

City Council Chambers  
29714 Haun Road  
Menifee, CA 92586



Menifee City Council  
Special Meeting Agenda

Wednesday, May 29, 2019  
4:00 PM Special Meeting

Bill Zimmerman, Mayor  
Greg August, District 1  
Matthew Liesemeyer, District 2  
Lesa Sobek, District 3  
Dean Deines, District 4

Armando G. Villa, City Manager  
Jeffrey T. Melching, City Attorney  
Sarah A. Manwaring, City Clerk

## **SPECIAL MEETING AGENDA**

### **CLOSED SESSION (4:00 P.M.)**

1. **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**  
Significant Exposure to litigation pursuant to Government Code paragraph (2) or (3) of subdivision (b) of Section 54956.9  
1 potential case
2. **LIABILITY CLAIM - Pursuant to Government Code Section 54956**  
Claimant: Lynn Kaufman  
Agency Claimed Against: City of Menifee

### **WORKSHOP**

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE OF ALLEGIANCE**
4. **WORKSHOP**
  - 4.1. Draft Comprehensive Development Code Update

### **RECOMMENDED ACTION**

Review the proposed Draft Comprehensive Development Code update and provide feedback to staff.

5. **ADJOURN**

#### **Decorum Policy Notes**

*Please use a speaker request form if you wish to address Council. The Council anticipates and encourages public participation at its Council meeting. Please use respect by not having your cell phones on, refrain from talking in the audience or outbursts that may be disruptive. While we encourage participation, we ask there be a mutual respect for the proceedings.*

#### **Staff Reports**

*Materials related to an item on this agenda, including those submitted to the City Council after distribution of the agenda packet, are available for public inspection by contacting Sarah Manwaring, City Clerk, at (951) 672-6777 during normal business hours.*

#### **Compliance with the Americans with Disabilities Act**

*If you need special assistance to participate in this meeting, you should contact Sarah Manwaring, City Clerk at (951) 672-6777. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.*



## **CITY OF MENIFEE**

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SUBJECT: Draft Comprehensive Development Code Update

MEETING DATE: May 29, 2019

TO: Mayor and City Council

PREPARED BY: Lisa Gordon, Planning Manager

REVIEWED BY: Cheryl Kitzerow, Community Development Director

APPROVED BY: Armando G. Villa, City Manager

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### **RECOMMENDED ACTION**

Review the proposed Draft Comprehensive Development Code update and provide feedback to staff.

### **DISCUSSION**

#### **Second Workshop**

This is the second City Council workshop on the Comprehensive Development Code. The first workshop was held on April 17, 2019. The intent of the second workshop is to get additional direction on metal shipping containers, donation bins, and home based businesses.

#### **Metal Shipping Containers in Rural Residential Zones**

Staff is requesting Council direction on whether metal shipping containers should be prohibited or regulated with development standards in Rural Residential zones. The City of Meniffee Municipal Code currently does not allow for any additional metal shipping containers to be placed, installed, or located on residentially designated property. They are only allowed on a temporary basis during construction and grading only.

The draft Zoning Ordinance currently only allows for metal shipping containers on residential property on a temporary basis during construction and grading (Zoning Draft §9.165.050). The Council may want to consider allowing new metal shipping containers on rural residential properties with a minimum lot size as an accessory structure, regulated with development standards currently in place for existing permitted shipping containers. These standards regulate use and location, including setbacks from adjacent properties and right-of-way, screening, and design elements (MMC Chapter 9.16, Sections 9.16.050 and 9.16.060).

#### **Donations Bins**

Staff is requesting Council direction on whether donation bins should be prohibited or regulated with development standards and permit requirements. Donation bins are currently prohibited in the Economic Development Corridor (EDC) zone. Generally, donation bins may be prohibited in

any zone as long as there is no distinction or allowance for charitable donation bins versus for profit donation bins.

