

ORDINANCE NO. 5008

ORDINANCE AMENDING TITLE 17 OF THE BAKERSFIELD MUNICIPAL CODE BY ADDING SECTIONS 17.10.025, 17.14.025, AND 17.16.025; AND AMENDING SECTIONS 17.08.040, 17.08.050, 17.18.025, 17.20.040, 17.22.040, 17.24.040, 17.25.040, 17.26.040, 17.28.020, 17.28.030, AND 17.30.020 RELATED TO A DETERMINATION OF USES NOT LISTED IN THE ZONING ORDINANCE.

BE IT ORDAINED by the Council of the City of Bakersfield as follows:

SECTION 1.

Section 17.08.040 of the Bakersfield Municipal Code is hereby amended to read as follows:

17.08.040. Determination of Use.

- A. Uses permitted other than those specifically mentioned in this title as: (a) uses permitted; (b) uses permitted subject to a director review and approval; or (c) uses permitted subject to the approval of a conditional use permit, in each of the zone districts may be permitted therein subject to the approval of a Determination of Use.
- B. Determination of Use in this section refers to establishing whether a use that is not included in the applicable Zone District use schedule and is not reasonably similar to uses identified within the applicable use schedule can be allowed nonetheless. In such cases, an applicant shall submit an application for Determination of Use to the Planning Department for processing, which will be referred to the Planning Commission for review and approval.
- C. The applicant shall submit a completed application form, a completed operational statement, pay a fee as determined by the Council, and such information necessary to discern the exact nature and extent of the requested use as may be required by the Planning Director.
- D. The Planning Department shall schedule the request for Determination of Use to the next available regular meeting of the Planning Commission for public hearing.
- E. The decision on the Determination of Use shall provide the applicant with a written explanation, that includes, at a minimum;

1. A definition of the proposed use, which may include edit of or insertion into previously existing definitions, and;
2. A classification of the use within the use schedule of the Zoning Ordinance for all applicable Zone Districts; and
3. The classification of the use which can be determined to be a prohibited use, a permitted use, a permitted use subject to a director's review and approval, and/or a permitted use subject to the approval of a conditional use permit; and
4. In all cases where a use is permitted to be established, the Planning Commission must make the findings that the Determination of Use is:
 - a. Consistent with the purpose and intent of the zone district(s) and underlying General Plan land use designation(s) as assigned, and;
 - b. Not more detrimental to the public peace, health, safety or welfare of the community than the permitted or conditionally permitted uses specifically mentioned for the respective zone(s), and;
 - c. Similar to and compatible with other uses allowed or conditionally allowed in the designated zone district(s).

F. The Determination of Use may require:

1. Additional entitlements be approved prior to the establishment of the use; and/or
2. Operational limits to the use; and/or
3. Development requirements to the use as a component of those entitlements.

G. The Planning Director shall cause a list of such determinations and entitlements to be maintained and shall periodically initiate an amendment to the Zoning Ordinance to incorporate such changes into the Zoning Ordinance.

H. Determination of Use shall be processed in accordance with public hearing procedures established by Section 17.64.050 and be subject to the findings required by Subsection 17.08.040(E)(4).

I. The decision of the Planning Commission may be appealed to the City

Council consistent with Section 17.064.090.

SECTION 2.

Section 17.08.050 of the Bakersfield Municipal Code is hereby amended to read as follows:

17.08.050. Prohibited Uses.

- A. The following uses are specifically prohibited within any zone district:
1. Medical marijuana dispensary.
 2. Commercial cannabis activity.
- B. Other uses may also be prohibited, provided such uses are, in the opinion of the Planning Commission, more detrimental to the public peace, health, safety or welfare of the community than the uses specifically mentioned for respective zone(s).

SECTION 3.

Section 17.10.025 of the Bakersfield Municipal Code is hereby enacted to read as follows:

17.10.025 Uses permitted only by conditional use permit.

- A. The following uses are permitted in an R-1 zone only with the approval of a conditional use permit issued in accordance with the procedures provided in Chapter 17.64 of this title.
1. Roominghouse.

SECTION 4.

Section 17.14.025 of the Bakersfield Municipal Code is hereby enacted to read as follows:

17.14.025 Uses permitted only by conditional use permit.

- A. The following uses are permitted in an R-2 zone only with the approval of a conditional use permit issued in accordance with the procedures provided in Chapter 17.64 of this title.

