

AN
ORDINANCE

of the City Council of the City of Berkley, Michigan to Amend Article 2 Definitions, Article 6 Site Design Based Districts, Article 9 General Provisions, Article 11 Sign Regulations, Article 14 Off-Street Parking, Loading and Access Standards and Article 15 Site Plan Review Procedures and Requirements of Chapter 138 Zoning of the Berkley Code of Ordinances to add definitions for business services and live/work units, to clarify site area governs site layout and clarify what is treated as a zoning lot, to clarify the reviewer for fences and requirements for landscape treatments, to allow ground-mounted solar energy systems in residential districts, to clarify regulations for residential driveways, to modify the width requirements for attached garages, to clarify regulations for detached accessory buildings and swimming pools, to clarify regulations for window signs and temporary signs, to clarify clear vision zone requirements, to add regulations for areas of residential parking and recreational vehicles, to clarify requirements for where on-street parking may be counted as individual business parking and to clarify requirements and procedures for pre-application, special land use and preliminary site plan review.

THE CITY OF

BERKLEY ORDAINS:

SECTION 1: Article 2 Definitions of the Berkley City Code is amended, as follows:

ARTICLE 2 DEFINITIONS

SECTION 2.01 [Unchanged]

SECTION 2.02 DEFINITIONS

Accessory building or accessory structure – Build-to-line: [Unchanged.]

Business Services: Establishments that provide services primarily to other businesses, rather than the general public.

Canopy – Light Trespass: [Unchanged.]

Live/work unit: A combined live/work space or an integrated living unit and working space with an internal connection between the living unit and working space.

Loading space – Tattoo Studio: [Unchanged.]

Temporary building and use: A structure or use permitted by the Community Development Director or their designee and/or the Building Official to exist during periods of construction of the main use or for special events.

Red, strikeout text is proposed to be deleted: ~~example~~

Blue underlined text is proposed to be inserted: example

A. *Carnivals: - Charities/Not-For-Profit Events:* [Unchanged.]

D. *Promotional Events and Sidewalk Display:* Sales or promotional exhibitions that display materials or include promotional activities that are otherwise prohibited by the City Code such as, but not limited to, grand opening or anniversary celebrations including outdoor activities and live music or outdoor sidewalk sales ~~utilize public sidewalk space, including benches and other street furnishings, to display materials related to the sale or promotion.~~

E. *Seasonal Sales:* [Unchanged.]

Tents: - Zoning Map: [Unchanged.]

SECTION 2: Article 6 Site Design Based Districts of the Berkley City Code is amended, as follows:

ARTICLE 6 SITE DESIGN BASED DISTRICTS

SECTION 6.01 PURPOSE AND INTENT

The Master Plan identified areas within the City that place greater emphasis on regulating site design and character of development as well as use and intensity of use. Within these areas, the City encourages development with a mix of uses, including public open space, in order to provide walkable development in a sustainable manner. The Site Design-Based Districts are intended to implement the vision, goals, and objectives of the Master Plan and any other applicable plans.

A. [Unchanged.]

B. ***Factors for regulation:*** Considering site context provides a customized approach to the inherent conditions of the areas where these regulations are applied. These regulations are based on two significant factors: site context and site layout.

1. ***Site context.*** Site context is derived from existing and desired characteristics, which include street types and site types.
 - a. Streets can be divided into various types, based on purpose and unique attributes.
 - b. Sites are divided into types based on characteristics including shape, size, and orientation. Site types are distinguished from one another by their site context, which includes size and configuration of the site, traffic patterns, location, existing land uses, and intensity of use. Total lot area governs site layout type.
2. ***Site layout.*** Site layout addresses the manner in which buildings and structures are situated on their lots, relate to surrounding buildings, and relate to street frontage. The shape of the building, the land area to volume ratio, and the orientation of the building have significant impacts on the general feel and character of an area. Site layout standards control height, placement, building configuration, parking location, and ground story activation applicable to the site context.
3. Regulations are tailored to meet a more specific intent of each district. These districts and intents are set forth elsewhere in this Article.

C. [Unchanged.]

Red, strikeout text is proposed to be deleted: ~~example~~

Blue underlined text is proposed to be inserted: example

SECTION 6.02 [Unchanged.]

SECTION 6.03 STANDARDS APPLICABLE TO ALL DISTRICTS.

