

## 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.

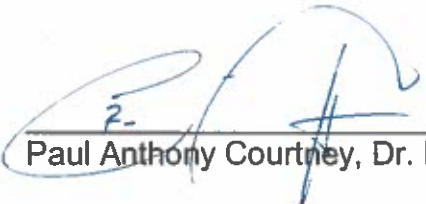
**Section 6. Repeal of Conflicting Provisions.**

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