

ORDINANCE NO. 953-2017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BARSTOW AMENDING Chapter 19.10 (RESIDENTIAL DISTRICTS) OF THE BARSTOW MUNICIPAL CODE

WHEREAS, pursuant to Government Code 65822 et seq. and 65915 et seq. and Chapter 19.32 of the Barstow Municipal Code, the City of Barstow has initiated an Ordinance Amendment, in order to comply with Senate Bill 1069, assembly Bills 1934, 2299, 2442, 2501 and 2556, a well a requirements from the Department of Housing and Community Development (HCD); and

WHEREAS, under its constitutional police power, the City has the authority to regulate use of land, including regulation of development standards on private property; and

WHEREAS, the City is also subject to mandates by the State of California in providing opportunities to affordable housing as identified in Senate Bill 1069 and Assembly Bills 1934, 2299, 2442, 2501 and 2556 as well as requirements from the Department of Housing and Community Development; and

WHEREAS, the Planning Commission held a duly noticed public hearing on April 10, 2017 pursuant to California Government Code Sections 65090 and 65353, and Chapter 19.32 and 19.40 of the Barstow Municipal Code, at which time all interested parties were provided the opportunity to give testimony in favor of or in opposition to the issue; and

WHEREAS, the City desires to update its residential district ordinance as follows.

NOW, THEREFORE, the City Council of the City of Barstow does hereby ordain as follows:

Section 1. Code Amendment. Chapter 19.10 of the Municipal Code entitled, "Residential Districts", is amended as set forth in Exhibit "A", attached hereto and incorporated by reference herein.

Section 2. California Environmental Quality Act. This ordinance is not a "project" subject to the California Environmental Quality Act (CEQA). "Project" does not include "general policy and procedure making" or "[o]rganizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment pursuant to CEQA Guidelines § 15378(b).

Section 3. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.


Section 4. Effective Date. This Ordinance shall take effect thirty days after adoption as provided by Government Code Section 36937.

Section 5. Construction. To the extent the provisions of the Barstow Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as it read prior to the adoption of this ordinance, they shall be read as continuations of those earlier provisions and not as new enactments.

Section 6. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code Section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting of the entire text.

PASSED, APPROVED AND ADOPTED, this 15th day of May, 2017




Julie Hackbarth-McIntyre, Mayor

ATTEST:


JoAnne V. Cousino, City Clerk

I, JoAnne V. Cousino, City Clerk of the City of Barstow, California, do hereby certify that the foregoing Ordinance No. 953-2017 was introduced at a regular meeting of the city council of the City of Barstow held on the 1st day of May, 2017, and was adopted at its regular meeting on the 15th day of May, 2017 by the following vote:

- AYES:** COUNCIL MEMBERS GRACEY, HARPOLE, SILVA; MAYOR PRO TEM HERNANDEZ;
MAYOR HACKBARTH-MCINTYRE
- NOES:** NONE
- ABSENT:** NONE
- ABSTAINED:** NONE


JoAnne V. Cousino, City Clerk

EXHIBIT A – Ordinance 953-2017

19.10

Residential Districts

Sections:

- 19. 10.010 Residential lot standards.
- 19. 10.020 Estate residential.
- 19. 10.030 Low density residential.
- 19. 10.040 Single-family residential.
- 19. 10.050 Medium density residential.
- 19. 10.060 Reasonable accommodations.
- 19.10.070 Accessory dwelling units.
- 19.10.080 Home occupation permits.
- 19.10.090 Density bonus.
- 19.10.100 Transitional and supportive housing

19. 10.010 Residential lot standards.

The residential district lot development standards are intended as a guide to establish the lot size, configuration, setbacks, building heights and, as applicable, lot coverage. These are provided in the following tables:

Zoning	Setbacks				Maximum Bldg. Height	Maximum Lot Coverage
	Front/Street Side	Side	Rear	Garage/ Carport		
ER	25', 15' Street Side	10'	25'	25'	Three stories	NA
LDR	25', 15' Street Side	10'	25'	25'	Three stories	NA
SFR	10'	5'	5'	24' ¹	Two Stories	45%
MD ²	15'	5'	5'	24' ¹	Four stories	NA

Notes:

- ¹ When garage or carport opening faces, or is directed towards, the street.
- ² Development must meet all setback and parking requirements.

Zoning	Minimum Lot Standards			Garage/ Carport ¹
	Lot Width	Lot Depth	Area of Lot	
ER	300'	300'	2 ½ acres	2 Car Garage
LDR	150'	150'	1 acre to 2 ½ acres	2 Car Garage
SFR	50'	90'	4,500 SF	2 Car Garage

MD	60'	100'	6,000 SF	See section 19.06.050.
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Notes:

- ¹ Quantity of parking required is established by Section 19.06.050.

19. 10.020 ER - Estate residential.

The ER - Estate residential district is intended as a district for very low density residential uses and related activities. This district allows for the orderly growth and development while protecting the natural amenities unique to the desert.

Permitted uses in the ER district are as follows:

- A. One dwelling unit of a permanent nature on each parcel of land.
- B. Commercial poultry and rabbit raising as well as chinchilla, nutria and hamster ranches, subject to the following site improvements:
 - 1. Where the ranch abuts a residence, subdivision, or any other residential development on one or more of the side or rear property lines, screening shall be provided on those lines by one of the following methods:
 - a. Six-foot solid fence.
 - b. Solid row or rows of trees to be maintained in good condition and as approved by the planning commission.
 - c. Other screening as approved by the planning commission;
 - 2. Wastewater shall be disposed of in a manner that will meet the requirements of the county health department;
 - 3. All enclosures for fowl or animals shall be located at least fifty feet from all exterior boundaries of the property including abutting streets.
- C. Farms or ranches for grazing, breeding, raising or training of the following animals, including supplementary feeding; provided that no concentrated feeding is done in conjunction therewith:
 - 1. Small livestock with the number of goats, sheep and similar animals over six months of age limited to six per acre of total ground area of the farm with no more than one male goat per acre;
 - 2. Cattle or horses including calves, heifers and colts over six months of age with a maximum number of four animals per acre of total ground area of the farm permitted; or
 - 3. Hogs (not garbage fed) with a maximum number of two per acre of total ground area of the farm, the total number of such animals on any farm or ranch not to exceed five weaned animals;
 - 4. In computing animal density as specified above, combinations of species, both large and small, will be permitted as long as the maximum number of animals does not exceed six per acre, as set forth above in subdivision 1 of this subsection C or four per acre as set

forth above in subdivision 3 of subsection C or two per acre as set forth in subdivision 3 of this subsection C.

