



**Rules & Policy Committee**  
 Tuesday September 28<sup>th</sup>, 2021  
 9:00 A.M.

**Meeting Agenda**

Item	Topic	Presenter(s)
1	<u>Introductions</u> <u>Call to Order</u>	All Chair Rose
2	<u>New Business</u> <ul style="list-style-type: none"> <li>▪ Density Bonus Updates</li> </ul>	Rebecca Merrell
3	<u>Old Business</u> <ul style="list-style-type: none"> <li>▪ City Manager Ordinance</li> <li>▪ Elected Officials – City Vehicle Policy</li> <li>▪ Rental Ordinance</li> <li>▪ Residential Care Facilities – Elderly</li> <li>▪ City Vehicle and Personal Vehicle Policies Updates (<b>Pending Item</b>)</li> <li>▪ Recreational Vehicle Parking Restrictions (<b>Pending Item</b>)</li> </ul>	Matthew Summers Chris Heldreth Rebecca Merrell
4	<u>Open Forum Discussion</u> <ul style="list-style-type: none"> <li>▪ Public Comment</li> </ul>	All
5	<u>Committee Member Comments</u> <ul style="list-style-type: none"> <li>▪ Council Member Comments</li> <li>▪ City Staff Comments</li> </ul>	All
6	<u>Next Rules &amp; Policy Committee Meeting / Topics</u> <ul style="list-style-type: none"> <li>▪ Discuss Proposed Meeting Topics</li> <li>▪ Meetings Occur Last Tuesday of Each Month / 9:00 A.M.</li> <li>○ Tentative Date of Next Meeting: October 26<sup>th</sup>, 2021 / 9:00 A.M.</li> </ul> <u>Adjournment</u>	All  Chair Rose

The greater danger for most of us is not that our aim is too high and we miss it,  
 but that it is too low and we reach it.

**MICHELANGELO**



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**IMPORTANT NOTICE REGARDING THE SEPTEMBER 28<sup>TH</sup>, 2021,  
RULES & POLICY COMMITTEE MEETING**

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Topic: Rules & Policy Committee Meeting - September 28th, 2021  
Time: Sep 28, 2021 09:00 AM

Join Zoom Meeting

<https://us06web.zoom.us/j/86862617733?pwd=Q2VQa1J1S3d0UDRSaGVuMzJ4RnVLdz09>

Meeting ID: 868 6261 7733  
Passcode: 924254

Or Access via Audio Only Telephone Dial:

One tap mobile  
1 253 215 8782

Find your local number: <https://us06web.zoom.us/u/kdkt2hsk8E>

The Rules & Policy Committee and staff thank you for your cooperation during these unprecedented times. If you have any questions regarding participation in the Rules & Policy Committee meeting, please call 760-255-5161.

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but that it is too low and we reach it.

**MICHELANGELO**

Sec. 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.*

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section. Words, terms, and phrases not defined herein shall be as defined in the Barstow Municipal Code, or if not defined therein, then in the Chapter 4.3 of Division 1 of the California Government Code (commencing with Section 65915). These definitions are provided in order to assist in the uniform interpretation and application of the regulations and provisions set forth in this Chapter.

1. **Affordable Units:** A dwelling unit occupied by and available to households of lower, very low, or moderate income.
2. **Approval Body:** The City Administrator, Planning Commission or City Council to which approval authority is provided for the permit or approval under this Zoning Ordinance.
3. **Density Bonus:** A density increase as provided in this Section over the otherwise maximum allowable residential density under the applicable zoning classification, on the City's General Plan Land Use designation and corresponding designation on the Zoning Map.
4. **Housing Development:** A "housing development" as defined in subdivision (j) of Section 65915 of the California Government Code.
5. **Incentives and Concessions:** At least one additional incentive or concession as described in this Section of this Ordinance.
6. **Lower Income Unit:** A dwelling unit targeted for occupancy by a lower income household as defined in Section 50079.5 of the California Health and Safety Code.
7. **Moderate Income Unit:** A dwelling unit targeted for occupancy by a moderate income household as defined in Section 50093 of the California Health and Safety Code.
8. **Very Low Income Unit:** A dwelling unit targeted for occupancy by a very low income household as defined in Section 50105 of the California Health and Safety Code.

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 or more dwelling units are proposed and where the applicant seeks and agrees to provide low-income, very low-income, 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 Procedures*

1. **Concurrent Project Application.** A request for a density bonus shall be presented as a written proposal concurrently with the initial application of any Entitlement application, General Plan Amendment, Rezoning or subdivision map application.
2. **Clearly Delineate Density Bonus Units.** Density bonus units and units proposed for regulatory concessions and/or incentives shall be clearly identified on a site plan for the project. If the application involves a waiver or modification of zoning or development standards, the developer must

demonstrate that the requested regulatory concessions and/or incentives are necessary to make the project economically feasible

- (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.~~
    - d3. 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.

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**Density Bonuses for Qualifying Housing Developments Containing Lower, Very Low and Moderate Income Units.**

1. An applicant for a housing development shall be granted a density bonus, as provided in this Section, by the approval body if the housing development meets the following qualifications and has proved it in writing:
  - a. The applicant has made a written request for grant of a density bonus with its application for the housing development; and
  - b. One of the following is applicable:
    1. The housing development contains at least the minimum qualifying number of affordable units required under this Section and the applicant agrees to the affordability covenants required under this Section as conditions of approval for the housing development; or
    2. The housing development meets the requirements of the land donation provisions of this Section; and

- a. Substantial evidence supports the making of the findings required of the approval body under this Section; and
- b. The applicant satisfies the affordability covenant requirements applicable to the class of affordable units for which the density bonus is granted as provided in this Section: and
- c. The housing development will consist of at least five (5) or more dwelling units.

The Housing development must satisfy the affordable unit requirements of at least one of the categories, or the land dedication provisions, provided below. Qualifying housing developments will be granted a density bonus consistent with the provision of the qualifying category.

a. Lower Income Units: At least ten percent (10%) of the total dwelling units in a housing development are lower income units and the applicant agrees to ensure continued affordability of such units to lower income households as defined in Section 50079.5 of the Cal. Health and Safety Code.

a. The base density bonus for housing developments with the qualifying number of lower income units shall be twenty percent (20%) over the otherwise maximum allowable residential density under the applicable zoning classification on the City's zoning map and the corresponding land use designation in the General Plan. The base density bonus may be increased as provided herein. For each additional one percent (1%) increase in the total number of affordable units over ten percent (10%), the density bonus shall increase from the base of twenty percent (20%) by one and one-half percent (1.5%), to a maximum of thirty-five percent (35%). No density bonus or aggregate of density bonuses for a housing development may exceed thirty-five percent (35%). The density bonus shall not be included when determining the number of housing units that is equal to ten percent (10%) of the total.

b. Very Low Income Units: At least five percent (5%) of the total dwelling units in a housing development are very low income units and the applicant agrees to ensure continued affordability of such units to lower income households as defined in Section 50105 of the Cal. Health and Safety Code. The base density bonus for housing developments with the qualifying number of very low income units shall be twenty percent (20%) over the otherwise maximum allowable residential density under the applicable zoning classification on the City's zoning map and the corresponding land use designation in the General Plan. The base density bonus may be increased as provided herein. For each additional one percent (1%) increase in the total number of affordable units over five percent (5%), the density bonus shall increase from the base of twenty percent (20%) by two and one-half percent (2.5%), to a maximum of thirty-five percent (35%). No density bonus or aggregate of density bonuses for a housing development may exceed thirty-five (35%). The density bonus shall not be included when determining the number of housing units that is equal to five percent (5%) of the total.

c. Moderate Income Units: At least ten percent (10%) of the total dwelling units in a housing development as defined in subsection (f) of Section 50093 of the Cal. Health and Safety

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Code, or a planned unit development, as defined in subdivision (k) of Section 50093 of the Cal. Health and Safety Code are moderate income units and the applicant agrees to restrict purchase of such units to moderate-income household, as defined in Section 50093 of the Cal. Health and Safety Code. The base density bonus for housing developments with the qualifying number of moderate income units shall be five percent (5%) over the otherwise maximum allowable residential density under the applicable zoning classification on the City's zoning map and the corresponding land use designation in the General Plan. The base density bonus may be increased as provided herein. For each additional one percent (1%) increase in the total number of affordable units over ten percent (10%), the density bonus shall increase from the base of five percent (5%) by one percent (1%), to a maximum of thirty-five percent (35%). No density bonus or aggregate of density bonuses for a housing development may exceed thirty-five (35%). The density bonus shall not be included when determining the number of housing units that is equal to ten percent (10%) of the total.

d. Land Donation: An applicant for a residential tentative tract map, parcel map, or other residential development approval, will qualify for grant of a density bonus if the applicant makes a legally binding commitment to donate land and the land to be donated meets the requirements set forth in this subdivision. The density bonus to be granted shall be consistent with the provisions of this subdivision. The applicant must make a legally binding commitment to donate and transfer the land requiring the land to be donated and transferred by no later than the date of approval of the final subdivision map, parcel map or residential development approval for which application has been made. The land must meet all of the following criteria:

1. It must be within the boundary of the proposed development or, if the City agrees, within one-quarter mile of the boundary of the proposed development.
2. It must be at least two (2) acres in size or of sufficient size to permit development of at least forty (40) affordable units;
3. It must have a developable acreage of sufficient size to accommodate a number of very low income units equal to at least ten percent (10%) of the total units in the entire proposed development;
4. It must have the appropriate general plan designation and zoning classification for construction of very low income units (although other affordable units may ultimately be constructed) and it must have appropriate zoning and development standards to make development of very low income units feasible (although other affordable units may ultimately be constructed);
5. It must be, or will be by the time of transfer, served by adequate public facilities and infrastructure;
6. It must have all of the permits and approvals, necessary for the development of the very low income units (except that design review and the issuance of building permits need not have been completed) on the transferred land by no later than the date of approval of the final residential subdivision map, parcel map or of the residential development;

7. It must be transferred to the City or to a housing developer approved by the City. The City may require the applicant to identify and transfer the land to the selected developer;

8. It (and any units to be constructed thereon) must be subject to a deed restriction recorded against the property at the time of transfer ensuring continued affordability of the units consistent with this Section.