As an example, the City of Oakland has an ordinance regulating these bins which was recently upheld. (*Recycle for Change v. City of Oakland* (2016) 2016 U.S. Dist. LEXIS 11057.) The provisions of Oakland's ordinance require a permit for unattended donation/collection boxes ("UDCB"). UDCBs are defined as "unstaffed drop-off boxes, containers, receptacles, or similar facility that accept textiles, shoes, books and/or other salvageable personal property items to be used by the operator for distribution, resale, or recycling." (Oakland Municipal Code §§5.19.050, 5.19.060.) The ordinance exempts UDCBs belonging to the owner of the parcel on which they are located. Oakland charges a fee of \$535 for the initial application, and \$245 for annual renewal of the permit. The regulations limit the UDCBs to certain locations in the City, impose maintenance requirements, and require the UDCBs to be placed at least 1,000 feet apart. The stated purpose of the ordinance is "to promote the health, safety, and/or welfare of the public by providing minimum blight-related performance standards for the operation of unattended donation/collection boxes (UDCBs)." (Oakland Municipal Code §§5.19.010; 5.19.060.B; 5.19.120.)

### **Home Based Businesses**

Staff is requesting Council direction on the types of home based businesses, to ensure these uses are incidental to the residential use and do not change the character of the surrounding residential area.

The City of Menifee regulates home occupations through the adopted County of Riverside Zoning Ordinance No. 348, Section 21.36 "Home Occupations". Home occupations must be incidental and secondary to the principal use of a dwelling as a residence and be conducted entirely within the dwelling (Ord. No. 348 §21.36(b)). Additionally, home occupations must have no employees other than residents of the dwelling (and except in cases of large family day care homes)(a); have no outside/accessory building used as storage (c); have no vehicles or trailers not normally used in residential zones (e); and have no signs, except one unlighted identification sign (f).

While home-based businesses are not currently permitted in the zoning-code, the General Plan allows within Rural Residential (specifically RR2 and RR1) "small scale home-based business operations in accordance with the Zoning Code on rural large lot properties if consistent w/ surrounding character" (2013 General Plan, Exhibit LU-3). Additionally, Land Use Implementation Action LU-4 directs the Community Development Department to "develop policy guidance or an update to the zoning ordinance that facilitates home-based businesses and home occupations within the Estate Residential uses adjacent to Scott Road" (2013 General Plan).

The draft zoning code defines home businesses as 'a commercial or service activity conducted within a dwelling, incidental and accessory to the residential use of the dwelling, which does not change the character of the surrounding area by generating more traffic, noise, odor, or storage of material than would be normally associated with a residential zone'. These home based businesses may be conducted outside (such as horse lessons) or within an accessory structure.

These uses would be limited to the rural residential zones on lots with a minimum lot size of 1 acre.

It is important to differentiate between home based businesses associated with a primary residence, and non-residential uses in the residential zones, as shown in the zoning matrix below. This distinction is important as commercial uses are generally more intense uses than residential ones, and have the ability to change the character of a residential property.

The draft Zoning Ordinance allows for various non-residential uses for agricultural and rural residential zones (Zoning Draft Table 9.125.030-1). The non-residential uses are either permitted through a plot plan review or conditional use permit review.

Table 9.125.030-1 Agricultural and Rural Residential Zones - Allowed Uses and Approval Requirements							
Allowed Use	AG	RM	RR5	RR2	RR1	RR1/2	Additional Requirements
<b>RESIDENTIAL USES</b>							
Accessory Dwelling Unit (ADU)	P	P	P	P	P	P	Chapter 9.35 (Accessory Dwelling Unit Permit)
Bed & breakfast establishment	C	C	C	C	C	C	Chapter 9.245 (Bed & Breakfast Uses)
Congregate care facilities	—	—	—	—	C	C	Chapter 9.270 (Care Facilities)
Duplex (two-family dwelling)	—	—	—	—	—	—	
Emergency shelters	—	—	—	—	—	—	
Family day care home, large	P	P	P	P	P	P	Chapter 9.60 (Large Family Day Care Permit)
Family day care home, small	P	P	P	P	P	P	
Group Residential Facility 6 or fewer residents	P	P	P	P	P	P	9.270 (Community Care Facilities)
7 or more residents	--	--	--	--	--	C	

