



Director's Business Item

23-0157-DIR1



Submitted at Meeting
Date: 4/19/2023 Item: 53
by Staff



History



SPRING 2013



SPRING 2014



History



SUMMER 2021



MOST CURRENT



History

- 2013/2014 – Storage containers were brought to the site.
- 5/19/22 – Code Enforcement opened a case for unpermitted outdoor storage.
- 7/20/22 – The City Council approved a request to Rezone the subject site from R-1 and R-2 to C-1.
- 10/20/22 – A formal application for a car wash was submitted to the Department of Community Development.
- 11/16/22 – Code Enforcement issued a correction notice to the owner to remove the storage containers from the site.
- 3/15/23 – The Director of Community Development confirmed that the use was “outdoor Storage.”



LVMC Title 19 Provisions

Title 19.12 definition of Outdoor Storage (emphasis added)

The use of a significant portion of a lot or area for the long term retention (more than 24 hours) of materials and machinery or equipment, regardless of whether the materials, machinery or equipment are to be bought, sold, repaired, stored, incinerated, or discarded. **This use includes the storage of self-contained cargo containers that have not been converted into a permanent building**, but does not include new or used motor vehicle sales and rental display, nor does it include accessory and incidental parking of vehicles for residents, guests, customers or employees in connection with a principal use.

(This definition has been in effect in Title 19 since its adoption as Ordinance 6210 on 09/05/12.)



LVMC Title 19 Provisions

- The term “converted into a permanent building” refers to the issuance and completion of a building permit for the structure.
- A building permit is required for any structure over 200 square feet in size (Section 301.4 of the 2019 Administrative Building Code; this requirement was also present in the 2012 Admin Code).
- The cargo containers on the site are primarily of a standard eight-foot by 40-foot size, or approximately 320 Square feet.
- A building permit would be required to convert this size container to a permanent building.
- Because there are no building permits for the containers, they do not qualify as permanent buildings and are therefore outdoor storage by definition.



Storage Containers in R-1 Zoning

Title 19.06.040.C.1 states:

No accessory structure shall be erected or moved onto any lot prior to construction of the main building unless a building permit has been issued for the construction of the main building.



Storage Containers as Nonconforming Uses

- Title 19.18 defines “nonconforming uses” as “Any legally pre-existing use of land which is inconsistent with the provisions of this Title, or an amendment thereto.”
- When the containers were originally brought to the site in 2013 and 2014, they did not conform to the requirements of the R-1 zoning district (19.06) or the use tables (Title 19.12).
- As such, the outdoor storage use has never been established as “legally pre-existing” with respect to the Unified Development Code (Title 19) and is not subject to the provisions of Title 19.14 for a nonconforming use.



Why wasn't it addressed sooner?

There was a previous Rezoning entitlement request for the site after the outdoor storage was established, but no development plans were required or submitted as there was no project proposed for the site at the time.

Accordingly, the city was not aware of the outdoor storage at that time and, pursuant to LVMC Title 19.00.080.L Limitations on City Action (emphasis added):

The issuance or granting of a building permit or approval of plans or specifications under the authority of the Building Code shall not be construed to be a permit for, or an approval of, any violation of any provisions of this Title or any amendments thereto, or of any other law. No permit, approval, representation, action or inaction on the part of a City officer or employee which purports, or could be interpreted, to authorize the violation or cancellation of any of the provisions of this Title shall limit the City's authority to enforce the provisions of this Title or any other provision of the Municipal Code. No permit or other approval issued under the provisions of this Title shall constitute or imply approval of any business license or permit required by any provision of the Municipal Code. Any permit, license or other approval which is issued in error in conflict with this Title is voidable by order of the City.



