge of weapons, maximum number of shooters on a site, and the broad nature of the weapons that may fall under the proposed restrictions. Further, one member of the audience expressed concern regarding the Commission’s ability to waive specific standards with minimum justification.

“Surface Danger Zone.” The ground and airspace designated within the training complex (to include associated safety areas) for vertical and lateral containment of projectiles, fragments, debris and components resulting from the firing, launching or detonation of weapon systems to include explosives and demolitions.

At the February 15, 2011 meeting, the Commission reviewed draft language offered to address the answers given to the questions discussed at the January 18th meeting. On the 15th, the Commission discussed the draft language, but felt that further community input would be beneficial and directed that the item be set for a Study Session (which occurred March 15, 2011), open to the public, and continued the Public Hearing of PC 09-76 to the Commission’s regularly scheduled meeting of April 19, 2011. Both the Study Session and Public Hearing were addressed at the regular meeting of April 19, 2011, with the Commission continuing the Code Amendment Public Hearing until the meeting of May 17, 2011 with the Study Session continued to the regular meeting of May 3, 2011. At the May 3rd Study Session, the Commission provided the guidance noted above and continued the Study Session to the May 17th Commission meeting.

Analysis:

To address the above, staff offers the following language for Commission consideration. It is again noted that as this is a Study Session, any changes or comments regarding the proposed language can be easily incorporated into the Code Amendment(s) on the control of weapons discharge within the community when it is presented to the Commission at an advertised Public Hearing. Further, due to the extensive changes between the last rendition of proposed language and that presented below, no attempt is made to state the old versus new language. The Commission is requested to consider everything presented below as new language.

It is also noted that within the proposed language presented below is the definition of “Target Practice”, which was requested by a previous Commission comment. This definition, however, may now become superfluous as the discharge of weapons would be prohibited within all residential zones, and retaining the definition may confuse residents or imply that “Target Practice” is allowed within the community at locations other than those approved by the Planning Commission under a CUP for a range. It is suggested that either the definition be removed or that the definition be modified sufficiently to clearly indicate that “Target Practice” may occur only using devices that emit projectiles that are not considered to have the potential to inflict great bodily harm (such as pellet, BB or air guns, slingshots, paintball guns or similar mechanical devices).

It is suggested that the Municipal Code be amended to add the following to Title 11 “Public Peace, Morals and Welfare”, as a new Chapter 11.34 “Unlawful Discharge of Weapons” to provide for the following:

Chapter 11.34 Unlawful Discharge of Weapons

Sections:

- 11.34.010** Unlawful Discharge
- 11.34.020** Exceptions
- 11.34.030** Violation Deemed Nuisance – Surrender and Disposal of Weapon
- 11.34.040** Violation – Penalty

11.34.010 Unlawful Discharge

No person shall intentionally discharge or cause to be discharged any firearm, air gun, air rifle, pellet gun, paintball gun, slingshot, bow/arrow, cannon, mortar, catapult or other weapon or device capable of hurling or projecting a missile or projectile with sufficient force to cause great bodily injury to a person, persons, animal or property, within the City limits of the City of Twentynine Palms.

11.34.020 Exceptions

- A. The provisions of Section 11.34.010 “Unlawful Discharge” do not apply in the following circumstances:
 - 1. In the performance of official duties of a peace officer, as defined in the California Penal Code, or any person summoned by any such officer to assist in making an arrest or preserving the peace while actually engaged in assisting such officer;
 - 2. In the performance of official duties of any member of the military service of the United States of America;
 - 3. In the lawful defense of life and/or property as defined within the California Penal Code;
 - 4. In the lawful discharge or operation of a firearm or other projectile emitting weapon at an approved “Archery and/or shooting/gun range” as established within the Commercial and Industrial Zoning Districts as provided in Tables 19.10-A “Permitted and Conditional Uses” and 19.12-A “Permitted and Conditional Uses”;
 - 5. In the lawful killing of an animal injured beyond a reasonable expectation of recovery.