3. In the event the project qualifies for a density bonus under this Section; then the approval body shall grant a density bonus as follows:

a. The base density bonus shall be fifteen percent (15%) over the otherwise maximum allowable residential density under the applicable zoning classification on the City's zoning map and the corresponding land use designation in the General Plan for the entire development.

*(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.

**Concessions and Incentives for Qualifying Housing Developments Containing Lower, Very Low or Moderate Income Units.**

1. In addition to density bonuses that may be granted pursuant to this Section, a housing development providing the qualifying number of lower income units, very low income units or moderate income units, may request, and the approval body shall grant, the following number of incentives or concessions:

a. One incentive or concession if the housing development includes at least:

5% very low income units; or

10% low income units; or

10% moderate income condo development units.

b. Two incentive or concessions if the housing development includes at least:

- 10% very low income units; or
- 20% low income units; or
- 20% moderate income condo development units.

c. Three incentives or concessions if the housing development includes at least:

- 15% very low income units; or
- 30% low income units; or
- 30% moderate income condo development units.

For the purpose of this Section the City shall utilize the following for incentives and concessions:

a. Reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 of Division 13 of the Health and Safety Code, including:

1. A reduction in setback and square footage requirements.
2. A reduction in the ratio of vehicular parking spaces.
3. Covered parking may be carports rather than a garage
4. A 5% increase in the allowed density bonus.
5. Other regulatory incentives or concessions proposed by the developer or the City that result in identifiable, financially sufficient and actual cost reductions.

b. In lieu of the incentives and concessions provided for above, the applicant may submit, at the time of submission of its application for the housing development, to the City a written proposal for specific incentives and concessions that it requests. The approval body shall grant the requested incentive or concessions, unless it finds negatively, based on substantial evidence in the record or the findings required under Cal. Government Code Section 65915(d)(1).

~~(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.~~

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~~(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.~~

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(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. ~~This is~~ to be executed by the city manager without review by the planning commission or city council if the underlying application does not require review and/or approval by those bodies. ~~The agreement must be~~ to the satisfaction of the city attorney guaranteeing the affordability of the rental or ownership units for a minimum of 55 years ~~preferably as added to the property title and including~~ 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.

(Ord. No. 934-2015, § 19.10.090, 7-20-2015; [Ord. No. 953-2017](#), § 1(Exh. A), 5-15-2017)

**DRAFT REVISED CITY MANAGER ORDINANCE FOR RULES & POLICY  
COMMITTEE MEETING OF AUGUST 31, 2021, SUBJECT TO FURTHER REVISIONS**

ORDINANCE NO. \_\_\_\_\_-2021

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BARSTOW AMENDING  
BARSTOW MUNICIPAL CODE CHAPTER 2.08– CITY MANAGER**

WHEREAS, the City Council intends to amend Barstow Municipal Code Chapter 2.08 – City Manager to restore the position of City Manager, to be provided the powers and duties stated in this Ordinance, including requiring that the City Manager consult with the City Council prior to appointing or removing any department head, and maintaining the prior recent amendments to the appointment, removal, and selection process for the City Manager.

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

**SECTION 1. Amendment of Chapter 2.08.** Chapter 2.08 of the Barstow Municipal Code is amended to read as follows, with additions shown in underlined text and deletions shown in ~~strike-through text~~:

**Sec. 2.08.010. - Office created.**

The office of the city manager administrator is created and established. The city manager administrator shall be appointed by the city council wholly on the basis of his/her administrative and executive ability and qualifications and shall hold office for and during the pleasure of the city council. For the purposes of the Barstow Municipal Code and City enactments, any references to “city manager administrator” shall mean city manager administrator, with the powers and duties as defined and limited by this chapter.

**Sec. 2.08.020. - Residence.**

Residence in the city at the time of appointment of a city manager administrator shall not be required as a condition of the appointment, but no person shall hold the office of city manager administrator unless such person resides within the regulated response time as stated in the personnel policies and procedures or applicable employment agreement.

**Sec. 2.08.030. - Councilmember; eligibility.**

No person elected as a councilmember of the city shall, subsequent to such election, be eligible for appointment as city manager administrator until one year has elapsed after such councilmember shall have ceased to be a member of the city council.

**Sec. 2.08.040. - Bond.**

The city manager administrator shall furnish a corporate surety bond to be approved by the city council in such sum as may be determined by the city council and shall be conditioned upon the faithful performance of the duties imposed upon the city manager administrator as herein prescribed. Any premium for such bond shall be a proper charge against the city.

**Sec. 2.08.050. - Temporary manager.**

The city manager administrator shall appoint, subject to the approval of the city council, one of the other officers or department heads of the city to serve as city manager administrator pro tem during any temporary absence or disability of the city manager administrator. In case of the absence or disability of the city manager administrator, and his/her failure to so appoint a city manager administrator pro tem, the city council may designate some qualified city employee to perform the duties of the city manager administrator during the period of absence or disability of the city manager administrator; subject, however, to such person furnishing a corporate surety bond conditioned upon faithful performance of the duties required to be performed, as set forth in section 2.08.040.

**Sec. 2.08.060. - Compensation.**

(a)The city manager administrator shall receive such compensation and expense allowances as the city council shall from time to time determine and fix by resolution, and the compensation and expenses shall be a proper charge against such funds of the city as the city council shall designate.

(b)The city manager administrator shall be reimbursed for all sums necessarily incurred or paid by him/her in the performance of his/her duties or incurred when traveling on business pertaining to the city. Reimbursement shall only be made, however, when a verified itemized claim, setting forth the sums expended for such business for which reimbursement is requested, has been presented to the city council for approval.

**Sec. 2.08.070. - Powers and duties.**

Under the authority and direction of the mayor and city council, the city manager administrator shall be the administrative head of the government of the city, except as otherwise provided in this chapter. The city manager administrator shall be responsible for the efficient administration of all the affairs of the city which are under his/her management and may delegate duties to subordinate officers and employees of the city. In addition to the city manager's administrator's general powers as administrative head, and not as a limitation thereon, it shall be the city manager's administrator's duty and

the city ~~manager administrator~~ shall have all the powers set forth in the following subsections, under the authority and direction of the mayor and city council:

(1) Law enforcement. The city ~~manager administrator~~ shall enforce all laws and ordinances of the city and to see that all franchises, contracts, permits and privileges granted by the mayor and city council and approved in a duly held noticed City Council meeting, are faithfully followed;

(2) Authority over employees. The city ~~manager administrator~~ shall have the authority to order and give directions to all heads of departments and to subordinate officers and employees of the city under his/her jurisdiction through their department heads;

(3) Power of appointment, ~~etc.~~ It shall be the duty of the city ~~manager administrator~~ to appoint, remove, promote, and demote any and all city employees, officers, and department heads of the city, in the manner provided herein, excepting the elected city clerk, city attorney and elected city treasurer. All city department heads, as defined by the City's personnel policies and procedures, may be appointed or removed only after the City Manager consults with ~~upon the recommendation of the city administrator and consent by a majority vote of the Mayor and whole City Council~~ in a duly noticed open or closed session council meeting, as required by applicable law. Any department head cannot be removed from office other than for misconduct in office, during or within a period of ninety (90) days next succeeding any general municipal election held in the city at which election a member of the city council is elected. The purpose of this provision is to allow any newly elected member of the city council or a reorganized city council to observe the actions and ability of the department head and the performance of the powers and duties of his/her office. In removing a department head, the city ~~council~~ manager shall consider the recommendation of the city ~~council administrator~~ and shall use ~~its~~ his/her uncontrolled discretion; and ~~its~~ his/her action shall be final. The Mayor and City Council shall also have the power to appoint or remove the City Attorney and city ~~manager administrator~~, in compliance with this section and applicable law. The city ~~manager administrator~~ shall appoint, remove, promote, and demote any and all city employees except as aforesaid, subject to such personnel policies and procedures as may be adopted by the Mayor and City Council;

