

## **ORDINANCE NO. 977-2021**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BARSTOW AMENDING SECTIONS 19.16.030, 19.18.030, 19.27.040, 19.27.060, 19.27.070, 19.27.080, 19.27.090, 19.27.100, 19.27.110, 19.27.120, 19.27.140, 19.27.160, and 19.27.170 OF THE BARSTOW MUNICIPAL CODE**

WHEREAS, California voters approved Proposition 215 (Health and Safety Code Section 11362.5), entitled the Compassionate Use Act (CUA), in 1996, which exempts patients and their primary caregivers from criminal prosecution or sanctions under H&S Code Sections 11357 and 11358 for qualified use and cultivation of medical cannabis; and

WHEREAS, the California Legislature passed Senate Bill 420 (H&S Code Sections 11362.7 et seq.) in 2003 to create the Medical Marijuana Program (MMPA), which established a voluntary program for the issuance of medical cannabis identification cards for qualified patients, set limits on the amount of cannabis any individual could possess, and provided an exemption from state criminal liability for persons "who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes"; and

WHEREAS, in November 2016, California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"); and

WHEREAS, among other effects, the AUMA established a state licensing and regulatory system for commercial cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, delivery, or sale of recreational marijuana and marijuana products; and

WHEREAS, absent appropriate local regulation authorized by the AUMA, state regulations will control; and

WHEREAS, on June 27, 2017, the Governor signed the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), consolidating the AUMA with previous state law regarding commercial medical marijuana activities to create one state licensing system for commercial activities related to medical and recreational marijuana; and

WHEREAS, both the AUMA and MAUCRSA authorize the City to further regulate or completely prohibit the establishment or operation of commercial marijuana activities within its limits, even such activities that may be licensed under state law; and

WHEREAS, the City's power to regulate or completely prohibit commercial marijuana activities under the AUMA and MAUCRSA is consistent with the California Supreme Court's decision in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729; and

WHEREAS, as permitted by state law, Chapter 19.27 of the Barstow

Municipal Code currently prohibits all commercial marijuana activities within the City's limits; and

WHEREAS, the California Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, the California Planning and Zoning Law (Gov. Code, § 65000 et seq.) authorizes the City to adopt and administer zoning laws, ordinances, rules, and regulations; and

WHEREAS, the California Supreme Court has held that cities have the authority to regulate or completely ban medical cannabis land uses (*City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729); and

WHEREAS, the City of Barstow passed Ordinance No. 974-2021 on June 7th, 2021 to begin the process of allowing Cannabis sales and it now needs land use laws to complete the implementation;

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

**SECTION 1. Barstow Municipal Code Section 19.27.040 is amended to read as follows, with additions denoted by underlined text and deletions denoted by struck-through text:**

**19.27.040 Cannabis Business Permit and Other Permits Required**

- (a) It shall be unlawful to operate a Cannabis Business or otherwise engage in Commercial Cannabis Activity within the City except with a Permit issued pursuant to this chapter. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of any Cannabis Business within the City except as permitted by this chapter and any other applicable provision of this Code.
- (b) A Cannabis Business shall obtain a separate Permit for each type of Commercial Cannabis Activity it will engage in in the City.
- (c) A Cannabis Business shall obtain a separate Permit for each Business Premises at which it will engage in Commercial Cannabis Activity in the City.

(d) In addition to a cannabis business permit under this Chapter, it shall be unlawful to operate a Cannabis Business or otherwise engage in Commercial Cannabis Activity within the City without the approval by the City Council of a Development Agreement and a Condition Use Permit authorizing each proposed Cannabis Business.

**SECTION 2. Barstow Municipal Code Section 19.27.060 is amended to read as follows, with additions denoted by underlined text and deletions denoted by struck-through text:**

**19.27.060 Types of Commercial Cannabis Activity Permitted**

The following types of adult-use and medical-use Commercial Cannabis Activity, as defined in Business and Professions Code Section 26050(a) and the regulations of the State Licensing Agencies, may be permitted to operate in the City, upon the approval of all permits required by this Code:

- (1) Cultivation (Indoor Only:Types 1 through 5, excluding outdoor; Processor)
- (2) Delivery (Type 9)
- (3) Distribution (Types 11 and 13)
- (4) Manufacturing (Types 6, 7, N, P)
- (5) Retail Storefront (Type 10)
- (6) Testing (Type 12)
- (7) Temporary Cannabis Event
- (8) Any Commercial Cannabis Activity which requires a State of California license as currently defined or amended by the State of California and which is not identified in this chapter and not outdoor cultivation.

