

ORDINANCE NO. 964-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BARSTOW, CALIFORNIA AMENDING CHAPTER 15.08 (BUILDING CODES), ADOPTING BY REFERENCE AND AMENDING THE 2019 EDITION OF THE CALIFORNIA BUILDING STANDARDS CODE

WHEREAS, the City Council of the City of Barstow does hereby find that there is a need to enforce the most current editions of the California Building Standards Code, with local amendments thereof, as recited herein for regulating and controlling the design, erection, construction, enlargement, installation, alteration, repair, relocation, removal, use and occupancy, demolition, conversion, height and area, location and maintenance, and quality of materials of all buildings and structures and plumbing, mechanical, electrical and fire suppression systems and certain equipment within the City;

WHEREAS, pursuant to sections 17922, 17958, 17958.5 and 17958.7 of the California Health & Safety Code, the City may adopt the provisions of the California Building, Plumbing, Mechanical and Electric Codes, with certain amendments to the provisions of the codes which are reasonably necessary to protect the health, wealth and safety of citizens of Barstow because of local climatic, geological and/or topographical conditions;

WHEREAS, the City Council does hereby further find that in accordance with section 15061(b)(3) of the California Code of Regulations, the adoption of local amendments to the California Building Standards Code, and amending the Barstow Municipal Code are exempt from the provisions of the California Environmental Quality Act, because these changes are administrative in nature, and any environmental effects would be speculative at best.

THE CITY COUNCIL OF THE CITY OF BARSTOW DOES ORDAIN AS FOLLOWS:

Section 1. Municipal Code Amendment: Building Standards Code.

The following sections of Chapter 15.08 of the Municipal Code, entitled "Building Codes", are amended to read as follows:

15.8.10 – Codes Adopted

The following codes, including their appendices unless otherwise provided, (hereinafter collectively referred to as the "codes") are adopted for the purpose of regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all building or structures; regulating the design, construction, quality of materials erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of heating, ventilation, cooling, refrigeration systems, incinerators or other miscellaneous heat-producing appliances and plumbing systems in the city; providing for the issuance of permits and collection of fees therefor; and providing for penalties for the violation thereof. A copy of each of the codes has been filed, and shall remain on file, in the office of the city building official for public inspection, and the codes are adopted with the same full force and effect as though set out herein. The City adopts the following Codes by this reference, as amended by this Chapter:

- A. The California Standards Administrative Code, 2019 Edition (Part 1, Title 24, California Code of Regulations);
- B. The California Building Code, 2019 Edition (Part 2, Title 24, California Code of Regulations) (but only Appendices B, C, F, G, H, I, J);
- C. The California Residential Code, 2019 Edition (Part 2.5, Title 24, California Code of Regulations) (but only appendices A, B, C, D, E, G, H, I, J, K, N, O, P, Q);
- D. The California Electrical Code, 2019 Edition (Part 3, Title 24, California Code of Regulations);
- E. The California Mechanical Code, 2019 Edition (Part 4, Title 24, California Code of Regulations);
- F. The California Plumbing Code, 2019 Edition (Part 5, Title 24, California Code of Regulations);
- G. The California Energy Code, 2019 Edition (Part 6, Title 24, California Code of Regulations);
- H. The California Historical Building Code, 2019 Edition (Part 8, Title 24, California Code of Regulations);
- I. The California Existing Building Code, 2019 Edition (Part 10, Title 24, California Code of Regulations);
- J. The California Green Building Standards Code, 2019 Edition (Part 11, California Code of Regulations), (excluding Appendix Chapters A4 and A5);
- K. The California Referenced Standards Code, 2019 Edition (Part 12, Title 24, California Code of Regulations);
- L. The Uniform Administrative Code, 1997 Edition (Chapter 3 – Permits and Inspections)

15.8.20 – Building Code Amendments

- A. Chapter 1, Section 109.2 of the California Building Code is amended to read as

follow: Section 109.2.1 - Exemption

The City, County, State, Federal Government, School Districts and Barstow Fire Protection District are exempt from paying fees.

- B. Sections 105.2 and 105.2.4 of the California Building Code are amended to read:

Block walls (garden walls) that are not over 3 feet in height measured from the top of footing to the top of the wall.

Retaining walls of any height require a building permit.

15.8.30 – Green Building Code Amendments

- A. Section 305 of the Green Building Standards Code is deleted in its entirety.
- B. Section 306 of the Green Building Standards Code is deleted in its entirety.
- C. Section 4.408.2 of the Green Building Standards Code is amended by adding Section

4.408.2(6) – Waste Management Plan Application and shall read as follows:

Section 4.408.2(6) – Waste Management Plan Application

A Waste Management Plan Application from the City of Barstow shall be completed with each applicable building permit application.