- D. Accessory uses and structures including the following:
 - 1. Accessory dwelling unit conforming to Section 19.10.060;
 - 2. Guesthouse;
 - 3. Greenhouse or lath house;
 - 4. Stable, barn, pen, corral, coop;
 - 5. Child or day care subject to standards and requirements established under state law;
 - 6. A home occupation subject to Section 19.10.080;
 - 7. Other uses similar to the above which the commission determines to be similar.
- E. The following uses shall be permitted when approved by the commission as provided Section 19.30.030:
 - 1. Dog kennels, dog training schools, animal shelters and dog breeding establishments with outside runs;
 - 2. Labor camp;
 - 3. Commercial riding stable or academy;
 - 4. Dude or guest ranch;
 - 5. Grange halls, community halls, and similar uses
 - 6. Other uses which the commission determines to be similar to the above uses.
- F. The keeping of domesticated animals for non-commercial purposes with the maximum number of animals being four weaned dogs and cats, or any combination of weaned dogs and weaned cats; provided that the total number of weaned dogs and weaned cats does not exceed four; small birds; small reptiles; and amphibians enclosed within a cage normally built for such animals.

19. 10.030 LDR - Low density residential.

The LDR – Low density residential district is intended as a district for low density residential uses and related activities. This district allows for the orderly growth and development while protecting the natural amenities unique to the desert.

Permitted uses in the LDR district are as follows:

- A. One dwelling unit of a permanent nature on each parcel of land.
- B. Commercial poultry and rabbit raising as well as chinchilla, nutria and hamster ranches, subject to the following site improvements:
 - 1. Where the ranch abuts a residence, subdivision, or any other residential development on one or more of the side or rear property lines, screening shall be provided on those lines by one of the following methods:
 - a. Six-foot solid fence.
 - b. Solid row or rows of trees to be maintained in good condition and as approved by the planning commission.
 - c. Other screening as approved by the planning commission;

2. Wastewater shall be disposed of in a manner that will meet the requirements of the county health department;
 3. All enclosures for fowl or animals shall be located at least fifty feet from all exterior boundaries of the property including abutting streets.
- C. Ranchettes for grazing, breeding, raising or training of horses, including supplementary feeding; provided, that no concentration feeding is done in conjunction therewith;
1. Ranchettes shall have equestrians only including colts over the age of six months with a maximum number of two horses per acre of total ground area of the ranchette permitted.
- D. Accessory uses and structures including the following:
1. Accessory dwelling unit conforming to Section 19.10.060;
 2. Guesthouse;
 3. Greenhouse or lath house;
 4. Stable, barn, pen, corral, coop;
 5. Child or day care subject to the standards and requirements established under state law;
 6. A home occupation subject to Section 19.10.080;
 7. Other uses similar to the above which the commission determines to be similar.
- E. The following uses shall be permitted when approved by the commission as provided in Section 19.30.030:
1. Commercial riding stable or academy;
 2. Dude or guest ranch;
 3. Grange halls, community halls, and similar uses;
 4. Other uses which the commission determines to be similar to the above uses.
- F. The keeping of domesticated animals for non-commercial purposes with the maximum number of animals being four weaned dogs and cats, or any combination of weaned dogs and weaned cats; provided that the total number of weaned dogs and weaned cats does not exceed four; small birds; small reptiles; and amphibians enclosed within a cage normally built for such animals.

19. 10.040 SFR - Single-family residential.

The SFR – Single-family residential district is intended as a district of medium density single-family homes. Except as specifically provided elsewhere in this title, any building or premises used or occupied, and every building erected, constructed or established within the SFR district shall be only in accordance with the regulations set forth in this chapter.

In the SFR district, the following uses are permitted:

- A. One detached single-family dwelling unit of a permanent nature placed in a permanent location and the accessory structures and uses normally auxiliary to it.
- B. Accessory uses and structures including the following:
 1. Accessory dwelling unit conforming to Section 19.10.060;
 2. Child or day care subject to standards and requirements established under state law;

3. The keeping of domesticated animals for non-commercial purposes with the maximum number of animals being four weaned dogs and cats, or any combination of weaned dogs and weaned cats; provided that the total number of weaned dogs and weaned cats does not exceed four; small birds (except poultry and game birds), enclosed within a cage inside the dwelling unit; small reptiles; and amphibians enclosed within a cage normally built for such animals.
- C. A home occupation subject to Section 19.10.080.
- D. The following uses shall be permitted when approved by the commission as provided in Chapter 19.30:
 1. Country clubs and golf courses, excepting miniature courses and similar commercial enterprises;
 2. The office of a physician, dentist, or other person authorized by law to practice medicine or healing used only for consulting and emergency treatment as an adjunct to a principal office located in the appropriate land use district;
 3. Parks and playgrounds;
 4. Publicly owned buildings and structures;
 5. Other uses which the commission determines to be similar to the above uses.

19. 10.050 MDR - Medium density residential.

The MDR – Medium density residential district is intended as a higher-density residential district of multiple-family units. Except as specifically provided for elsewhere in this title, any building or premises in the MDR district used or occupied, and every building erected, constructed, or established within the MDR district shall be only in accordance with the regulations set forth in this section.

- A. In the MDR district, the following uses are permitted:
 1. Any use permitted in the SFR district as listed in Section 19.10.040 subject to any development standards of that district;
 2. Multiple-family dwellings of a permanent character placed in permanent locations and of not less than four hundred square feet of floor area per dwelling unit exclusive of open porches and garages and bachelor or efficiency units of not less than three hundred forty square feet of floor area per unit exclusive of open porches or garages;
 3. Boarding and lodging houses;
 4. Home occupations, subject to Section 19.10.080;
 5. Hotels or apartment hotels in which incidental business may be conducted for the convenience of the residents of the buildings provided there is no entrance to the place of business except from the inside of the building.
 6. The following uses shall be permitted when approved by the commission as provided in Chapter 19.30:
 - a. Clubs and lodges, private and non-profit;
 - b. Country clubs and golf courses, excepting miniature courses and similar commercial enterprises;

- c. Large residential care facility, group home pursuant to criteria of Chapter 9.66;
- d. Mobile home parks;
- e. The office of a physician, dentist, or other person authorized by law to practice medicine or healing;
- f. Parks and playgrounds;
- g. Publicly owned buildings and structures including public maintenance yards;
- h. Sober living facilities;
- i. Other uses which the commission determines to be similar to the above uses.