11.34.030 Violation Deemed Nuisance – Surrender and Disposal of Weapon

Any firearm, weapon or device as described within this article and used in violation of this article may be declared to be a nuisance, and upon conviction of any person who violates this article the firearm, weapon or other projectile emitting device shall thereafter be disposed of in the same manner for the disposal of nuisances under Section 12028 of the Penal Code of the State of California.

11.34.040 Violation – Penalty

Any person violating any of the provisions of, or failing to comply with, the requirements of this article shall be guilty of a misdemeanor and shall be punished as provided in Section 36901 of the California Government Code as that section reads or its successor reads at the time of the offense.

With the above in place, it is further suggested that the Development Code Land Use Tables listed below be amended to illustrate that the discharge of weapons, as defined in Municipal Code Section “Article A – Unlawful Discharge of Weapons”, be expressly prohibited within all residentially zoned properties (all RL, RS, RM, OSR and P districts). Within the Commercial zoning districts (CG, CO, CT and CN), the Land Use Table should be amended to illustrate that the discharge of weapons, be it called a shooting range, gun range, target practice, or other term for the discharge of a weapon, that such activity is allowed only within an enclosed, indoor facility with Commission approval of a Conditional Use Permit. Within the Industrial zoning districts (CS and IC), the Land Use Table should be amended to illustrate that the discharge of weapons, by whatever term, is an allowed activity within or outside of an enclosed building, but again only with Commission approval of a Conditional Use Permit. These Tables should refer to a Development Code Section that illustrates the expected and required standards for the development of any range addressing such issues as parking, Surface Danger Zones, separation requirements, noticing requirements, etc.

The following is provided for Commission consideration and to provide direction to staff so that it may then be modified and returned at a future additional Study Session or Public Hearing.

Proposed Language

Amend Chapter 19.06 “Definitions” by the addition of new definitions to Sections 19.06.040 “D” Definitions, 19.06.060 “F”, Definitions 19.06.070 “G” Definitions, 19.06.150 “O” Definitions, 19.06.160 “P” Definitions, 19.06.180 “R” Definitions, 19.06.190 “S” Definitions, 19.06.200 “T” Definitions and 19.06.230 “W” Definitions to read as follows:

Discharge. To expel, emit, let go or shoot, as a missile; or to emit contents.

Discharge of Weapons. To expel, emit, let go or shoot a projectile of any type from a device such as a firearm (handgun and/or rifle), pellet/air guns, slingshots, paintball guns, bow/arrows, shotguns, cannons, mortars or catapults.

Firearm. A weapon whose charge is expelled by the explosion of gunpowder, usually in reference to a small device such as a rifle or revolver.

Gun, Open Air, Pistol, Rifle or Shooting range. Shall be defined as follows:

General - A pistol, rifle, gun, shooting or open air range (terms used interchangeably) is a land use activity that involves the singular or organized discharge of weapon(s) by one or more individuals that emit projectiles that travel a minimum of fifty (50) feet and which

have the capacity to cause/inflict great bodily harm. Such projectile emitting devices may include, but are not limited to, handguns, rifles, shotguns, cannons, mortars and catapults; but typically do not include pellet or air guns, bow/arrows, tazers, slingshots, paintball guns or similar mechanical devices.

This definition shall apply to a property whether those individuals participating in the discharge of weapons is/are the property owner(s), prospective owner(s) or an individual(s) in control or custody of said property, or any manner of visitor, guest, friend, customer and/or patron of the owner, prospective owner or individual in control or custody of said property.

Commercial - A commercial shooting range is a range available to individuals or groups with or without a fee, gratuity, trade or other form of direct or indirect compensation, and which may or may not involve the sale or any manner of exchange/trade/barter/swap of a weapon, or an activity on that property which may be a prelude to a sale, purchase or exchange of a weapon at another location, where said singular or organized discharge of weapon(s) is conducted or carried out by the property owner(s), prospective owner(s) or an individual(s) in control or custody of said property, or any manner of visitor, guest, friend, customer and/or patron of the owner, prospective owner or individual in control or custody of said property.

