

## Chapter 138 - ZONING

### *Footnotes:*

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**Cross reference—** Any ordinance rezoning property or amending the zoning map saved from repeal, § 1-11(a)(16); compliance by amusement devices with zoning and building codes, § 18-63; kennels prohibited in residential area, § 22-47; buildings and building regulations, ch. 26; downtown development, ch. 42; mobile homes, trailers, and recreational vehicles, ch. 70; planning, ch. 90; soil erosion and sedimentation control, ch. 98; streets, sidewalks and other public places, ch. 106; clearing of sidewalks in certain zoning districts of snow, § 106-221; subdivision and combination of lands, ch. 110; vegetation, ch. 130.

**State Law reference—** Zoning, MCL 125.581 et seq.

## ARTICLE I. - PURPOSE

### Sec. 138-1. - Preamble.

This chapter is adopted pursuant to the authority conferred by Public Act No. 207 of 1921 (MCL 125.581 et seq.) and acts amendatory thereto in such case, made and provided and for the purpose of promoting and protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the city by protecting and conserving the character and social and economic stability of the residential, commercial, industrial and other use areas; by securing the most appropriate use of land; preventing overcrowding of land and undue congestion of population; providing adequate light, air, and reasonable access; and facilitating adequate economical provision of transportation, water, sewer, schools, recreation and other public requirements, and by other means, all in accordance with the comprehensive plan.

(Code 1981, § 33-1)

### Sec. 138-2. - Scope of chapter regulations.

- (a) All buildings erected hereafter, all uses of land or buildings established hereafter, and all structural alteration or relocation of existing buildings occurring hereafter shall be subject to all regulations of this chapter which are applicable to the zoning districts in which such buildings, uses or land shall be located.
- (b) However, where a building permit for a building or structure has been issued in accordance with law prior to the effective date of the ordinance from which this chapter is derived and provided that construction is begun within 6 months of such effective date and diligently prosecuted to completion, such building or structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued, and further, may upon completion be occupied under a certificate of occupancy by the use for which originally designated, subject thereafter to the provisions of article III, division 5, of this chapter. Any subsequent text or map amendment shall not affect previously issued valid permits.
- (c) Where a lot is to be occupied for a permitted use without buildings, the side yards and front yard required for such lot shall be provided and maintained unless otherwise stipulated in this chapter, except that side yards

shall not be required on lots used for garden purposes without buildings or structures, nor on lots used for public recreation areas.

- (d) No land which is located in a residential district shall be used for driveway, walkway, or access purposes to any land which is located in a nonresidential district, or used for any purpose not permitted in a residential district. If R-1A, R-1B, R-1C, R-D or R-2 land is to be used for access purposes to any other district, such access shall be a public street.

(Code 1981, § 33-112(1), (2), (4), (5))

Secs. 138-3—138-30. - Reserved.

## ARTICLE II. - DEFINITIONS

Sec. 138-31. - Interpretation of chapter provisions.

- (a) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.
- (b) Where the conditions imposed by any provisions of this chapter, upon the use of land or buildings or upon the bulk of buildings, are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or of any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.
- (c) This chapter is not intended to abrogate any easement, covenant, or any other private agreement, provided that where the regulations of this chapter are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements, the requirements of this chapter shall govern. The zoning officer cannot enforce private agreements or covenants.
- (d) No building, structure or use which was not lawfully existing at the time of the adoption of this chapter shall become or be made lawful solely by reason of the adoption of this chapter; and to the extent that, and in any manner that, such unlawful building, structure or use is in conflict with the requirements of this chapter, such building, structure or use remains unlawful hereunder.

(Code 1981, § 33-110)

Sec. 138-32. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

All words used in the present tense shall include the future; all words in the singular number include the plural number; and all words in the plural number include the singular number; the word "building" includes the word "structure" and "dwelling" includes "residence"; the word "person" includes "corporation," "copartnership," "association,"

as well as an individual; the word "shall" is mandatory and not directory.

Terms not defined in this section shall have the meaning customarily assigned to them.

*Accessory building or accessory structure:* A building or structure which is secondary and clearly incidental to the principal building on a parcel of land.

*Accessory use:* A use subordinate to the main use on a lot and used for purposes clearly incidental to those of the main use.

*Alley or service drive:* Any dedicated public way affording a secondary means of vehicular access to abutting property, and not intended for general traffic circulation.

*Antique shop:* A retail establishment that sells previously owned merchandise where no more than 20 percent of the floor space is devoted to the sale of used clothing.

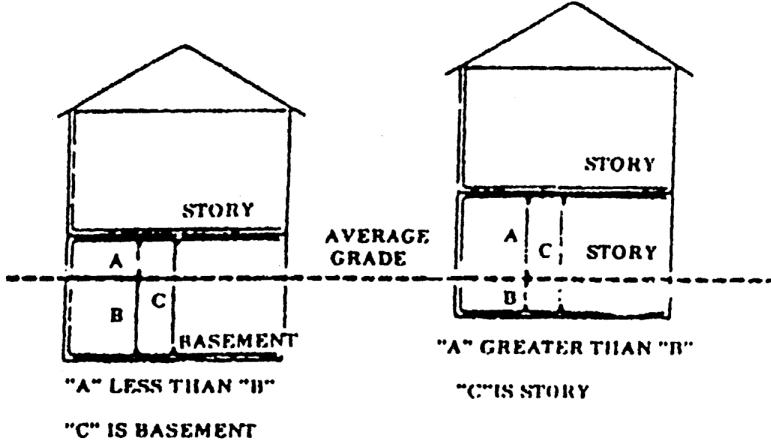
*Apartment:* A building, or portion thereof, designed exclusively for occupancy by 3 or more families living independently of each other.

*Apartment, efficiency:* A dwelling unit, containing not over 300 square feet of net floor area and consisting of not more than 1 room in addition to kitchen and necessary sanitary facilities.

*Automobile gas and service station:* A place where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene or motor oil and lubricants, or grease (for operation of motor vehicles) are retailed directly to the public in the premises; including sale of minor accessories and services for motor vehicles (including minor repairs).

*Automobile repair:* General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame or fender straightening and repair; overall painting; but not including undercoating of automobiles unless provided in a completely enclosed spray booth or building.

*Basement:* That portion of a building which is partly or wholly below grade but so located that the vertical distance from grade to the floor is greater than the vertical distance from the grade to the ceiling. A basement will not be counted as a story. The following diagram is illustrative of this definition:



Basement and Story

*Bicycle parking space:* An area and facility used for the securing of bicycles. This term shall include enclosed bicycle storage, covered bicycle racks or fixed bicycle racks which meet the requirements of this chapter for bicycle parking.

*Block:* All land fronting on one side of a street between the nearest streets, alleys, rights-of-way, intersecting, meeting, or crossing such street and bounding such land.

*Board:* The zoning board of appeals.

*Boardinghouse:* A building, or part thereof, where sleeping rooms and meals are regularly provided for hire on a more or less permanent basis rather than transiently.

*Body piercing studio:* Any establishment having as its principal activity the piercing or puncturing of body parts with the object of displaying jewelry. A jewelry store that pierces ear lobes as part of its business shall not be considered a body-piercing studio.

*Building:* Any structure, either temporary or permanent, having a room, and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind. This shall include tents, awnings or vehicles situated on private property and used for purposes of a building.

*Building height:* The height of a building shall be measured from the average established grade to a point halfway between the eaves and peak of the roof. Buildings with flat roofs shall be measured from grade to the highest point of the roof's surface. In measuring the height of a building, the following shall be excluded: chimneys, cooling towers, flagpoles, mechanical penthouses, tanks, water towers, radio towers, ornamental cupolas, domes, spires, and parapet walls not exceeding four feet in height.

*Gable roof:* A roof sloping downward in two parts at an angle from a central ridge, so as to leave a gable at each end. A gable roof shall have at least a 3:12 pitch.

*Gambrel roof:* A roof sloping downward in two parts from a central ridge each side of which has a shallower slope angled not less than 30 degrees (or a 7:12 pitch) above a steeper one angled not greater than 60 degrees (or a 20:12 pitch).