**SECTION 3. Barstow Municipal Code Section 19.27.070 is amended to read as follows, with additions denoted by underlined text and deletions denoted by struck-through text:**

#### **19.27.70 Number of Commercial Cannabis Businesses Permitted**

- (a) There shall be no limit on the number of Permits issued pursuant to this Chapter.
- (b) Nothing in this section creates a mandate that the City must issue any number of Permits if it is determined that Applicants do not meet the requirements for a Permit pursuant to this chapter and other applicable state and local laws.

**SECTION 4. Barstow Municipal Code Section 19.27.080 is amended to read as follows, with additions denoted by underlined text and deletions denoted by struck-through text:**

#### **19.27.080 Cannabis Business Location Restrictions**

A Cannabis Business shall only be located in such subsets of such zoning districts as designated by the City Council by Resolution as authorized locations for each type of cannabis business. ~~No Permit may be issued for any Cannabis Business until the City Council adopts a Resolution specifying allowed and prohibited locations for each type of Cannabis Business.~~ The following additional location restrictions apply to each cannabis business within the City.

- (a) Each cannabis business type must be located within the zoning districts specified by Barstow Municipal Code sections 19.16.030 and 19.18.030, as applicable.
- (b) A Cannabis Business shall not be located within a 1,000 foot radius of any public or private school providing instruction in kindergarten or any grades one through twelve, public park, public day care center or public youth center, or church or other religious land use that is in existence at the time the Cannabis Business applies for its initial Permit.
- (c) A Cannabis Business shall not be located within a 1,000 foot radius of any residentially zoned district of the City (Districts ER, LDR, SFR, MDR, or any other newly created residential zoning district) that is so zoned at the time the Cannabis Business applies for its initial Permit.

The distances specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the California Health and Safety Code.

**SECTION 5. Barstow Municipal Code Section 19.27.090 is amended to read as follows, with additions denoted by underlined text and deletions denoted by struck-through text:**

## 19.27.090 Cannabis Business Permit Application Procedures

- (a) ~~Within 30 days of the effective date of this chapter, the~~ The City Manager shall prepare and publish application forms and instructions for applying for a Permit and the additionally required development agreement and conditional use permit. ~~The City Manager shall not require any information or documents other than specified in this section. If the City Manager does not prepare and publish application forms and instructions, an Applicant for a Permit shall be allowed to submit the information and documents specified in subsection (b) of this section in the form and manner of its choosing.~~
- (b) An Applicant shall provide the following documents and information to the City Manager as part of its application, in addition to any documents required by the City Manager's application forms and procedures promulgated under subsection (a):
- (1) Landowner authorization for the proposed Business Premises;
  - (2) Zoning map demonstrating the proposed Business Premises complies with location restrictions specified in section 19.27.080 of this chapter and other applicable provisions of this Code and the City Council's Resolution(s);
  - (3) Disclosure of all Owners and financial interest holders;
  - (4) Business Premises diagram;
  - (5) Standard operating procedures;
  - (6) Security plan; ~~and,~~
  - (7) Community liaison plan; and
  - (8) Applications for a development agreement and conditional use permit signed by the cannabis business permit applicant and landowner, if not the same.
- (c) Within each application period to be specified by the City Manager by regulation ~~30 days of the effective date of this chapter or on or after the date on which the City Manager publishes application forms and instructions, whichever is sooner,~~ an Applicant may submit an application for a Permit to the City Manager.

- (d) An Applicant shall pay an a non-refundable application fee in an amount established by resolution of the City Council to cover the costs associated with the processing of the application. ~~If the City Council does not set a fee within 30 days of the effective date of this chapter, the application fee shall be \$2,500.~~
- (e) Within 30 days of an Applicant paying the application fee pursuant to subsection (d) of this section, the City Manager shall determine whether the Applicant has submitted all required information and documents pursuant to subsection (b) of this section. If the Applicant has submitted all required information and documents, the City Manager shall notify the Applicant in writing that its application is complete. If the Applicant has not submitted all required information and documents, the City Manager shall notify the Applicant in writing of the remaining information and documents required to be submitted.
- (f) Upon the City Manager's determination that an application is complete, the City Manager shall issue the Applicant local authorization for the purpose of applying for a state license from the State Licensing Agencies. At a minimum, the local authorization shall confirm that the Applicant's compliance with the City's Cannabis Business Permit process is underway but not complete.
- (g) After deeming an application complete, the City Manager may ~~shall~~ issue a Permit to an Applicant if and once all of the following requirements are met:
1. The Applicant provides an executed rental agreement or property deed for its Business Premises.
  2. The City Manager or its designee conducts a physical inspection of the Business Premises and determines that it is substantially similar to the premises diagram submitted as part of the application.
  3. The City Manager or its designee satisfies all requirements, if any, under the California Environmental Quality Act, relating to issuance of a Permit.
  4. The Fire Prevention Department conducts a physical inspection of the business premises and determines that there are no violations of the fire and building codes.
  5. The Applicant has obtained all other permits, licenses, authorizations or other approvals required to conduct business in the City, including City Council approval of a development agreement and conditional use permit.; ~~and~~