Indoor - An "Indoor Shooting Range" shall be any shooting range and/or facility where the activity of discharging a weapon is conducted completely within an enclosed structure consisting of a floor(s), roof and walls or other physical barriers or enclosing devices which shall completely contain all projectiles discharged from said weapon within such enclosed structure.

Non-commercial - A non-commercial shooting range is a range available to individuals or groups without a fee, gratuity, trade or other form of direct or indirect compensation, and which does not involve the sale or any manner of exchange/trade/barter/swap of a weapon, or any activity on that property which may be a prelude to a sale, purchase or exchange of a weapon at another location, where said singular or organized discharge of weapon(s) is conducted or carried out by the property owner(s), prospective owner(s) or an individual(s) in control or custody of said property, or any manner of visitor, guest, friend, customer and/or patron of the owner, prospective owner or individual in control or custody of said property.

Outdoor - An "Outdoor Shooting Range" shall be any shooting range facility where the activity of discharging a weapon is conducted completely or partially outside of an enclosed structure. All such Outdoor Shooting Ranges shall have defined left and right lateral limits, designated yard lines, specified impact area(s) and demarked surface danger zones.

Private - A private shooting range is a shooting range with restricted entry rights as determined by the land owner/operator of such facility whether for commercial or non-commercial purposes. Such activity wherein the discharge of weapons occurs may be available to individuals or groups with or without a fee, gratuity, trade or other form of direct or indirect compensation, but which may involve the sale or other manner of exchange/trade/barter/swap of a weapon, or any activity on that property which may be a prelude to a sale, purchase or exchange of a weapon at another location, where said singular or organized discharge of weapon(s) is conducted or carried out by the property

owner(s), prospective owner(s) or an individual(s) in control or custody of said property, or any manner of visitor, guest, invitee, friend, club member, customer and/or patron of the owner, prospective owner or individual in control or custody of said property.

Public - A public shooting range is a shooting range open to the general public with use restrictions as determined by the owner/operator of such facility whether for commercial or non-commercial purposes.

Surface Danger Zone. The ground and airspace designated within the training complex (to include associated safety areas) for vertical and lateral containment of projectiles, fragments, debris and components resulting from the firing, launching or detonation of weapon systems to include explosives and demolitions.

Target Practice. A private, non-commercial land use activity not classified as a “shooting range” conducted by a property owner, tenant or guest upon and within the limits of that property owner or tenant’s private property wherein the activity involves the discharge of weapon(s) by one or more individuals that emit projectiles that travel a minimum of fifty (50) feet and which have the capacity to cause/inflict great bodily harm. Such projectile emitting devices may include, but are not limited to, handguns, rifles, shotguns, bow/arrows, cannons, mortars and catapults; but typically do not include pellet or air guns, slingshots, paintball guns or similar mechanical devices. Further, such activity shall be subject to all State, County and local weapons discharge laws and regulations and shall be confined at all times to the limits of the property controlled by the owner or tenant.

Weapon. Any instrument or device of offense or defense in combat; a firearm.

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Amend that portion of Table 19.07-A “Permitted and Conditional Uses” relating to recreation under E. Recreational Facilities as follows:

Use	RL-1	RL-2.5	RL-5	Notes
<u>E. Recreational Facilities</u>				
Racetracks and Stadiums	C	C	C	
Sports oriented recreational facilities requiring remote locations.	C	C	C	Including, but not limited to, golf courses, hunting clubs, off-road vehicle parks, and tennis and swim clubs.
Archery and/or shooting/gun range	*	*	*	* Expressly Prohibited (See Municipal Code Chapter 11.34 “Unlawful Discharge of Weapons”)