B. Outdoor living area.

1. There shall be an outdoor living area for each dwelling unit permitted in the MDR district according to the standards as set forth in either subsection 1 or 2. The applicant may have the option of selecting either standard as follows:
 - a. An area of not less than fifteen percent of the gross floor area of each dwelling unit shall be provided as an outdoor living area, excluding required yard areas. At least one-third of the outdoor living area must be landscaped and continuously maintained.
 - b. An area of not less than five percent of the gross floor area of each dwelling unit shall be outdoor living area; provided, that the required yard areas are landscaped, continuously maintained, and that at least one of the required yards is contiguous to the remaining required outdoor living area. At least one-third of the outdoor living area must be landscaped and continuously maintained.
2. The minimum dimensions of the required outdoor living area shall be five feet in width. This dimension refers to the width of a rectangular space or to the shortest diameter of an irregularly shaped space.
3. The outdoor living area may include the deck area of a swimming pool, patios, or porches. The outdoor living area shall not include driveways, roofs or parking areas.

19.10.060 Reasonable Accommodations.

A. Purpose.

In accordance with federal and state fair housing laws, it is the purpose of this Chapter to provide reasonable accommodations in the City's zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling.

B. Review Authority.

The Hearing Officer, the Community and Economic Development Director or designee, is hereby designated to approve, conditionally approve, or deny all applications for a reasonable accommodation, except as prescribed under 19.10.060(C)(3) below.

C. Application for Reasonable Accommodation.

1. Applicant. A request for reasonable accommodation may be made by any person with a disability, their representative, or a developer or provider of housing for individuals with a

disability. A reasonable accommodation may be approved only for the benefit of one or more individuals with a disability.

2. **Application.** An application for a reasonable accommodation from a zoning regulation, policy, or practice shall be made on a form provided by the Planning Department. No fee shall be required for a request for reasonable accommodation, but if the project requires another discretionary permit, then the prescribed fee shall be paid for all other discretionary permits.
3. **Other Discretionary Permits.** If the project for which the request for reasonable accommodation is made requires another discretionary permit or approval, then the applicant may file the request for reasonable accommodation together with the application for the other discretionary permit or approval. The processing procedures of the discretionary permit shall govern the joint processing of both the reasonable accommodation and the discretionary permit.
4. **Required Submittals.** An application for reasonable accommodation shall include the following:
 - a. Documentation that the applicant is: (i) an individual with a disability; (ii) applying on behalf of one or more individuals with a disability; or (iii) a developer or provider of housing for one or more individuals with a disability.
 - b. The specific exception or modification to the Zoning Code provision, policy, or practices requested by the applicant.
 - c. Documentation that the specific exception or modification requested by the applicant is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy the residence.
 - d. Any other information that the City Planner reasonably concludes is necessary to determine whether the findings required by Section 19.10.060(D)(4) can be made, so long as any request for information regarding the disability of the individuals benefited complies with Fair Housing Law protections and the privacy rights of the individuals affected.

D. Decision.

Requests for reasonable accommodation shall be reviewed by the Hearing Officer, using the criteria set forth in Section 19.10.060(D)(4), (D)(5) and (D)(6). The Hearing Officer shall consider the request for reasonable accommodations as part of a public hearing that was noticed in a manner consistent with Government Code Section 65901 and Municipal Code Section 19.40.010.

1. The Hearing Officer shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application and may either approve, approve with conditions, or deny a request for reasonable accommodations in accordance with the required findings set forth in Section 19.10.060(D)(4).
2. If necessary to reach a determination on the request for reasonable accommodation, the Hearing Officer may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision is stayed until the applicant responds to the request.
3. **Findings.** The written decision to approve, conditionally approve, or deny a request for reasonable accommodation shall be based on the following findings, all of which are required for approval:
 - a. The requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws.

- b. The requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.
 - c. The requested accommodation will not impose an undue financial or administrative burden on the City as “undue financial or administrative burden” is defined in Fair Housing Laws and interpretive case law.
 - d. The requested accommodation will not result in a fundamental alteration in the nature of the City’s zoning program, as “fundamental alteration” is defined in Fair Housing Laws and interpretive case law.
 - e. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.
- In making these findings, the decision-maker may approve alternative reasonable accommodations which provide an equivalent level of benefit to the applicant.
4. The City may consider, but is not limited to, the following factors in determining whether the requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.
 - a. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability.
 - b. Whether the individual or individuals with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation.
 - c. In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants.
 - d. In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.
 5. The City may consider, but is not limited to, the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the City’s zoning program.
 - a. Whether the requested accommodation would fundamentally alter the character of the neighborhood.
 - b. Whether the accommodation would result in a substantial increase in traffic or insufficient parking.
 - c. Whether granting the requested accommodation would substantially undermine any express purpose of either the City’s General Plan or an applicable Specific Plan.
 - d. In the case of a residential care facility, whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.
 6. Rules While Decision is Pending. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.
 7. Effective Date. No reasonable accommodation shall become effective until the decision to grant such accommodation shall have become final by reason of the expiration of time to make an appeal pursuant to the procedures established in Chapter 19.44. In the event an appeal is filed, the reasonable accommodation shall not become effective unless and until a decision is made by the Planning Commission on such appeal.