6. The Applicant's Owner(s) complete a background check administered by the Police Department and no Owner is found to have been convicted of a felony within the five years preceding to the date of application. ~~If, for any reason, the Police Department is unable to obtain the necessary authorization from the state and federal governments to conduct a background check on an Owner, the Owner shall provide a notarized attestation signed under penalty of perjury confirming that the Owner has not been convicted of a felony within the five years preceding the date of application.~~
7. The Applicant has obtained all required licenses from the State Licensing Agencies.
8. The City Manager has determined that the Applicant has met all applicable requirements of this Code and state law.

**SECTION 6. Barstow Municipal Code Section 19.27.100 is amended to read as follows, with additions denoted by underlined text and deletions denoted by struck-through text:**

**19.27.100 Denial of Cannabis Business Permit Application**

- (a) If an Applicant does not meet all requirements for a Permit, the City Manager shall provide written notice to the Applicant specifying which requirements the Applicant does not meet and provide the Applicant a reasonable opportunity to comply with those requirements. Thereafter, if the Applicant fails or is unable to meet any requirement for a Permit, the City Manager may deny the application by providing written notice to the Applicant specifying the reason(s) for denial.
- (b) An Applicant may appeal a denial of its application pursuant to section 19.27.170 of this chapter, unless the denial was by the City Council, in which case the decision is final and not appealable.

**SECTION 7. Barstow Municipal Code Section 19.27.110 is amended to read as follows, with additions denoted by underlined text and deletions denoted by struck-through text:**

### **19.27.110 Cannabis Business Permit Renewal Procedures**

- (a) A Cannabis Business Permit is valid for one year from the date of issuance.
- (b) To renew a Permit, a Cannabis Business shall file an application for renewal, on a form provided by the City Manager, at least 60 days prior to the expiration date of the current Permit. The Cannabis Business shall also pay a non-refundable renewal application fee in an amount established by resolution of the City Council to cover the costs associated with the processing of the application. ~~If the City Council does not set a fee, the renewal application fee shall be \$2,500.~~
- (c) The City Manager shall decide whether to approve or deny the application for renewal no later than 30 days before the current Permit expires.
- (d) The City Manager shall approve a timely application for renewal if the Cannabis Business provides all information required by the City Manager, pays the renewal application fee, the cannabis business remains in compliance with the terms of its development agreement, conditional use permit, and cannabis business permit, and no reason exists to deny the application, such as noncompliance with applicable state or local laws.
- (e) The City Manager may deny an application for renewal if it determines that the Cannabis Business has violated or is in violation of any requirements of this ~~chapter~~ Code or any applicable state or local law or condition of any City approval or permit, provided the Cannabis Business is first afforded a reasonable opportunity to correct any violations.
- (f) An Applicant may appeal a denial of an application for renewal pursuant to section 19.27.170 of this chapter. If an Applicant timely files an appeal, its existing Permit shall remain valid and active until it has exhausted all administrative appeal rights pursuant to 19.27.170 of this chapter.

**SECTION 8. Barstow Municipal Code Section 19.27.120 is amended to read as follows, with additions denoted by underlined text and deletions denoted by struck-through text:**

### **19.27.120 Cannabis Business Ownership Amendment and Permit Transfer Procedures**

- (a) A Cannabis Business shall be permitted to modify its ownership structure, including removing or adding Owners, provided that the Cannabis Business provides the City Manager an updated ownership and financial interest



disclosure form within 15 days of the occurrence of the modification. If the City Manager determines any new Owner has been convicted of a felony within the last 5 years, the Cannabis Business shall not be permitted to operate unless the ineligible Owner is removed from the ownership structure.

- (b) A Cannabis Business shall be permitted to transfer its Permit to another Person subject to the approval of the City Manager. A Permit may only be transferred if the Person receiving the Permit first submits to the City Manager all documents and information required pursuant to section 19.27.090(g) of this chapter and the City Manager determines that Person meets the requirements for a Permit, including all applicable requirements of the development agreement and conditional use permit.

