O-XX-26

AN

ORDINANCE

of the City Council of the City of Berkley, Michigan to amend Section 2.02 Definitions, Section 3.06 Compliance with Plans or Article 3 Administration and Enforcement, Section 5.09.D Supplemental Dimensional Regulations Applicable to All Use Based Districts of Article 5 Use-Based Districts, Section 8.01.F Home-Based Businesses of Article 8 Specific Use Provisions, Section 8.20.B ADUs Permitted of Article 8 Specific Use Provisions, Section 9.02.D Fences and Walls of Article 9 General Provisions, Section 9.09.A Layout requirements and Section 9.09.B Accessory Buildings and Structures or Article 9 General Provisions, Table 14.04.Q.6 Automotive Uses of Section 14.04 Vehicle Parking Requirements or Article 14 Off-Street Parking, Loading and Access Standards of Chapter 138 Zoning of the City of Berkley Code of Ordinances to amend the definitions of family, projections, and window sign, to a add a definition of window film, to clarify that compliance with an approved site plan is required, to clarify the requirements for projections, to correct permitting versus certificate requirements for home-based businesses, to provide regulations for the size of accessory dwelling units, to provide requirements for unfinished fence sides in non-residential districts and to prohibit fences between the front building line and the front lot line, to add rat wall requirements for accessory structures and to modify the height regulations for accessory structures, to add parking standards for automotive service stations

THE CITY OF BERKLEY ORDAINS:

SECTION 1: Section 2.02 Definitions of Chapter 138 Zoning of the Berkley City Code is amended to amend the definitions of family, projections, and window sign and add a definition for window film as follows:

Family. One or more persons occupying a dwelling unit as a single housekeeping unit, whether or not related by blood, marriage or adoption. A single housekeeping unit shares the dwelling's living, cooking and sanitary facilities and uses the dwelling as a common residence. The presence of disability-related assistance or support services does not, by itself, prevent occupants from constituting a household. ~~An individual or multiple individuals and the children thereof with not more than two other persons related directly to the individual of married couple by blood, adoption, or marriage; or a group of not more than five unrelated persons, living together as a single housekeeping unit in a dwelling unit.~~

Projections: The part of feature of a building that extends outside of the enclosed walls. Projections do not include cantilevers extending the living space of a room.

V. *Window sign:* Any sign, ~~opaque film,~~ window film, picture, symbol or combination thereof placed inside a window or upon the windowpanes or glass and is visible from the exterior of the window. Window signs may be permanent or temporary.

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

W. *Window film:* A thin material applied to the interior or exterior surface of window glazing, including perforated, translucent, or similar film, that permits visibility through the window and has a minimum Visible Light Transmittance (VLT) of fifty percent (50%).

SECTION 2: Section 3.06 Compliance with Plans of Article 3 Administration and Enforcement of Chapter 138 Zoning of the Berkley City Code is amended to clarify that compliance with an approved site plan is required as follows:

A. ***Scope of approval.*** Permits, certificates, business licenses, site plan approvals and other approvals issued under this Ordinance authorize only the use, arrangement, construction and activities shown in the approved plans and applications, as modified by the conditions of approval.
B. ***Continuing compliance.*** The property owner and any person developing, occupying or operating the property must comply with the approved site plan and applicable conditions of approval. Construction, site improvements, use and operation of the property must remain consistent with the approval, including required landscaping, screening, parking, access and other improvements. This obligation continues after construction is completed or occupancy begins and applies to subsequent owners and operators, unless the approval is lawfully amended or superseded.
C. ***Changes to approved plans.*** A change to an approved site plan must be approved before it is implemented, in accordance with Section 15.07, Amendments, and applicable law. Changes to other approvals must follow the procedures applicable to those approvals. Submission of a proposed amendment does not authorize a deviation from the existing approval.
D. ***Violations.*** Failure to comply with an approved site plan, applicable conditions of approval, or other plans or applications approved under this Ordinance is a violation of this Ordinance and is subject to Section 3.12, Violations and Penalties.