Conclusion

- The storage containers located at the subject site constitute an outdoor storage use pursuant to LVMC Title 19.12;
- At the time that the containers were placed on the site, the property was zoned R-1, which did not allow outdoor storage;
- The outdoor storage use was not legally established on the site pursuant to the requirements of LVMC Title 19 at the time that the containers were placed and is therefore not a legally pre-existing use of land subject to the nonconforming use provisions of LVMC Title 19.14;
- The subject site is currently zoned C-1; and
- The outdoor storage use is not permitted at all in the C-1 zoning district and must be removed.







FIRST AMENDMENT

BILL NO. 2012-29

ORDINANCE NO. 6210

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT CODE TO CONSOLIDATE LAND USES, STREAMLINE ZONING REQUIREMENTS, AND CLARIFY ZONING AND DEVELOPMENT STANDARDS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by: Councilman Steven D. Ross

Summary: Amends the Unified Development Code to consolidate land uses, streamline zoning requirements, and clarify zoning and development standards.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
AS FOLLOWS:

SECTION 1: Ordinance No. 6190 and the Unified Development Code adopted as Title 19 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, are hereby amended as set forth in Sections 2 to 99, inclusive, of this Ordinance. For each of those sections, the amendment is deemed to be an amendment to both Ordinance No. 6190 and the Unified Development Code adopted as Title 19.

SECTION 2: Title 19, Chapter 6, Section 40, Subsection (C), Paragraph (6), is hereby amended to read as follows:

6. [On corner lots, the] The roof of an accessory structure may be attached to the main dwelling, if there is a minimum six foot separation between the walls of the accessory structure and the main building and provided that at least two sides of the breezeway are open. A gate or fence which is at least 50 percent open construction may be attached to one end of the breezeway.

SECTION 3: Title 19, Chapter 8, Section 40, Subsection (B), Paragraph (4), is hereby amended by adding thereto a new Subparagraph (e), reading as follows:

(e) If service or wash bay doors are provided, openings to the bay doors shall not face public rights-of-way and shall be designed to minimize the visual intrusion into adjoining properties.

SECTION 4: Title 19, Chapter 8, Section 40, Subsection (C), is hereby amended to read as follows:

C. [Accessory] Shade Structures

Submitted at City Council

Date 4/19/20 Item 53

By: Seth Floyd

1 In addition to the standards [listed for accessory structures] for shade structures that are listed in the
2 tables provided for each district, [accessory] shade structures on any lot subject to the standards
3 provided in this Chapter shall conform to the following:

4 1. Timing of Placement. [Accessory] Shade structures shall not be established or
5 constructed on a site prior to the start of construction of the principal structure, [on that site, except
6 that construction trailers may be placed on a site at the same time clearance and grading begins.
7 Construction trailers may remain on the site only for the duration of construction.] unless approved
8 as part of a Site Development Plan Review.

9 2. [Locational Restrictions. Detached accessory structures shall not be located within the
10 required perimeter landscaping on a site, or in such a manner as to interfere with required on-site
11 parking or driveways.

12 3.] Appearance. [Accessory] Shade structures shall be designed to be architecturally
13 compatible with the principal structure on the site, utilizing [the same] similar colors, materials and
14 style.

15 3. Parking. Shade structures do not require additional parking beyond that required for
16 the uses on the site.

17 SECTION 5: Title 19, Chapter 8, Section 40, Subsection (E), Paragraph (4), is hereby
18 amended so that the introductory language reads as follows:

19 4. Screening. The following uses and equipment shall be screened from public view from all
20 rights-of-way, pedestrian areas, and parking lots: Trash and refuse collection areas; outdoor storage
21 areas; mechanical equipment such as air conditioners, pumps and motors; propane tanks and other
22 storage tanks; electrical equipment such as switching equipment and transformers; emergency
23 generators; valves; vents; utility meters; satellite dishes; grouped mailboxes; and any commercial
24 project which abuts a residential property. Screening includes, without limitation, solid walls and
25 landscaping of a density sufficient to screen the use.