Table 9.125.030-1 Agricultural and Rural Residential Zones - Allowed Uses and Approval Requirements							
Allowed Use	AG	RM	RR5	RR2	RR1	RR1/2	Additional Requirements
Guest house	P	P	P	P	P	P	Chapter 9.295 (Special Housing Types)
Home Occupation	P	P	P	P	P	P	Chapter 9.255 (Home Occupation and Home-Based Business)
Home-Based Businesses	P	P	P	P	P	P	Chapter 9.255 (Home Occupation and Home-Based Business)
Manufactured Home	P	P	P	P	P	P	
Mobile home park	—	—	—	—	--	C	Chapter 9.295 (Special Housing Types)
Multiple family	—	—	—	—	—	—	
Residential Care Facility	--	--	--	--	C	C	9.270 (Community Care Facilities)
Short-term rentals (less than 30 days)	—	—	—	—	—	—	
Single- family detached	P	P	P	P	P	P	
Single-room occupancy units/Efficiency Units	—	—	—	—	—	—	Chapter 9.295 (Special Housing Types)
Supportive housing	C	C	C	C	C	C	
Transitional housing	C	C	C	C	C	C	
<b>NON-RESIDENTIAL USES</b>							

Table 9.125.030-1 Agricultural and Rural Residential Zones - Allowed Uses and Approval Requirements							
Allowed Use	AG	RM	RR5	RR2	RR1	RR1/2	Additional Requirements
Animals, Small (e.g. hamsters, rabbits, chinchillas, and similar sized animals)							Chapter 9.235 (Animal Keeping)
Non-Commercial Commercial	P C	P C	P C	P C	P C	P C	
Animals, Medium (e.g. sheep, goats, pigs, and similar sized animals)							Chapter 9.235 (Animal Keeping)
Non-commercial Commercial	P C	P C	P C	P C	P -	P -	
Animals, Large (e.g. cows, horses, camels, llamas, and other similar sized animals)							Chapter 9.235 (Animal Keeping)
Non-commercial Commercial	P P	P --	P P	P P	P --	P --	
Animal rescue	C	C	C	C	C	--	Chapter 9.235 (Animal Keeping)
Apiary (non-commercial)	P	P	P	P	P	P	Chapter 9.235 (Animal Keeping)
Aquaculture (commercial raising of fish, frogs, shellfish, algae, etc.)	C	C	C	--	--	--	Chapter 9.235 (Animal Keeping)
Aviary (non-commercial)							Chapter 9.235 (Animal Keeping)
Fewer than 50 birds. Greater than 50 birds	P C	P C	P C	P C	P C	P C	
Cemetery or Mausoleum	C	C	C	C	--	--	

Table 9.125.030-1 Agricultural and Rural Residential Zones - Allowed Uses and Approval Requirements							
Allowed Use	AG	RM	RR5	RR2	RR1	RR1/2	Additional Requirements
Fowl, non-crowing (Non-commercial)	P	P	P	P	P	P	Chapter 9.235 (Animal Keeping)
Fowl, crowing (non-commercial)	P	P	P	P	P	--	Chapter 9.235 (Animal Keeping)
Stable, riding academy, large animal boarding	P	—	C	C	C	C	Chapter 9.235 (Animal Keeping)
Educational Institution	C	C	C	C	C	C	
Farms and agricultural operations	P	C	P	P	P	C	
Golf Courses	C	C	C	C	C	C	
Governmental facilities	C	C	C	C	C	C	
Kennels and catteries	C	—	C	C	C	C	Chapter 9.235 (Animal Keeping)
Marijuana dispensaries, mobile marijuana dispensaries, marijuana cultivation, and marijuana processing	—	—	—	—	—	—	
Nurseries (wholesale and open to the public)	P	--	C	C	C	--	
Parks and recreation areas	P	P	P	P	P	P	
Petting Zoo	P	C	C	C	C	C	Chapter 9.235 (Animal Keeping)
Public utility facilities	C	C	C	C	C	C	
Religious Facilities	C	C	C	C	C	C	
Shooting Ranges	--	--	--	--	--	--	
Vineyards and wineries	C	C	C	C	C	C	