~~Commercial Occupancy Certificate/Business Licenses issued for plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications. Use, arrangement, or construction which deviates from the approved zoning compliance permits is a violation of this Ordinance and punishable as provided for in Section 3.12 Violations and Penalties.~~

SECTION 3: Section 5.09.D Supplemental Dimensional Regulations Applicable to All Use Based Districts of Article 5 Use-Based Districts of Chapter 138 Zoning of the Berkley City Code is amended in order to clarify the requirements for projections, as follows:

D. Projections may extend into a required side yard setback of not more than two inches for each one foot of width of such setback and may extend or project into a required front or rear yard setback not more than three feet. The total of all projections into a required setback yard must not exceed thirty percent of that wall's surface area.

Projections may have a foundation, such as brick or masonry fireplaces, or may not include a foundation, such as box fireplaces, bay windows, and other types of cantilevers~~, including second-story cantilevers~~.

Projections without a foundation must be above grade at least twelve inches.

In nonresidential districts, where no front yard setback is required, the Planning Commission may permit a projection to extend into the right of way three feet provided that it is at least eleven feet above the sidewalk if the Planning Commission determines the public heath, safety, and welfare will not be adversely affected. The total of all projections into a given right of way must not exceed thirty percent of that wall's surface area.

SECTION 4: Section 8.01.F Home-Based Businesses of Article 8 Specific Use Provisions of Chapter 138 Zoning of the Berkley City Code is amended to correct permitting versus certificate requirements as follows:

F. Class 1 home-based businesses do not require a ~~permit~~ Commercial Business License or Zoning Certificate but are subject to the following additional requirements.

1. There may be no on-site employees other than members of the family, as defined in Article 2, living on the parcel.
2. There must be no additional parking spaces provided for the home-based business.
3. There must be no more than one on-site customer or client at any time.
4. The exterior storage of materials, equipment, or refuse associated with the home-based business is prohibited.
5. No signs may be used to advertise the home-based business.
6. No article may be sold or offered for sale on the premises.

SECTION 5: Section 8.20.B ADUs Permitted of Article 8 Specific Use Provisions of Chapter 138 Zoning of the Berkley City Code is amended to provide regulations for the size of accessory dwelling units:

B. ***ADUs Permitted.*** One ADU is permitted per parcel in all residential zoning districts. An ADU may only be located on a parcel that has an existing single family dwelling unit. ADUs are not permitted as an accessory use to a two family or multiple family dwelling unit. The gross floor area of an ADU cannot exceed fifty percent of the gross floor area of the principal dwelling unit, or 1,200 sq. ft., whichever is less.

SECTION 6: Section 9.02.A, Section 9.02.B and Section 9.02.C Fences and Walls of Article 9 General Provisions of Chapter 138 Zoning of the Berkley City Code is amended to provide requirements for unfinished fence sides in non-residential districts and to prohibit fences between the front building line and front lot line as follows:

D. ***Requirements for Nonresidential districts.***

1. The maximum height for a fence or wall is eight feet high as measured from the lowest existing adjacent grade.
2. Required screen walls adjacent to all parcel lines separating a non-residential parcel from a residential parcel must comply with the regulations in Article 12, Landscaping and Screening.
3. No portion of a fence, wall, or screen wall may project beyond the fence owner's parcel line. The footing of any fence, wall, or screen wall may not encroach underground beyond the fence owner's parcel line.

4. The Planning Commission may revise the screen wall requirements for nonresidential districts if the Commission finds that the standards for site plan approval, as outlined in Article 12, Landscaping and Screening, have been met.
5. A fence or wall must not be erected between the front building line and the front lot line.
6. Any fence having an unfinished side (e.g. stockade fence) must be installed so that the finished side of the fence faces adjacent properties or the street.