1. Roominghouse.

SECTION 5.

Section 17.16.025 of the Bakersfield Municipal Code is hereby enacted to read as follows:

17.16.025 Uses permitted only by conditional use permit.

A. The following uses are permitted in an R-3 zone only with the approval of a conditional use permit issued in accordance with the procedures provided in Chapter 17.64 of this title.

1. Roominghouse.

SECTION 5.

Section 17.18.025 of the Bakersfield Municipal Code is hereby amended to read as follows:

17.18.025 Uses permitted only by conditional use permit

A. The following uses are permitted in an R-4 zone only with the approval of a conditional use permit issued in accordance with the procedures provided in Chapter 17.64 of this title:

1. Certified farmers markets;
2. Food and/or shelter service as defined in Section 17.04.285;
3. Residential facilities housing seven or more juveniles or adults in custody or court-ordered living restrictions for violations of local, state and federal law, including, but not limited to, halfway houses and detention centers

SECTION 6.

Section 17.20.040 of the Bakersfield Municipal Code is hereby amended to read as follows:

17.20.40 Uses permitted only by conditional use permit.

A. The following uses are permitted in a C-O zone only with the approval of a conditional use permit issued in accordance with the procedures provided in Chapter 17.64 of this title:

1. Bail bond services;
2. Body art establishment;
3. Garment cleaning, pressing, alteration and repair;
4. Hair styling shop and beauty salon, including tanning salons;
5. Photocopying and duplicating services;
6. Recycling centers, as defined by Public Resources Code Section 14520, that are within a convenience zone, as defined by Public Resources Code Section 14509.4;
7. Scientific research and testing services;
8. Vocational and specialized schools providing technical and cultural training;
9. Veterinary services.

SECTION 7.

Section 17.22.040 of the Bakersfield Municipal Code is hereby amended to read as follows:

17.22.040 Uses permitted only by conditional use permit.

A. The following uses are permitted in a C-1 zone only with the approval of a conditional use permit issued in accordance with the procedures provided in Chapter 17.64 of this title:

1. Adult day care;
2. Any use listed in the uses permitted section in the R-1, R-2, R-3 and R-4 zones;
3. Assisted living facility;
4. Automobile accessory or parts store, including stereo, phone, upholstery, and tires;

5. Automobile tuneup specialty shops providing electrical and carburetor tuneup services and related work, when not done as a part of, or incidental to, the operation of an automobile service station;

6. Banquet venue;

7. Carwashes, including detailing;

8. Food and/or shelter service as defined in Section 17.04.285;

9. Funeral services, including a crematory provided it is incidental to the main use;

10. Hotels and motels;

11. Kennels;

12. Mobilehome or travel trailer parks;

13. Movie theater serving alcohol;

14. Nurseries, lawn and garden supplies;

15. Recycling centers, as defined by Public Resources Code Section 14520, that are within a convenience zone, as defined by Public Resources Code Section 14509.4;

16. Restaurant and related eating places with on-site alcohol sales, entertainment or drive-through services;

17. Scientific research and testing services;

18. Small appliance and electronic goods repair;

19. Theater, cinemas;

20. Trade, vocational or specialized schools.

SECTION 8.

Section 17.24.040 of the Bakersfield Municipal Code is hereby amended to read as follows:

17.24.040 Uses permitted only by conditional use permit.

A. The following uses are permitted in a C-2 zone only with the approval of a conditional use permit issued in accordance with the procedures provided in Chapter 17.64 of this title:

1. Adult day care;
2. Amusement parks, including miniature golf, water parks, batting cages and miniature car tracks;
3. Any use listed in the uses permitted section in the R-1, R-2, R-3 and R-4 zones;
4. Assisted living facility;
5. Automobile body and fender repair and painting;
6. Automobile machine shops;
7. Banquet venue;
8. Bars, cocktail lounges or other establishments selling alcoholic beverages for on-site consumption where said use is the primary business;
9. Boat and recreational vehicle dealership, new and used;
10. Bus, train and other transit stations;
11. Food and/or shelter service as defined in Section 17.04.285;
12. Golf driving ranges;
13. Helipad (in conjunction with a hospital);
14. Kennels;
15. Mobile home or travel trailer park;
16. Mobile home sales, new and used;
17. Movie theater serving alcohol;
18. Pest control services;

19. Recycling centers, as defined by Public Resources Code Section 14520, that are within a convenience zone, as defined by Public Resources Code Section 14509.4;

20. Scientific research and testing services;

21. Swap meet, flea markets and auction yards;

22. Tool, equipment and utility trailer rental establishments;

23. Warehouses.

SECTION 9.