Table 9.125.030-1 Agricultural and Rural Residential Zones - Allowed Uses and Approval Requirements							
Allowed Use	AG	RM	RR5	RR2	RR1	RR1/2	Additional Requirements
Wireless Communication Facilities	C	C	C	C	C	C	Chapter 9.290 (Wireless Communication Facilities)

## **BACKGROUND**

### **Input from Staff and Stakeholders January 2018-April 2018**

Prior to the first joint workshop noted below, the City's consultant for the Comprehensive Development Code Update met with the Community Development Department staff and community stakeholders to obtain feedback and direction. There was general consistency regarding the direction for the revised Development Code. The major themes from both groups included:

1. Create a Development Code that is more user-friendly and clear on requirements.
2. Streamline the permit review and approval procedures.
3. Update the Zoning Code to address current uses and development standards.

### **Joint Workshop April 18, 2018**

A joint City Council and Planning Commission Study Session was held on April 18, 2018. The input from staff and stakeholders was reviewed and the Council and Commission asked staff questions and provided direction on additional issues to be addressed in the Development Code. Seven members of the public also spoke at the workshop and provided comments.

### **Joint Workshop June 13, 2018**

A second joint workshop was held on June 13, 2018 with the City Council and Planning Commission. At the workshop, staff presented an Audit Report which identified key issues and recommendations on addressing the issues in the updated Development Code. An outline for the updated Development Code was also presented. The Council and Commission asked questions of staff and provided feedback on the audit report and the outline. One member of the public spoke at the workshop.

### **Stakeholder Workshop February 21, 2019**

The stakeholders were provided with draft versions of the Comprehensive Development Code, including the Grading and Subdivision Ordinances for their review and comment. A workshop with the stakeholders was held on February 21, 2019 and staff discussed the draft codes with the stakeholders and received additional comments and feedback on the drafts. Overall, the stakeholders were complementary of staff's work on the drafts and indicated that they had achieved the goal of creating a code that was more user friendly and clear. There were not many comments on the draft Development Code, but there were more comments on the

Grading and Subdivision Ordinances.

**Planning Commission Workshop March 27, 2019**

The Planning Commission received a presentation on the draft Zoning Ordinance. Staff and the City's consultant provided a detailed presentation on the draft Zoning Ordinance. The Commission discussed the organization of the code, readability, clear process and format, short term rentals, bed and breakfasts, animal keeping, home based business, parking standards, and commercial vehicle parking. There were 8 members of the public, including two members of our developer stakeholder group in attendance. There was only one public speaker, who was also a stakeholder, and they spoke in support of the update and process.

**Planning Commission Workshop April 10, 2019**

The Planning Commission received a presentation on the Draft **Subdivision and Grading Ordinances** and the Draft **Zoning Map**.

**City Council Workshop April 17, 2019**

The City Council received a presentation on the Draft Development Code, Subdivision and Grading Ordinances and the Draft Zoning Map.

**FISCAL IMPACT**

There is no fiscal impact to the City for approving this update. The City retained Michael Baker International (MBI) to prepare the update to the development code, including subdivision and grading Ordinances. The City Council approved the contract with the consultant on January 17, 2018 and the contract was paid for out of the fiscal year 2017/2018 adopted budget.