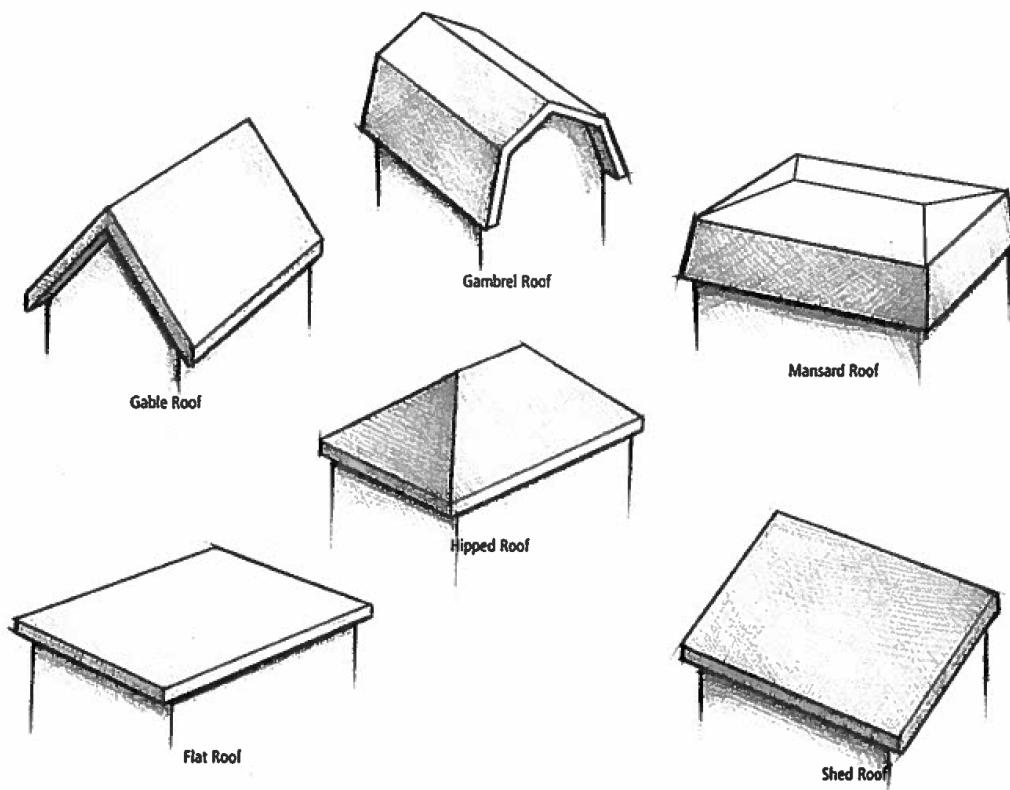
*Hip roof:* A roof sloping downward in four parts (ends and sides) from a central ridge. A hip roof shall have at least a 3:12 slope.

*Mansard roof:* A roof sloping downward in four parts (ends and sides) from a central point. Each side of which has a shallower slope angled not greater than a 3:12 pitch above a steeper one angled not greater than a 60:12 pitch.

*Shed roof:* A roof having a single slope with at least a 3:12 pitch.

*Flat roof:* A roof with less than a 3:12 pitch.

### Building Height



*Building line:* A line formed by the face of the building, and, for the purposes of this chapter, a building line is the same as a front setback line. The face of a building is the frontage wall of the building according to plat.

*Building, main or principal:* A building in which is conducted the principal use of the lot on which it is situated.

*Canopy structure:* Any overhead protective structure that is constructed in such a manner as to allow pedestrians/vehicles to pass under.

*Charity/Not-for-profit organization:* An organization that has 501C3 status with the Internal Revenue Service.

*Commercial amusement device center:* Any place, premises, room, building or establishment in which 3 or more coin-operated amusement devices, coin-operated amusement rides or a combination thereof are located.

*Commission:* The city planning commission.

*Convenience store:* Any establishment that sells convenience store items and has more than ten percent of its floor area devoted to packaged beer, wine, or liquor.

*Court:* An open space, on the same lot with a building or group of buildings and which is bounded on 2 or more sides by such buildings. A court shall be unoccupied.

*District:* A portion of the city within which certain regulations and requirements of various combinations thereof apply under the provisions of this chapter.

*Drive-in:* A business establishment for the serving of food and/or beverages so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure; or to permit patron self-service and return to motor vehicle.

*Dwelling, multiple-family:* A building, or portion thereof, designed exclusively for occupancy by 3 or more families living independently of each other.

*Dwelling, single-family:* A detached, independent building designed exclusively for occupancy by 1 family.

*Dwelling, single-family, attached:* A building designed so 3 or more dwelling units with their own front doors are attached by party walls, such as a townhouse.

*Dwelling, two-family:* A building designed exclusively for occupancy by 2 families, independent of each other such as a duplex dwelling unit.

*Dwelling unit:* A building, or portion thereof, designed for occupancy by 1 family for residential purposes and having cooking facilities.

*Erected:* Built, constructed, altered, reconstructed, moved upon or any physical operations on the premises required for the building. Excavations, fill, drainage and the like shall be considered a part of erection.

*Essential services:* The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings, which are necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the general public health, safety or welfare.

*Established grade:* The elevation of the sidewalk grade as fixed by the city.

*Family:* An individual or married couple and the children thereof with not more than 2 other persons related directly to the individual or married couple by blood or marriage; or a group of not more than 5 unrelated persons, living together as a single housekeeping unit in a dwelling unit.

*First floor elevation:* The portion of an exterior wall computed from the ground level to a height of ten feet or to the ceiling height, whichever is less.

*Fixture:* The assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens.

*Floor area, minimum residential:* The total area of each floor measured from the exterior faces of the exterior walls or from the centerline of the walls separating two dwelling units. The first floor shall be the lowest floor which is at every point above the average grade line around the structure.

*Footcandle:* A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.

*Garage, commercial:* Any garage other than a private garage available to the public, operated for gain, and used for storage, repair, rental, greasing, washing, sales, servicing, adjusting or equipping of automobiles or other motor vehicles.

*Garage, community:* A building, or part thereof, used for the storage of self-propelled private passenger vehicles or private passenger or house trailers for the use of residents in the vicinity, and providing only incidental service to such vehicles as are stored therein.

*Garage, private:* An accessory building used for parking or storage of vehicles in connection with the permitted use of the principal building.

*Glare:* Excessive brightness that may be caused by either direct or indirect viewing of a light source.

*Home occupation:* An occupation or profession customarily carried on by an occupant of a dwelling unit as a secondary use which is clearly incidental to the use of the dwelling unit for residential purposes. There shall be no exterior display other than 1 nonilluminated name plate, which is not more than 2 square feet in area which may be attached to the building. No stock in trade or commodity sold shall be kept on the premises. Nursing homes, tea rooms, tourist homes, beauty parlors, retail business or trade shall not be considered home occupations.

*Junkyard:* A place, structure or lot where junk, waste, discarded, salvaged or similar materials such as old iron or other metal, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, etc., are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, used lumber yards, house wrecking yards and places of yards for use of salvaged house wrecking and structural steel materials and equipment, and excluding pawn shops and establishments for the sale, purchase or storage of used cars, salvaged machinery, used furniture, radios, stoves, refrigerators or other similar household goods, and the processing of used, discarded or salvaged materials as part of manufacturing operations.

*Lamp:* The component of a luminaire that produces the light.

*Light pollution:* General sky glow caused by the scattering of artificial light in the atmosphere, much of which is caused by poorly designed luminaires.

*Light trespass:* Light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

*Loading space:* An off-street space on the same lot with a building, or group of buildings, for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

*Lot:* Any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record, that is recognized and intended as a unit for the purpose of transfer of ownership.

*Lot, area:* The total area within the lot lines of a lot.

*Lot, corner:* A corner lot is a lot situated at the intersection of 2 streets, where the interior angle of the intersection does not exceed 135 degrees. A lot on a curved street shall be considered a corner lot if the radius of the curve is less than 150 feet, and the tangents to the curve at the 2 points where the lot lines meet the curve form an interior angle of less than 135 degrees.

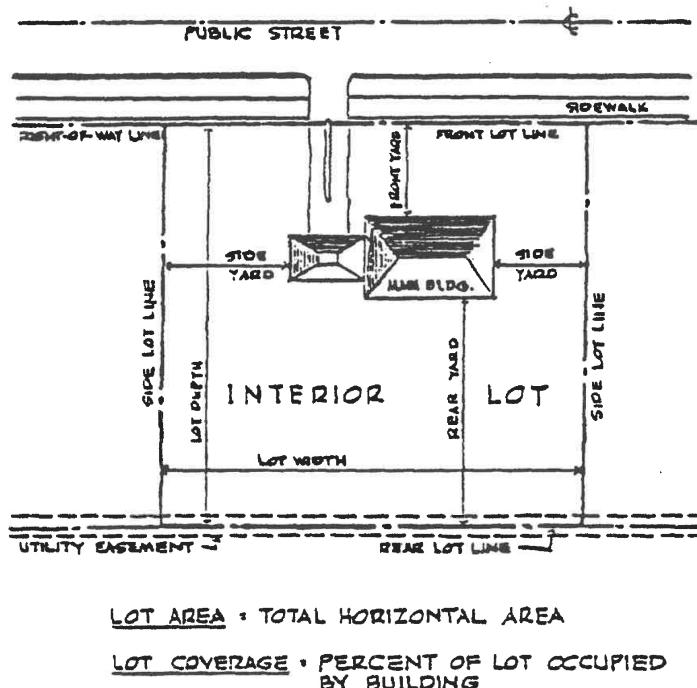
*Lot depth:* The distance between the front and rear lot lines, measured along the median between the side lot lines.