26 SECTION 6: Title 19, Chapter 8, Section 40, Subsection (E), Paragraph (4),
27 Subparagraph (e), is hereby amended to read as follows:

28 e. [Outside] Outdoor Storage Areas. [Outside storage areas shall be screened by solid walls. All

1 such walls shall be similar in design and materials to the main buildings or match other screening
2 walls on the site.] In zoning districts identified in Table 2 of LVMC 19.12.010, Outdoor Storage shall
3 be permitted only in the districts listed in the table for that use. Such use is subject to the following
4 minimum standards set forth below, unless deviation or relief from any such standard is granted by
5 means of a variance application under LVMC 19.16.140:

6 i. Outdoor Storage shall not be permitted within required setback areas, landscape buffer
7 yards or other required landscape areas, or parking spaces required to meet minimum parking
8 standards.

9 ii. Outdoor Storage shall be screened from view from any public street.

10 iii. Outdoor Storage shall be screened from view from any adjoining property, except along
11 adjacent property lines of property zoned C-M or M.

12 iv. Required screening shall consist of a solid structure that is at least eight feet in height,
13 including, but not limited to, a building or wall.

14 SECTION 7: Title 19, Chapter 8, Section 40, Subsection (E), Paragraph (6), is hereby
15 amended to read as follows:

16 6. Applicability of Standards. Except as otherwise provided in this Paragraph (6), the standards
17 set forth in this Subsection (E) are minimum requirements. Except as otherwise provided in LVMC
18 19.08.040(E)(4)(e) for Outdoor Storage areas, [An] an exception or modification to any of these
19 standards may be approved upon the request of an applicant if the applicant can show through
20 convincing and substantial evidence that the exception or modification will not compromise the
21 objective of the City in safeguarding the interests of the citizens of the City, the proposed project will
22 substantially meet the intent of the standard, and the granting of the exception or modification will not
23 detrimentally affect the public health, safety or general welfare. Such an exception or modification
24 may be granted by the Director in connection with the approval of a Site Development Plan Review.
25 In cases where the Director does not approve a requested exception or modification, the request may
26 be acted upon by the Planning Commission or City Council as part of a Site Development Plan
27 Review. In the case of action by the Planning Commission or City Council, the request for exception
28 or modification need not be identified as a separate action item, and disposition of the request may be

1 of the row for the use "Garden Supply/Plant Nursery" and the column for the C-2 Zoning District.

2 SECTION 44: Table 2 of the Land Use Tables adopted in Title 19, Chapter 12, Section
3 10, is hereby amended by amending the entry for the use "General Retail Store, Other Than Listed
4 (3500 Square Feet or More)" so that the name of the use reads "General Retail, Other Than Listed."
5 In addition, the entry for that use is amended to indicate that the use is permitted as a Conditional Use
6 in the O Zoning District. In order to reflect that amendment, the letter "C" is added to the box
7 representing the intersection of the row for the use "General Retail, Other Than Listed" and the
8 column for the O Zoning District.

9 SECTION 45: Table 2 of the Land Use Tables adopted in Title 19, Chapter 12, Section
10 10, is hereby amended by amending the entry for the use "Hospice" to indicate that the use is
11 permitted as a matter of right in the R-3 and R-4 Zoning Districts rather than a use permitted by means
12 of Special Use Permit. In order to reflect the amendment, the letter "P" is substituted for the letter "S"
13 in the boxes representing the intersection of the row for the use "Hospice" and the columns for the R-3
14 and R-4 Zoning Districts.

15 SECTION 46: Table 2 of the Land Use Tables adopted in Title 19, Chapter 12, Section
16 10, is hereby amended by amending the entry for the use "Multi-Family Residential" to indicate that
17 the use is permitted as a Conditional Use in the P-O, O, C-1 and C-2 Zoning Districts. In order to
18 reflect the amendment, the letter "C" is added to the boxes representing the intersection of the row for
19 the use "Multi-Family Residential" and the columns for the P-O, O, C-1 and C-2 Zoning Districts.