**ATTACHMENTS**

1. Menifee Municipal Code - Chapter 9.16
2. Ord. No. 348 - Section 21.36

## CHAPTER 9.16: METAL SHIPPING CONTAINERS AS ACCESSORY STORAGE FACILITIES ON RESIDENTIALLY DESIGNATED PROPERTIES

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### Section

- 9.16.010 Intent
- 9.16.020 Metal shipping container defined
- 9.16.030 In place metal shipping containers
- 9.16.040 Additional metal shipping containers prohibited
- 9.16.050 Use standards for metal shipping containers
- 9.16.060 Placement standards for metal shipping containers
- 9.16.070 Notification requirements for metal shipping containers on residentially designated properties
- 9.16.080 Removal of metal shipping containers

### § 9.16.010 INTENT.

The City Council has enacted the following provisions to control the use of metal shipping containers upon residentially designated properties within the City of Menifee to preserve and protect the aesthetic appearance of the community, property values, and the public health, safety and general welfare.

(Ord. 2014-142, passed 8-20-2014)

### § 9.16.020 METAL SHIPPING CONTAINER DEFINED.

As used in this chapter, a **METAL SHIPPING CONTAINER** means any metal container formerly used for transporting sea-going cargo not to exceed the maximum dimensions of 8x8x40 feet.

(Ord. 2014-142, passed 8-20-2014)

### § 9.16.030 IN PLACE METAL SHIPPING CONTAINERS.

All existing metal shipping containers in place upon residentially designated properties within the city 30 days prior to the effective date of this chapter are hereby ratified and allowed to remain on the residential property in the location that they existed 30 days prior to the effective date of this chapter subject to the requirements of § 9.16.050. Existing in place containers may not be moved, repositioned or relocated except in conformance with § 9.16.060. A residential property owner or individual in control of a residential property having a metal shipping container(s) in place 30 days prior to the effective date of this

chapter shall have one year from the effective date of this chapter to comply with the no fee notification requirements of § 9.16.070. Any metal shipping container in place on the effective date of this chapter for which the property owner, or individual in control of the property, fails to comply with the notification requirements as set forth in § 9.16.070 may, at the discretion of the Community Development Director, be ordered to remove the containers from the residential property. Any such order by the Community Development Director shall be subject to the appeal provisions of § 2.20.150 of the Menifee Municipal Code. An appeal fee of \$250 shall be submitted with any notification requirement appeal application until an alternative notification requirement appeal fee is established by City Council resolution.

(Ord. 2014-142, passed 8-20-2014)

#### **§ 9.16.040 ADDITIONAL METAL SHIPPING CONTAINERS PROHIBITED.**

Upon the effective date of this chapter no additional metal shipping containers shall be allowed to be placed, installed or located upon a residentially designated property, except as allowed under § 9.16.050(B).

(Ord. 2014-142, passed 8-20-2014)

#### **§ 9.16.050 USE STANDARDS FOR METAL SHIPPING CONTAINERS.**

The following use standards shall apply to all metal shipping containers on residentially designated properties within the city:

- (A) Metal shipping containers shall not be allowed as a principal use in any zone.
- (B) Metal shipping containers shall be allowed in all zones on a temporary basis when utilized during construction or grading operations for the site where located and when utilized solely for the storage of supplies and equipment that are used for construction or grading on that site.
- (C) Metal shipping containers may be used in conjunction with a home occupation or any use for the storage and or keeping of supplies, tools and or materials used in a particular trade.
- (D) Metal shipping container(s) shall be screened from view from any public right-of-way if the container(s) is/are placed within 300 feet of the right-of-way. Metal shipping containers located closer than 100 feet from any off-site residence shall also be screened from view. Screening shall consist of the use of screening materials including, but not limited to, view obscuring oblique fencing (six feet in height), dense landscaping, existing structures or on-site landforms. Portions of the container not directly screened as noted above shall be painted to match or compliment the residential structure on site.
- (E) Metal shipping containers shall not be connected to any utilities, nor used for any form of human or animal habitation.
- (F) Metal shipping containers shall be in "good condition"; meaning, intact structural integrity, free of obvious deterioration, all exterior surface areas painted, and with all moving parts (such as doors) functioning properly and be in compliance with all applicable health and safety codes.