(4) Reorganization of offices, etc. It shall be the duty and responsibility of the city ~~manager administrator~~ to recommend to the Mayor and City council reorganization of departments under his/her direction in the interest of efficient, effective and economical conduct of the city's business, subject to approval by a majority of the Mayor and whole City Council as required for creation or elimination of departments;

(5) Ordinances. It shall be the duty of the city ~~manager administrator~~ to recommend to the Mayor and City council for adoption such measures and ordinances as he/she deems necessary or expedient for the operations of the city;

(6) Attendance at council meetings. It shall be the duty of the city manager administrator to attend all meetings of the city council unless excused therefrom by the Mayor, except when his/her removal is under consideration;

(7) Financial reports. It shall be the duty of the city manager administrator to keep the Mayor and City Council fully advised as to the financial conditions and needs of the city, including at a minimum, on a quarterly basis, through financial reports to be presented at a regularly scheduled council meeting;

(8) Budget. It shall be the duty of the city manager administrator to prepare and submit the proposed annual budget and the proposed annual salary plan to the Mayor and City Council for its approval, with such submission to be no less than ninety (90) days before the annual budget must be enacted by the City Council;

(9) Purchasing agent. The city manager administrator shall be responsible for the purchase of all supplies for all of the departments or divisions of the city. No expenditures shall be submitted or recommended to the mayor and city council except on report and approval of the city manager administrator, and the city manager administrator shall ensure that appropriate controls are in place concerning the purchasing and storage of supplies for the City with appropriate inventory and accounting procedures in place;

(10) Investigations. The city manager administrator shall make investigations into the affairs of the city and any department or division thereof, and any contract or the proper performance of any obligation of the city, including upon a complaint being made or having knowledge of any impropriety on the part of the city, a city department or any employee;

(11) Public utilities; franchises. The city manager administrator shall investigate all complaints in relation to matters concerning the administration of the city with regards to the services maintained by public utilities in the city, and to ensure that all franchise permits granted by the city are faithfully performed, followed, and observed;

(12) Public buildings. The city manager administrator shall exercise general supervision over all public buildings, public parks and all other public property which are under the control and jurisdiction of the Mayor and City Council;

(13) Hours of employment. The city manager administrator shall devote his/her entire working time to the duties of his/her office in the interests of the city, except upon permission of the Mayor and City council by action thereof;

(14) Additional duties. The city manager administrator shall perform such other duties and exercise such other powers as may be delegated from time to time by ordinance or resolution or other action as directed by the Mayor and City Council;

(15) Council-manager ~~administrator~~ relations. The Mayor and City Council and its members shall deal with the administrative services of the city only through the city manager administrator, except for the purpose of inquiry. Neither the Mayor, City council nor any member thereof shall give directions to subordinates of the city manager administrator. The city manager administrator shall take instructions from the mayor and city council only when sitting in a duly held meeting of the Mayor and City Council, and no individual mayor or councilmember shall give any instructions to the city manager administrator. The Mayor and any member of the City Council shall have the right to discuss with the city manager administrator any matter of general public interest or concern relative to the proper operations of the city and its needs, problems, or projects thereof, including raising any concerns about any unmet city needs or obligations;

(16) Department cooperation. It shall be the duty of all subordinate officers, the city clerk, city treasurer and city attorney to assist the city manager administrator in administering the affairs of the city efficiently, economically and harmoniously so far as may be consistent with their duties as prescribed by law and ordinances of the city;

(17) Attendance at commission meetings. The city manager administrator may attend meetings of the planning commission and any other commissions, boards or committees hereafter created by the Mayor and City Council, upon direction of the Mayor and City Council. At such meetings which the city manager administrator attends, he/she shall inform the members as to the status of any matter being considered by the Mayor and City Council, and shall cooperate to the fullest extent with the members of all commissions, boards or committees appointed by the Mayor and City Council;

(18) Removal of city manager administrator. The removal of the city manager administrator shall be only upon a majority vote of the mayor and the whole city council of the city seated in a duly noticed council meeting. At any time and by a majority vote of the mayor and whole city council, the city manager administrator may be placed on paid administrative leave. In the absence of the city manager administrator, the mayor and city council shall hire or appoint a person who may or may not be a city employee to serve as an acting or interim city manager administrator under the provisions of Sections 2.08.020, 2.08.030, and 2.08.050 of this Code and other applicable law, and any acting or interim city manager administrator shall reside at a location within sixty (60) minutes standard response time to Barstow city hall;

(19) Discretion of council. In removing the city manager administrator, the Mayor and City Council shall use absolute discretion and their action shall be final and shall not be dependent upon any particular showing or degree of proof. Any majority vote by the mayor and whole city council to remove the city manager administrator shall be final;

(20) Limitation on removal. Notwithstanding the provisions of this chapter hereinbefore enumerated, the city manager administrator shall not be removed from office during or within a period of ninety (90) days next succeeding any general municipal election held in the city at which election a member of the city council is elected, except by a four-fifths vote of the mayor and whole city council; the purpose of this provision being to

allow any newly elected members of the city council or a reorganized city council to observe the actions and ability of the city ~~manager~~ administrator in the performance of the powers and duties of his/her office. After the expiration of the ninety (90) day period aforementioned, the provisions of the preceding sections as to the removal of the city ~~manager~~ administrator shall be effective.

**SECTION 2. Severability.** If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

**SECTION 3. Continuity.** To the extent the provisions of this ordinance are substantially the same as previous provisions of the Barstow Municipal Code, these provisions shall be construed as continuations of those provisions and not as new enactments.

**SECTION 4. CEQA.** This ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines §§ 15060(c)(2), 15060(c)(3), and 15061(b)(3). This ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment; it does not involve a “project” as defined by CEQA Guidelines § 15378; and it is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility this ordinance may have a significant effect on the environment.

**SECTION 5. Effective Date.** This ordinance shall take effect thirty (30) days after its adoption by the City Council.

**SECTION 6. Certification.** The City Clerk shall certify to the passage and adoption of this ordinance, if it takes effect, and shall cause the same to be published or posted according to law.

**PASSED, APPROVED, AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Paul Anthony Courtney, Dr. B.A., Mayor  
City of Barstow

ATTEST:

\_\_\_\_\_  
Andrea Flores, City Clerk



APPROVED AS TO FORM:

\_\_\_\_\_  
Matthew Summers, City Attorney

I, Andrea Flores, City Clerk for the City of Barstow, California, and ex-officio Clerk of the City Council, do hereby certify under penalty of perjury that the foregoing is a true and correct copy of Ordinance No. \_\_\_\_\_-2021, which was introduced at the regular meeting of the City Council of the City of Barstow held on the \_\_\_\_ day of \_\_\_\_\_, 2020, and adopted at the regular meeting of the City Council of the City of Barstow on the \_\_\_\_ day of \_\_\_\_\_, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

\_\_\_\_\_  
Andrea Flores, City Clerk

**[DRAFT] CITY OF BARSTOW POLICY:  
USE AND OPERATION OF CITY VEHICLES BY ELECTED OFFICIALS**

**INTRODUCTION**

The City recognizes that elected officials including members of the City Council, the Mayor, the City Treasurer, and City Clerk need to make use of City owned vehicles. The purpose of this policy is to promulgate standards for Elected officials who operate a City-owned vehicle on City business.

**POLICY**

Elected Officials are not assigned a vehicle but may use vehicles in the City's vehicle pool subject to the terms of the Policy. Unauthorized personal use of a City-owned vehicle is not permitted and may result in loss of vehicle privileges. Permission to operate a City-owned vehicle must be given by the City Administrator or his designated representative. Elected Officials shall operate all City-owned vehicles in a safe and economical mariner. In order to accomplish this, the following practices must be followed:

**USE OF CITY VEHICLES**

Elected Officials' privilege to operate a vehicle on official City business extends only as long as the driver operates the vehicle in a safe and efficient manner. Proper care in the operation of the assigned vehicle, including the use of seat belts, shall be exercised at all times. City-owned vehicles shall be driven for official use only. Personal, political, or campaign related use of City-owned vehicles is not permitted.

Vehicles will be operated only when they are in safe operating condition. Each Elected Official driving a vehicle on official city business shall visually inspect the vehicle to assure it is in sound operating condition. The driver shall be responsible for checking to ensure that the vehicle lights, turn signals, brake lights, and other safety equipment are functional on the City owned vehicle.

City-owned vehicles shall be legally and appropriately operated and/or parked at all times. The use of City-owned vehicles having public works-type equipment, e.g. earth-moving equipment, cranes, towing equipment, is not permitted, unless authorized in writing by the City Administrator or his designated representative. City-owned vehicles must have safety belts for each passenger.