A. – C. [Unchanged.]

D. **Lot Regulations.** The following regulations apply:

1. **Adjacent Lots under Common Ownership.** Lots under common ownership and with the identical site design zoning district designation may be treated as a single lot for the purposes of determining a street type or site type, when the lots meet one of the following criteria:

- a. Lots share a common boundary line;
- b. Lots share common boundary lines;
- c. Lots are separated by an alley.

Except in instances where lots are separated by an alley, when those lots are treated as a single lot they must be legally combined before a certificate of occupancy is issued.

2. **Lots with Multiple Street Frontages.** The controlling street type for a double frontage lot or a corner lot in a site design based district is as follows:

<u>Table 6.03D</u>		
<u>Type of Lot</u>	<u>Street Types</u>	<u>Controlling Street Type</u>
<u>Corner Lot</u>	<u>Corridor and Walkable Area</u>	<u>Walkable Area</u>
	<u>Corridor and Residential</u>	<u>Corridor</u>
	<u>Downtown and Residential</u>	<u>Downtown</u>
	<u>Walkable Area and Residential</u>	<u>Walkable Area</u>
<u>Through Lot</u>	<u>Walkable Area and Residential</u>	<u>Walkable Area</u>
	<u>Corridor and Residential</u>	<u>See Site Type Large in the RC District</u>

SECTION 6.04 RC – RESIDENTIAL CORRIDOR - SECTION 6.09 EXCEPTIONS AND WAIVERS
[Unchanged.]

SECTION 3: Article 9 General Provision of the Berkley City Code is amended, as follows:

ARTICLE 9 GENERAL PROVISIONS

SECTION 9.01 PURPOSE [Unchanged.]

SECTION 9.02 FENCES AND WALLS

Red, strikethrough text is proposed to be deleted: ~~example~~

Blue underlined text is proposed to be inserted: example

A. – B. [Unchanged.]

C. ***Requirements for Residential Districts.***

1. – 3. [Unchanged.]

4. Landscape treatments which fall within the front yard or the exterior side yard and which are parallel to, or are placed along, a lot line are limited as follows:

a. Setback of not less than two feet when adjacent to an adjoining parcel owner's driveway.

b. Placement on the parcel line or setback at least twelve inches from the sidewalk, whichever is greater.

c. The aggregate of landscape treatments cannot exceed twelve feet.

d. Compliance with the clear vision requirements of Section 14.03.

5. – 11. [Unchanged.]

12. Any fence or landscape treatment erected within ten feet of a driveway or public right-of-way intersection must permit a motorist an unobstructed view of the public right-of-way when exiting a driveway. The sidewalk must be visible for a distance of ten feet on both sides of the driveway. Visibility is judged from the garage door jambs or ten feet from the sidewalk along the driveway's edge, whichever is closer. Visibility is judged from thirty inches above the sidewalk. The ~~Community Development Director~~ Zoning Administrator or their designee will be the judge of visibility. These requirements apply whether or not the fence is on the same parcel as the driveway.

13. [Unchanged.]

D. – F. [Unchanged.]

SECTION 9.03 WIND ENERGY [Unchanged.]

SECTION 9.04 SOLAR ENERGY

A. – E. [Unchanged.]

F. The following requirements apply to ground-mounted solar energy systems.

1. Ground-mounted solar energy systems are a permitted accessory use in the R-1AB Single-Family Residential, R-1CD Single Family Residential, R-2 Two-Family Residential, R-M Low-Density Multiple-Family Residential, R-M-H High Density Multiple-Family Residential, Flex, Cemetery, and Community Centerpiece zoning districts.

2. – 6. [Unchanged.]

SECTION 9.05 DRIVEWAYS

A. [Unchanged.]

B. Certificate Required. The construction or rebuilding of any driveway must be performed in compliance with all municipal codes and requires a zoning certificate. The requirements of Section

Red, strikethrough text is proposed to be deleted: ~~example~~

Blue underlined text is proposed to be inserted: example

106-47 of the Berkley Code of Ordinances apply.

D. *Single or Two Family Residential Uses.* For single family or two family homes in all zoning districts, the following regulations apply:

1. [Unchanged.]
2. ***Driveway widths:*** In no instance may a driveway be installed in front of a residential structure, except in front of an attached garage or where circular driveways are permitted.
The widths of driveways must meet the following requirements:

Table 9.05.D.2.			
Type of Lot	Maximum Driveway Width	Minimum Driveway Width	Location
Interior lot	16 ft.	9 ft.	Between the front building line and the front lot line
Interior lot with attached garage	Width of garage façade and taper uniformly to 16 ft.		At the front lot line
Corner lot when garage faces side street	20 ft. or the width of the garage, whichever is greater		At the side street lot line
Interior lot on Greenfield Road between Twelve Mile and Catalpa	20 ft.		Between the front building line and the front lot line

3. – 6. [Unchanged.]