**SECTION 9. Barstow Municipal Code Section 19.27.140 is amended to read as follows, with additions denoted by underlined text and deletions denoted by struck-through text:**

**19.27.140 Cannabis Business Operational Requirements**

- (a) A Cannabis Business in the City shall comply with all City laws and all other applicable laws.
- (b) A Cannabis Business in the City shall comply with all applicable provisions of Business & Professions Code Section 26000, *et seq.* and all applicable rules and regulations promulgated by the State Licensing Agencies.
- (c) Community Relations Liaison. A Cannabis Business shall designate one of its Owners or full-time employees as its Community Relations Liaison and who shall be responsible for receiving and responding to all concerns and complaints made to the City regarding the Cannabis Business and for making a good faith attempt to promptly address all concerns and resolve all complaints. The Community Relations Liaison's name, phone number and email address shall be posted prominently on the exterior of the Cannabis Business's Business Premises.
- (d) Age Restrictions. Individuals under 21 years of age shall not be allowed on the Business Premises of any Cannabis Business, except as pertaining to the sale of cannabis for medicinal use by a Storefront Retail Cannabis Business to a medical patient or primary caregiver who is at least 18 years of age.

- (e) Hours of Retail Operation. A Retail Storefront Cannabis Business shall only be open to the public between the hours of 6 a.m. and 10 p.m. A Delivery Cannabis Business shall only deliver Cannabis or Cannabis Products between the hours of 6 a.m. and 10 p.m. The City Manager may adjust these default hours by regulation.
- (f) Security Requirements. A Cannabis Business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing Cannabis or Cannabis Products, and to deter and prevent the theft of Cannabis or Cannabis Products. These security measures shall include, but may not be limited to the following:
- (1) Alarm system (perimeter, fire, and panic buttons).
  - (2) Remote monitoring of alarm systems by licensed security professionals.
  - (3) Perimeter lighting systems (including motion sensors) for after-hours security.
  - (4) Perimeter security and lighting.
  - (5) Establishing limited access areas accessible only to authorized Cannabis Business personnel.
  - (6) All Cannabis and Cannabis Products shall be stored and secured in accordance with the requirements specified by the State of California. All Cannabis and Cannabis Products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
  - (7) 24-hour security surveillance cameras to monitor all entrances and exits to and from the Business Premises, all interior spaces within the Cannabis Business which are open and accessible to the public, all interior spaces where Cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of Cannabis could reasonably occur. Live feed and video recordings shall be maintained for a minimum of 90

days and shall be made available to the City Manager or their designee upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the Cannabis Business.

- (8) Entrance areas are to be under the control of a designated responsible party that is either: (a) an employee of the Cannabis Business; or (b) a licensed security professional.

(g) Odor Control. A Cannabis Business shall implement an adequate ventilation system and odor control filtration measures to prevent odors from inside the Business Premises from being detected outside the Business Premises. Activated carbon filters are required for locations growing or manufacturing cannabis. If any Cannabis facility has multiple complaints of odors this may trigger an inspection. If upon inspection a facility does have noticeable odor coming from inside the facility to the outside and the facility; then additional measures to reduce odor will be required as determined by the Community Development Department. This includes but is not limited to the installation of additional activated carbon or other kinds of filters.

(h) Restriction on Alcohol and Tobacco Sales

- (1) No Person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the Business Premises of a Cannabis Business.

- (2) No Person shall cause or permit the sale or tobacco products on or about the Business Premises of a Cannabis Business.

(i) Onsite Consumption of Cannabis. No Person shall consume Cannabis or Cannabis products on the Business Premises of a Cannabis Business. Notwithstanding the foregoing, a Cannabis Business permitted for Retail Storefront activity may allow a Person to consume cannabis in a designated consumption area of its Business Premises. The Cannabis Business shall first obtain approval from the City Manager to operate a consumption area and comply with all regulations promulgated by the City Manager concerning the operation of consumption areas.

(j) Temporary Cannabis Events. A Cannabis Business permitted for Retail Storefront activity may hold a temporary cannabis event at which the onsite sale and consumption of cannabis goods is authorized. The Cannabis Business shall comply with all regulations of the State Licensing Agencies and those promulgated by the City Manager concerning temporary

cannabis events.