All drivers must have a valid California driver's license and must show proof of insurance coverage to at least the minimum levels required by California law. Elected Officials who use City vehicles must provide a copy of their proof of insurance to the City Administrator, before their first use of a City vehicle and must maintain current proof of insurance on file with the City.

No unauthorized drivers will be allowed to operate a city vehicle. Passengers, including family members, are allowed only if they are accompanying the Elected Official when the Elected Official is required to be away on extended overnight City business. This will require advance approval of the City Manager on a case-by-case basis.

Any damage to, or malfunction of the City Vehicle, accidents and/or citations and infractions shall be reported, in writing, to the City Administrator or his designated representative as soon as

possible but no later than within one (1) business day. In the event of a violation of State or local motor vehicle laws, the driver shall be personally liable for any criminal or civil penalty incurred. Drivers shall also provide the City Administrator or his designated representative written proof that tickets received have been paid within the required time frame by law.

Financial assessments related to City-owned vehicles that are incurred as a result of the driver's poor judgment, irresponsibility, or negligence, will be the responsibility of the Elected Official. Such charges or assessments may include, but are not limited to, tow charges, tolls, and tickets.

Use of City-owned vehicles while under the influence of alcohol, cannabis, or illegal drugs is forbidden. Use of City-owned vehicles while under the influence of legal medication affecting the ability to drive (including but not limited to certain types of cold medicine, allergy medicine, and/or anti-depressants) is forbidden.

Elected Officials using a City-owned vehicle are to use a City credit card for refueling and maintenance. It is the responsibility of the driver to ensure refueling and service stations accept the City credit card prior to refueling or giving authorization for service.

Elected Officials using a City-owned vehicle are to purchase fuel at self-service pumps, unless forbidden to do so by State or Federal law. All Elected Officials using a City-owned vehicle are to purchase only "Regular" unleaded gasoline with an octane rating of 87 unless the vehicle requires an alternative fuel. Repairs of City-owned vehicles require approval of the City Manager or his designated representative.

City vehicles shall not be taken home overnight except as follows:

- A. Elected Officials may take a City-owned vehicle home for one night when attendance at an off-site City-related meeting takes place after or prior to normal working hours subject to approval of the City Manager or designated representative. City-owned vehicle must be parked off the street at the Elected Official's home. (i.e., driveway or garage). City-owned vehicles may not be parked overnight at bars, restaurants, nightclubs, or other recreational locations without specific authorization from the City Manager or his designated representative.
- B. City-owned vehicle shall be returned at the earliest practical time the day after any overnight usage.

### **PROHIBITED USE OF CITY VEHICLES**

Any and all unauthorized use of a City-owned vehicle is absolutely prohibited. Unauthorized use includes, but is not limited, to the following:

1. Any use for personal, political, or campaign related purposes, other than immediately incidental to official City use.
2. Travel or tasks which are beyond the vehicle's rated capability or capacity.

3. Transport of families, friends, associates, or other persons who are not employees, officials, or contractors of the City or serving the interest of the City.
4. Transport of cargo that has no relation to the performance of official City business.
5. Transport of acids, alcohol, explosives, weapons, ammunition, or highly flammable material, except in the course of City business and in compliance with all applicable Local, State, and Federal laws.
6. Transport of any item or equipment projecting from the side, front, or rear of the vehicle in a way which constitutes an obstruction to safe driving or a hazard to pedestrians or other vehicles.
7. Attending sporting events, including hunting and fishing, which are not in the service of City business.
8. Extending the length of time the vehicle is in your possession beyond that which is required to complete the official City purpose of the trip.
9. Operating a City-owned vehicle while under the influence of alcohol, cannabis, illegal drugs, or legal medication affecting the ability to drive (including but not limited to certain types of cold medicine, allergy medicine, and/or anti-depressants).
10. Use of a cellular telephone or any other electronic equipment that may interfere with the operation of the vehicle is not permitted.
11. Operating a City-owned vehicle without a valid operator's license or while said license is under suspension or revocation.
12. Failing to report an accident, a collision, a ticket, or any other damage to a City owned vehicle or other vehicle to the City Administrator, in writing, within one business day.
13. Smoking while in a City-owned vehicle

Any unauthorized use of a City-owned vehicle may result in revocation of the privilege to use City-vehicles.

## ORDINANCE NO. 975 - 2021

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BARSTOW ADDING CHAPTER 5.91 ENTITLED "ANNUAL RENTAL PROPERTY INSPECTION REQUIREMENTS" ESTABLISHING A RESIDENTIAL RENTAL REGISTRATION AND INSPECTION PROGRAM

**WHEREAS**, in recent years the City of Barstow ("City") has experienced an increase in deteriorating neighborhoods and increased public safety costs which negatively impact the quality of life within the City and compromises the City's ability to provide services and attract new businesses and residents; and

**WHEREAS**, the City has experienced an increase in the occurrence of substandard maintenance, unsafe conditions, illegal activity and public nuisances in single-family rental property, especially those rented by absentee landlords; and

**WHEREAS**, unmaintained properties lower property values, destroy community aesthetics and lead to problems with safety because deteriorated neighborhoods and properties potentially lead to higher incidences of crime, and

**WHEREAS**, many rental houses are unkempt, with little, missing or deteriorating landscaping, unattractive weed growth, automobiles parked on lawn areas, trash and debris, peeling paint, boarded or broken windows and lack of overall routine maintenance; and

**WHEREAS**, these conditions may contribute to a further decline in neighborhoods throughout the City; and

**WHEREAS**, rental properties are typically the cause of a higher percentage of Code Compliance cases and tenant complaints due to many non-local owners failure to comply with their responsibilities of property ownership; and

**WHEREAS**, the City desires to increase the value of our residential communities and create an aesthetically pleasing community by cleaning up neighborhoods and enforcing municipal codes; and

**WHEREAS**, the rental property inspection requirements ordinance is designed to ensure that owners of rental property properly maintain their rental units adequately and continually, help reduce community blight and deter illegal tenant activities; and

**WHEREAS**, the City Council finds and determines that having an ordinance regulating residential rental dwelling units is critical to preserving the public health, safety and welfare of all residents of the City; and

**WHEREAS**, the City Council, in the exercise of its discretion as the final legislative and adjudicatory body of the City, based on substantial evidence in the record, votes to approve the amendment to the Barstow Municipal Code; and

**Section 1. FINDINGS**

The City Council incorporates the recitals hereinabove, finds, and determines the following based on the information presented:

- **Finding 1:** The need to establish minimum inspection requirements for the issuance of an Annual Rental Property Permit and is in the best interest for the health, safety, and welfare of the citizens of Barstow to improve neighborhoods experiencing a high number of rental housing units.
  - a. The City Council makes Finding 1 based on the fact that unkempt rental properties with unmaintained landscaping and weed growth, automobiles parked on landscaped areas, trash, and debris within the yard, deteriorating paint and boarded windows is not in the best interest of health, safety and welfare.
  - b. The City Council also makes Finding 1 based on the fact that Barstow defines that rental housing is a business and not solely an investment tool. Consequently, businesses may be subject to reasonable requirements for the public health, safety, and welfare of residents.
- **Finding 2:** To accomplish the City Council's goal of higher residential value the City must help to raise property values by reducing blight, improving neighborhoods, and establishing certain rental requirements for rental property owners such as annual rental inspections.
  - a. The City Council makes Finding 2 based on the fact that an annual inspection will help to ensure that the rental housing stock is maintained, therefore preventing blight and improving neighborhoods.
  - b. The City Council makes Finding 2 based on the fact that rental properties contribute to code compliance calls and cases at a higher proportion compared to owner occupied properties.
- **Finding 3:** To carry out the City Council's goal of having an aesthetically pleasing, cleaner community, with pride of ownership and improved neighborhoods the City shall require annual rental inspections to help achieve this goal.
  - a. The City Council makes Finding 3 based on the fact that many rental owners are from out of the area and do not have the close contact or knowledge of what condition their property is in.
  - b. The City Council also makes Finding 3 based on the fact that rental housing can become unkempt, unmaintained, and unattractive because many renters do not have what is referred to as 'pride of ownership.'
- **Finding 4:** The City finds that unmaintained rental properties are a public nuisance and subject to abatement procedures as set forth in Chapter 6.28 the Barstow Municipal Code.
  - a. The City Council makes Finding 4 based on the fact that rental properties that are not maintained are a public health, safety and welfare issue and must be addressed.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BARSTOW DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 2. AMENDMENT TO THE BARSTOW MUNICIPAL CODE adding Chapter 5.91 to the Barstow Municipal Code.**

The Barstow Municipal Code Title 5 entitled Health and Sanitation is hereby amended by adding Chapter 5.91, related to rental property inspection requirements, which shall read as follows:

**ALL TEXT BELOW IS NEW TEXT**

**Article 1: RENTAL PROPERTY INSPECTION REQUIREMENTS**

**Sec. 5.91.010 Purpose**

**Sec. 5.91.020 Scope**

**Sec. 5.91.030 Definitions**

**Sec. 5.91.040 Rebuttable Presumption**

**Sec. 5.91.050 Annual Rental Permit/Change of Ownership**

**Sec. 5.91.060 Owners Authorized Representative**

**Sec. 5.91.070 Reserved**

**Sec. 5.91.080 Initial and Annual Inspection**

**Sec. 5.91.090 Certificate of Compliance**

**Sec. 5.91.100 Re-registration and Certificate of Compliance Renewal**

**Sec. 5.91.110 Re-inspection Process to Renew a Certificate of Compliance**

**Sec. 5.91.120 Violations**

**Sec. 5.91.130 Complaint Based Inspections**

**Sec. 5.91.140 Expired Certificate of Compliance**

**Sec. 5.91.150 Failure to Pay Fees**

**Sec. 5.91.010:**

**Purpose**

The City Council of the City of Barstow finds and declares that there exist in the City of Barstow substandard and unsanitary residential buildings and dwelling units with the physical conditions and characteristics of which violate state and local housing and technical codes and render them unfit or unsafe for human occupancy and habitation, and which are detrimental to or jeopardize the health, safety, and welfare of their occupants and the public.