E. Expiration, Time Extension, Violation, Discontinuance, and Revocation.

1. **Expiration.** Any reasonable accommodation approved in accordance with the terms of this Chapter shall expire within twenty-four (24) months from the effective date of approval or at an alternative time specified as a condition of approval unless:
 - a. A building permit has been issued and construction has commenced;
 - b. A certificate of occupancy has been issued;
 - c. The use is established; or
 - d. A time extension has been granted.
2. **Time Extension.** The Hearing Officer may approve a time extension for a reasonable accommodation for good cause for a period or periods not to exceed three years from the effective date of approval. An application for a time extension shall be made in writing to the City Planner no less than thirty (30) days or more than ninety (90) days prior to the expiration date.
3. **Notice.** Notice of the Hearing Officer's decision on a time extension shall be sent to the applicant. All written decisions shall give notice of the right to appeal and to request reasonable accommodation in the appeals process as set forth in Paragraph D below.
4. **Appeal of Determination.** A time extension for a reasonable accommodation shall be final unless appealed to the City Planning Commission within 14 calendar days of the date of mailing of the determination. An appeal shall be made in writing and shall be noticed and heard pursuant to the procedures established in Chapter 19.44 of this Code, as modified by Section 19.10.060(D)(1), (D)(2), and (D)(3).
5. **Violation of Terms.** Any reasonable accommodation approved in accordance with the terms of this code may be revoked if any of the conditions or terms of such reasonable accommodation are violated, or if any law or ordinance is violated in connection therewith.
6. **Discontinuance.** A reasonable accommodation shall lapse if the exercise of rights granted by it is discontinued for one hundred eighty (180) consecutive days. If the disabled person initially occupying a residence for whom a reasonable accommodation was made vacates, the reasonable accommodation shall remain in effect only if the City Planner determines that (1) the modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with the Code, and (2) the accommodation is necessary to give another disabled individual an equal opportunity to enjoy the dwelling. The City Planner may request the applicant or his or her successor-in-interest to the property to provide documentation that subsequent occupants are persons with disabilities. Failure to provide such documentation within ten (10) days of the date of a request by the City shall constitute grounds for discontinuance by the City of a previously approved reasonable accommodation.

F. Amendments.

A request for changes in conditions of approval of a reasonable accommodation, or a change to plans that would affect a condition of approval shall be treated as a new application. The City Planner may waive the requirement for a new application if the changes are minor, do not involve substantial alterations or addition to the plan or the conditions of approval, and are consistent with the intent of the original approval.

19. 10.070 Accessory dwelling units.

A. Purposes.

The purposes of this chapter are to authorize accessory dwelling units (AKA, second units); to establish a procedure for reviewing and approving their development to ensure and maintain

healthy and safe residential living environments; to establish location and development standards for second units; and to comply with Government Code Section 65852.2 and Senate Bill 1069 (2016), which requires local agencies to consider applications for second unit permits ministerially without discretionary review or a public hearing.

B. Definition.

1. **Accessory dwelling unit.** For purposes of this chapter, "accessory dwelling unit" and "second unit" are the same and have the meaning set forth in California Government Code Section 65852.2.
2. **Manufactured home.** "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the Department of Housing and Urban Development (HUD) and complies with the standards established under the Mobile Home Construction and Safety Standards Act, also known as The HUD Code.
3. **Mobile Home.** A mobile home may be defined as a movable or portable dwelling built on a chassis, connected to utilities, designed without a permanent foundation, and intended for year-round living built prior to June 15, 1976.
4. **Modular Home.** Modular homes are homes that are built in sections in a factory and then transported to a building site on truck beds, then joined together by local contractors. Modular homes are built to conform to all state, local or regional building codes at their destinations. Local building inspectors are responsible for verifying that a modular home's structure meets requirements and that all finish work is done properly. Modular homes are sometimes less expensive per square foot than site built houses, but may endure and increase in value if properly constructed.

C. Permitting procedure.

An application for a second unit permit that meets the location and development standards contained in this chapter and all applicable building standards in Title 15 shall be approved ministerially without discretionary review or public hearing. A complete application shall be reviewed and approved no more than 120 days from its acceptance. Any application for a second unit permit that does not meet the location and/or development standards contained in this chapter shall be approved by the planning commission as provided in Chapter 19.30. The application for a second unit shall be submitted to the Community Development Department to determine whether the proposal is consistent with the location and development standards contained within this ordinance.

A second unit which conforms to the requirements of this section shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use which is consistent with the existing general plan and zoning designations for the lot. The second units shall not be considered in the application of any local ordinance, policy or program to limit residential growth.

D. Location.

1. One second unit may be located on any lot in a single-family residential, or the multiple-family residential district and any Specific Plan district that authorizes residential development.
2. No subdivision rights are authorized that would result in the second unit being located on a separate lot.
3. The lot must contain an existing single-family dwelling.

E. Applications.

1. An application for a second unit permit must be submitted to the community development department prior to the submittal to the city for a building permit application.
2. An application for a second unit permit must be made in writing and contain the following information:
 - a. Name(s) and address(es) of applicant(s) and property owner(s).
 - b. Address and assessor's parcel number for the lot.
 - c. Size, indicating dimensions and square footage of the primary residence and the proposed second unit.
 - d. A legible scale drawing, showing:
 - i. A north arrow to indicate parcel orientation.
 - ii. Lot dimensions and labels for all property lines.
 - iii. Siting and location of the primary residence and the proposed second unit.
 - iv. Floor plan configuration of the primary residence and the proposed second unit.
 - v. All other existing improvements, including driveways and parking areas.
 - vi. Exterior design of the primary residence and the proposed second unit. "Exterior design" includes architectural style and exterior features, such as trim, windows, and roof.
 - e. A description of the building and roof materials of the primary residence and second unit, and a sample board of the colors of the primary residence and second unit.
 - f. Color photographs of the primary residence and surrounding properties taken from each of the property lines of the project site.
 - g. Location and description of water and sanitary sewer for both the primary residence and the proposed second unit.
 - h. Property owner's consent to physical inspection of the premises.
 - i. A written legal description of the property.