Section 17.25.040 of the Bakersfield Municipal Code is hereby amended to read as follows:

17.25.040 Uses permitted only by conditional use permit.

A. The following uses are permitted in a C-B zone only with the approval of a conditional use permit issued in accordance with the procedures provided in Chapter 17.64 of this title:

1. Adult day care;

2. Any residential use that is located on the first or ground floor;

3. Banquet venue;

4. Food and/or shelter service as defined in Section 17.04.285;

5. Movie theater serving alcohol;

6. Recycling centers, as defined by Public Resources Code Section 14520, that are within a convenience zone, as defined by Public Resources Code Section 14509.4;

7. Scientific research and testing services;

8. Swap meets, flea markets and auction houses.

SECTION 10.

Section 17.26.040 of the Bakersfield Municipal Code is hereby amended to read as follows:

17.26.040 Uses permitted subject to conditional use permit.

A. The following uses are permitted in a C-C zone only with the approval of a conditional use permit issued in accordance with the procedures provided in Chapter 17.64 of this title:

1. Adult day care;
2. Assisted living facility;
3. Banquet venue;
4. Bars, nightclubs, cabarets, cocktail lounges or other establishments selling alcoholic beverages for on-site consumption where such use, including entertainment, is the primary business;
5. Food and/or shelter services as defined in Section 17.04.285;
6. Kennels;
7. Movie theater serving alcohol;
8. Recycling centers, as defined by Public Resources Code Section 14520, that are within a convenience zone, as defined by Public Resources Code Section 14509.4;
9. Scientific research and testing services;
10. Swap meets, flea markets and auction houses;
11. Single-family dwelling that is not accessory to a commercial use.

SECTION 11.

Section 17.28.020 of the Bakersfield Municipal Code is hereby amended to read as follows:

17.28.020 Uses permitted.

The following uses are permitted in a M-1 zone:

A. Any use permitted in the C-O, C-1 and C-2 zones; provided however, that no building shall be used as a dwelling except accessory buildings which are incidental to the permitted use of the land, and that no building shall have a dwelling unit except when such use as a dwelling unit is incidental to the primary use of the building.

B. Any use specified below, provided such use does not produce, cause or emit any fumes, odor, dust, smoke, gas, noise or vibration detrimentally impacting neighboring property and the occupants thereof. Where adopted city or other public agency standards are applicable and available to measure such impacts, such standards shall be used to determine whether a use constitutes or will constitute such a detrimental impact.

1. Adult day care;
2. Adult entertainment establishments as defined in Section 17.69.020 and subject to the regulations of Chapter 17.69.
3. Animal hospitals, kennels and veterinaries,
4. Automobile and light truck, two-axle vehicles, parking and storage,
5. Automobile assembling, body and fender works, painting, upholstering, dismantling and used parts storage, when operated or maintained wholly within a building,
6. Bakeries,
7. Banquet venue.
8. Boat buildings,
9. Bottling plant,
10. Building materials storage yards,
11. Cabinet or carpenter shop,
12. Carpet, awning, blinds, mattress or upholstery shops, including cleaning and repair,
13. Concrete batch plants, portable, not to exceed two-yard capacity,
14. Contractor's plants and storage yards,

15. Distributing plants,
16. Electric welding and electroplating,
17. Frozen food lockers,
18. Furniture and automobile upholstery operations not confined wholly to a building,
19. Ice and cold storage plants,
20. Laboratories, experimental research and testing,
21. Laundries, cleaning and dyeing plants,
22. Lumberyards,
23. Machine shops (except punch presses of over twenty tons rated capacity, drop hammers and automatic screw machines),
24. Paint mixing plants (not employing a boiling process),
25. Public utilities service yards, power plants or distributing stations,
26. Rubber fabrication or products made from finished rubber,
27. Sheet metal shops,
28. Stone monument works,
29. Storage spaces for transit and transportation equipment,
30. Tool rental and equipment,
31. Truck repairing and overhauling shops,
32. Welding, metal fabricating and blacksmith shops,
33. Wholesale businesses, storage buildings and warehouses,
34. Manufacturer of:
 - a. Arts and crafts,