The City Council further finds and declares that the existence of such substandard buildings and dwelling units threatens the physical, social, and economic stability of sound institutions, necessitates disproportionate expenditures of public funds for remedial action; and destroys the amenity of residential areas and neighborhoods and of the community as a whole. The City Council has determined requiring all properties within the City of Barstow with rental residential units to be registered with the City and inspected serves these legitimate governmental interests.

For these reasons, it is hereby declared to be the policy of the City of Barstow:

- (a) That it is in the public interest of the people of Barstow to protect and promote the existence of sound and wholesome residential buildings, dwelling units, and neighborhoods by the adoption and enforcement of such standards, regulations, and procedures as will remedy the existence or prevent the development or creation of dangerous, substandard, or unsanitary and deficient residential buildings and dwelling units; and

- (b) That the adoption of this chapter protects and promotes the health, safety, and welfare of the people of Barstow.

It is further the intent that the inspection requirements will be self-funded by the required annual regulatory permit fee as per the Master Fee Schedule.

**Sec. 5.91.020:**

**Scope**

The Comprehensive Residential Rental Unit (CRRU) inspection program shall apply to all properties within the City of Barstow with residential rental units; except that hotels and motels subject to the transient occupancy tax pursuant to Chapter 3.16 of this code shall be exempt. All properties subject to this chapter shall be inspected by the Building Official or his or her designee for compliance with the City of Barstow housing and property maintenance standards.

**Sec. 5.91.030:**

**Definitions**

For the purpose of this article, unless otherwise apparent from their context, certain words and phrases used in this article shall have the meanings hereinafter designated. The definitions in this article are included for reference purposes only and are intended to define the terms used in this article in relation to the rental inspection requirements.

- (a) "Annual Rental Permit" means the annual permit issued per Rental Property after the property has successfully passed a Rental Property inspection performed by City Building Inspectors and successfully complied with all other applicable laws, including payment of all applicable fees.
- (b) "Applicable Laws" means and includes all federal, state and local statutes, ordinances and regulations that pertain to the condition, habitability and safety of Dwelling Units and residential property. Applicable Laws, include, but are not limited to, the State Housing Law (California Health & Safety Code, Sections 1791 0 et. seq.), (California Health and Safety Code, Sections 11570 et. seq.), and the Barstow Municipal Code.
- (c) "Building Official" means the Director of the Building and Safety Department, or his/her designee who shall possess all statutorily mandated certifications to enforce state building and construction codes.
- (d) "Certificate of Compliance" means a certificate issued by the Building Official for residential rental unit properties, certifying compliance with this chapter and the housing and property maintenance standards of the City of Barstow.
- (e) "Dwelling Unit" means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (f) "Frequency Upgrade" means modifying the inspection frequency to extend the length of time between compliant inspections.
- (g) "Inspection Frequency" means the length of time between inspections for renewal of certification of residential rental units.
- (h) "Maintenance Request Log" means the log required to be maintained by the owner or manager of a residential rental unit, which shall record all tenant requests for repairs, the time estimated at the time of the request for repairs to be completed, and the completion date of the repairs.
- (i) "Major Violation" shall mean any one or more of the following violations:
  - (1) Heating system not fully operational at any time between October and April of the following year.



- (2) Cooling system not fully operational at any time between May and October.
- (3) Hazardous code violations, including but not limited to any of the following:
  - (i) Exposed electrical wiring;
  - (ii) Collapsed ceiling or walls caused by water leakage;
  - (iii) Sewage leakage into walls, floors or onto the ground;
  - (iv) Structural damage resulting in the building being determined by the Building Official to be unsafe;
  - (v) Fire alarm and/or carbon monoxide alarm system not fully operational;
  - (vi) Firewalls damaged or not maintained.
- (j) "Non-compliance with Notice and Order" means that the owner, his authorized agent, or other responsible party does not make required repairs as provided in Notice and Order from the Building Official.
- (k) "Occupant or tenant" means any person who occupies a Rental Property, whether as a tenant or permittee of the owner.
- (l) "Owner's Authorized Representative" means a person, agent, Property Owner or property Management Company with respect to a Rental Property who has the legal authority to act upon the Owner's behalf with respect to the Rental Property.
- (m) "Owner" or "Property Owner" means any person having legal title to real property, including all individuals, partner, joint venture, stock owner, persons in care of the Rental Property as shown as owners on the last equalized assessment roll of the San Bernardino County Assessor's Office, or an owner's authorized representative. If more than one person or an entity owns the Rental Property, Owner or Property Owner refers to each person or entity holding any kind of ownership interest in the Rental Property, and the property owners' obligations in this article are joint and several as to each Property Owner.
- (n) "Other Violations" means any violation other than those defined as a major violation.
- (o) "Property Management Posting" means a sign required to be posted and maintained at all times which shall include the address and location to obtain repair requests and a current 24-hour emergency phone number. The sign shall be posted close to the main entrance in an area accessible and visible to the general public, or as may otherwise be approved in writing by the Building Official.
- (p) "Rental Property (ies)" means any single or multiple dwelling unit(s) zoned parcel, or any multiuse zoned parcel, used for occupancy by a person(s) other than the owner of the dwelling unit and is occupied or intended to be occupied for rental or lease purposes. This definition includes the exterior of the structure, and the entire legal property upon which the structure exists, including but not limited to all yards, parking lots, driveways, landscaped area, accessory structures, fences, walls, swimming pools, hot tubs and spas. For the purpose of this article, the following types of dwelling units or facilities are not considered Rental Property/ Dwelling / Unit:
  - (1) Conventional hotels or motels.
  - (2) Accommodations in any hospital, extended care facility, residential care facility, convalescent home, nonprofit home for the aged, or dormitory that is owned and operated by an educational institution.
- (q) "Repair Request Form" means a two-part form the owner of a property must provide to all tenants. The form shall indicate the address the form is to be delivered to for repair and an area for the manager or owner to sign the receipt of the repair request. The owner shall provide a copy of the request to the tenant.

**Sec. 5.91.040:**

**Rebuttable Presumption**

For the purposes of this Article, if a property tax bill, water, or sanitation utility bill for a property is mailed to an address other than the property's address, it shall be a rebuttable presumption that the property is a Rental Property. This presumption can be rebutted by

the owner of record by providing reasonable documentation to the City sustaining that the property is owner occupied or is not being used, actively or not, for rental income.

**Sec. 5.91.050:**

**Annual Rental Permit Required/Change of Ownership**

Every owner of one or more dwelling units that are Rental Properties, whether single family or multi-family dwelling units, or any combination thereof, shall be required to obtain an Annual Rental Permit for each Rental Property within sixty (60) days of becoming a residential rental unit, or being converted to a residential rental unit. An Annual Rental Permit shall be issued after the Rental Property has passed an initial Rental Property inspection of each dwelling unit located on the parcel as provided in Section 5.91.080 and has complied with all other applicable laws, including payment of the Annual Rental Permit fees. The Annual Rental Permit shall not be transferable. Upon property ownership change, the Annual Rental Permit issued to the prior Property Owner shall be null and void and such Annual Rental Permit file shall be closed. New Property Owners must make application for the required Annual Rental Permit within 30 calendar days of taking ownership of rental property(ies). Licenses will be backdated to the first day of the month in which ownership is recorded with the County of San Bernardino.

**Sec. 5.91.060:**

**Owner's Authorized Representative**

- (a) For purposes of this article, all owners of Rental Property shall designate a local authorized representative with full authority to act on behalf of the owner for all purposes under this article, including the acceptance of service of all notices from the city. An original copy of the authorization must be submitted to the City, signed by the Property Owner and be either notarized or accompanied by a copy of the Property Owner's identification.
  