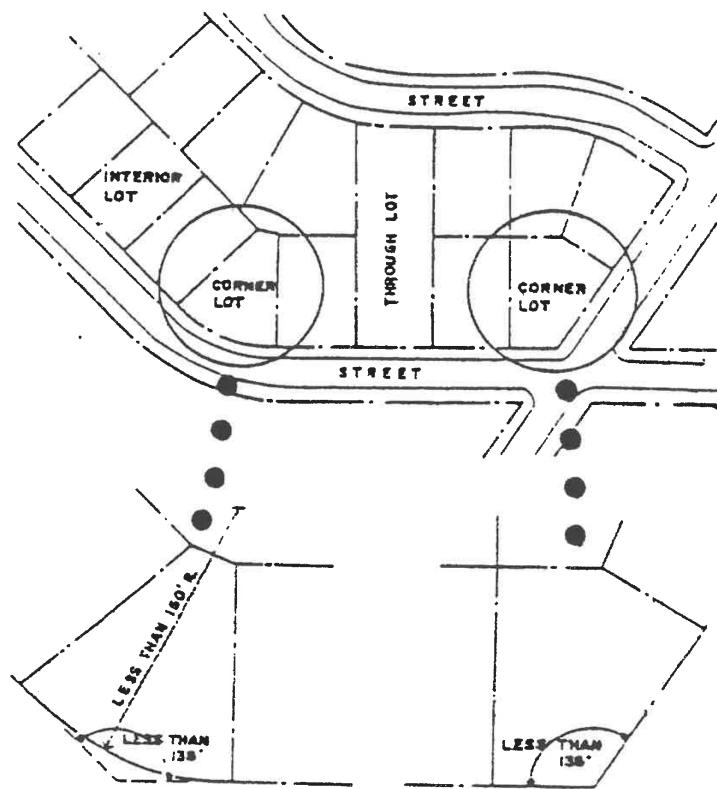
*Lot, double frontage:* Any interior lot having frontages on 2 more or less parallel streets. In the case of a row of double frontage lots, 1 street will be designated as the front street in the plat and the request for zoning compliance permit.

*Lot, interior:* Any lot other than a corner lot.

- (1) *Lot line, front.* In the case of an interior lot, the line separating such lot from the street. In the case of a corner lot or double frontage lot, the line separating such lot from that street which is designated as the front street in the plat and the request for zoning compliance permit.
- (2) *Lot line, rear.* The lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than 10 feet long lying farthest from the front lot line and wholly within the lot.
- (3) *Side lot line.* Any lot lines other than the front lot lines or rear lot lines.

*Lot width:* The distance between the side lot lines, measured at the 2 points where the building line, or setback, intersects the side lot lines.





**DOUBLE FRONTAGE, INTERIOR AND CORNER LOTS**

*Lumen:* A unit of measurement of luminous flux.

*Luminaire:* The complete lighting system, including the lamp and the fixture.

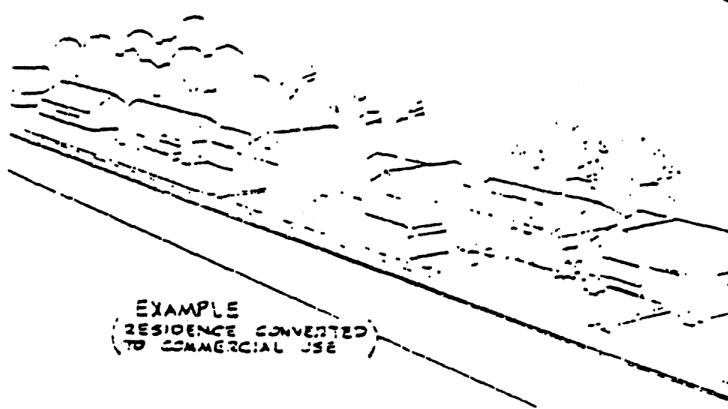
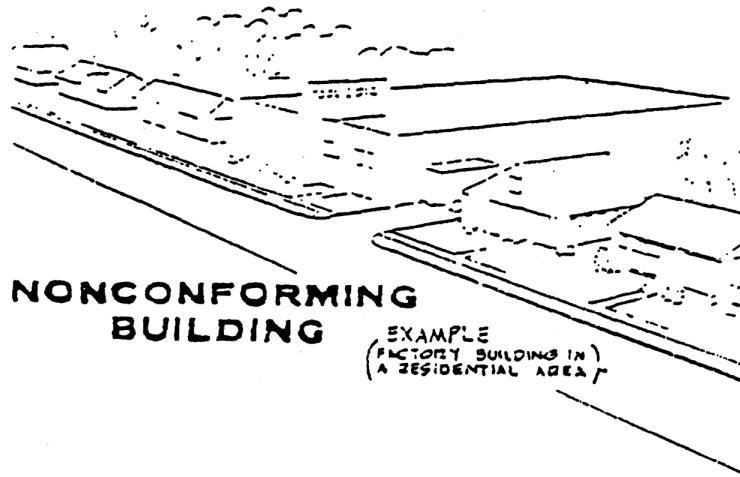
*Motel or motor hotel:* A series of attached, semidetached or detached rental units containing bedroom, bathroom and closet space without individual kitchen or cooking facilities.

*Nonconforming building:* A building or portion thereof lawfully existing at the effective date of the ordinance from which this chapter is derived, or amendments thereto, and that does not conform to the provisions of the chapter nor to the use regulations of the district in which it is located.

*Nonconforming use:* A use which lawfully occupied a building or land on December 9, 1963, but which does not conform to the use regulations of the district in which the building or land is located as evidenced by the zoning map in effect on December 9, 1963. If an amendment to the zoning map or this chapter occurred after December 9, 1963, and thereby caused a building or land not to conform to the use regulations of the district in which the building or land is located, then the date on which the nonconforming use arose is the effective date of the amendment.

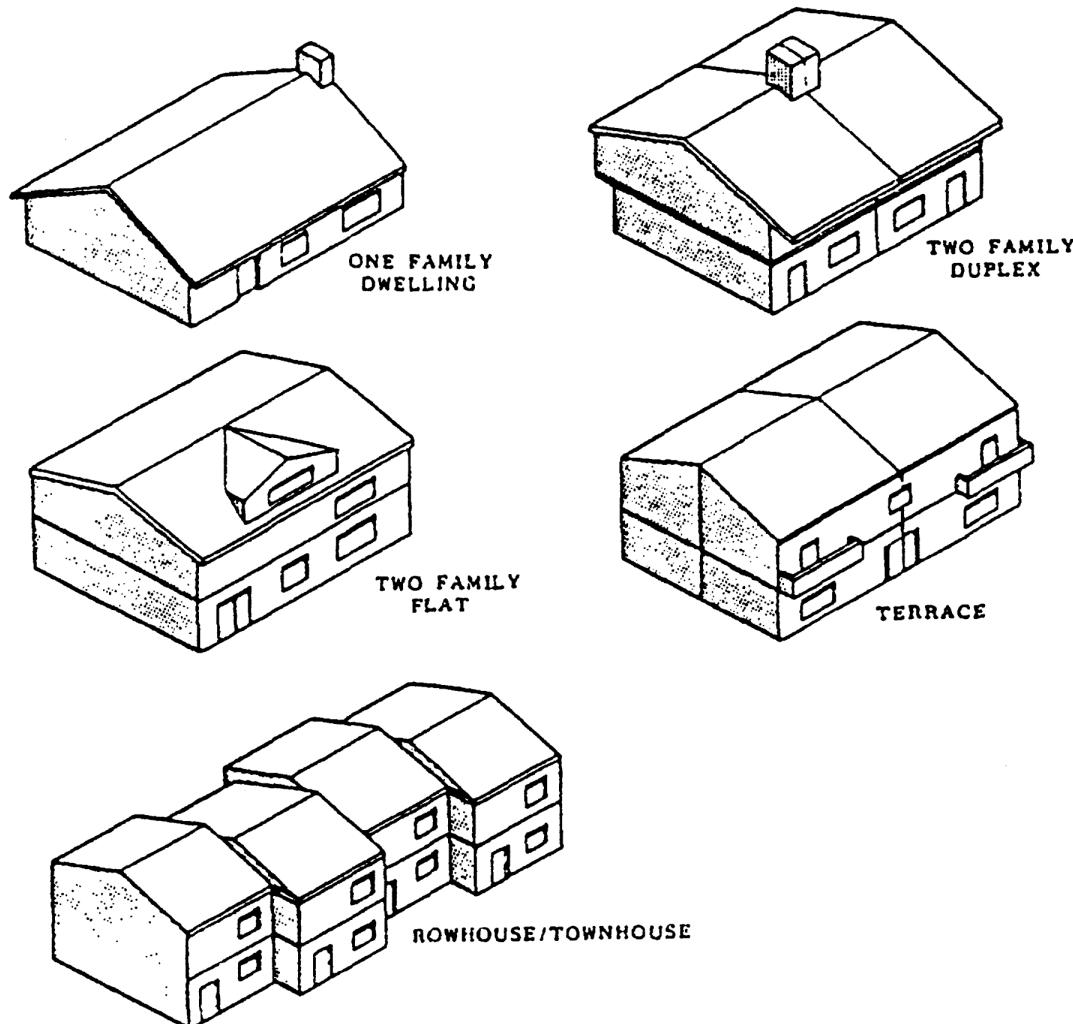
*Occupancy, change of:* A discontinuance of an existing use and the substitution therefor of a use of a different kind or class.