(Ord. 2014-142, passed 8-20-2014)

#### **§ 9.16.060 PLACEMENT STANDARDS FOR METAL SHIPPING CONTAINERS.**

Any movement/repositioning or relocation of a metal shipping container(s) from a position existing 30 days prior to the effective date of this chapter requires approval from the Community Development

Director, and if such approval is granted, the standards of this section shall apply as well as all applicable provisions of this chapter.

(A) Metal shipping containers shall not be located closer than 50 feet from any property line, nor within the area in front of the leading edge of the home upon the residential property, or within any required parking space.

(B) Placement of metal shipping containers shall conform with all health, safety development and environmental requirements.

(C) Metal shipping containers shall not be placed upon a residential lot in a manner which would cause significant impacts to drainages, watercourses, sensitive habitat, or archeological or paleontological resources.

(D) Metal shipping containers shall not be located closer than five feet from one another and may not be closer than 20 feet from any other structure.

(E) Containers shall not be stacked one upon the other.

(Ord. 2014-142, passed 8-20-2014)

#### **§ 9.16.070 NOTIFICATION REQUIREMENTS FOR METAL SHIPPING CONTAINERS ON RESIDENTIALLY DESIGNATED PROPERTIES.**

(A) No later than one year from the effective date of this chapter the legal property owner, or the person/s in control of such property, shall submit in writing, to the Community Development Director, the property's Assessor Parcel Number (APN), the property's legal owner, a "property diagram" illustrating the distances between containers, containers and property lines and containers and other structures on site, and a total number of metal shipping containers on the property 30 days prior to the effective date of this chapter. Any person(s) in control of such property, who is not the property owner, shall notify the legal property owner/s that the requirements of this section have been met.

(B) Failure on the part of the property owner, or the person/s in control of such property, to notify the Community Development Director within the time frame set forth herein may result in suspension/ revocation of any or all of the entitlements granted by this chapter.

(Ord. 2014-142, passed 8-20-2014)

#### **§ 9.16.080 REMOVAL OF METAL SHIPPING CONTAINERS.**

(A) All metal shipping containers shall be removed from residential property prior to or upon the sale or transfer of residential property. Failure of the property owner, or individual in control of a property, to remove all containers from a residentially designated property in conformance to this chapter shall be in violation of the Menifee Municipal Code.

(B) It is the responsibility of the residential property owner, that prior to or upon the sale, transfer, or any change in ownership of residential property where a container(s) are located to remove all metal shipping containers from that residential property. Metal shipping containers not removed in accordance with the provisions of this section at the time of sale or transfer shall be, by the authority of this chapter, in violation of this chapter and be subject to removal at a date determined by the city.

(Ord. 2014-142, passed 8-20-2014)

## Menifee, CA Code of Ordinances

**Section 21.36. HOME OCCUPATIONS.**

Home occupations means those uses that are customarily conducted in a residence, provided such uses must be incidental and secondary to the principal use of a dwelling as a residence. The following criteria shall apply to any home occupation:

- a. Except for large family day care homes which may require two assistants and small family day care homes which may require one assistant to be present in addition to the licensee or provider, no person other than a resident of the dwelling shall be employed on the premises in the conduct of a home occupation.
- b. A home occupation shall be conducted entirely within the dwelling and shall be incidental and secondary to the use of the dwelling as a residence.
- c. A home occupation shall not be conducted in an accessory structure and there shall be no storage of equipment or supplies in an accessory structure or outside building.
- d. The residential character of the exterior and interior of the dwelling shall not be changed.
- e. No vehicles or trailers except those normally incidental to residential use shall be kept on the site.
- f. No signs other than one unlighted identification sign, not more than two square feet in area, shall be erected on the premises.