D. [Unchanged.]

SECTION 9.06 ESSENTIAL SERVICES - SECTION 9.08 LOT LIMITATIONS [Unchanged.]

SECTION 9.09 ACCESSORY BUILDINGS AND STRUCTURES

Accessory buildings and structures must be classified as defined in Article 2, Definitions of this Ordinance and, unless otherwise provided in this Ordinance, are subject to this Section. By their definition and nature, accessory buildings and structures must be secondary and clearly incidental to the principal building on a parcel of land. Such buildings or structures therefore are not permitted as the only building or structure on

Red, strikeout text is proposed to be deleted: ~~example~~

Blue underlined text is proposed to be inserted: example

a parcel of land. The erection, rebuilding or construction of an accessory building or structure may require a building permit and/or zoning certificate.

A. Layout requirements.

1. [Unchanged.]
2. The width of a front-loading attached garage must not be more than ~~forty-five~~ fifty percent of the total width of the main building as measured along the front building line. The garage portion must be recessed at least five more feet from the front building line.
3. – 4. [Unchanged.]
5. **Setbacks.**
 - a. Detached accessory buildings, except those totaling 36 sq. ft. or less and 6 ft. or less in height, dog houses and dog runs, must not be located closer than ten feet to any main building or other accessory building.
 - b. – c. [Unchanged.]
 - d. For corner lots, see Section 5.09E and 5.09F – Supplemental Dimensional Regulations Applicable to All Use Based Districts.

B. – G. [Unchanged.]

H. Windows. On elevations facing neighboring properties, where the window header is eight feet or more above grade, the amount of glazing must be limited to no more than eight square feet per elevation, unless superseded by the Michigan Residential Building Code.

I. Swimming Pools.

1. A wall of a swimming pool must be located ~~more than~~ six feet or greater from any rear or side parcel line.
2. A wall of a swimming pool that has a capacity greater than six hundred gallons must be located ~~more than~~ six feet or greater from the main building or other accessory building or structure. Swimming pools that have a capacity of six hundred or fewer gallons are excepted from this setback requirement.
3. Construction requires a site plan, building permit, and all applicable electrical heating and plumbing permits. All pools, which contain twenty-four inches or more of water in depth at any point, must be surrounded by an adequate enclosure in accordance with the City's current building codes and current ISPSC codes. Electrical service conductors and other overhead wires must be located a minimum of ten feet from the pool's edge or a minimum of twenty-two feet above the pool surface. Pool heaters must be installed according to the current adopted City Code. All swimming pools must be provided with a recirculating skimming device. The water of all swimming pools must be sanitized. The installation of swimming pools must be in accordance with the requirements of the Building and Electrical Code.

J. – K. [Unchanged.]

Red, strikeout text is proposed to be deleted: ~~example~~

Blue underlined text is proposed to be inserted: example

SECTION 9.10 WIRELESS COMMUNICATION FACILITIES - SECTION 9.19 CALCULATING BUILDING HEIGHT [Unchanged.]

SECTION 4: Article 11 Sign Regulations of the Berkley City Code is amended, as follows:

ARTICLE 11 SIGN REGULATIONS

SECTION 11.01 INTENT - SECTION 11.02 SIGN COMPUTATION [Unchanged.]

SECTION 11.03 EXEMPT SIGNS

A. [Unchanged.]

B. The following signs are permitted in non-residential districts and are exempt from the regulations of this Article.

1. Banners six sq. ft. or less.
2. Barber poles, not exceeding twelve inches in diameter and eight feet in height.
3. Fuel pumps.
4. Vehicle signs.
5. Window signs, not exceeding twenty-five percent of the total glass area of each facade.

SECTION 11.04 PROHIBITED SIGNS [Unchanged.]

SECTION 11.05 GENERAL STANDARDS - SECTION 11.07 PERMANENT SIGNS [Unchanged.]

SECTION 11.08 TEMPORARY AND PORTABLE SIGNS

A. – B. [Unchanged.]

C. *Standards for All Temporary Signs.*

1. Temporary signs must be constructed of durable, all-weather materials and designed to remain in place and in good repair so long as they remain on display.
2. For temporary signs greater than six square feet in area ~~or greater~~, display of temporary banners and temporary signs ~~mounted on building walls (temporary wall signs)~~ are allowed for up to two continuous periods no greater than a total of thirty days in a calendar year.