*Open front store:* A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure.



## NONCONFORMING USE

Nonconforming Buildings and Uses



#### **TYPES OF DWELLINGS**

##### Types of Dwellings

*Parking lot:* A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering so as to provide access for entrance and exit for the parking of more than 2 automobiles.

*Public utility:* Any person, municipal department, board or commission duly authorized to furnish and furnishing under state or municipal regulations to the public gas, steam, electricity, sewerage, communication, telegraph, transportation or water.

*Resale shop:* A retail establishment that sells previously owned merchandise where more than 20 percent of the floor space is devoted to the sale of used clothing.

*Right-of-way:* A right of passage or convention imposed by law on behalf of the public.

*Senior assisted living facility:* Where residents occupy a private or shared residence, and have meals, medical, laundry, and other services available or provided daily.

*Senior independent living facility:* Where residents live in their own independent apartment or other housing unit.

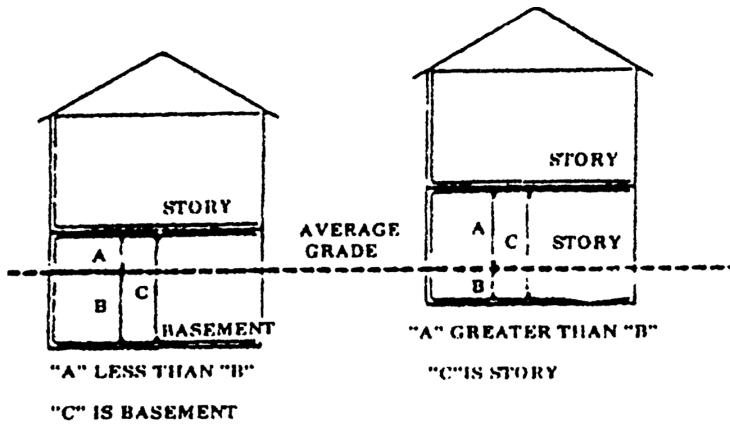
*Setback:* An open space on the same lot with a main building, unoccupied and unobstructed from the ground upward, except as otherwise provided in the chapter.

- (1) *Front yard setback.* A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear (front) lot line and the nearest line of the main building.
- (2) *Rear yard setback.* A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the main building.
- (3) *Side yard setback.* A yard between a main building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line to the nearest point of the main building.

*Sign:* A device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

*Skilled nursing facility:* Where residents require 24-hour supervisory nursing care in a controlled institutional setting.

*Story:* That part of a building included between the surface of any floor and the surface of the next floor or of the roof next above. When the distance from the average established grade to the ceiling of a story partially below such grade exceeds five feet, then the basement or cellar constituting the story partially below grade shall be counted as a story. The following diagram is illustrative of this definition:



### Stories

*Story, half:* A story which is situated within a sloping roof, the area of which at a height of four feet above the floor does not exceed two-thirds of the floor area directly below it, wherein living quarters are used only as a part of a dwelling situated in the story below.

*Street:* A public thoroughfare which affords the principal means of access to abutting property.

*Structure:* Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

*Tattoo studio:* Any establishment where the principal activity is the permanent application or placement, of designs upon or under the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin.

*Tobacco shop:* Any establishment having more than 30 percent of shelf space devoted to selling of tobacco, cigarette, cigars, or smoking paraphernalia.

*Townhouse:* A building designed so three or more dwelling units with their own front doors are attached by party walls.

*Use:* The purpose for which land or premises or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

*Variance:* A modification of the literal provisions of this chapter, granted when strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

*Window:* One or more panes of glass where both sides of the glass are readily made transparent. A door shall not be considered a window.

*Zoning map:* The map which sets the boundaries of the districts established pursuant to article V of this chapter and which was established pursuant to Ordinance No. 280 of 1963.

(Code 1981, §§ 33-3—33-13, 33-115(1); Ord. No. 19-94, § 1, 8-15-1994; Ord. No. O-01-01, § 1, 2-5-2001; Ord. No. O-09-01, § 1, 9-17-2001; Ord. No. O-01-03, § 1, 5-5-2003; Ord. No. O-09-07, § 1, 1-7-2008; Ord. No. O-06-08, § 1, 10-20-2008; Ord. No. O-07-10, § 1, 7-19-2010; Ord. No. O-1-13, § 1, 4-1-2013; Ord. No. O-08-14, § 1, 1-5-2015)

**Cross reference—** Definitions generally, § 1-2.

Secs. 138-33—138-50. - Reserved.

## ARTICLE III. - GENERAL PROVISIONS

### DIVISION 1. - ACCESSORY BUILDINGS AND STRUCTURES

*Footnotes:*

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**Editor's note—** Ord. No. O-7-13, § 1, adopted Dec. 16, 2013, amended Div. 1 in its entirety to read as herein set out. Former Div. 1, §§ 138-51—138-63, pertained to similar subject matter. For prior history, see Code Comparative Table.

Sec. 138-51. - Generally.

Accessory buildings and structures shall be classified as herein defined and, unless otherwise provided in this chapter, shall be subject to this section.

By their definition and nature, accessory buildings and structures shall be secondary and clearly incidental to the principal building on a parcel of land. Such buildings or structures shall therefore not be permitted as the only building or structure on a parcel of land.

The various types of accessory buildings and structures shall be defined, but not limited to as follows:

*Accessory building:* A subordinate building on the same parcel as the principal building, the use of which is incidental to that of the principal building and which is used exclusively by the occupants or owners of the principal building, including garages and carports, studios for private use, greenhouses, hobby shops, and recreation rooms.

*Antennas:* Structures or facilities for the reception or transmission of radio, television and microwave signals.

*Carport:* A roofed structure for the parking or storage of currently licensed and registered motor vehicles, completely open on one side and not more than 75 percent enclosed on the opposite side.

*Dog houses:* A building of not more than 36 square feet with a total height of not more than four feet designed and used for housing not more than three dogs, or three cats or three of a combination thereof, or of other similar animals, being the age of six months or older, owned by the occupant of the parcel on which it is located.

*Dog run:* An open air enclosure, attached or detached from the principal building for the purposes of housing or exercising animals commonly classified as domestic pets.

*Garage:* A building designed and intended to be used for the periodic parking or storage of one or more private motor vehicles, yard equipment or recreational vehicles such as, but not limited to, boats, trailers, all terrain vehicles and snowmobiles.

*Room:* An interior space not less than 70 square feet in area with a ceiling height of at least seven feet.

*Shed:* A building designed and intended to be used for the storage of tools, garden tractors, lawn mowers, motorcycles, small recreation vehicles such as, but not limited to, snowmobiles, ATV's, motor scooters, or used as doll houses, play houses or children's club houses.

*Swimming pool for private residential use only:* A swimming pool and the apparatus and equipment pertaining to the swimming pool maintained by an individual for the sole use of his household and guests without charge for admission and not for the purpose of profit or in connection with any business operated for profit, located on a lot as an accessory use to a residence. This includes hot tubs and jacuzzies as installed outside and accessory to the main residence.

(Ord. No. O-7-13, § 1, 12-16-2013)

Sec. 138-52. - Attached to main building.

- (a) Where the accessory building or structure is attached to a main building it shall conform to, all regulations of this chapter applicable to the main building.
- (b) The width of a front loading attached garage shall not be more than 45 percent of the total width of the main building as measured along the front building line. The garage portion shall be recessed at least five more feet from the main building's front setback.

(c) For attached garages on corner lots, see section 138-61.

(Ord. No. O-7-13, § 1, 12-16-2013)

#### Sec. 138-53. - Yard location.

Accessory buildings or structures shall not be erected in any yard, except a rear yard.