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Amend that portion of Table 19.08-A “Permitted and Conditional Uses” relating to recreation under “B. Residential Accessory Uses” as follows:

Use	RS-4	RS -3	RS-2	RS-1	RS-E	Notes
<u>B. Residential Accessory Uses</u> These uses are permitted only as accessory or incidental to a primary use on the same property.						
Archery and/or shooting/gun range	*	*	*	*	*	* Expressly Prohibited (See Municipal Code Chapter 11.34 "Unlawful Discharge of Weapons")
Second units	P	P	P	P	P	Pursuant to the requirements specified in Chapter 19.53, <i>Second Units</i> .

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Amend that portion of Table 19.09-A "Permitted and Conditional Uses" relating to recreation under "B. Residential Accessory Uses" as follows:

Use	RM	Notes
<u>B. Residential Accessory Uses</u> These uses are permitted only as accessory or incidental to a primary use on the same property.		
Archery and/or shooting/gun range	*	* Expressly Prohibited (See Municipal Code Chapter 11.34 "Unlawful Discharge of Weapons")
Recreational uses accessory to Multi-family Residential.	P	Includes recreational centers, tot lots and playgrounds, lighted and unlighted courts, and swimming pools and related facilities.

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Amend that portion of Table 19.10-A "Permitted and Conditional Uses" relating to recreation under "Entertainment and Recreation" as follows:

Use	CO	CG	CN	CT	Notes
<u>Entertainment and Recreation</u>					
Simulated shooting games - indoor (laser tag, etc.)	-	P	-	P	
Archery and Shooting/Gun range – Indoor	C*	C*	C*	C*	* Subject to the provisions of Section 19.10.120

Use	CO	CG	CN	CT	Notes
Archery and/or Shooting/gun range - Outdoor	**	**	**	**	“Commercial and Non-Commercial Shooting Range”. ** Expressly Prohibited (See Municipal Code Chapter 11.34 “Unlawful Discharge of Weapons”)
Skate park	-	C	C	C	

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Amend Chapter 19.10 “Commercial Districts” by the addition of a new Section 19.10.120 “Indoor Commercial and Non-Commercial Archery and Shooting Range” to read as follows:

19.10.120 “Indoor Commercial and Non-Commercial Archery and Shooting Range”. A land use within the General Commercial (CG) zoning district for the discharge of firearms (all manner of handguns, rifles, shotguns, bow/arrows, slingshots, paintball guns, mortars, catapults, cannons or other projectile emitting devices that may result in great bodily harm, but excluding pellet, BB or air guns or similar projectile emitting devices with minimal limited potential to cause/inflct great bodily harm) by the property owner, his/her invited guests, or to the general public as a public or private, commercial or non-compensated recreational use of the property shall be subject to review and approval by the Planning Commission of a Conditional Use Permit. No such Conditional Use Permit approval shall be granted unless all of the following are met, in addition to which the Commission may apply Conditions of Approval that may be necessary to conform to the required “Findings” for approval of a Conditional Use Permit:

- A. Any such indoor shooting range shall be conducted wholly and completely within an enclosed building, designed and built in a manner to assure that any emitted projectiles cannot escape the enclosed building.
- B. The discharge of weapons shall be consistent with the provisions of Code Section 19.74.080 “Prohibited Noise and Vibration” and at no time shall noise or vibration levels exceed fifty-five (55) decibels at the property line.
- C. Access to the property for emergency services shall be maintained at all times when the range is in operation. In addition, some form of electronic communication equipment capable of contacting appropriate authorities during an emergency shall be available and operational at all time when the range is in operation.
- D. All property owners within five hundred (500) feet of the edges of the property proposed for such indoor use shall be provided with notification of the Public Hearing for the Conditional Use Permit.
- E. The maximum number of individuals that may participate in or be present at the indoor range shall be established by the Commission with its review of the Conditional Use Permit.
- F. Parking shall be based upon the maximum number of individuals that may participate in or be present at the indoor range as established by the Commission with its review of the Conditional Use Permit, but in no case shall less than one parking space per three (3) participants and/or observers be provided. Parking space size, location and parking surface requirements shall be in conformance with Chapter 19.82 “Off-Street Parking and Loading Requirements” of the Development Code.