- D. Chapters A4 and A5 of the Appendix to the Green Building Standards Code are deleted in their entirety.

15.8.40 – Residential Building Code Amendments

- A. A new section AG101.1.1 is hereby added to Appendix Chapter G (Swimming Pools, Spas and Hot Tubs) of the Residential Building Code and shall read as follows:

Section AG101.1.1 – Swimming Pools, Spas and Hot Tubs

1. Equipment shall be so installed as to provide ready accessibility for cleaning, operating maintenance, and servicing.
2. Any swimming pool constructed after the effective date of the requirements set forth in this section shall be constructed so that there are at least five feet between the swimming pool and:
 - a) the main building
 - b) any lot line
 - c) any building (including auxiliary buildings) unless the swimming pool is specially designed to maintain the structural integrity of the buildings or structure involved, even though they are within 5 feet of the pool.
3. The owner of any swimming pool may request approval of modifications or variances from the fencing requirement by submitting to the Building Official written application, setting forth a description of the pool and an alternate safeguard or condition of the site by which entry into the swimming pool may be restricted or prevented. The Building Official may approve such alternate safeguard or obstruction upon finding that one of the following conditions exists:
 - a) That the physical conditions of the site would make the erection of a fence or wall impractical or purposeless;
 - b) That the proposed limitation of access or conditions of control thereof which would be continuously effective would accomplish the intent of the enclosure requirements; or
 - c) That the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the enclosure and/or safety features, which are required by the code.”

- B. Section AG105.2.1 (Barrier Requirements) of Appendix Chapter G (Swimming Pools, Spas and Hot Tubs) of the Residential Building Code is amended as follows:

The top of the barrier is to be 60 inches above grade. The remainder of the section remains the same.

15.8.50 – Violations and Penalties

- A. No person, firm or corporation shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish equip. use, occupy or maintain any building or structure, plumbing or mechanical systems or equipment, or cause or permit the same to be done, in violation of the codes. Each such person, firm or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of the codes is committed, contained or permitted.
- B. No person, firm or corporation shall remove, deface, alter or obstruct from view a posted notice of the building official, or his or her authorized representative, when such notice constitutes a stop work order or a warning of substandard or hazardous conditions or prohibits or restricts the occupancy or use of any building or structure, plumbing or mechanical systems or equipment regulated by the codes.
- C. Every violation of the codes shall be deemed a misdemeanor, punishable as set forth in Section 1.01.110 of this code.

Section 2. Findings. The City Council hereby makes the findings set forth in Exhibit 1 as if fully set forth herein, and finds that the changes to the Building Standards Code are reasonably necessary for the health, safety, and general welfare of the residents of the City due to the reasons set forth therein.

Section 3. Continuations of Provisions. 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 they existed prior to the adoption of this Ordinance, those provisions shall be construed as continuations of, and not amendments of, the earlier provisions.

Section 4. Severability. If any provision, section, paragraph, sentence or word of this Ordinance, or the application thereof to any person or circumstance, is rendered or declared invalid by any court of competent jurisdiction, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance, and their application to other persons or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this Ordinance are severable.

Section 5. References in Documents and Continuing Legal Effect. References to prior versions of any portion of the Building Standards Code, or of the Barstow Municipal Code that are amended or renumbered in this Municipal Code, that are cited on notices issued by the City or other documents of ongoing or continuing legal effect, including resolutions adopting or imposing fees or charges, until converted, are deemed to be references to the new counterpart part of the Building Standards Code or amended Municipal Code sections for the purposes of notice and enforcement. The provisions adopted hereby shall not in any manner affect deposits, established fees or other matters of record which refer to, or are otherwise connected with, ordinances which are specifically designated by number, code section or otherwise, but such references shall be deemed to apply to the corresponding provisions set forth in the code sections adopted or amended hereby.

Section 6. No Effect on Enforceability. The repeal of any sections of the Municipal Code, shall not affect or impair any act done, or right vested or approved, or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act, vested right, proceeding, suit, or prosecution shall remain in full force and effect for all purposes as if the applicable provisions of the Municipal Code, or part thereof, had remained in force and effect. No offense committed and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the repeal or alteration of any applicable provision of the 2016 Code as amended, shall be discharged or affected by such repeal or alteration but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceed in all respects as if the applicable provisions of the 2016 Code, as amended, had not been repealed or altered.