SECTION 7: Section 9.09.A Layout requirements and Section 9.09.B Accessory Buildings and Structures of Article 9 General Provisions of Chapter 138 Zoning of the Berkley City Code is amended to modify the add requirements for rat walls and height regulations for accessory structures as follows:

A. *Layout requirements.*

1. Where the accessory building or structure is attached to a main building it must conform to all regulations of this Chapter applicable to the main building.
2. The width of a front-loading attached garage must not be more than 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. Accessory buildings or structures may only be erected in a rear yard.
4. In no instance may be the combined floor area of all accessory buildings and structures exceed eight hundred square feet for one-half the ground floor of the main building, whichever is greater. Lot coverage must also conform to requirements set forth in the schedule of regulations in Article 5, Use-Based Districts, or Article 6, Site Design Based Districts. Dog runs are excluded from the maximum lot coverage calculation.
5. Any accessory structure two-hundred square feet or less must be placed on a concrete slab with a minimum four inch wide by twenty-four-inch-deep rat wall. For accessory structures greater than two-hundred square feet, refer to the current adopted edition of the Michigan Building Codes.
6. **Setbacks.**
    a. Detached accessory buildings, except those totaling thirty-six square feet or less and six feet 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. No accessory building or structure may be located within five feet of the side lot line unless proper fire separation has been installed. In no instance may any portion of an accessory building or structure be located closer than eighteen inches to a side lot line, including encroachments allowed elsewhere in this Ordinance such as gutters or eaves.
    c. No accessory building or structure may be located within five feet of any rear lot line. In no instance may an accessory building or structure be located within a dedicated easement or right-of-way.
    d. For corner lots, see Sections 5.09E and 5.09F Supplemental Dimensional Regulations Applicable to All Use Based Districts.

B. *Height.* The maximum height of an accessory structure is determined by its location in relation to the lot lines, as follows:

Table 9.09.B	
Distance from Rear Lot Line to Structure	**Height of Structure Allowed**
Less than 5 ft.	No structures permitted

5 – ~~35~~ 20 ft.	15 ft.
Greater than ~~35~~ 20 ft.	Maximum height allowed in the zoning district

SECTION 8: Table 14.04.Q.6 Automotive Uses of Section 14.04 Vehicle Parking Requirements of Article 14 Off-Street Parking, Loading and Access Standards of Chapter 138 Zoning of the Berkley City Code is amended to add parking standards for automotive service stations as follows:

Table 14.04.Q Off-Street Parking Requirements			
Use			*Number of Minimum Vehicle Parking Spaces Per Unit of Measure*
	a.	Automotive fueling/multi-use service station w/ convenience or food service	1 per fueling position, plus 1 stacking space per fueling position, plus 1 per employee, plus 1 per each 100 square feet of floor area devoted to retail sales and customer service
	b.	Automotive fueling/multi-use service station w/o convenience or food service	1 fueling position, plus 1 stacking space per fueling position, plus 1 per employee
	c.	Automotive sales, auto parts store, motorcycle service and sales, auto rental	7 per 500 square feet of usable floor area plus 1 per employee
	d.	Automotive wash, automatic	1 per employee plus 10 entry stacking spaces and 2.5 exiting stacking spaces per service lane
	e.	Automotive wash, self-service	1 per employee plus 4 entry stacking spaces and 1.5 exiting stacking spaces per service lane
	f.	Automotive service station w/o fueling	1.5 per service bay plus 1 per employee

SECTION 9: Savings

The amendments of the Berkley Code of Ordinances set forth in this ordinance do not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendments of the Berkley Code of Ordinances set forth in this ordinance.

SECTION 10: 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 11: Penalty

All violations of this ordinance shall be municipal civil infractions and upon determination of responsibility therefore shall be punishable by sanctions and remedies as prescribed in Article IX of Chapter 82 of the Code of Ordinances.

SECTION 12: Effective Date

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

SECTION 13: 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

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