- b. Billboards and advertising structures, electric neon signs,
- c. Ceramic products,
- d. Clothing or garments,
- e. Cosmetics, perfumes and toiletries, drugs and pharmaceuticals,
- f. Electronic instruments and devices, radios, televisions, phonographs and business machines,
- g. Food products (except the rendering or refining of fats or oils),
- h. Furniture,
- i. Musical instruments and toys,
- j. Prefabricated buildings,
- k. Shoes,
- l. Soap (cold mix only),
- m. Textiles. Manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metals or stones, shell, textiles, tobacco, wood, yards and paint, not employing a boiling process;

C. The accessory buildings or structures necessary to such use located on the same lot or parcel of land.

D. The Bakersfield Airpark provides an expanded airport/aircraft landing field for recreation, agricultural, and commercial/industrial uses. Therefore, in addition to the uses allowed in this section, the following additional uses are permitted within the Bakersfield Airpark property:

1. Agricultural crop dusting services and related chemical storage;
2. Aircraft rental;

3. Aircraft repair and maintenance;
4. Aircraft runways and landing fields;
5. Aviation related businesses;
6. Aviation fuel sales;
7. Aviation related manufacturing;
8. Flight training schools;
9. Freight and package delivery services;
10. Hangers and aircraft tie-downs.

SECTION 12.

Section 17.28.030 of the Bakersfield Municipal Code is hereby amended to read as follows:

17.28.030 Uses permitted only by conditional use permit.

A. The following uses are permitted in the M-1 zone only with the approval of a conditional use permit issued in accordance with the procedures provided in Chapter 17.64 of this title:

1. Agricultural packing plants;
2. Aircraft and automobile factories;
3. Automobile parts manufacturer;
4. Battery manufacturer;
5. Breweries or distilleries, large;
6. Clinics, hospitals, sanitariums or other buildings for contagious, mental, drug or liquor addiction cases;
7. Equestrian establishments, stables, riding academies, schools or amusements;
8. Food and/or shelter service as defined in Section 17.04.285;

9. Freighting or trucking yards or terminals;
10. Helipad (in conjunction with a hospital);
11. Livestock slaughtering and processing, wholly within a building;
12. Machine shops, including punch presses and automatic screw machines;
13. Movie theater serving alcohol;
14. Planing mills;
15. Recycling centers, as defined by Public Resources Code Section 14520, that are within a convenience zone, as defined by Public Resources Code Section 14509.4;
16. Residential dwellings;
17. Tire rebuilding, recapping and retreading plants;
18. Truck stop.

SECTION 13.

Section 17.30.020 of the Bakersfield Municipal Code is hereby amended to read as follows:

17.30.020 Uses permitted.

The following uses are permitted in an M-2 zone:

- A. Any use permitted in the M-1 zone; provided, however, that no building shall be used as a dwelling except accessory buildings which are incidental to the permitted use of the land, and that no building shall have a dwelling unit except when such use as a dwelling unit is incidental to the primary use of the building;
- B. Any of the following uses:
 1. Acetylene gas manufacture or storage;
 2. Adult entertainment establishments as defined in Section 17.69.020 and subject to the regulations of Chapter 17.69;

3. Aircraft and automobile factories;
4. Agricultural packing plants (vegetables and fruits);
5. Alcohol and alcoholic beverages manufacture;
6. Ammonia, chlorine and bleaching powder manufacture;
7. Automobile and truck manufacture;
8. Automobile and truck parts manufacturer;
9. Bag cleaning;
10. Battery manufacturer;
11. Blast furnaces;
12. Boiler or tank works;
13. Breweries or distilleries, large;
14. Brick, tile or terra cotta products manufacture;
15. Building materials manufacture;
16. Carpet and rug manufacture;
17. Cement and lime manufacturing when the manufacturing plant is equipped capable of collecting at least ninety-seven percent of all particulate matter from kiln gases;
18. Clay product manufacture;
19. Coke ovens;
20. Cotton gins or oil mills;
21. Creameries;
22. Crematories;
23. Creosote treatment or manufacture;