- (b) All owners of Rental Property (ies) must establish and maintain, at all times, a working telephone number and a current address of residence. Any designated local authorized representative must establish and maintain, at all times, a working telephone number and a residence or business address within fifteen 15 miles of any of his/her designated Rental Property(ies). The owner of Rental Property (ies) or their local authorized contact representative shall be accessible to the City through the provided telephone number(s) 24 hours a day, 7 days a week.

**Sec. 5.91.070:**

**RESERVED**

**Sec. 5.91.080:**

**Initial and Annual Inspection**

- (a) As a condition of exercising the privilege of renting or leasing a Rental Property to any person and/or entity, the Owner of any dwelling unit considered Rental Property per this Code which is located in the City shall register with the City for an Annual Rental Permit.
- (b) All dwelling units that are considered Rental Property per this Code which are located in the City shall be subject to an initial inspection upon submittal of an Annual Rental Permit application, and an annual inspection thereafter by the Building Official or his/her designee for compliance with all applicable laws. The intent of the inspections shall be limited to the scope stated in section 5.91.020 to verify compliance with the Barstow Municipal Code and/or California Building Code and/or California Fire Codes in regard to housing, building, land use, and property maintenance codes.
- (c) If the Owner of Rental Property fails to register or reregister such units in compliance with this Chapter, the Building Official shall register or reregister said units in the name of the owner and set a date and time for initial inspection of said units, and shall send written notification to the Owner that the property has been so registered and advising of the date and time set for inspection, accompanied with a bill for the registration/processing fee and the total initial inspection fee for each unit, and include information on the self-certification program
- (d) The City will mail out a notice of inspection along with a checklist the City will use on the inspection no less than thirty (30) calendar days prior to the expiration of the Annual Rental Permit.
- (e) The City's designated personnel shall conduct an exterior and interior site inspection of each Rental Property prior to the initial issuance of an Annual Rental Permit or prior to the annual issuance of a renewal Annual Rental Permit, unless specifically indicated elsewhere. The scope of the inspection shall include, but is not limited to:
  - (1) Exterior property maintenance and cleanliness.
  - (2) Landscape maintenance in accordance with the Barstow Municipal Code;
  - (3) Land use such as off-street parking requirements, storage of inoperative vehicles and accessory structure and uses related to unpermitted business;
  - (4) Maintenance and upkeep of the primary structure such as windows, paint/stucco, weather protection, roof and other architectural features and accessory structures such as sheds, cabanas, trash enclosures, etc.
  - (5) An interior inspection to ensure compliance with this code, as well as the Barstow Municipal Code, California Residential Code and the Uniform Building Code.
- (f) Annual Rental Permit Initial Application and Annual Renewal Inspections: a Rental Property seeking either an initial or annual renewal Rental Permit shall require an inspection conducted within thirty (30) calendar days after the submittal of an Annual Rental Permit application or within thirty (30) days of expiration of the Annual Rental Permit and one compliance re-inspection conducted within fourteen (14) calendar days after a failed initial compliance inspection. Any violation found after the compliance re-inspection or by a valid tenant complaint shall be enforced in accordance with Barstow Municipal Code or the adopted California Building and/or Fire Codes. Additionally, any re-inspections conducted after two (2) will be charged an Annual Rental Permit re-inspection fee as per the City's adopted Master Fee Schedule.
- (g) Notice of Annual Rental Permit Renewal Inspection.

- (1) Prior to an Annual Rental Permit expiration, an Annual Rental Permit renewal notice will be sent to the Property Owner:
  - (2) Said renewal notice will be mailed by first class mail to the Owner at the Owner's last known address as it appears in the Rental Annual Permit records. In the case of multiple Owners of the same Rental Property, notice to anyone of the Property Owners is sufficient notice.
  - (3) In the event an Owner, Owner's Authorized Representative or Tenant in possession of the Rental Property refuses to allow access to conduct the exterior or interior inspection, City personnel and the City Attorney may use all legal remedies to ensure that an inspection is conducted as required by this Article.
  - (4) The City's Building Department will make reasonable arrangements to inspect the interior of the property during reasonable times.
- (h) After completion of the initial or annual renewal inspection for the Annual Rental Permit, where the Rental Property fails the inspection due to having violation(s) on the property, the City shall provide a copy of the written report to the Owner or the Owner's Authorized Representative upon conclusion of the inspection. The report shall contain:
- (1) An itemization of any violation(s) of the applicable laws identified during the inspection.
  - (2) The period of time given for correcting each of the identified violation(s).
  - (3) Notice that the City will re-inspect the Rental Property at the end of the period of time for correction.
  - (4) A statement that if the violation(s) are found to be out of compliance during the re-inspection, the City will not issue the Annual Rental Permit provided under Section 5.91.050 of this Code, and the City may pursue any legal remedies available to it, whether from this Code or any other applicable law, in order to abate said violations.
- (i) After completion of a failed initial Annual Rental Permit inspection or a failed annual renewal Annual Rental Permit re-inspection, a report listing the violations shall be provided to the property owner and the tenant. The database shall reflect the failed re-inspection and the matter shall be enforced under the Barstow Municipal Code to include Titles 1, 6 and 15, although not excluding any portion of said Code.
- (j) If no violations are found as a result of an initial or annual renewal inspection or re-inspection, the report and database shall state so, and the City shall issue the Annual Rental Permit to the owner. All inspection reports shall be available as a public record upon request.
- (k) A site that has had no violations for two (2) consecutive years may be eligible for an automatic extension of the annual Certificate of Compliance. The annual fee will be reduced by fifty (50) percent of the fee as based upon the fee schedule as adopted by the City Council. An eligible extension may only be issued one time before another inspection is issued. If, after the initial two years with no violations the property shall be eligible to be inspected at two (2) year intervals. Upon a validated complaint, or a violation within the required inspection, the automatic extension shall cease until another two (2) years of annual inspections occurs with no violations. The fifty percent reduction will only apply to non-inspection years.

**Sec. 5.91.090:**

**Certificate of Compliance**

- (a) Owners of all residential rental units shall obtain and maintain a valid and current certificate of compliance. All residential rental units that do not have a certificate of compliance, and their owners, shall be in violation of this ordinance.
- (b) A certificate of compliance shall be issued for all residential rental units upon completion of the following:
  - (1) The residential rental unit property has been inspected and approved by the Building Official or designee.
  - (2) Any existing code violations have been corrected and/or repaired with proper permits and inspections.
  - (3) The repair request form and maintenance request log is complete and approved by the Building Official. On properties with an on-site manager's unit or a management office, the maintenance request log shall be maintained at that location. On properties with no on-site manager's unit or management office, it shall be maintained at a location designated by the Building Official. The maintenance log shall at all times be available for review when requested by the Building Official or designee.
  - (4) The residential rental unit property is posted as follows:
    - (i) 1-4 Units – A property management posting a sign as defined in Section 5.91.030, above shall be posted in a prominent outdoor location and in a manner approved by the Building Official. If the property owner as a private individual manages the unit(s), no posting is required. However, contact information must be identified on the registration application. Any change in contact information shall be made within thirty (30) days of the change. Failure to update the contact information shall be considered a violation of this code.
    - (ii) 5 or more units – The onsite manager unit or management office, if any, shall be identified in a manner approved by the Building Official. A property management posting sign as defined shall be posted in a prominent outdoor location and in a manner approved by the Building Official.
  - (5) All residential rental unit registration and inspection fees are paid in full.
  - (6) A current complete registration application is on file with the Building Official.
- (c) Issuance of a certificate of compliance shall not constitute a guarantee or warranty of the habitability or complete compliance with the city housing and property maintenance standards, including but not limited to, the California Residential Code, Uniform Building Code and local codes, and the occupant of any residential rental unit shall not rely on the Certificate of Compliance as such a guarantee or warranty. The Certificate of Compliance shall contain a notice to this effect. The city shall not assume any liability to any person by reason of the inspections required by this chapter or the issuance of a Certificate of Compliance. Certificates of compliance shall expire on the expiration date shown on the Certificate and shall be renewed prior to such date. The Building Official shall determine the expiration dates of Certificates of Compliance and inspection frequency based upon the nature of violations found during the residential rental unit inspections, the following registration and inspection frequency schedule, in conjunction with his review of past compliance violations within the preceding twelve months.

Registration and Inspection Frequency Schedule

**Single Family or Detached**

- New Construction – Certificate of Occupancy issued within the preceding six months:
  - No registration fee
  - One year
- Conversion of Existing Unit(s):

Registration fees at one hundred percent.

One year

- No Violations:

Registration fees due as prescribed in the Master Fee Schedule.

Each year. After two years of no violations, inspections may be extended to two years. Registration fee may be reduced by fifty percent.

- Violations:

Registration fees at one hundred percent.

One year

#### **Multiple Family – Two units and above**

- New Construction or Conversion of Existing Units – Certificate of Occupancy issued within the preceding six months:

Registration fees at one hundred percent.

One year

- No Violations:

Registration fees due as prescribed in the Master Fee Schedule.