- (k) Prevention of loitering or public disturbance. A Cannabis Business shall take reasonable steps to discourage persons on or around its Business Premises, including any parking areas under its control from engaging in illegal, criminal, or nuisance activities, including, but is not limited to, disturbances of the peace, public intoxication, drinking alcoholic beverages, smoking or ingesting Cannabis Products, illegal drug activity, vandalism, obstruction of the operation of a another business, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking, excessive loud noise, or any other behavior that adversely affects or detracts from the quality of life for adjoining residents, property owners, or businesses.
- (l) Access for City Officials. A Cannabis Business shall provide immediate access to its Business Premises and all areas therein to employees or agents of the City performing their official duties.
- (m) The City Manager or its designee may develop other operational requirements or regulations as are determined to be necessary to protect the public health, safety and welfare.
- (n) Cannabis growing, manufacturing and testing shall be in appealing and discreet facilities that do not openly advertise the presence of any cannabis products or operations on site and subject to City's Design Guidelines.

**SECTION 10. Barstow Municipal Code Section 19.27.160 is amended to read as follows, with additions denoted by underlined text and deletions denoted by struck-through text:**

**19.27.160 Cannabis Business Permit Violations**

- (a) The City Manager or its designee shall be responsible for monitoring Cannabis Businesses' compliance with the requirements of this Code Section and all other applicable laws. A Cannabis Business shall be subject to inspection, investigation or audit by the City Manager or its agents during business hours, with no notice required, to determine compliance with this chapter.
- (b) If the City Manager determines that a Cannabis Business in the City has violated the requirements of this Code section or any other applicable law, including the terms of each Cannabis Business' development agreement, conditional use permit, and cannabis business permit, the City Manager may issue the Cannabis Business a written Notice of Violation, which shall identify

each violation, specify the facts underlying each violation, and specify any administrative penalty imposed for each violation.

- (c) The City Manager may impose one or more of the following administrative penalties on a Cannabis Business for violation of this chapter or any other applicable law:
  - a. Suspension of Permit;
  - b. Revocation of Permit;
  - c. Imposition of more restrictive Permit operating requirements;
  - d. Order to take corrective action.
- (d) The City Manager shall determine an appropriate administrative penalty, if any, by considering factors, including, but limited to: 1) the extent of harm or potential harm caused by the violation; 2) the nature and persistence of the violation; 3) the length of time over which the violation occurs; 4) the history of past violations; and 5) any mitigating evidence.
- (e) A Cannabis Business may appeal a Notice of Violation and any administrative penalty as pursuant to section 19.27.170 of this chapter.
- (f) A Notice of Violation shall be final and effective 30 days from issuance unless timely appealed pursuant to section 19.27.170 of this chapter.
- (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 11. Barstow Municipal Code Section 19.27.170 is amended to read as follows, with additions denoted by underlined text and deletions denoted by struck-through text:**

**19.27.170 Cannabis Business Permit Appeal Procedures**

- (a) This section shall govern the procedures for appealing a decision by the City Manager pursuant to sections 19.27.100, 19.27.110 and 19.27.160 of this chapter. Any cannabis permitting decision made by the City Council is final and not appealable.
- (b) An Applicant or Cannabis Business may appeal a decision by the City Manager pursuant to sections 19.27.100, 19.27.110 and 19.27.160 of this chapter within 30 days of the date on which the City Manager mailed written notice of its decision to the Applicant or Cannabis Business.
- (c) An Applicant or Cannabis Business shall file its appeal in writing to the City Manager. The appeal shall specify the decision being appealed and the basis for

the appeal. Upon receipt of an appeal, the City Manager shall transmit it to the City Council.

- (d) Upon receipt of an appeal, the City Manager shall have discretion to modify or reverse its decision being appealed based upon evidence or arguments presented by the Applicant or Cannabis Business. The City Manager shall also have the authority to enter into stipulated agreements concerning the appeal.
- (e) The City Council shall hold a public hearing on the appeal no later than 90 days from the date the Applicant or Cannabis Business filed the appeal with the City Manager. At the public hearing, the Applicant or Cannabis Business shall have a reasonable opportunity to present evidence and arguments concerning its appeal. The City Council shall consider all appeals on a de novo basis.
- (f) No later than 30 days after the public hearing of the appeal, the City Council shall decide to uphold, reverse or modify the City Manager's decision. The City Council's decision is final and effective upon issuance and is not appealable.
- (g) Any deadline under this section may be extended upon the mutual agreement of the Applicant and the City Council.
- (h) Calculation of Time. Unless otherwise specified, when the final day for the filing of an appeal or holding a public hearing falls on a Saturday, Sunday or City holiday, the time for filing or holding the hearing shall be extended to the close of the next Business Day, and the effective or final date of any action, decision or determination shall be extended by the same amount of time.

**SECTION 12. Barstow Municipal Code Section 19.16.030 is amended to read as follows, with additions denoted by underlined text and deletions denoted by struck-through text:**

Sec. 19.16.030. - Uses requiring a permit.