SECTION 11.09 DESIGN, CONSTRUCTION, AND MAINTENANCE REQUIREMENTS - SECTION 11.10 NONCONFORMING SIGNS [Unchanged.]

SECTION 5: Article 14 Off-Street Parking, Loading and Access Standards of the Berkley City Code is amended, as follows:

ARTICLE 14 OFF-STREET PARKING, LOADING, AND ACCESS STANDARDS

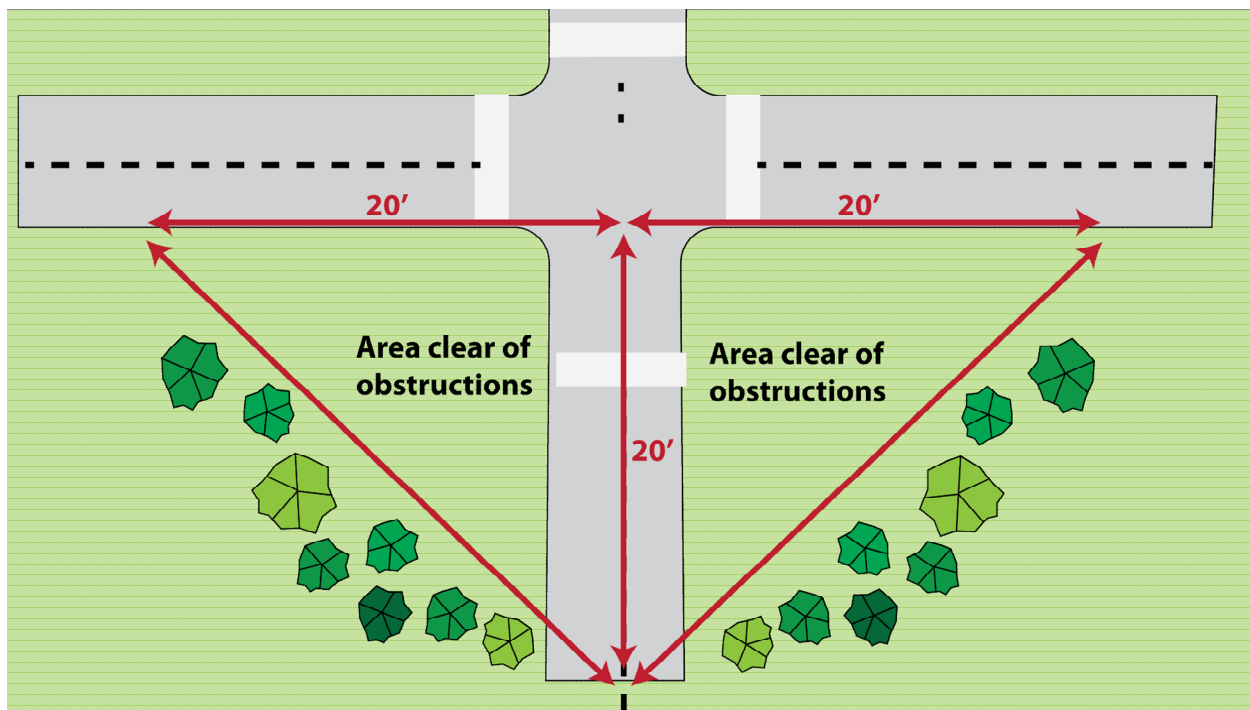
Red, strikethrough text is proposed to be deleted: ~~example~~

Blue underlined text is proposed to be inserted: example

SECTION 14.01 INTENT - SECTION 14.02 STREETS, ROADWAYS, AND RIGHTS-OF-WAY -
[Unchanged.]

SECTION 14.03 CLEAR VISION ZONE

There must be a clear vision zone at all intersecting streets, at intersecting driveways and sidewalks and at intersecting drives and maneuvering lanes within off-street parking areas consisting of a triangular area defined by the point of intersection of the driveways or maneuvering lanes and the two points extended along a distance of twenty feet. The lines for the triangular area are created by utilizing the edge of the drives or maneuvering lanes closest to an existing or proposed building. The above-described triangular area must have no obstruction to vision permitted from a height of two feet to eight feet above the established grade as set by the City Engineer or their designee.