- G. Each Conditional Use Permit application shall contain local contact information, including both a day and evening contact telephone number for the owner or responsible individual of the range. Further, this same information, along with a contact phone number for the City of Twentynine Palms Code Enforcement Division and both a day and evening phone contact number for the Sheriff's Office, shall be prominently posted at the range at all times.
- H. Weapons may not be discharged except within the enclosed indoor range and in conformance to all County, State and Federal regulations.
- I. Copies of standardized "Range Safety Guide" rules and procedures must be available on site at all time and shall be followed at all times.
- J. An individual professionally associated with the commercial shooting range on site shall be present at all times when customers/patrons are on site and actively engaged in the activity of discharging weapons.
- K. Commercial, retail sales, trade, exchange or transfer of weapon ownership may occur upon the site as approved by the Planning Commission in its review of the required Conditional Use Permit. Any such retail sales, trade, exchange or transfer of weapons activity may include the sale of ammunition, if such sale is approved by the Planning Commission in its review and approval of the required Conditional Use Permit.
- L. Any indoor shooting range must conform to all State air quality standards.
- M. No County, State or Federal regulation may be modified or waived by the Planning Commission.

Failure to conform to the above standards and/or any Conditions of Approval imposed by the Planning Commission in its approval of a Conditional Use Permit shall constitute a violation of the Municipal Code subject to the following: The first and second violation(s) shall subject the property owner or business owner/licensee to an infraction citation subject to a fine. The third and subsequent violations shall subject the property owner or business owner/licensee to prosecution of a misdemeanor. Each day of violation shall be considered a new and separate violation of the Municipal Code subject to a new citation.

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Amend that portion of Table 19.12-A "Permitted and Conditional Uses" relating to recreation under "Entertainment and recreation" as follows:

Use	CS	IC	Notes
<i>Entertainment and Recreation</i>			
Recording and sound studios	P	P	
Archery and/or Shooting/gun range – Indoor and Outdoor	C*	C*	* Subject to the provisions of Section 19.12.120 "Commercial and Non-Commercial Archery and Shooting Range".
Skate park	C	C	

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Amend Chapter 19.12 "Service Commercial (CS) and Community Industrial (IC) Districts" by adding a new Section 19.12.120 "Commercial and Non-Commercial Archery and Shooting Range" to read as follows:

19.12.120 "Commercial and Non-Commercial Archery and Shooting Range". A land use within the Service Commercial (CS) and Community Industrial (IC) Districts for the indoor or outdoor discharge of firearms (all manner of handguns, rifles, shotguns, bow/arrows, slingshots, paintball guns, mortars, catapults, cannons or other projectile emitting devices that may result in great bodily harm, but excluding BB, pellet or air guns or similar projectile emitting devices with minimal, limited potential to cause/inflict bodily harm) by the property owner, his/her invited guests, or to the general public as a public or private, commercial or non-compensated recreational use of the property shall be subject to review and approval by the Planning Commission of a Conditional Use Permit. No such Conditional Use Permit approval shall be granted unless all of the following are met, in addition to which the Commission may apply Conditions of Approval that may be necessary to conform to the required "Findings" for approval of a Conditional Use Permit:

- A. The property shall be a minimum of two and one half (2.5) acres in size for an outdoor range and at least one (1) acre for an indoor range.
- B. For an indoor range, any such indoor shooting range shall be conducted wholly and completely within an enclosed building, designed and built in a manner to assure that any emitted projectiles cannot escape the enclosed building.
- C. The discharge of weapons shall be consistent with the provisions of Code Section 19.74.080 "Prohibited Noise and Vibration" and at no time shall noise or vibration levels exceed fifty-five (55) decibels at the property line.
- D. The discharge of weapons may only occur between the hours of 6:00 a.m. and midnight for an indoor range and 7:00 a.m. and 10:00 p.m. for an outdoor range, and said use shall be consistent with the provisions of Code Section 19.74.080 "Prohibited Noise and Vibration".
- E. Access to the property for emergency services shall be maintained at all times when the range is in operation. In addition, some form of electronic communication equipment capable of contacting appropriate authorities during an emergency shall be available and operational at all time when the range is in operation.
- F. All property owners within five hundred (500) feet of the edges of the property proposed for such indoor use and one thousand (1,000) feet of the edges of the property proposed for such outdoor use shall be provided with notification of the Public Hearing for the Conditional Use Permit.
- G. At the Public Hearing, the public shall be given an opportunity to provide any and all factual information and supporting data regarding issues or concerns that may need to be addressed by the application of appropriate Conditions of Approval with the approval of any Conditional Use Permit granted.
- H. The maximum number of individuals that may participate in or observe the firing or discharging activity shall be established by the Commission with its review of the Conditional Use Permit.
- I. Parking shall be based upon the maximum number of individuals that may participate in or be present at the range as established by the Commission with its review of the Conditional Use Permit, but in no case shall less than one parking space per three (3) participants and/or observers be provided. Parking space size, location and parking surface requirements shall be in conformance with Chapter 19.82 "Off-Street Parking and Loading Requirements" of the Development Code.
- J. Each Conditional Use Permit application shall contain local contact information, including both a day and evening contact telephone number for the owner or responsible individual of the range. Further, this same information, along with a contact phone number for the City of Twentynine Palms Code Enforcement Division and both a day

and evening phone contact number for the Sheriff's Office, shall be prominently posted at the range at all times.

- K. Weapons may not be discharged in a manner or direction that would allow projectiles, fragments thereof or ricochets thereof to cross over property lines, access easements between properties, public rights-of-way or into or onto any County, State or Federal lands.
- L. For an outdoor range, no weapon(s) shall be discharged within 150 yards from a residential structure (whether occupied or not), except with the property owner's permission (which removes this restriction).
- M. A Conditional Use Permit may only be approved where it can be demonstrated that the orientation of the discharge of any weapon shall be in such a manner so as to reasonably ensure the safety of those on-site or to those on surrounding properties. Such discharge shall be oriented towards a "berm" and/or "backstop" built, placed and maintained in a manner to prevent projectiles from exiting the approved property.
- N. Each application for an outdoor range shall illustrate a "Surface Danger Zone" consisting of the ground and airspace designated within the training complex (to include associated safety areas) for vertical and lateral containment of projectiles, fragments, debris, and components resulting from the firing, launching, or detonation of weapon systems to include explosives and demolitions.
- O. No Conditional Use Permit shall be approved for an outdoor range upon a property located adjacent to an existing residential neighborhood with lots of less than one acre in size, or within one thousand (1,000) feet of an existing public park, campground, playground or public/private school, or within five hundred (500) feet of any hospital, church, residential care facility, senior housing facility, animal care facility, bar, casino, the Joshua Tree National Park or any County, State or Federal lands.
- P. Copies of standardized "Range Safety Guide" rules and procedures must be available on site at all time and shall be followed at all times.
- Q. An individual professionally associated with the commercial shooting range shall be present at all times when customers/patrons are on site and actively engaged in the activity of discharging weapons.
- R. Commercial, retail sales, trade, exchange or transfer of weapon ownership may occur upon the site as approved by the Planning Commission in its review of the required Conditional Use Permit. Any such retail sales, trade, exchange or transfer of weapons activity may include the sale of ammunition, if such sale is approved by the Planning Commission in its review and approval of the required Conditional Use Permit.
- S. Any indoor shooting range must conform to all State air quality standards.
- T. County, State and Federal regulation may not be modified or waived by the Planning Commission.