(Ord. No. O-7-13, § 1, 12-16-2013)

#### Sec. 138-54. - Lot coverage.

In no instance shall the combined floor area of all accessory buildings and structures exceed 800 square feet or one-half the ground floor of the main building, whichever is greater. Lot coverage shall also conform to requirements set forth in the schedule of regulations. Dog runs are excluded from the maximum lot coverage calculation.

(Ord. No. O-7-13, § 1, 12-16-2013)

#### Sec. 138-55. - Setback.

No detached accessory building except dog houses and dog runs shall be located closer than ten feet to any main building, or other accessory building.

No accessory building or structure shall be located within five feet of the side lot line unless proper fire separation has been installed. In no instance shall an accessory building or structure be located closer than 18 inches to a side lot line.

No accessory building or structure shall be located within five feet to any rear lot line. In no instance shall an accessory building or structure be located within a dedicated easement or right-of-way.

(Ord. No. O-7-13, § 1, 12-16-2013)

#### Sec. 138-56. - Height.

Distance from Rear Lot Line to Structure	Height of Structure Allowed
0 to 5 feet	No structures permitted
5-35 feet	15 feet
Greater than 35 feet	Maximum height allowed in the zoning district. See Schedule of Regulations, <u>Section 138-526</u> .

An accessory building shall be considered two stories if the second floor contains a room as defined herein. Accessory buildings with two stories shall have proper fire separation as required by state building code.

Attics which do not have sufficient headroom or area to qualify as a room are permitted for storage use only. Access to such storage area shall be permitted by ladder or drop down stairs only.

In no instance shall a rooftop deck on an accessory building be permitted.

*Antennas.* Pole or mast-type antennas may be constructed to a height equal to the permitted maximum height of structures in these districts. Roof-mounted antennas or antennas attached to a building shall not extend more than 12 feet above the highest point of the roof.

(Ord. No. O-7-13, § 1, 12-16-2013)

#### Sec. 138-57. - Windows.

On elevations facing neighboring properties, where the window header is eight feet or more above grade, the amount of glazing shall be limited to no more than eight square feet per elevation.

(Ord. No. O-7-13, § 1, 12-16-2013)

#### Sec. 138-58. - Antenna structures.

No more than two antenna structures (no more than one of which may be ground-mounted) shall be permitted for each lot or parcel, with the following exception: on nonresidential parcels, two antenna structures shall be permitted for the first 20,000 square feet of gross building area, with one antenna structure permitted for each additional 20,000 square feet of gross building area, or major portion thereof.

(Ord. No. O-7-13, § 1, 12-16-2013)

#### Sec. 138-59. - Swimming pools.

- (a) A wall of a swimming pool shall not be located less than six feet from any rear or side property line.
- (b) A wall of a swimming pool that has a capacity greater than 600 gallons shall not be located less than six feet from the main building or other accessory building or structure. Swimming pools that have a capacity of 600 or fewer gallons may be excepted from this setback requirement.
- (c) Construction shall require a site plan, building permit, and all applicable electrical heating and plumbing permits. All pools, which contain 24 inches (610 mm) or more of water in depth at any point, shall have erected an adequate enclosure in accordance with the city's current building codes. Electrical service conductors and other overhead wires shall be located a minimum of ten feet from the pool's edge or a minimum of 22 feet above the pool surface. Pool heaters shall be installed according to the current adopted

city code. All swimming pools shall be provided with a recirculating skimming device. The water of all swimming pools shall be sanitized. The installation of swimming pools shall be in accordance with the requirements of the building and electrical code.

(Ord. No. O-7-13, § 1, 12-16-2013)

#### Sec. 138-60. - Corner lots.

Garages may be attached to the principal structure provided that the principal structure including the garage is at least five feet from the rear lot line and all other setback requirements are met. The garage door or combination of garage doors shall not exceed 18 feet. Accessory structures or buildings on corner lots shall adhere to the following regulations:

When a rear yard abuts a rear yard, the exterior side yard setback shall not be less than ten feet.

When a rear yard abuts a side yard, the required exterior side yard setback shall be as follows:

Distance from Rear Lot Line to Structure	Setback Required
0 to 5 feet	No structures permitted
5—35 feet	25 feet
Greater than 35 feet	10 feet

(Ord. No. O-7-13, § 1, 12-16-2013)

#### Sec. 138-61. - Restrictions.

Trailer-mounted accessory buildings and structures are prohibited.

No accessory building shall be used as a dwelling unit or used as a storage facility for a nonresidential purpose (see section 138-32, Home Occupations).

(Ord. No. O-7-13, § 1, 12-16-2013)

#### Sec. 138-62. - Interpretation.

Any accessory building or structure not defined in this division shall be subject to the approval of the zoning board of appeals.

(Ord. No. O-7-13, § 1, 12-16-2013)

Sec. 138-63. - Certificates and permits required.

- (a) The construction, erection, installation or placement of accessory buildings or structures shall be in accordance with the requirements of the building code and the electrical code.
- (b) Dog runs do not require a building permit but construction will require a fence certificate.

(Ord. No. O-7-13, § 1, 12-16-2013)

Secs. 138-64—138-70. - Reserved.

DIVISION 1.5. - EXTERIOR APPLIANCES

Sec. 138-71. - Purpose

The purpose of this division is to promote the public health, safety and welfare by regulating the manner and location of exterior appliances on residential and commercial properties in the city. For purposes of this division, the following definitions shall apply.

(Ord. No. O-02-21, § 1, 3-1-2021)

Sec. 138-72. - Definitions

*Air conditioning unit:* The central air conditioning system located on the exterior of a building including a compressor, fan, condenser coil, evaporator coil and a refrigerant.

*Power generator:* A stationary device, such as a reciprocating internal combustion engine or turbine that serves solely as a secondary source of mechanical or electrical power whenever the primary energy supply is disrupted or discontinued during power outages or natural disasters. A power generator may operate during power interruptions or during regularly scheduled testing.

*Exterior appliance:* Mechanical equipment located on the exterior of a residential or commercial building. Such types of equipment shall include air conditioning condenser unit, power generators, and any noise producing mechanical system components located at the exterior of a building. Exterior appliances specific to swimming pools are subject to the regulations in section 138-59.

(Ord. No. O-02-21, § 1, 3-1-2021)

Sec. 138-73. - Location

Exterior appliances are prohibited from being located in the front yard or within a recorded easement or right-of-way that would prohibit, hinder or disrupt utilities, drainage, access, etc.

- (a) *Residential.*

- (1) Power generators and other exterior appliances shall be located in the rear yard at least six feet from side property line.
- (2) Air conditioning units may be permitted in the side yard under the following conditions:
  - a. The unit must be at least 18 inches from side property line;
  - b. The unit must be at least 12 feet from adjacent dwelling;
  - c. The unit must be screened on at least three sides by opaque fencing or landscaping, measuring at least four feet in height from grade.
    1. The principal structure may be considered one side of screening.
    2. Screening must be provided from street view and facing the closest adjacent property.
    3. Chain link fencing is not permissible as a screening material for exterior appliances.

(b) *Nonresidential.*

- (1) *At grade.*
  - a. Exterior appliances shall be at least five feet from a property line.
  - b. Power generators shall be enclosed in a sound-attenuating enclosure, if located adjacent to residential property.
  - c. Exterior appliances shall be screened on at least three sides with opaque fencing or landscaping, measured at least four feet in height from grade.
    1. The principal structure may be considered one side of screening.
    2. Screening must be provided from street view and facing the closest adjacent property.
    3. Chain link fencing is not permissible as a screening material for exterior appliances.
- (2) *Rooftop.*
  - a. Exterior appliances located on the rooftop of commercial buildings shall be screened so as to not be visible from street level. Screening materials shall be consistent with the color, materials, design and aesthetic of the building.
- (3) The planning commission may modify location of the exterior appliances on non-residential properties during site plan review, if the applicant can demonstrate an alternative location does not negatively impact adjacent properties, pedestrian or vehicular traffic.

(Ord. No. O-02-21, § 1, 3-1-2021)

Sec. 138-74. - Restrictions.

Generator testing shall be permitted Monday—Friday, 9:00 a.m.—6:00 p.m.

(Ord. No. O-02-21, § 1, 3-1-2021)

Sec. 138-75. - Non-conforming exterior appliances.

Non-conforming exterior appliances include appliances that were lawfully installed but are no longer in compliance with the provisions of this chapter.

Non-conforming exterior appliances may be continued, maintained and replaced provided there is no increase or enlargement of the area occupied or devoted to such use.

If the structure that is served by a non-conforming exterior appliance is damaged or partially destroyed by less than 50 percent of its market value, the exterior appliance may be restored and its previous use continued. If the structure that is served by a non-conforming exterior appliance is damaged or partially destroyed by 50 percent or more than 50 percent of its market value, then any restoration or new construction must comply with all current building and zoning codes.