20 SECTION 47: Table 2 of the Land Use Tables adopted in Title 19, Chapter 12, Section
21 10, is hereby amended by amending the entry for the use "Outdoor Storage, Accessory" so that the
22 name of the use reads "Outdoor Storage." In addition, the entry for that use is amended to indicate
23 that the use is permitted as a matter of right in the C-M and M Zoning Districts, as an accessory use
24 in the C-2 Zoning District, and is not permitted at all in the C-1 Zoning District—rather than being
25 permitted as a Conditional Use in each such case. In order to reflect those amendments:

26 (A) The letter "P" is substituted for the letter "C" in the boxes representing the intersection
27 of the row for the use "Outdoor Storage" and the columns for the C-M and M Zoning Districts.

28 (B) The letter "A" is substituted for the letter "C" in the box representing the intersection

1 of the row for the use "Outdoor Storage" and the column for the C-2 Zoning District.

2 (C) The letter "C" is removed from the box representing the intersection of the row for the
3 use "Outdoor Storage" and the column for the C-1 Zoning District.

4 SECTION 48: Table 2 of the Land Use Tables adopted in Title 19, Chapter 12, Section
5 10, is hereby amended by amending the entry for the use "Parking, Commercial" so that the name of
6 the use reads "Parking Facility," and by relocating the entry to the appropriate location within the
7 table. In addition, the entry for that use is amended to indicate that the use is permitted as a
8 Conditional Use in the O Zoning District rather than by means of Special Use Permit. In order to
9 reflect that amendment, the letter "C" is substituted for the letter "S" in the box representing the
10 intersection of the row for the use "Parking Facility" and the column for the O Zoning District.

11 SECTION 49: Table 2 of the Land Use Tables adopted in Title 19, Chapter 12, Section
12 10, is hereby amended by amending the entry for the use "Secondhand Dealer" to indicate that the use
13 is permitted as a Conditional Use in the C-1 and C-2 Zoning Districts rather than by means of Special
14 Use Permit. In order to reflect the amendment, the letter "C" is substituted for the letter "S" in the
15 boxes representing the intersection of the row for the use "Secondhand Dealer" and the columns for
16 the C-1 and C-2 Zoning Districts.

17 SECTION 50: Table 2 of the Land Use Tables adopted in Title 19, Chapter 12, Section
18 10, is hereby amended by amending the entry for the use "Sound Stage" to indicate that the use is
19 permitted as a matter of right in the C-M and M Zoning Districts rather than by means of Special Use
20 Permit. In order to reflect the amendment, the letter "P" is substituted for the letter "S" in the boxes
21 representing the intersection of the row for the use "Sound Stage" and the columns for the C-M and
22 M Zoning Districts.

23 SECTION 51: Table 2 of the Land Use Tables adopted in Title 19, Chapter 12, Section
24 10, is hereby amended by amending the entry for the use "Thriftshop" so that the name of the use
25 reads "Thrift Shop."

26 SECTION 52: Table 2 of the Land Use Tables adopted in Title 19, Chapter 12, Section
27 10, is hereby amended by amending the entry for the use "Towing Service (with No Storage)" to
28 indicate that the use is permitted as a matter of right in the C-2 Zoning District rather than by means

1 SECTION 103: All ordinances or parts of ordinances or sections, subsections,
2 phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas,
3 Nevada, 1983 Edition, in conflict herewith are hereby repealed.

4 PASSED, ADOPTED and APPROVED this 5TH day of September, 2012.

5 APPROVED:

6 By Carolyn Goodman
7 CAROLYN G. GOODMAN, Mayor

8 ATTEST: .

9 Beverly K. Bridges
10 BEVERLY K. BRIDGES, MMC
 City Clerk

11 APPROVED AS TO FORM:

12 Val Stead 8-15-12
 Date