Each year. After two years of no violations, inspections may be extended to two years. Registration fee may be reduced by fifty percent.

- Violations:

Registration fees at one hundred percent.

One year

#### **Sec. 5.91.100:**

##### **Re-registration and Certificate of Compliance Renewal**

The owner of a residential rental unit shall apply and pay all required fees not less than thirty (30) days prior to the scheduled expiration of the certificate of compliance. The owner of a residential rental unit property shall re-register and meet all the requirements and pay all fees as for a new certificate, except as outlined in Section 5.91.090 above. Upon re-registration, inspection and the issuance of a new certificate of compliance, the Building Official in the exercise of his discretion may grant a frequency upgrade to extend the inspection frequency for no more than two years, after two or more years of consecutive inspections with no violations.

#### **Sec. 5.91.110:**

##### **Re-inspection Process to Renew a Certificate of Compliance**

The owner shall make available all residential rental units for inspection within ten working days of the Building Official's request. The Building Official in his discretion may require inspections by other city departments and/or San Bernardino County enforcement agencies, including but not limited to the County Health Department and Barstow Fire Department. According to the inspection frequency of the property, the Building Official may, but is not required to, randomly select the following percentage of units for inspection:

- (a) Two-year inspection frequency – Inspection of 10-40% of the units on the property for the initial inspection. If recurring or major violations are found during the initial inspection, then

additional units will be inspected. Any major violations found will result in an inspection of 100% of all units. The site may also default back to a one-year inspection schedule at the discretion of the Building Official.

- (b) One year inspection frequency – Inspection of 50-60% of all units on the property for the initial inspection. If recurring or major violations are found during the initial inspection, then additional units will be inspected. Any major violation found will result in 100% inspection of all units.

**Sec. 5.91.120:**

**Violations**

- (a) Whenever the Building Official or his/her designee determines that a violation of this Article exists, designated City personnel shall issue a notice of violation and provide an order to correct the violation(s) located at the Rental Property. The notice shall be provided (1) by hand delivery or U.S. mail to the Owners or Owner's Authorized Representative, and (2) either by mail or hand delivery to the Rental Property Tenant, or by posting said notice on the front door of Tenant's dwelling unit. Said notice shall be in writing and shall describe with reasonable detail the violation(s) so that the Property Owner has the opportunity to identify and correct any identified violation. Any person who fails to comply with any provisions of this article after receiving written notice of the violation(s) and has been given a minimum of 14 days from the date of initial or re-inspection to correct such violation(s) shall be deemed to be in violation of this Article.
- (b) A violation of this article shall be enforced in accordance with Barstow Municipal Code Titles 1, 6 and 15, although not excluding any portion of said Code. The Building Department may also take action to suspend or revoke the Annual Rental Permit issued to the property owner if the property owner has failed to correct any or all violations.
- (c) Any Rental Property which has been subjected to enforcement actions under Barstow Municipal Code Titles 1, 6 and 15, although not excluding any portion of said Code, and has continued to fail to comply with this Code, including any Rental Property maintenance requirements, and any state or local law relating to housing standards, property maintenance, building codes, or land use requirements, shall be considered a public nuisance and subject to abatement procedures as set forth in Chapters 6.28 and 6.30 of the Barstow Municipal Code.
- (d) Violations of this Chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this Chapter shall be subject to prosecution under this Chapter, Barstow Municipal Code Titles 1, 6 and 15, and/or Section 11570 et. seq. of the California Health and Safety Code (Drug Abatement)
- (e) The City may also utilize the provisions of the Revenue and Taxation Code Section 24436.5 to encourage the elimination of substandard conditions in rental housing. The City is also authorized to bring an action under the Business and Professions Code for unfair business practices.
- (f) In an action, administrative proceeding, or special proceeding to abate a violation of this Chapter, the prevailing party may recover Attorneys' fees pursuant to Government Code Section 38773.5. Recovery of Attorneys' fees is limited to those individual actions or proceedings in which the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own Attorneys' fees. An award of Attorneys' fees to a prevailing

party shall not exceed the amount of reasonable Attorneys' fees incurred by the City in an action, administrative proceeding, or special proceeding.

- (g) The remedies provided in this section are in addition to the remedies and penalties available under this Code, and all other laws of this state.

**Section 5.91.130:**

**Complaint Based Inspections**

Nothing contained in this article shall prevent or restrict the City's authority to inspect any Residential Rental Property in response to a complaint alleging Code violations or violations of any other applicable laws, or to pursue all remedies available under this Code or applicable laws. If a complaint is validated by a complaint-based inspection, the residential rental inspection frequency may, at the Building Officials discretion, be reduced to a one year inspection.

**Section 5.91.140:**

**Expired Certificate of Compliance**

- (a) This chapter is not intended to and shall not be construed to limit in any way the remedies available to the City to prosecute or abate public nuisances or violations of the City's property maintenance standards, the California Residential Code and/or Uniform Building Code. Upon expiration of a certificate of compliance the city may proceed with any remedy permitted by law or equity to abate the violations or prosecute the owner and/or responsible party.
- (b) Upon termination or expiration of a certificate of compliance, the Building Official shall not re-issue a new certificate of compliance until all of the following conditions are met:
- (1) All violations must be repaired and inspected;
  - (2) All costs and fees due for enforcement actions shall be paid to the city;
  - (3) New registration and fees shall be filed and paid;
  - (4) Re-inspection shall be completed for all residential units on the property.
- (c) Certificate of compliance issued after being terminated or expired for any reason shall automatically be scheduled for one-year inspection frequency.

**Section 5.91.150:**

**Failure to Pay Fees**

Should a property owner fail to pay the Annual Rental Permit fee within 15 days after the expiration date on the Annual Rental Permit, they shall be assessed penalties and interest as per Section 5.04.080 of the Barstow Municipal Code. In addition, any cost recovery fee or administrative fine related to the enforcement of and compliance with this article shall be a debt to the City and shall be enforced in accordance with Titles 1, 6 and 15 of the Barstow Municipal Code. Any Annual Rental Permit fee more than 15 days late shall be considered expired and shall be subject to Section 5.91.120 above.

**Section 3. Severability.**

The City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.



**Section 4. CEQA Exemption.**

The adoption of this Ordinance and the implementation of the regulatory programs of this Ordinance do not require further review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301, in view of the fact that the regulatory programs are hereby enacted, apply to existing structures and buildings and are intended to provide for continuous and appropriate maintenance and protection of such structures and buildings for so long as the structures and buildings may remain unoccupied or vacant.

**Section 5. Effective Date.**

This ordinance shall take effect January 1, 2022.

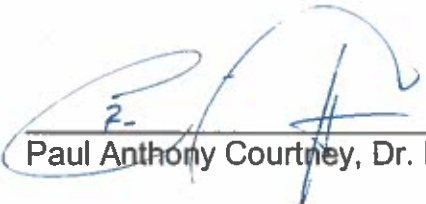
**Section 6. Repeal of Conflicting Provisions.**

All the provisions of the Barstow Municipal Code as heretofore adopted by the City of Barstow that are in conflict with the provisions of this ordinance are hereby repealed.


**Section 7. Certification.**

The City Clerk of the City of Barstow is hereby directed to certify to the passage and adoption of this Ordinance and to cause it to be published as required by law.

**PASSED, APPROVED and ADOPTED this 19<sup>th</sup> day of July 2021.**

  
Paul Anthony Courtney, Dr. B.A., Mayor

ATTEST:

  
Andrea Flores, City Clerk

APPROVED AS TO FORM:



Matthew T. Summers, City Attorney

I, Andrea Flores, City Clerk for the City of Barstow, California, and ex-officio Clerk of the City Council, do hereby certify under penalty of perjury that the foregoing is a true and correct copy of Ordinance No. 975-2021, which was introduced at the regular meeting of the City Council of the City of Barstow held on the 21<sup>st</sup> day of June, 2021, and adopted at the regular meeting of the City Council of the City of Barstow on the 19<sup>th</sup> day of July, 2021, by the following vote:

AYES: COUNCIL MEMBERS KRUSE, SILVA, ROSE, MAYOR PRO TEM NOBLE AND MAYOR COURTNEY

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE



Andrea Flores, City Clerk



City of Barstow  
California

Approved  
Jul 19, 2021 5:30 PM

Council Ordinance  
4712

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**2Nd Reading and Adoption of Ordinance No. 975-2021 Adding Chapter 5.91 to Title 5 of the Barstow Municipal Code to be Entitled "Annual Rental Property Inspection Requirements." Addition of Ordinance Would Require an Inspection of All Rental Properties Located Within the City of Barstow.**

Information

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<b>Department:</b>	Building	<b>Sponsors:</b>
<b>Category:</b>	Ordinance	

Attachments

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[Printout](#)  
[Chapter\\_5.91 Inspection Program \(MTS NSD edits clean\)](#)  
[\(Upload New Attachment\)](#)

Fiscal Impact

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The fiscal impact will be covered by fees associated with the Annual Rental Property Inspection Program. The fees generated should cover all costs incurred by adding this ordinance.