(Ord. No. O-02-21, § 1, 3-1-2021)

Sec. 138-76. - Permits required.

Permits are required for the installation of exterior appliances.

(Ord. No. O-02-21, § 1, 3-1-2021)

Secs. 138-77—138-80. - Reserved.

## DIVISION 2. - FENCES

### *Footnotes:*

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**Cross reference**— Minimum distances and setbacks in P-1 parking district, § 138-485.

**State Law reference**— Fencing requirements for junkyards, MCL 252.204.

Sec. 138-81. - Purpose.

The purpose of this division is to promote and protect the public health, safety and welfare by regulating the manner and location of fence and screen wall installations in the city. For purposes of this division, the following definitions shall apply.

(Ord. No. 8-96, § 1(9-1), 12-2-1996; Ord. No. O-2-99, § 1, 3-1-1999)

Sec. 138-82. - Definitions.

**Construction site barrier:** A temporary fence erected to protect a construction site from vandalism and unauthorized entry. Construction site barriers do not require a fence certificate unless the barrier will be in place for more than one year.

*Fence:* A structure erected to act as a boundary marker, or erected for the purpose of restricting access to or from a lot or parcel of land, whether enclosing all or part of said lot or parcel. A fence requires a fence certificate.

*Fence owner:* A person or entity who owns the property upon which a fence is erected.

*Front building line:* The line established by the main wall of the front of the primary building extending to each side lot line.

*Front lot line:* In the case of an interior lot, the line separating said lot from the street. In the case of a corner lot or double frontage lot, the line separating said lot from that street which is designated as the front street in the plat, or as the address of the property in question.

*Landscape treatment:* A non sight-obscuring decorative structure used to enhance, accent or protect the landscaping of the site. Landscape treatments are subject to conditions of section 138-85. Landscape treatments include, but are not limited to, timbers, boulders, planter boxes, posts, partial fences, etc. Decorative lamp posts small not be considered landscape treatment. Landscape treatments do not require a fence certificate.

*Landscaping (vegetation):* Decorative plant materials (trees, shrubs, flowers, etc.) when used to enhance the yards or surfaces of a property or parcel. Landscaping does not require a fence certificate.

*Masonry walls:* A built-up construction or combination of building units or materials of clay, shale, concrete, gypsum, stone or other approved units bonded together with mortar or monolithic concrete. Reinforced concrete is not classified as masonry.

*Privacy fence:* Fences of opaque material having such qualities as to constitute a visual barrier. A visual barrier is provided if the distance or open space between the boards, slats, rails, stanchions or balusters is less than or equal to three inches when viewed and measured at 90 degrees to the fence line. Privacy fences require a fence certificate.

*Privacy screen structure:* A sight obscuring structure, erected adjacent to or around, but not limited to, a patio, deck, courtyard area, swimming pool or outdoor hot tub, designed to screen, but not enclose, the area behind it or within its confines. Privacy screens are subject to conditions of section 138-85 and may require a certificate.

*Rear building line:* The line established by the main wall of the rear of the primary building, extending to each side lot line.

*Rear lot line:* The lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot.

*Screen walls:* A masonry wall erected to screen a nonresidential lot or parcel from a residential district. Screen walls require a building permit.

*Side lot line:* Any lot lines other than the front lot lines or rear lot lines.

*Structure:* Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

(Ord. No. 8-96, § 1(9-2), 12-2-1996; Ord. No. O-2-99, § 1, 3-1-1999; Ord. No. O-03-02, § 5, 4-1-2002)

**Cross reference— Definitions generally, § 1-2.**

Sec. 138-83. - Permit or certificate required.

The erection, construction or substantial rebuilding of any fence shall be performed within all municipal codes and shall require a fence certificate. The erection, construction, or substantial rebuilding of any screenwall shall be performed within all municipal codes and shall require a building permit. Substantial rebuilding is reconstruction of more than 50 percent of the structure, a change in the height of the structure, or a change from existing material within a 12-month period. Painting, cleaning, replacement of like materials, or other actions commonly considered as general maintenance shall not be defined as substantial rebuilding.

(Ord. No. 8-96, § 1(9-3), 12-2-1996; Ord. No. O-2-99, § 1, 3-1-1999; Ord. No. O-03-02, § 5, 4-1-2002)

Sec. 138-84. - Application process.

Any person desiring to construct, or cause to be constructed, any wall for which a permit is required as defined in this chapter, shall first apply to the city for a permit. Any person desiring to construct or cause to be constructed, any fence for which a fence certificate is required as defined in this chapter, shall first apply to the city for a certificate. A fee shall be required as presently established or as hereafter prescribed by resolution of the city council. Application shall include any and all information requested by the building inspector to determine whether or not the construction of such a fence or wall will violate any portion of this Code, any wall design elements of the adopted master plan, or any statute of this state.

(Ord. No. 8-96, § 1(9-4), 12-2-1996; Ord. No. O-2-99, § 1, 3-1-1999; Ord. No. O-03-02, § 5, 4-1-2002)

Sec. 138-85. - General requirements by district.

(a) *Requirements; all districts.*

- (1) No wall or fence shall have barbed wire, razor wire, an electric current, concertina wire, nor any other material installed for the purpose of causing injury or harm. Similar material shall be determined by the code enforcement officer.
- (2) Each fence or screen wall owner shall maintain their fences or walls in accordance with the provisions of all maintenance codes adopted by the city and with the provisions of any site maintenance agreement they may have entered into with the city.
- (3) Fences and screen walls shall be maintained plumb and true with adequate support and in a safe and sightly manner. The owner of a fence or screen wall shall remove or repair a fence or screen wall that is dangerous, dilapidated or otherwise in violation of this Code.
- (4) Landscaping within the front yard shall adhere to the requirements set forth in Chapter 130, Vegetation, of this Code

(b) *Residential districts.*

- (1) Fences shall be constructed of steel, iron, wood masonry or other durable material.
- (2) A fence shall not be erected between the front building line and the front lot line.
- (3) Landscape treatments shall not exceed 30 inches in height.
- (4) Landscape treatment may be located between the front building line and the front lot line.
- (5) 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. An aggregate length not to exceed 12 feet.
  - b. They shall be set back not less than 2 feet when adjacent to an adjoining property owner's driveway.
  - c. They shall be placed on the property line or set back at least 12 inches from the sidewalk, whichever is greater.
- (6) No portion of a fence, landscape treatment or landscaping shall project beyond the fence owner's property line.
- (7) A fence or privacy fence shall not be erected in excess of six feet, four inches in height, as measured from the lowest existing adjacent grade. Where a residential property line is adjacent to a nonresidential district, the maximum height shall not exceed eight feet for fences on said property line.
- (8) There shall be a maximum of one fence per property line, for each property owner. Ownership of a fence shall be determined by the fence permit applicant as follows:
  - a. By a search of building permits issued to his/her and adjacent properties; or
  - b. By mutual agreement of the adjacent property owners.
- (9) Privacy screen structures shall not exceed six feet in height above the surface of the deck, patio, pool or other area to be screened.
- (10) Privacy screen structures exceeding six feet above grade require a permit.
- (11) [Reserved].
- (12) When erecting a fence next to an existing fence, the maintenance of the area between the fences shall be the responsibility of the person erecting the new fence. Fence panels shall be raised four inches above grade to allow for maintenance of the area between fences.
- (13) Any fence having an unfinished side (e.g. stockade fence) shall be installed so that the finished side of the fence shall be facing adjacent properties or the street.
- (14) Privacy screen structures shall not exceed 18 feet in length.
- (15) Any fence erected within ten feet of a driveway/public right-of-way intersection shall permit a motorist an unobstructed view of the public right-of-way when exiting a driveway. The sidewalk shall be visible for a distance of ten feet on both sides of the driveway. Visibility shall be judged from the garage doorjambs or ten feet from the sidewalk along the driveway's edge, whichever is closer. Visibility shall be judged from 30 inches above the sidewalk. The city manager or his designee shall be the judge of visibility. These requirements shall apply whether or not the fence is on the same property as the driveway.

(c) *Nonresidential districts.*

- (1) Refer to chapter 138, article V, division 11, C-1 Cemetery District for additional fence requirements in this district.
- (2) A fence shall not be erected in excess of 8 feet high as measured from the lowest existing adjacent grade.
- (3) Screen walls are required on or adjacent to all property lines separating non-residential property from residential property and shall not be less than 6 feet in height.
- (4) Screen wall shall be of masonry construction. A maintenance agreement shall be required for any masonry screen wall receiving paint or other impermeable coating.
- (5) Masonry screen walls in excess of 30 inches in height require a building permit.
- (6) Screen walls shall be constructed as shown in figures 138-1 and 138-2.
- (7) The property owner shall maintain landscaping areas between screen walls and property lines.
- (8) Where a screen wall is erected within a 12 foot radius of a driveway/sidewalk intersection, whether within the property or not, the wall height within that radius shall be 30 inches.
- (9) Where a screen wall abuts a residential front yard or a public right-of-way, the height of the screen wall shall be between 4'-0" and 4'-8" in height as measured from the highest adjacent grade level.
- (10) The planning commission may revise the screenwall requirements for nonresidential districts, if the commission finds that the standards for site plan approval, as outlined in section 138-678, have been met.