A "private" or "public" pistol, rifle, gun, shooting or open air range shall be determined to be a commercial or non-commercial range depending upon the nature of the land use activity being conducted as defined herein.

Failure to conform to the above standards and/or any Conditions of Approval imposed by the Planning Commission in its approval of a Conditional Use Permit shall constitute a violation of the Municipal Code subject to the following: The first and second violation(s) shall subject the property owner or business owner/licensee to an infraction citation subject to a fine. The third and subsequent violations shall subject the property owner or business owner/licensee to prosecution as a misdemeanor. Each day of violation shall be considered a new and separate violation of the Municipal Code subject to a new citation.

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Amend that portion of Table 19.14-A “Permitted and Conditional Uses” relating to residential accessory uses under “B. Residential Accessory Uses” as follows:

Use	OSR	Notes
<u>B. Residential Accessory Uses</u> These uses are permitted only as accessory or incidental to a primary use on the same property.		
Home occupations	P	Subject to permits and requirements specified in Chapter 19.36 <i>Home Occupations</i> .
Archery and/or shooting/gun range	*	* Expressly Prohibited (See Municipal Code Chapter 11.34 “Unlawful Discharge of Weapons”)
Second units	P	Second dwelling units must be detached. Manufactured and Mobile homes may be allowed if they comply with the requirements Chapter 19.53, <i>Second Units</i> .

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Previously it was proposed that Chapter 19.48 “Accessory Buildings and Uses” be amended to add a new Subsection “F” to Section 19.48.030 “Accessory Uses in Residential Districts” regarding ranges within residential zoning districts. As the Commission, however, is discussing prohibiting ranges within all residential zones, no change to Chapter 19.48 “Accessory Buildings and Uses” is now proposed.

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As noted within previous Study Session and Public Hearing reports, while the provisions proposed herein shall affect and regulate the lawful discharge of firearms or weapons within the City of Twentynine Palms as a land use issue, nothing within this material, nor any that may ultimately be adopted by the City Council, shall be taken or construed to prohibit the discharge of any firearm or weapon in the course of self-defense. Any such actions are a matter to be addressed by the Penal Code and handled through appropriate law enforcement channels.

CEQA Environmental Review

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), the proposal has been reviewed for its potential to impact the environment. It has been determined that the proposal, consisting of a Study Session to discuss a possible amendment to the language of the Municipal and Development Codes, which in and of itself is only a narrative change to the rules applicable within the City, cannot have a direct impact upon the environment. As such, under the provisions of Government Code Section 15262 “Feasibility and Planning Studies” a discussion of a possible change to the narrative of the Municipal and Development Codes is exempt from further CEQA review.

General Plan/Zoning Designations Citywide

Any Development Code Amendment analyzed and considered for adoption by the City Council may affect specific zones or the community as a whole. With guidance from the Commission, staff shall be provided with the details of the specific zones that shall be affected by the proposed Code changes and thus have the opportunity to address this standard section of

Commission Public Hearing reports. At that time, staff shall provide the Commission with Goals and Policies from the General Plan to illustrate how the proposed Amendment does or does not conform to those Goals and Policies.

Findings

Pursuant to Section 19.22.050 "Findings" of the City's Development Code, 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 (listed below). Following receipt of guidance from the Commission and drafting of proposed language, 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.

Approval Process

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. With the Commission's adoption of proposed new language, or rejection of the concept to change the Code relative to the discharge of firearms, at an advertised Public Hearing by the adoption of a Commission Resolution, a recommendation shall be forwarded to the Council for its final action.

FISCAL IMPACT

No fiscal impact, positive or negative, is expected at this time with the proposed amendment of the Municipal or Development Code relative to the establishment of new allowances, procedures or prohibition of the discharge of firearms within the community of Twentynine Palms.