In the commercial district, the following uses may be permitted, subject to chapter 19.30:

- (1) Adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, and massage parlors.
- (2) Animal hospitals and animal hotels that are less than 500 feet from residential uses or zoning districts.
- (3) Reserved.
- (4) Automobile service/fueling stations conforming to provisions set forth in section 19.06.070.
- (5) Bar or tavern, dancing permitted.

- (6) Biological and medical laboratories in excess of two thousand square feet in gross floor area.
- (7) Cannabis Uses including - retail storefront (Type 10), indoor cultivation (Types 1-5, including processing, but excluding any outdoor cultivation), delivery (Type 9), distribution (Types 11 and 13), manufacturing (Types 6,7, N, P), testing (Type 12), and temporary cannabis events. All these uses shall be subject to Section 19.27.080 Cannabis Business Location Restrictions and require approval of the following entitlements: development agreement, conditional use permit, cannabis business permit, and all applicable state cannabis licenses.
- (8) Commercial greenhouses
- (9) Commercial laundry, rug cleaning, dyeing, etc.
- (10) Commercial recreation and amusements, such as pitch and putt golf, golf courses, athletic fields, gymnasiums, commercial swimming pools, stadiums, skating rinks (ice and roller), arenas, auditoriums, public dance halls or ballrooms, amusement parks, pool halls, billiards.
- (11) Drive-in restaurant.
- (12) Equipment rental yards, outside storage of rental equipment permitted.
- (13) Furniture storage.
- (14) Heating and plumbing equipment dealers, paint, glass, wallpaper, and electrical supply store (outside storage enclosed by solid fence or wall, six feet in height)
- (15) Ice storage, retail, not more than five-ton capacity.
- (16) Lumberyards and builders' supply yard, outside storage of lumber and building materials permitted.
- (17) Mechanical auto wash.
- (18) Mini-warehouses.
- (19) Mortuaries and funeral parlors.
- (20) Public garage, auto repair shop, body shop, auto painting, providing all operations are conducted wholly within an enclosed building. If more than five vehicles are on the premises at any one time, they shall be enclosed by a six-foot fence or wall 80 percent opaque.
- (21) Residential dwelling, to be limited to lot or parcel on which permitted uses are located and used exclusively by the operator of the business when approved by site review. If a separate building is used for dwelling purposes, the setback requirement of the MDR district shall apply.
- (22) Tattoo studio conforming to the provisions set forth in Health and Safety Code § 119300 et seq.
- (23) Utility substations.

- (24) Vehicle sales, including trailers (automobile, motorcycle, farm machinery, equipment dealers, truck or semitrailer, house trailer, boat, camper or marine sales and supplies and trailer sales lot), outside display of new and used vehicles and trailers permitted.
- (25) Other uses similar to the above if it can be demonstrated that the uses are of the same general character as the above permitted uses as determined by the planning commission.

**SECTION 13. Barstow Municipal Code Section 19.18.030 is amended to read as follows, with additions denoted by underlined text and deletions denoted by struck-through text:**

Sec. 19.18.030. - Uses requiring a permit.

In the industrial district, the following uses may be permitted, subject to chapter 19.30:

- (1) Aircraft and aircraft accessories and parts manufacture.
- (2) Airports.
- (3) Automobile and horse racing tracks.
- (4) Automobile dismantling, junk, rag, metal salvage, scrap processing, and recycling operations.
- (5) Automobile rental agencies.
- (6) Automobile repair or painting.
- (7) Automobile storage lots.
- (8) Automobile, truck, farm equipment, motorcycle and trailer accessories and parts manufacture and assembly.
- (9) Batch plants.
- (10) Bottling plants.
- (11) Boat building and maintenance.
- (12) Box factories and cooperage.
- (13) Brick, tile, and clay products manufacture.
- (14) Building materials manufacture and assembly including composition wallboards, partitions, panels, and prefabricated structures.
- (15) Cabinet shops and furniture manufacture.
- (16) Can and metal container manufacture.
- (17) Cannabis: Indoor cannabis cultivation (Types 1-5, including processing but excluding any outdoor cultivation), delivery (Type 9), distribution (Types 11



and 13), manufacturing (Types 6,7, N, P), and testing (Type 12). All these uses shall be subject to Section 19.27.080 Cannabis Business Location Restrictions and require approval of the following entitlements: development agreement, conditional use permit, cannabis business permit, and all applicable state cannabis licenses.