SECTION 14.04 VEHICLE PARKING REQUIREMENTS

General Standards.

- A. – C. [Unchanged.]
- D. **Location of parking space for one- and two family dwellings.** The off-street parking facilities required for one- and two family dwellings and accessory dwelling units must be located on the same lot or plot of ground as the building they are intended to serve and must consist of any combination of a parking strip, parking apron, carport, or garage, as required by Section 9.05. The parking strip may be part of a driveway, including a circular driveway.
- E. ~~Location of~~ pParking ~~space~~ **for other land uses.**
 - 1. The off-street parking facilities required for all other uses must be located on the lot or within five hundred feet of the permitted uses requiring such off-street parking, such distance to be measured along lines of public access to the parcels between the nearest point of the parking facility to the building to be served.

Red, strikethrough text is proposed to be deleted: ~~example~~

Blue underlined text is proposed to be inserted: example

2. No parking is permitted on any residential lot or combination of lots in the side or rear yards except on a hard surface material.
3. Recreational vehicles must be stored in an accessory structure or the rear yard on a hard surface. A recreational vehicle parked on property for more than forty-eight hours is considered stored.

M. **On-street parking credit.** On-street parking spaces where the entire space is directly in front of a business's ~~building~~ property frontage or side yard frontage in the case of a corner lot may be counted toward the required number of parking spaces. Partial spots may not be used for an on-street parking credit.

N. – R. [Unchanged.]

SECTION 14.05 EXEMPTIONS - SECTION 14.08 OFF-STREET LOADING REQUIREMENTS – [Unchanged.]

SECTION 6: Article 15 Site Plan Review Procedures and Requirements of the Berkley City Code is amended, as follows:

ARTICLE 15 SITE PLAN REVIEW PROCEDURES AND REQUIREMENTS

SECTION 15.01 INTENT [Unchanged.]

SECTION 15.02 BUILDING, STRUCTURES, AND USES REQUIRING SITE PLAN REVIEW

A Site Plan Review is required for any of the following activities.

- A. [Unchanged.]
- B. Any proposed special uses and related buildings or building types subject to special approval, including any alteration, addition or expansion or an existing building subject to special land use approval, except as indicated in Section 10.02.B.2.
- C. – F. [Unchanged.]

SECTION 15.03 SITE PLAN REVIEW PROCEDURES

- A. [Unchanged.]
- B. **Pre-Application Meeting (Optional).** Prior to the submission of an application for site plan approval, the applicant, with appropriate experts, may meet City staff and consultants ~~with the directors of the community development, building, and DPW departments of the City or their designees, together with any consultants such directors deem appropriate.~~ The applicant must present at such conference(s) at least a sketch plan of the proposed site plan, as specific in Section 15.03(A).
- C. **Preliminary Site Plan Procedures.**
 1. A petitioner seeking Site Plan Approval as required under Section 15.02 must submit an application to the Zoning Administrator for preliminary site plan approval, together with the appropriate fees. Refer to Section 15.06 for data required for Preliminary Site Plans.
 2. – 6. [Unchanged.]

Red, strikethrough text is proposed to be deleted: ~~example~~

Blue underlined text is proposed to be inserted: example

D. – E. [Unchanged.]

SECTION 15.04 ADMINISTRATIVE PLAN REVIEW - SECTION 15.08 EXTENSION, REVOCATION, AND ABANDONMENT OF SITE PLAN APPROVAL [Unchanged.]

SECTION 7: Severability Clause

Should any word, phrase, sentence, paragraph, or section of this Ordinance be held invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 8: Penalty

All violations of this ordinance shall be municipal civil infractions and upon determination of responsibility therefore shall be punishable by a civil fine of not more than \$500, and/or such other sanctions and remedies as prescribed in Article IX of Chapter 82 of the Code of Ordinances.

SECTION 9: Effective Date

This Ordinance shall become effective 30 days following the date of adoption.

SECTION 10: Publication

The City Council directs the City Clerk to publish a summary of this ordinance in compliance with Public Act 182 of 1991, as amended, and Section 6.5 of the Berkley City Charter.

Introduced on the First Reading at the Regular City Council Meeting on _____ .

Adopted on the Second Reading at the Regular City Council Meeting on _____ .

Bridget Dean, Mayor

Attest:

Victoria E. Mitchell, City Clerk

Red, strikethrough text is proposed to be deleted: ~~example~~

Blue underlined text is proposed to be inserted: example