Executive Summary

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The purpose of the proposed ordinance is to establish a standard of living in rental properties throughout the City of Barstow. Pursuant to its police powers, the City of Barstow has authority to regulate and enforce the Health and Safety Code, in addition, the City may amend the codes by adding requirements that apply to the local jurisdiction. This ordinance shall allow the City of Barstow to provide a standard of living in all rental properties throughout our jurisdiction.

At the regularly scheduled City Council meeting held on June 21, 2021, the introduction and first reading of Ordinance No. 975-2021, adding Chapter 5.91 to Title 5 to the Barstow Municipal Code to be entitled "Annual Rental Property Inspection Requirements" was brought before the City Council and unanimously approved.

The ordinance is presented for its second reading and adoption.

Discussion

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Per the request of City of Barstow City Council the proposed ordinance adding chapter 5.91 to Title 5 of the Barstow Municipal Code has been brought forward for review. The addition of Chapter 5.91, "Annual Rental Property Inspection Requirements" to Title 5 of the Barstow Municipal Code aims to protect the public safety, health, and welfare of our community. Approval of this ordinance would ensure a standard of living throughout our community in all rental properties.

## Recommended Action

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Adopt Ordinance No. 975-2021, adding Chapter 5.91 to Title 5 of the Barstow Municipal Code to be entitled "Annual Rental Property Inspection Requirements" and waive the full reading.

## Meeting History

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**Jul 19, 2021 5:30 PM Video**

**City  
Council**

**Joint Special Council/BFPD**

 **Draft**

### SPEAKERS

CARMEN HERNANDEZ, BARSTOW, CALIFORNIA

- Asked what the process is for enforcing the ordinance.

**RESULT:** **APPROVED [UNANIMOUS]**

**MOVER:** Paul Anthony Courtney, Mayor

**SECONDER:** Timothy Silva, Council Member

**AYES:** James M. Noble, Marilyn Dyer Kruse, Barbara Mae Rose, Paul Anthony Courtney, Timothy Silva

## Exhibit “A” Ord. #XXX-2021

### Title 19

#### Residential Care Facilities

##### Chapters:

19.10.050 Medium Density Residential

19.10.120 Residential Care Facilities

Sec. 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; Multi-family dwellings shall follow all of the design standards of 19.08.060.
- (3) Boarding and lodging houses wherein renting individuals are under separate rental agreements for separate rooms of a house and usually includes student housing. Boarding and lodging houses shall not include any instance where staff is required for the residents care and such cases are Residential Care Facilities.;
- (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)~~ (B) The following uses shall be permitted when approved by the planning commission as provided in chapter 19.30:

- ~~(1)~~ a- Clubs and lodges, private and non-profit;
- ~~(2)~~ b- Country clubs and golf courses, excepting miniature courses and similar commercial enterprises;
- ~~(3)~~ c- Large residential care facility, group home pursuant to criteria of chapter ~~9-66~~; Section 19.10.120 Large Residential Care Facilities
- ~~(4)~~ d- Mobile home parks;
- ~~(5)~~ e- The office of a physician, dentist, or other person authorized by law to practice medicine or healing;
- ~~(6)~~ f- Parks and playgrounds;

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- ~~(7)g-~~ Publicly owned buildings and structures including public maintenance yards;
- ~~(8)h-~~ Sober living facilities;
- ~~(9)i-~~ Other uses which the commission determines to be similar to the above uses.

~~(b)C~~ 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 15 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.

(Ord. No. 934-2015, § 19.10.050, 7-20-2015; [Ord. No. 953-2017](#), § 1(Exh. A), 5-15-2017)

### **19.10.120 Residential Care Facilities**

**A. Purpose.** The purpose of this Section is to give the City the opportunity to regulate, review and monitor the public service needs to provide the best possible service to the residents within the City limits with some establishment of residential care facilities in residential zones.

**B. Definitions**

**Small Residential Care Facility** - means any residential structure or unit licensed by the State of California to house six (6) or fewer individuals in accordance with the Community Care Facilities Act.

**Large Residential Care Facility** - means any residential structure or unit licensed by the State of California to house seven (7) or more individuals in accordance with the Community Care Facilities Act.

**Mentally and Physically Handicapped Residential Care Facility** - means a residential structure or unit that is licensed or permitted by the State of California or the Federal Government, for profit or non-profit, to house individuals who are mentally and/or physically handicapped or disabled.

**Parolee Home** - means any residential structure or unit, whether owned and/or operated by an individual for-profit or by a non-profit entity, which is not licensed by the State of California and which houses at least two (2) parolees unrelated by blood, marriage or legal adoption, in exchange for monetary or non-monetary consideration and/or paid by the parolee and/or any individual or public/private entity on behalf of the parolee.

**Parolee, Federal** - means an individual convicted of a Federal crime, sentenced to a United States federal prison, and who received conditional and revocable release in the community under the supervision of a Federal parole officer.

**Parolee, State Adult** - means an individual who is serving a period of supervised community custody, as defined in Section 3000 of the Penal Code, following a term of imprisonment in a State prison, and is under

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the jurisdiction of the California Department of Corrections and Rehabilitation, Division of Adult Parolee Operations.

Parolee, California Department of Corrections and Rehabilitation - means an adult or juvenile individual sentenced to a term in the California Department of Corrections and Rehabilitation, Division of Juvenile Operations and who received conditional and revocable release into the community under the supervision of a California Department of Corrections and Rehabilitation parolee officer.

Probation - means an individual serving a period of time on probation ordered by a court of law.

#### C. Prohibitions

1. Parolee Homes of two (2) or more parolees unrelated by blood, marriage or legal adoption are prohibited.
2. Group Homes of two (2) or more individuals on probation are prohibited.
3. Reserved.
4. No Residential Care Facility, in a residential zone, shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:
  - a. May be determined to be or does, constitute a substantial risk or direct threat to the health or safety of other individuals; or
  - b. Has or may engage in conduct resulting in substantial physical damage to the property of others.

#### D. Conditional Use Permit

A Conditional Use Permit shall be required for the new establishment of any type of land use stated below:

1. Large Residential Care Facilities licensed by the State of California that were established without local permit approval prior to the effective date of this Ordinance (~~Date Approved~~).
3. Sale, transfer or new lease agreement of a Large Residential Care Facility to another individual, entity, and the like.
4. An existing Large Residential Care Facility discontinued for a consecutive period of 1 year is deemed abandoned and shall be required to obtain a new Conditional Use Permit.
6. The Conditional Use Permit granted and permitted by this section for a Large Residential Care Facility is non-transferable and terminates if the structure is devoted to any use other than as a residential facility or if the structure fails to comply with the applicable health, safety, zoning and building codes.

#### E. Locational Requirements

1. In evaluating requests for a Large Residential Care Facility particular attention will be directed to the physical relationship and proximity of the proposed use to similar uses within the surrounding neighborhood and ensuring no adverse effects on the character of a residential neighborhood and public health, safety or general welfare will be created by the proposed use.
2. When a Conditional Use Permit for a Large Residential Care Facility is requested and includes the new construction or remodel of an existing residential structure or unit to expand the square footage, attention shall be directed toward the size, scale and architectural compatibility of the residential structure or unit to ensure that it is compatible with the surrounding residential neighborhood and that it maintains the residential character and appearance of the area.

#### F. Operational Requirements/Conditions

1. Large Residential Care Facilities shall keep a current City of Barstow Business License.
2. Only related residents shall be allowed to occupy the same bedroom in a Large Residential Care Facility.

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3. Inspections of Large Residential Care Facility shall be conducted by the Barstow Fire Protection District in accordance with the requirements of the State Fire Marshal.
4. The property owner or a designated on-site manager, that is not on parole/probation, must live on the site of the Large Residential Care Facility. The name and a copy of legal identification of the property owner/on-site manager shall be provided to the City of Barstow with the business license.
5. All required State and Federal licenses for Large Residential Care Facilities shall be posted within the premises and a copy shall be provided to the City of Barstow Community Development Department.
6. Residents of a Large Residential Care Facility shall not park vehicles off-site or adjacent to the facility/home in the public right-of-way unless adequate on-site parking is provided and designated for all residents, approved by the Planning Commission.
7. Projected staff numbers and programs offered to residents will be submitted to the Community Development Department at the time of application.
8. The Planning Commission, at its discretion, may impose additional operational conditions to ensure the compatibility of the facility with the neighborhood and to ensure the health and safety of a facility and the neighborhood in which the facility is located.

#### G. Revocation

Pursuant to Section 9.16.130 of this Code the Planning Commission may revoke a Conditional Use Permit. The revocation hearing must be noticed public hearing as required in Section 9.16.130 of this Code. The Planning Commission must make necessary findings to revoke the Conditional Use Permit as set forth in Section 9.16.130 of this Code.

( Ord. No. 488 , §§ 2F—I, 9-27-2016)

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