F. Development standards.

A second unit permit will be issued only if it complies with the following development standards:

1. Yards and Building Height.
 - a. In single-family and multifamily residential districts, second units must comply with requirements relating to yards (front, side, and rear setbacks) and building height that are generally applicable to residential construction in the zone in which the property is located.
 - b. In PUD planned unit districts where an approved final development plan specifies requirements relating to yards (front, side, and rear setbacks) and building height, second units must comply with the requirements specified in the plan. In PUD planned unit districts where an approved final development plan does not specify requirements relating to yards and building height, second units must comply with requirements

- relating to yards and building height that are generally applicable to residential construction in the SFR zone.
2. **Lot Size.** A second unit shall not be located on any residential lot that is substandard in area, width or depth.
 3. **Second Unit Configuration.**
 - a. **Second Unit Attached to an Existing Primary Residence.** A second unit may be attached to an existing primary residence only if the second unit is one of the following:
 - i. An internal conversion of a garage or other area within the existing primary residence.
 - ii. An addition to the existing primary residence.
 - b. **Second Unit Attached to an Accessory Structure.** A second unit may be attached to an existing or newly constructed accessory structure only if the accessory structure meets all of the following requirements:
 - i. The remainder of the accessory structure is limited to garage space.
 - ii. The accessory structure complies with all requirements relating to yards (front, side, and rear setbacks) and building height that are applicable to the primary residence in the zone in which the property is located.
 - iii. The total floor area of the accessory structure with an attached second unit shall not exceed the total floor area of the primary residence, except as indicated under Section 19.10.070(F)(4)(b) below.
 - c. **Detached Second Unit.** A second unit may be detached from an existing primary residence only if the second unit is located on the same lot as the existing primary residence. The second unit shall not be located between the primary residence and the street.
 - d. A second unit may be constructed above an existing garage without discretionary permit provided that it can demonstrate that the garage can structurally support the addition.
 - e. **Number of Second Units.** There shall be a maximum of one second unit on any residentially oriented lot.
 - f. **Guest House.** A second unit shall not be permitted on any lot that includes a guest house. However, a guest house may be converted if it meets the criteria of this ordinance.
 4. **Second Unit Size.**
 - a. A second unit must not exceed fifty (50) percent of the existing living area (including basement and usable attic) of the primary residence, or one thousand two hundred (1,200) square feet (whichever is less).
 - b. A second unit shall not be less than 150 square feet in area, or the area of an efficiency unit as defined in Section 17958.1 of the Health and Safety Code.
 5. **Lot Coverage.**
 - a. In single-family residential districts, the second unit must not cause the maximum total structural lot coverage to exceed the maximum lot coverage of the district which the property is located. In multiple-family residential districts, the second unit must be configured to provide all yard setbacks, parking and outdoor living areas within the district which the property is located.
 - b. In PUD planned unit districts where an approved final development plan specifies maximum total structural lot coverage, the second unit must not cause the maximum total structural lot coverage to exceed the specified percentage. In PUD planned unit districts where an approved final development plan does not specify maximum total

structural lot coverage, the second unit must not cause the maximum total structural lot coverage to exceed that identified for the RS-6 district.

6. **Building Height.**

The overall building height shall not exceed the allowable building height in the zone which the second unit is located.

7. **Living Provisions.** A second unit must provide complete independent living facilities for one or two persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. The second unit may include one kitchen, living room, and dining room, and no more than two bathrooms and two bedrooms.

8. **Entry.** The second unit must have a separate entrance located on either building side or rear and not visible from the street front area.

9. **Off-Street Parking.** A lot containing a second unit must provide at least one additional off-street parking space pursuant to Section 19.06.050(1)(g) to serve the second unit above what is required for the primary unit. The additional space may be in tandem if the additional space is outside the existing rear yard setback and must be paved with a hard-surface. Parking spaces shall be prohibited in other setbacks if determined to be a life safety condition. The use of gravel or asphalt grindings is not an acceptable surface. Any structure such as a garage or carport shall not be located in any yard setback. Should the existing garage of the primary unit be converted to an accessory dwelling unit, a two-car garage shall be required for the primary unit. Off-street parking may be waived for the following:

- a. The accessory dwelling unit is located within one-half mile of public transit.
- b. The accessory dwelling unit is located within an architecturally and historically significant district.
- c. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
- d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- e. When there is a car share vehicle located within one block of the accessory dwelling unit.

10. **Architectural Compatibility.** The second unit must incorporate the same exterior design, building and roof materials, and colors as the primary dwelling unit. "Exterior design" includes architectural style and exterior features, such as trim, windows, and roof.

11. **Permanent Foundation.** A permanent foundation is required for all second units.

12. **Modular Homes.** Modular homes may be used for a second or primary unit. Manufactured homes shall be subject to City review and approval. Mobile homes, recreational vehicles, campers or travel trailers shall not be permitted for a second unit.

13. **Utility Services.** The sewer and water services have historically been installed to meet the capacity of single-family residential (i.e., one dwelling unit per parcel) or multiple-family residential (at up to 20 dwelling units per acre or as specified in the General Plan). Any increase in density may result in exceeding the design standards. The following standards shall be followed to ensure that the capacity of the sewer and water service are not exceeded:

- a. **Sewage and Water Services.** If a private sewage disposal system, water system or both are proposed to be used, it must meet all applicable county regulations and be approved by the City Engineer before a second unit may be established. Verification that the standard has been met is required prior to final inspection. Should it be determined that capacity of either sewer or water cannot be provided due to capacity limitations, the second unit shall not be permitted.

- i. Written verification of capacity for both sewer and water shall be required from the serving agencies.
 - ii. A sewer line shall be considered at capacity and therefore determined that no additional units can be supported under the following conditions pursuant to the City of Barstow Sewer Master Plan adopted May 2000:
 - (a) Less than 12 inch sewer line: 50 percent.
 - (b) 12 inch to 36 inch sewer line: 75 percent.
 - (c) Greater than 36 inch sewer line: 100 percent.
 For the purpose of this ordinance the latest adopted Sewer Master Plan shall be used.
 - iii. The sewer flow generation for each residence shall be based upon Table III-1 of the City of Barstow Sewer Master Plan adopted May 2000, or as indicated in the latest adopted revised or amended Sewer Master Plan.
 - b. The configuration of the site (existing residence, second unit and associated parking) shall allow the free, unobstructed access by both the police and fire departments.
 - i. The applicant shall gain written approval from both the police and fire departments and shall submit the approvals as part of the application.
 - c. For the purpose of this ordinance and consistent with SB 1069 (2016), a new accessory dwelling unit shall not be charged for new connection fees. However, a detached accessory dwelling unit may require a separate connection or separate meter subject to the criteria of Section 65852.2(f)(2)(B) of the California Government Code.
14. **Street Access.** No second unit shall be permitted in any area that is served by substandard developed streets (i.e., street width) except as permitted under Chapter 19.30 of the Barstow Municipal Code.

G. Occupancy.

The owner of a parcel in any multiple-family zoning district or a single-family zoning district with a second unit shall occupy either the primary dwelling unit or the second unit. Should either unit be rented, the rental of the property shall be no less than 31 days per tenant. Short-term rentals, including Airbnb shall be prohibited.