24. Disinfectant manufacture;
25. Distillation of coal, wood or tar;
26. Dyestuffs manufacture;
27. Exterminator or insect poison manufacture;
28. Feed, flour and grains mills;
29. Firearms manufacture;
30. Food and/or shelter service as defined in Section 17.04.285;
31. Forge plants;
32. Freighting and trucking yards and terminals;
33. Freight classification yards;
34. Glass and glass product manufacture;
35. Grain elevator;
36. Helipad (in conjunction with a hospital);
37. Iron, steel, brass or copper foundries or fabrication plants, and heavy weight casting;
38. Lamp black manufacture;
39. Linoleum or oiled products manufacture;
40. Machine shops including punch presses and automatic screw machines;
41. Metal container manufacturer;
42. Ore reduction;
43. Paint, oil, shellac, turpentine or varnish manufacture;
44. Paper or pulp manufacture;

45. Petroleum refining and reclaiming plants;
46. Planing mills;
47. Plastic manufacture;
48. Potash works;
49. Railroad roundhouses and repair shops;
50. Rolling mills;
51. Rubber processing and manufacture;
52. Sawmills;
53. Soap manufacture;
54. Sodium compounds manufacture;
55. Starch manufacture;
56. Tar roofing or waterproofing or other tar products manufacture;
57. Tire rebuilding, recapping, and retreading plants;
58. Truck stop.


C. The accessory buildings or structures necessary to such use located on the same lot or parcel of land.

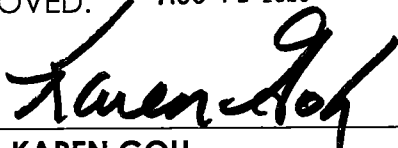
This Ordinance shall be posted in accordance with the provisions of the Bakersfield Municipal Code and shall become effective thirty (30) days from and after the date of its passage.


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I **HEREBY CERTIFY** that the foregoing Ordinance was passed and adopted, by the Council of the City of Bakersfield at a regular meeting thereof held on AUG 12 2020 by the following vote:

<u>AYES:</u>	COUNCILMEMBER: RIVERA, GONZALES, WEIR, SMITH, FREEMAN, SULLIVAN, PARLIER
NOES:	COUNCILMEMBER: <u>NONE</u>
ABSTAIN:	COUNCILMEMBER: <u>NONE</u>
<u>ABSENT:</u>	COUNCILMEMBER: <u>PARLIER</u>


JULIE DRIMAKIS, CMC
CITY CLERK and Ex Officio Clerk of the
Council of the City of Bakersfield

APPROVED: AUG 12 2020
By: 
KAREN GOH
Mayor

APPROVED AS TO FORM:
VIRGINIA GENNARO
City Attorney
By: 
VIRIDIANA GALLARDO-KING
Deputy City Attorney

AFFIDAVIT OF POSTING DOCUMENTS

STATE OF CALIFORNIA)
County of Kern) ss.

JULIE DRIMAKIS, being duly sworn, deposes and says:

That she is the duly appointed, acting and qualified City Clerk of the City of Bakersfield; and that on the 17th day of August, 2020 she posted on the Bulletin Board at City Hall, a full, true and correct copy of the following: Ordinance No. 5008, passed by the Bakersfield City Council at a meeting held on the 12th day of August, 2020 and entitled:

ORDINANCE AMENDING TITLE 17 OF THE BAKERSFIELD MUNICIPAL CODE BY ADDING SECTIONS 17.10.025, 17.14.025, AND 17.16.025; AND AMENDING SECTIONS 17.08.040, 17.08.050, 17.18.025, 17.20.040, 17.22.040, 17.24.040, 17.25.040, 17.26.040, 17.28.020, 17.28.030, AND 17.30.020 RELATED TO A DETERMINATION OF USES NOT LISTED IN THE ZONING ORDINANCE.

JULIE DRIMAKIS, CMC
City Clerk and Ex Officio of the
Council of the City of Bakersfield

By: *Kristin Muir*
DEPUTY City Clerk