(d) *Miscellaneous requirements.*

- (1) Fences around public or institutional parks shall be required if it incorporates a playfield (baseball, football, soccer, etc.).
- (2) Refer to division 1 of this article for additional requirements regarding fencing around pools.
- (3) Refer to section 106-107 for additional restrictions on landscaping located on lots abutting intersections.

(Ord. No. 8-96, § 1(9-5), 12-2-1996; Ord. No. O-2-98, § 1, 10-5-1998; Ord. No. O-2-99, § 1, 3-1-1999; Ord. No. O-6-04, § 1, 1-3-2005; Ord. No. O-05-06, § 1, 1-8-2007)

Sec. 138-86. - Variances.

Upon application in writing by any person directly or adversely affected, the zoning board of appeals of the city may, after a hearing in accordance with the established procedures of that board, in its sound discretion and in the interest of the public health, safety, or welfare of the inhabitants of the community, reduce or remit the requirements of this chapter in individual cases coming before such board of appeals.

(Ord. No. O-2-99, § 1, 3-1-99)

Sec. 138-87. - Violations.

Any fence or wall constructed or maintained in violation of this chapter shall be deemed to constitute a public nuisance and may be abated by injunctive proceedings.

(Ord. No. O-2-99, § 1, 3-1-99)

Illustration—ms 3252

Illustration—ms 3253

Secs. 138-88—138-95. - Reserved.

## DIVISION 2.5 - WIND ENERGY

Sec. 138-96. - Purpose.

It is the general purpose and intent of the city to balance the need for clean, renewable and abundant energy resources that may reduce dependence upon fossil fuels, with the necessity to protect the public health, safety and welfare of the city, as well as to preserve the integrity, character, property values, and aesthetic quality of the community at large. The city therefore finds these regulations are necessary in order to facilitate adequate provision of sites for wind energy systems and ensure they are situated in appropriate locations and relationships to other land uses, structures and buildings, without significantly increasing the cost or decreasing the efficiency of such systems.

(Ord. No. O-14-10, § 1, 12-20-2010)

Sec. 138-97. - Definitions.

*Wind energy system* means an aggregation of parts including the base, tower, generator, turbine, rotor, blades, and ancillary equipment such as utility interconnections and battery banks, etc., in such configuration as necessary to convert the power of wind into mechanical or electrical energy, i.e., wind charger, windmill, or wind turbine. The following additional definitions are provided:

*Anemometer tower* means an aggregation of parts including the base, tower, anemometer or wind speed recorder, wind direction vanes, data logger, and ancillary equipment such as any telemetry devices, etc., in such configuration as necessary to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

*Maximum height* means the height above grade of the fixed portion of the tower plus the highest vertical extension of any blades and rotors.

*Minimum height clearance* means the distance between the ground and an overhead obstacle.

*Nacelle* means the component of a wind energy system that sits atop the tower and houses the turbine.

*Rotor* means a multiple-bladed airfoil assembly of a wind energy system that extracts, through rotation, kinetic energy directly from the wind.

*Tower* means the vertical component of a wind energy system that elevates the turbine, rotor and blades above the ground.

*Turbine* means the component of a wind energy system that converts kinetic energy directly from the wind into mechanical or electrical energy, often referred to as the generator.

(Ord. No. O-14-10, § 1, 12-20-2010)

Sec. 138-98. - Permit required.

In addition to any review and approvals outlined in section 138-99, the erection of any wind energy system shall be performed within all municipal codes and shall require a building permit and an electrical permit.

(Ord. No. O-14-10, § 1, 12-20-2010)

Sec. 138-99. - General requirements.

- (a) *Roof-mounted—On-site consumption.* No more than one roof-mounted wind energy system shall be placed on any parcel.

No signage shall be installed on any wind energy system.

Districts Permitted	Maximum Height from Roof	Setback	Other Regulations	Review Required
Single-Family Residential, R-2, Multiple-Family Residential, Community Centerpiece, Greenfield, Office, High Rise Multiple Family, Local Business, Gateway, Twelve Mile, Coolidge, Eleven Mile Industrial Woodward,	10 feet	No portion of the system's blades, rotor or other exposed moving part shall extend beyond the edge of the building line to which it is attached	Wind energy systems with a rated capacity of up to 2 kilowatts (2 kW) and solar energy systems shall be allowed as an accessory use subject to the required standards of this section; provided they are incidental and subordinate to a use on the	Administrative review

Cemetery			same parcel, and shall supply electrical power exclusively for on-site consumption	
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(b) *Freestanding—On-site consumption.* No more than one freestanding wind energy system shall be placed on any parcel.

No signage shall be installed on any wind energy system.

Districts Permitted	Location	Minimum Setback	Minimum Height Clearance	Other Regulations	Review Required
Local Business, Gateway, Twelve Mile, Coolidge, Eleven Mile, Industrial, Woodward, Cemetery	Rear yard	Equal to height of tower	15 feet	Wind energy systems with a rated capacity of up to 2 kilowatts (2 kW) and solar energy systems shall be allowed as an accessory use subject to the required standards of this section; provided they are incidental and subordinate to	Special land use approval and site plan approval required prior to obtaining any permits

			a use on the same parcel, and shall supply electrical power exclusively for on-site consumption	
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(c) *Roof-mounted—Off-site consumption.* No signage shall be installed on any wind energy system.

Districts Permitted	Maximum Height from Ground	Setback	Other Regulations	Review Required
High Rise Multiple-Family Residential	160 feet	No portion of the system's blades, rotor or other exposed moving part shall extend beyond the edge of the building line	Arrays of multiple-turbine roof-mounted wind energy systems may be allowed provided they are architecturally integrated with the building upon which they are attached as determined by the planning commission, and otherwise comply with the required standards of this section. Wind	Site plan approval by the planning commission is required prior to obtaining any permits
Woodward, Eleven Mile, Industrial	80 feet			

systems may be connected to the electrical grid when a parcel on which the system is installed also receives electrical power supplied by a utility company. If a parcel on which a system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company in accordance with applicable state and federal law. Wind energy systems with a rated capacity of more than 20 kilowatts (20 kW) that are intended to produce electricity for sale

			to a utility and/or other customers for offsite consumption is permitted	
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(d) *Freestanding—Off-site consumption.* No signage shall be installed on any wind energy system.

Districts Permitted	Minimum Setback	Minimum Height Clearance	Other Regulations	Review Required
Cemetery	Equal to height of tower	15 feet	Wind systems may be connected to the electrical grid when a parcel on which the system is installed also receives electrical power supplied by a utility company. If a parcel on which a system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company in	Special land use approval and site plan approval required prior to obtaining any permits

		accordance with applicable state and federal law. Wind energy systems with a rated capacity of more than 20 kilowatts (20 kW) that are intended to produce electricity for sale to a utility and/or other customers for offsite consumption is permitted. A shadow flicker analysis shall be submitted as part of the special land use application	
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(Ord. No. O-14-10, § 1, 12-20-2010)

Secs. 138-100—138-105. - Reserved.

### DIVISION 3. - TEMPORARY USES

#### *Footnotes:*

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***Editor's note—*** *Ord. No. O-5-00, § 2, adopted May 1, 2000, repealed former Division 3 of Article III of this chapter and replaced it with Division 3 as currently set out herein. Former Division 3 also pertained to temporary uses and derived from Ord. No. 21-94, § 1, adopted Sept. 19, 1994 and Ord. No. O-1-97, § 2, adopted Feb. 17, 1997.*

### Sec. 138-106. - Intent.

The intent of the temporary use division is to permit permanent businesses within the City of Berkley to occasionally have outside sales, outside events, or extra signage that would be prohibited on a permanent basis. A temporary use shall be permitted only upon the approval of a proper temporary use permit application.

(Ord. No. O-5-00, § 2, 5-1-2000)

### Sec. 138-107. - Seasonal sales.

Seasonal sales shall include the outside sale of merchandise or services which are linked to a particular season or holiday, including but not limited to: Christmas trees, wreaths, roping, pumpkins, seasonal flowers or plants. The display and sale of merchandise is required for a seasonal sales permit. The display of only a sign shall not constitute a seasonal sale.

A seasonal sales permit shall be valid for no more than 45 days from its date of issuance and is available to persons not already licensed to do business within the city.