- (18) Carpets and rug manufacture.
- (19) Contractors' storage yards.
- (20) Creameries and dairy products plants.
- (21) Day nurseries or centers.
- (22) Electroplating.
- (23) Extermination business.
- (24) Flammable liquid or gas.
- (25) Food and food products manufacture and processing, not including slaughterhouses.
- (26) House moving business.
- (27) Laboratories, commercial, testing, research, experimental or other, including pilot plants.
- (28) Landscape and gardening services.
- (29) Machinery manufacture, including heavy electrical, agricultural and construction machinery, and light machinery and equipment such as air conditioning, dishwashers, dryers, furnaces, heaters, refrigerators, ranges, stoves, ovens, and washing machines.
- (30) Machine shops more than 5,000 square feet in floor area, no outside work permitted, any outdoor storage to be screened.
- (31) Machine tools manufacture, including metal lathes, metal presses, metal stamping machines, and woodworking machines.
- (32) Manufacture of burial vaults and caskets.
- (33) Manufacture of furnaces and accessories.
- (34) Manufacture of pipe and plumbing materials.
- (35) Metal products manufacture and assembly, including metal extrusion, steel cabinets, lockers, doors, fencing, and furniture.
- (36) Mobile home manufacture.
- (37) Motion picture studio.
- (38) Motor and generator manufacture.
- (39) Paint manufacture not employing a boiling process.

- (40) Paper products manufacture, including shipping containers, pulp goods, coated paper stencils and similar uses.
- (41) Penal institutions, jail farms, honor farms and juvenile halls when publicly owned.
- (42) Porcelain products manufacture, including bathroom and kitchen fixtures and equipment.
- (43) Private or public dumps and disposal areas.
- (44) Public or private recreation center.
- (45) Recreational vehicle parks.
- (46) Restaurants.
- (47) Retail sale of products produced.
- (48) Sandblasting establishments.
- (49) Sanitary fill operations.
- (50) Service stations.
- (51) Sewage disposal plants (private).
- (52) Storage buildings for household goods and mini-warehouses.
- (53) Storage garages.
- (54) Storage yards for commercial and recreational vehicles.
- (55) Tire retreading and recapping.
- (56) Truck stops/service stations.
- (57) Wholesale business establishments.
- (58) Welding shops.
- (59) Wood and lumber processing and woodworking, including planing mills, sawmills, plywood veneer, and wood preserving treatment.
- (60) Incidental and accessory structures and uses on the same site with and necessary for the operation of a permitted or conditional use.
- (61) Other uses which, in the judgment of the planning commission, as evidenced by a resolution in writing, are similar to and no more objectionable than any of the uses set forth in this section.

**Section 13. CEQA.** This ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines §§ 15060(c)(2), 15060(c)(3), 15061(b)(3) and 15378(b)(4). 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. Further the City previously approved Ordinance No. 974-2021 on June 7, 2021 and that Ordinance was exempt from CEQA under Business and Professions Code section 26055(h) which exempts from CEQA review the adoption of an ordinance, rule, or regulation, by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. This Ordinance now acts to amend the Barstow Municipal Code as to procedural requirements.

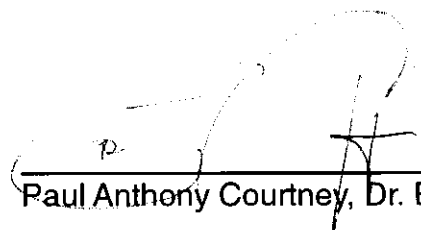
**Section 14. Severability.** Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

**Section 15. Effective Date.** This Ordinance shall take effect thirty days after adoption as provided by Government Code Section 36937.

**Section 16. Construction.** To the extent the provisions of the Barstow Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as it read prior to the adoption of this ordinance, they shall be read as continuations of those earlier provisions and not as new enactments.

**Section 17. Certification.** The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code Section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting of the entire text.

**PASSED, APPROVED AND ADOPTED** this 4th day of October, 2021.

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

ATTEST:

  
Andrea Flores, City Clerk



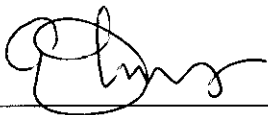
I, Andrea Flores, City Clerk for the City of Barstow, California, and ex-officio Clerk of the City Council, do hereby certify under penalty of perjury that the foregoing is a true and correct copy of Ordinance No. 977-2021, which was introduced at a special meeting of the City Council of the City of Barstow held on the 16<sup>th</sup> day of September, 2021, and adopted at the regular meeting of the City Council of the City of Barstow on the 4<sup>th</sup> day of October 2021, by the following vote:

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

NOES: COUNCIL MEMBE ROSE

ABSTAIN: NONE

ABSENT: NONE

A handwritten signature in black ink, appearing to read 'A. Flores', is written over a horizontal line.