H. Deed restrictions.

Before obtaining a second unit permit, the applicant shall do the following:

1. Enter into an agreement of restrictions with the city that refers to the deed under which the property was acquired by the applicant and provides the following:
 - a. The second unit shall not be sold separately.
 - b. The second unit is restricted to the maximum size allowed under Ordinance Code Section 19.10.070(F)(4).
 - c. The owner of a parcel in any multiple-family zoning district or a single-family zoning district with a second unit shall occupy either the primary dwelling unit or the second unit.
 - d. The restrictions are binding upon any successor in ownership of the property and lack of compliance may result in legal action by the city against the property owner.
2. Record the agreement with the county recorder.
3. Prepare a disclosure statement that shall be included in any future offer or sale documents. The statement shall read as follows:

“You are purchasing a property with a permit for a second residential unit. This permit carries with it certain restrictions that must be met by the owner of the property. You are prohibited

from selling the second unit separately. The second unit is restricted to the maximum size allowed under City Ordinance Code Section 19.10.070(F)(4). The property owner shall occupy either the primary dwelling unit or the second unit. The permit is available from the current owner or from the City of Barstow Community Development Department.”

I. Nonconforming units.

Notwithstanding the provisions of Chapter 19.38 of the Barstow Municipal Code, if the existing primary residence is a legal nonconforming unit, a second unit may be constructed only if the nonconformity is not expanded and the second unit meets all current applicable zoning and building standards. Any expansion of the nonconforming unit shall be subject to Chapter 19.38.

Should the accessory dwelling unit be a garage conversion where the garage is nonconforming (i.e., setbacks), it shall be permitted provided that there is no increase in the nonconformity.

J. Sale of accessory dwelling unit is prohibited.

The purpose of permitting accessory dwelling unit is to provide affordable housing without discretionary review. The accessory dwelling unit shall be deemed part of the residential property, similarly to the primary residence, and cannot be sold separately from the primary residence.

K. Fees.

Fees for second unit permits will be in amounts established by the City of Barstow’s building fee schedule. Second units are subject to all new development fees, including but not limited to development impact fees, park fees, fire department fees and assessment district assessment allocations.

19.10.080 Home occupation permits.

A. Permit required.

No person shall use any dwelling or structure in a residential district for home occupation without filing an application with the Economic Development and Planning Manager, and obtaining a permit to allow such use.

B. Application.

Application for a home occupation permit shall be made to the planning department in writing on forms provided by the city for this purpose and shall set forth in detail such information as may be required by the planning department.

C. Filing fee.

Filing fees shall be established by city council resolution. The standards of Section 19.10.080(D) shall apply to the conducting of any home occupation.

D. Validity criteria.

The following criteria shall be used by city staff in approving or denying a home occupation:

1. No employment of help other than members of the resident family.
2. There will be no direct sales of products or merchandise.
3. Business related to the home occupation shall be conducted substantially away from the premises, and on-premises activities shall include only telephone calls, postal

correspondence, bookkeeping, recordkeeping, or such other activities determined by the code enforcement officer to be in accordance with the provisions of this section.

4. A home occupation shall not be conducted in the garage or in any accessory building.
5. There shall be no signs other than those permitted by the zone regulations.
6. There shall be no outdoor storage of materials or equipment associated with the home occupation, nor shall materials or equipment be visible from outside the house.
7. There shall be no exterior evidence of the conduct of a home occupation, including, but not limited to, noise, odor, color, materials, lighting, signs, and vibrations.
8. No vehicular or pedestrian traffic related to this home occupation shall be allowed.
9. A home occupation shall not be conducted on any site unless the issuance of a revocable business license has been approved by the code enforcement department and planning department.
10. Home occupations which do not meet the criteria set forth in subsections A through H of this section may be permitted subject to the approval of a conditional use permit pursuant to Chapter 19.30. A conditional use permit will not be granted if the planning commission finds that the proposed use is objectionable or incompatible with the character of the neighborhood due to noise, dust, odors, traffic congestion or other undesirable characteristics. If a conditional use permit is granted, the planning commission may waive or modify any of the requirements of subsections A through H of this section and the planning commission may impose such other conditions as it deems necessary or proper to implement the purposes of this chapter.

E. Uses not permitted.

The following uses, because of their nature, shall be listed as not being provided for in any event:

1. Animal hospitals.
2. Barbershops.
3. Beauty parlors.
4. Clinics or hospitals.
5. Dancing schools.
6. Mortuary.
7. Nurseries or day care centers.
8. Private clubs.
9. Rental of trailers or any other equipment requiring outdoor storage.
10. Repair shops or service establishments, except repair of small electrical appliances, typewriters, cameras, or other similar items.
11. Restaurants.
12. Sale and/or repair of firearms
13. Stables or kennels.

F. Revocation of home occupation permit.

A home occupation permit granted in accordance with the provisions of this chapter may be terminated if any of the following are found:

1. That any requirement or criterion set forth in Section 19.10.080(D) is being violated;
2. That the permit was obtained by misrepresentation or fraud;
3. That the use has become detrimental to the public health or safety, has become a public nuisance, or has grown to be a use that no longer can be conducted within the dwelling unit;
4. That the use for which the permit was granted has ceased or has been suspended for six calendar months;

5. That conditions of the premises or the surrounding district or areas have changed so that the use may no longer be justified under the meaning and intent of this section.

G. Nontransferable.

A home occupation permit granted in accordance with the provisions of this chapter shall not be transferred, assigned, or used by a person other than the permittee, nor be transferred to any location other than the one for which the permit was granted.

19. 10.090 Density Bonus

A. Purpose.

The purpose of this chapter is to adopt an ordinance that specifies how compliance with California Government Code Section 65915 ("State Density Bonus Law") will be implemented in an effort to encourage the production of low income housing units in developments proposed within the city.

B. Definitions.

Unless otherwise specified in this chapter, the definitions found in state density bonus law shall apply to the terms contained herein.

C. Applicability.

This chapter shall apply to all residential zoning districts, including diverse use zoning districts, where residential developments of five (5) or more dwelling units are proposed and where the applicant seeks and agrees to provide low, very low, senior or moderate income housing units in the threshold amounts specified in state density bonus law such that the resulting density is beyond that which is permitted by the applicable zoning. This chapter and state density bonus law shall apply only to the residential component of a diverse use project and shall not operate to increase the allowable density of the nonresidential component of any proposed project.