Section 7. CEQA. This Ordinance is exempt from the California Environmental Quality Act pursuant to State Guidelines §15061 (b) (3) as a project that has no potential for causing a significant effect on the environment.

Section 8. Certification by Clerk. The City Clerk shall cause this Ordinance to be published in accordance with California Government Code Section 36933, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and her certification, together with proof of publication, to be entered in the Book of Ordinances of the City Council.

Section 9. Filing with Building Standards Commission. The City Clerk shall file a certified copy of this Ordinance with the California Building Standards Commission.

Section 10. Effective Date. This Ordinance shall become effective on the 31st day following adoption.

PASSED, APPROVED AND ADOPTED, this 2nd day of December, 2019.

Julie Hackbarth-McIntyre, Mayor

ATTEST:

JoAnne V. Cousino, City Clerk

I, JoAnne V. Cousino, City Clerk of the City of Barstow, California, do hereby certify that the foregoing Ordinance No. 964-2019 was introduced at a regular meeting of the City Council of the City of Barstow held on the 18th day of November, 2019 and was adopted at the regular meeting of the City Council of the City of Barstow on the 2nd day of December, 2019 by the following vote:

AYES: COUNCILMEMBER SILVA, COUNCILMEMBER NOBLE AND
MAYOR HACKBARTH-MCINTYRE

NOES: NONE

ABSENT: COUNCILMEMBER HARPOLE AND MAYOR PRO TEM
HERNANDEZ

ABSTAINED: NONE

JoAnne V. Cousino, City Clerk

EXHIBIT 1

2019 California Building Standards Code

FACTUAL FINDINGS ESTABLISHING THE REASONABLE NEED FOR LOCAL AMENDMENTS TO PORTIONS OF THE BUILDING STANDARDS CODE BASED UPON CLIMATIC, GEOLOGICAL AND/OR TOPOGRAPHICAL CONDITIONS OR ADMINISTRATIVE PROVISION

Section 1 of this Exhibit sets forth various findings that apply in Barstow, explaining the administrative provisions, various local climatic, geological and/or topographical conditions that necessitate the various changes.

Section 2 of this Exhibit explains which findings apply to which amendments.

In some cases, the City has opted to make findings even though it is not legally required to do so. For example, if a change to a building standard is administrative in nature, then no finding is legally required. Likewise, if a proposal does not contradict a building standard, but merely supplements the standard, then the city need not make a finding. The city nevertheless has sometimes opted to make findings in such circumstances.

Section 1. General Findings

The following findings apply in the City of Barstow, and explain why the changes to the Building Standards Code are necessary because of climatic, geological, topographical or local administrative regulations in the city.

A. Climatic Conditions

The City of Barstow is in a desert climate, and as a result, residents with swimming pools and hot tubs are much more likely to utilize those pools throughout the year than people in other areas of the state, and the risks involved with owning and operating swimming pools and hot tubs are greatly exacerbated as a result.

B. Geologic Conditions

The sandy and caliche soils in Barstow less able to support structures than soils commonly found in the more populated and less arid areas of California. As a result, people unfamiliar with the special construction needs build retaining walls and fences that are unable to withstand the forces placed upon them, and are unsafe as a result. It is not uncommon for unpermitted retaining walls or fences to completely fall over, thus endangering the public health, safety and welfare.

C. Topographical Conditions

Because of the city's desert conditions, and the inability of the soil to quickly absorb even a moderate amount of rainfall, flash floods are common in the city. Flooding occurs a few times each year. Improperly designed pools can overflow, thereby exacerbating flooding damage.

D. Administrative Regulations

Local regulations necessary to carry out the application of the Barstow Municipal Code that do not establish building standards may be enacted without meeting the requirements of Health & Safety Code sections 18941.5, 17958, 17958.5 and 17958.7. Additional amendments have been made to Codes. Such amendments are hereby found to be either administrative or procedural in nature which do not impact the technical standards within the California Building Standards Codes or concern themselves with subjects which are not covered in such Codes. The changes made include provisions making each of said Codes compatible with other Codes and Ordinances enforced by the City.

E. Not Applicable (N/A). No findings need to be made, because the code section that is at issue does not amend any building standard.

Section 2. Which Findings Apply to Which Amendments

Amendments to the 2019 Edition of the California Codes are found reasonably necessary based on the climatic and/or geologic conditions cited in Section 1 of this ordinance.

Barstow Municipal Code Section	Applicable Finding
<i>Building Code</i>	
15.08.020.A	D
15.08.020.B	A,B,C
<i>Green Code</i>	
15.08.030	D,E
<i>Residential Code</i>	
15.08.040	A,B,C