Andrea Flores, City Clerk



**City of Barstow  
California**

Approved  
Oct 4, 2021 6:00 PM

**Agenda Item  
4819**

**Adoption of Ordinance No. 977-2021 Amending Sections 19.16.030, 19.18.030, 19.27.040, 19.27.060, 19.27.070, 19.27.080, 19.27.090, 19.27.100, 19.27.110, 19.27.120, 19.27.140, 19.27.160, and 19.27.170 of the Barstow Municipal Code**

Information

<b>Department:</b>	City Manager Department	<b>Sponsors:</b>
<b>Category:</b>	Ordinance	

Attachments

Printout  
Cannabis Land Use Ordinance No. 977-2021  
(Upload New Attachment)

Fiscal Impact

NONE

Executive Summary

Staff recommends the City Council adopt Ordinance No. 977-2021 to approve amendments to the Barstow Municipal Code regarding cannabis businesses in the City.

Discussion

On November 8, 2016, the Control, Regulate, & Tax Adult Use of Marijuana Act ("AUMA") was approved by California voters via Proposition 64. The AUMA permits local jurisdictions to regulate and/or ban adult use cannabis cultivation, distribution and delivery, transportation, manufacturing, testing laboratories, dispensaries, and microbusiness facilities.

The State legislature passed the Medicinal and Adult Use Cannabis Regulation & Safety Act ("MAUCRSA"), which created a comprehensive state licensing and regulatory framework for the cultivation, manufacturing, testing laboratories, distribution, retail (storefront and non-storefront), and microbusinesses of both adult and medicinal use of cannabis. The State then developed the Bureau of Cannabis Control under the Department of Consumer Affairs. The Bureau, together with the Department of Food & Agriculture and the Department of Public Health, have written and adopted regulations for all of the license types identified in MAUCRSA and AUMA. The state has further acted to combine all state cannabis regulatory functions into a unified Department of Cannabis Control.

In June 2021, the City Council passed Ordinance No. 974-2021 which added Chapter 19.27 to the Barstow Municipal Code to permit commercial cannabis activities in the City. The original cannabis ordinance, which was proceeded by first reading and introduction on May 17, 2021, went into effect on July 7, 2021. The Planning Commission then considered the Ordinance and recommended approval of Ordinance No. 977-2021 amending sections 19.16.030, 19.18.030, 19.27.040, 19.27.060, 19.27.070, 19.27.080, 19.27.090, 19.27.100, 19.27.110,

19.27.120, 19.27.140, 19.27.160, and 19.27.170 of the Barstow Municipal Code.

On September 16, 2021, the Council introduced the revised Ordinance, with one change to delete an option for not completing a background check on all applicants. At that meeting, the Council also adopted two resolutions. The first adopted resolution approved zoning maps depicting allowed uses for cannabis facilities in certain designated portions of the industrial and commercial zones. The second adopted resolution approved a policy for the consideration of applications for cannabis businesses and approval of cannabis permits. Staff recommends that the City Council adopt Ordinance No. 977-2021, adopting amendments to the City's cannabis regulatory program ordinance.


#### *Next Steps if Approved*

Staff proposes, if the Council adopts the ordinance, then staff will complete a fee study and return to Council with proposed cannabis permit application and renewal fees. Staff will also complete and issue the application form, operating and security regulations, and design guidelines. Last, staff will complete a template Development Agreement to serve as a model for each proposed permittee's development agreement to come to the Planning Commission for recommendation and Council for approval.

## Recommended Action

Staff recommends the City Council adopt Ordinance No. 977-2021 to approve amendments to the Barstow Municipal Code regarding cannabis businesses in the City.

## Meeting History

<b>Oct 4, 2021 6:00 PM Video</b>	<b>City Council</b>	<b>Joint Special Council/BFPD</b>	 <b>Draft</b>
CARMEN HERNANDEZ, BARSTOW, CALIFORNIA			
- Asked if the application would be brought before the Council before approving.			
ET SNELL, NEWBERRY SPRINGS, CALIFORNIA			
- Asked that the City support veterans with commercial cannabis activity.			
MIKE HERNANDEZ, BARSTOW, CALIFORNIA			
- Asked if the public would be able to attend meetings regarding commercial cannabis.			
<b>RESULT:</b>	<b>APPROVED [4 TO 1]</b>		
<b>MOVER:</b>	Timothy Silva, Council Member		
<b>SECONDER:</b>	Paul Anthony Courtney, Mayor		
<b>AYES:</b>	James M. Noble, Marilyn Dyer Kruse, Paul Anthony Courtney, Timothy Silva		
<b>NAYS:</b>	Barbara Mae Rose		