D. Application requirements.

1. Any applicant requesting a density bonus, incentive(s) and/or waiver(s) pursuant to state density bonus law shall provide the city with a written proposal. The proposal shall be submitted prior to or concurrently with filing the planning application for the housing development and shall be processed in conjunction with the underlying application.
2. The proposal for a density bonus, incentive(s) and/or waiver(s) pursuant to state density bonus law shall include the following information:
 - a. Requested Density Bonus. The specific requested density bonus proposal shall evidence that the project meets the thresholds for state density bonus law. The proposal shall also include calculations showing the maximum base density, the number/percentage of affordable units and identification of the income level at which such units will be restricted, additional market rate units resulting from the density bonus allowable under state density bonus law and the resulting unit per acre density. The density bonus units shall not be included in determining the percentage of base units that qualify a project for a density bonus pursuant to state density bonus law.
 - b. Requested Incentive(s). The request for particular incentive(s) shall include a pro forma or other report evidencing that the requested incentive(s) results in identifiable, financially sufficient and actual cost reductions that are necessary to make the housing units economically feasible. The report shall be sufficiently detailed to allow the city to verify its

conclusions. If the city requires the services of specialized financial consultants to review and corroborate the analysis, the applicant will be liable for all costs incurred in reviewing the documentation.

- c. Requested Waiver(s). The written proposal shall include an explanation of the waiver(s) of development standards requested and why they are necessary to make the construction of the project physically possible. Any requested waiver(s) shall not exceed the limitations provided by Section 19.10.090(H)(4) and to the extent such limitations are exceeded will be considered as a request for an incentive.
- d. Fee. Payment of the fee in an amount set by resolution of the city council to reimburse the city for staff time spent reviewing and processing the state density bonus law application submitted pursuant to this chapter.

E. Density bonus.

1. A density bonus for a housing development means a density increase over the otherwise maximum allowable residential density under the applicable zoning and land use designation on the date the application is deemed complete. The amount of the allowable density bonus shall be calculated as provided in state density bonus law. The applicant may select from only one of the income categories identified in state density bonus law and may not combine density bonuses from different income categories to achieve a larger density bonus.
2. In the sole discretion of the city council, the city council may approve a density bonus and/or incentive(s) in accordance with state density bonus law for a project that does not maximize the underlying base zoning density. Additionally, nothing herein prevents the city from granting a greater density bonus and additional incentives or waivers than that provided for herein, or from providing a lesser density bonus and fewer incentives and waivers than that provided for herein, when the housing development does not meet the minimum thresholds.
3. The density bonus and incentive provisions do not apply to new construction on an existing property if it will result in the reduction of affordable housing units on the site. Instead, the project only qualifies for a density bonus and incentives if it maintains the existing number and proportion of onsite affordable housing units serving low- and very-low income households. Replacement units must also be made affordable for 55 years to the same income category, or a lower category, as the units to be replaced. If the incomes of the former residents are unknown to the developer, then one-half of the replacement units must be affordable to very low-income households and the other half to low-income households.

F Incentives.

1. The number of incentives granted shall be based upon the number the applicant is entitled to pursuant to state density bonus law.
2. An incentive includes a reduction in site development standards or a modification of zoning code requirements or architectural requirements that result in identifiable, financially sufficient and actual cost reductions. An incentive may be the approval of diverse use zoning (e.g., commercial) in conjunction with a housing project if the diverse use will reduce the cost of the housing development and is compatible with the housing project. An incentive may, but need not be, the provision of a direct financial incentive, such as the waiver of fees.

3. A requested incentive may be denied only for those reasons provided in state density bonus law. Denial of an incentive is a separate and distinct act from a decision to deny or approve the entirety of the project.

G. Discretionary approval authority retained.

The granting of a density bonus or incentive(s) shall not be interpreted in and of itself to require a general plan amendment, zoning change or other discretionary approval. If an incentive would otherwise trigger one of these approvals, when it is granted as an incentive, no general plan amendment, zoning change or other discretionary approval is required. However, if the base project without the incentive requires a general plan amendment, zoning change or other discretionary approval, the city retains discretion to make or not make the required findings for approval of the base project.

H. Waivers.

A waiver is a modification to a development standard such that construction at the increased density would be physically possible. Modifications to floor area ratio in an amount equivalent to the percentage density bonus utilized shall be allowable as a waiver. Requests for an increase in floor area ratio above that equivalent percentage shall be considered a request for an incentive. Other development standards include, but are not limited to, a height limitation, a setback requirement, an on-site open space requirement, or a parking ratio that applies to a residential development. An applicant may request a waiver of any development standard to make the project physically possible to construct at the increased density. To be entitled to the requested waiver, the applicant must show that without the waiver, the project would be physically impossible to construct. There is no limit on the number of waivers.

I. Specific plan exemptions.

The following requirements, when established in any approved specific plan with a residential allowance, shall not be modified as either an incentive or waiver pursuant to this chapter:

- A. The maximum FAR shall be limited to the public benefit levels.
- B. The front and side setbacks facing a public right-of-way.
- C. Building facade height.
- D. Massing and modulation standards including major portions of a building facing a street should be parallel to the street, building breaks, building facade modulation and building profile, and upper story facade length.

J. Affordable housing agreement.

Prior to project approval, the applicant shall enter into an affordable housing agreement with the city, to be executed by the city manager without review by the housing commission, planning commission or city council if the underlying application does not require review and/or approval by those bodies, to the satisfaction of the city attorney guaranteeing the affordability of the rental or ownership units for a minimum of fifty-five (55) years and identifying the type, size and location of each affordable unit. Such affordable housing agreement shall be recorded in the San Bernardino County recorder's office. Said recorded agreement shall include a statement that the agreement can only be rescinded prior to the expiration date with the written agreement from the City of Barstow. In order to rescind a recorded agreement, the applicant shall contribute to the City the cost towards replacement affordable housing, pro-rated based upon the term of the remaining years of the agreement and current cost of replacement affordable housing.

K. Design and quality.

1. Affordable units must be constructed concurrently with market rate units and shall be integrated into the project. Affordable units shall be of equal design and quality as the market rate units. Exteriors, including architecture and elevations, and floor plans of the affordable units shall be similar to the market rate units. Interior finishes and amenities may differ from those provided in the market rate units, but neither the workmanship nor the products may be of substandard or inferior quality as determined by the building official. The number of bedrooms in the affordable units shall be consistent with the mix of market rate units.
2. Parking standards shall be modified as allowable under state density bonus law and anything beyond those standards shall be considered a request for an incentive.

L. Preservation of affordable housing.

Affordable housing may be sold at any price to any buyer but must repay to the local government the initial price break received plus a proportionate share of appreciation. In turn, the local government must reuse its share of the proceeds from the sale of the unit to assist other buyers eligible for affordable housing.

19. 10.100 Transitional and supportive housing.

Pursuant to Government Code Section 65583(a)(5), transitional and supportive housing shall be considered as a residential use of the property, subject only to restrictions that apply to other residential dwellings of the same type in the same zone.



**City of Barstow
California**

Approved
May 15, 2017 7:00 PM

**Council Ordinance
3025**

**PORA-17-0001 - Amendment to Chapter 19.10, Residential Districts
Second Reading**

Information

Department: Planning **Sponsors:**
Category: Ordinance

Attachments

- [Printout](#)
- [OrdinanceCC](#)
- [Chapter19_10_ExhibitA_Clean](#)
- [\(Upload New Attachment\)](#)

Fiscal Impact

none

Executive Summary

On September 27 and 28, 2016, Governor Brown signed a number of bills requiring code amendments to the City's ordinance addressing accessory dwelling units as well as density bonus requirements. In addition, the Department of Housing and Community Development (HCD) requires the City to include a statement regarding transitional and supportive housing. The amendment addresses the requirements of the bills and the HCD.

Discussion

As noted at the May 1, 2017 meeting, Governor Brown signed five bills into law on September 27 and 28, 2016, amending the California Government Code that affect zoning law. Without this amendment, the associated sections of the Municipal Code would become invalidated.

The bills include the following:

Accessory Dwelling Units

AB 2299 amends Government Code Section 65852.2. This amendment requires the most extensive change to the code, addressing the following criteria:

- The City has 120 days from acceptance of the application.
- The lot must contain an existing single-family dwelling.
- A second unit may be constructed above an existing garage without discretionary permit provided it is structurally capable of doing so.
- Adjusted the maximum size of an accessory dwelling unit. The size section is essentially re-worded.
- Addresses the overall building height (not to exceed what is permissible in the zone it is located).
- Modifies the parking requirement standards.
- Prohibits collecting collection fees.
- Addresses minimum rental duration.
- Addresses garage conversions.
- Prohibits the sale of an accessory dwelling unit (i.e., cannot sell the accessory dwelling unit without selling the main house with it).

Density Bonus

AB 1934, AB 2442, AB 2501 and AB 2556 all pertain to the Density Bonus laws. The verbiage of the Density Bonus ordinance refers to the State law, and therefore requires minimal modifications. The bulk of the amendments in this section are to address formatting for consistency with the rest of Chapter 19.10. When this section of the ordinance was written, it was separate from the rest of Chapter 19.10, and there were some format inconsistencies. We are correcting it at this time. The one amendment required by the bills pertains to the length of the term for the affordable housing agreement. AB 2556 increased the term from 50 to 55 years. This is a minor change.

A summary of the codes is provided below:

- AB 2442 expands the categories of specialized housing (foster youth, disabled veterans, or homeless persons) that could qualify a development for density bonus.
- AB 2501 attempts to clarify and streamline the procedure at the local level, while restating the density bonus laws objective of producing more housing units. This includes document requirements for density bonus, incentives, concessions and waivers, or reduced parking ratios.
- AB 2556 relates to the required replacement of affordable units previously onsite. Includes the increase of term limit for affordable housing from 50 years to 55 years. Also defines "equivalent size" for replacement units (replacement units must contain at least the same total number of bedrooms as the units being replaced).

AB 1934 creates a new subsection of Government Code Section 65915. Staff became aware of AB 1934 the day of the Planning Commission meeting. An addendum was provided to the Planning Commission at the meeting. This bill essentially allows incentives to commercial development that incorporates residential housing, or partners with a residential housing developer, as part of the project. Therefore, density bonuses, concessions, waivers and incentives will apply to the residential development. In addition, the commercial developer may be eligible for a "developer bonus" that may include but not limited to, modifications to the maximum allowable intensity, maximum floor area ratio (FAR), maximum building height limits, minimum parking requirements, upper floor accessibility regulations, and zoning or land use regulations.

Transitional/Supportive Housing

When the Housing Element was adopted, one of the required actions was to address transitional and supportive housing. Pursuant to Government Code Section 65583(a)(5), such housing cannot be treated any differently than any residential dwelling of the same type in the same zone. In other words, if a transitional or supportive dwelling is proposed in the Single Family Residential district, it cannot be treated any differently than a market-rate home in the same district. When we subsequently amended the zoning ordinance, as this was a state requirement, we did not include it in the ordinance. However, HCD requires the City to put it in as part of the Housing Element approval. The Housing Element gained conditional approval based upon this amendment. Staff added Section 19.10.100 to meet this requirement.

In closing, one final minor change involves the Index section of Chapter 19.10, where there was a format inconsistency of the Reasonable Accommodations section as well as the additional of the Transitional and Supportive Housing as Section 19.10.100. The redlined version of the proposed amendment is included in the Planning Commission Staff Report attachment.

On April 10, 2017, the Planning Commission voted to recommend the City Council approve an ordinance to amend the residential district ordinance city-wide.

Ordinance No. 953-2017 was introduced and the First Reading approved by the City Council on May 1, 2017.

Recommended Action

Adopt Ordinance No. 953-2017 of the City Council of the City of Barstow, California, amending Chapter 19.10 (Residential Districts) of the Barstow Municipal Code, waive the full reading, and direct the City Clerk to publish the ordinance pursuant to G.C. 36933.

Meeting History

May 15, 2017 7:00 PM Video **City Council** **Regular Meeting**  **Draft**

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Richard Harpole, Council Member
SECONDER: Merrill Gracey, Council Member
AYES: Merrill Gracey, Richard Harpole, Carmen Hernandez, Timothy Silva, Julie Hackbarth-McIntyre

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