The business owner shall be required to apply for a seasonal sales permit. If the business owner is not the property owner, the property owner's permission shall be required. A site maintenance agreement shall be on file at the city prior to approval of a seasonal sales permit. Upon receipt of a complete application, an applicant shall be notified of city's disposition.

(Ord. No. O-5-00, § 2, 5-1-2000)

### Sec. 138-108. - Promotional events.

Promotional events shall include the sale or promotion of merchandise or services in a location or manner that is otherwise prohibited by the city Code. Promotional events shall include, but not be limited to, sidewalk sales, outside displays, or normally prohibited signage, such as banners, balloons, or portable signs.

A promotional event permit shall be valid for no more than two weeks from its date of issuance.

The business owner shall be required to apply for a promotional event permit. A current business license and site maintenance agreement shall be on file at the city prior to approval of a promotional event permit. Upon receipt of a complete application, an applicant shall be notified of city's disposition.

(Ord. No. O-5-00, § 2, 5-1-2000)

### Sec. 138-109. - Community special events.

A community special event shall include an event or promotion that is not limited to a single business. Community special events shall include but not be limited to the following: art fairs, sidewalk sales, and festivals. Community special event permits shall be available to business, civic, or service organizations.

A community special event permit shall be valid for no more than one week from its date of issuance.

The organization shall be required to apply for a community special event permit. A list of participating businesses and/or organizations shall be on file at the city prior to approval of a community special event permit. Upon receipt of a complete application, an applicant shall be notified of city's disposition.

(Ord. No. O-5-00, § 2, 5-1-2000)

#### Sec. 138-110. - Woodward Dream Cruise.

Any Woodward business wishing to have outside sales or displays in conjunction with the Woodward Dream Cruise shall obtain a permit.

The business owner shall be required to apply for a Woodward Dream Cruise permit. A current business license shall be on file at the city prior to approval of a Woodward Dream Cruise permit. Upon receipt of a complete application, an applicant shall be notified of city's disposition.

(Ord. No. O-5-00, § 2, 5-1-2000)

#### Sec. 138-111. - Charities/Not-for-profit events.

Charities or not-for-profit events shall include fund raising events for charities conducted on businesses' property. Charities or not-for-profit events shall include, but not be limited to, the following: car washes and candy bar sales.

There is no limit on the number of charities/not-for-profit events a business can sponsor. A charity or not-for-profit organization shall submit an application. A letter of permission from the property owner and proof of IRS 501C3 status shall be required. Upon receipt of a complete application, an applicant shall be notified of city's disposition. No fee shall be required for a charities/not-for-profit events permit.

(Ord. No. O-5-00, § 2, 5-1-2000)

#### Sec. 138-112. - Temporary signs.

Exhibitors that rent halls or other facilities for events such as craft, computer or antique shows and wish to advertise such events with a sign shall be required to apply for a temporary sign permit.

Temporary signs shall not exceed 25 square feet in size and shall adhere to all the general requirements set forth in Chapter 94, Signs, section 94-15 General requirements.

A temporary sign permit shall be valid for no more than two weeks from its date of issuance.

The exhibitor shall be required to apply for a temporary sign permit. A copy of the rental agreement shall also be required. Upon receipt of a complete application, an applicant shall be notified of city's disposition.

(Ord. No. O-5-00, § 2, 5-1-2000)

Sec. 138-113. - Permit limitation.

No more than four seasonal sale permits and two promotional event permits shall be issued to any business owner within any calendar year. If the business owner is not the property owner, then no more than four seasonal sale permits shall occur at a single property within any calendar year. No event or combination of events shall exceed 45 days.

(Ord. No. O-5-00, § 2, 5-1-2000; Ord. No. O-02-04, § 1, 5-17-2004)

Sec. 138-114. - Denials and appeals.

An application shall be denied if it does not meet the requirements set forth in Division 3, Temporary Uses. Any application denied by the city may be appealed to the zoning board of appeals. The appeal process is outlined in Article VI Administration and Enforcement, Division 4 Variances and Appeals.

(Ord. No. O-5-00, § 2, 5-1-2000)

Secs. 138-115—138-125. - Reserved.

DIVISION 4. - PERFORMANCE STANDARDS

*Footnotes:*

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**Cross reference—** Businesses, ch. 30; nuisances, ch. 78.

Sec. 138-126. - Standards generally.

No use otherwise allowed shall be permitted within any district which does not conform to the following standards of use, occupancy and operation, which standards are hereby established as the minimum requirements to be maintained within such area.

(Code 1981, § 33-126)

Sec. 138-127. - Smoke.

It shall be unlawful for any person to permit the emission of any smoke from any source whatever to a density greater than that density described as No. 1 on the Ringelmann Chart; provided, however, that the following exceptions shall be permitted: Smoke, the shade or appearance of which is equal to but not darker than No. 2 of the Ringelmann Chart for a period or periods aggregating 4 minutes in any 30 minutes. Method of measurement: For the purpose of grading the density of smoke, the Ringelmann Chart, as now published and used by the United States Bureau of Mines, which is hereby made a part of this chapter, shall be the standard. However, the umbrascope readings of smoke densities may be used when correlated with Ringelmann's Chart.

(Code 1981, § 33-126(1))

Sec. 138-128. - Dust, dirt and fly ash.

No person shall operate or cause to be operated, maintain or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating, while using such process or furnace or combustion device, recognized and approved equipment, means, method, device or contrivance to reduce the quantity of gas-borne or air-borne solids or fumes emitted into the open air, which is operated in conjunction with such process, furnace or combustion device so that the quantity of gas-borne or air-borne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit. Method of measurement: For the purpose of determining the adequacy of such devices these conditions are to be conformed to when the percentage of excess air in the stack does not exceed 50% at full load. The foregoing requirement shall be measured by the A.S.M.E. test code for dust-separating apparatus. All other forms of dust and dirt shall be completely eliminated, insofar as escape or emission into the open air is concerned. The building inspector may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust and dirt have been made.

(Code 1981, § 33-126(2))

Sec. 138-129. - Open storage.

The open storage for junk, scrap, salvage, waste products or construction materials, where the operations are for the conversion to salable materials, shall be screened from public view, from a public street, and from adjoining properties not of a similar nature, by an enclosure consisting of an obscuring masonry wall not less than 8 feet high.

(Code 1981, § 33-126(3))

Sec. 138-130. - Glare and radioactive materials.

Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line and as not to create a public nuisance or hazard along lot line. Radioactive materials and wastes shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

(Code 1981, § 33-126(4))

Sec. 138-131. - Fire and explosive hazards.

- (a) In the M-1 districts, the storage, utilization or manufacture of materials or products ranging from incombustible to moderate burning, as determined by the fire marshal, is permitted, subject to compliance with all other performance standards mentioned in this division.
- (b) The storage, utilization or manufacturing of materials, goods or products ranging from free or active burning

to intense burning, as determined by the fire marshal, is permitted subject to compliance with all other yard requirements and performance standards previously mentioned and providing that the following conditions are met:

- (1) Said materials or products shall be stored, utilized or produced within completely enclosed buildings or structures having incombustible exterior walls, which meet the requirements of the building code of the city (chapter 26 of this Code).
- (2) All such buildings or structures shall be set back at least 40 feet from lot lines, or, in lieu thereof, all such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the National Fire Protection Association.
- (3) The storage and handling of flammable liquids, liquified petroleum gases and explosives shall comply with the State Rules and Regulations as Established by Public Act No. 207 of 1941 (MCL 29.1 et seq.).

(Code 1981, § 33-126(5))

**Cross reference—** Fire prevention and protection, ch. 50.

#### Sec. 138-132. - Grading.

Grading as it relates to residential structures, shall be so developed as to drain surface water away from residential dwellings. A minimum slope of one-fourth inch in 1 foot shall be provided. Grading on a parcel shall be so developed as to prevent surface water from that parcel from flowing onto adjoining parcels.

(Code 1981, § 33-126(7))

#### Secs. 138-133—138-140. - Reserved.

### DIVISION 4.5. - OUTDOOR LIGHTING

#### Sec. 138-141. - Purpose.

The purpose of this division is to improve the travel conditions for persons and vehicles on public ways by reducing glare, to reduce light trespass, to protect the general health, safety, and welfare of the public in the city, to decrease the expense of lighting, to decrease light pollution, and to improve the aesthetics of the city in general while providing adequate nighttime safety, utility, and security.

(Ord. No. O-01-03, § 2, 5-5-2003)

#### Sec. 138-142. - Procedure.

Per section 138-679, at the time of site plan review, the applicant shall supply a lighting plan in accordance with planning commission rules.

(Ord. No. O-01-03, § 2, 5-5-2003)

Sec. 138-143. - Requirements.

(a) *All districts.*

- (1) All lights shall be shielded in such a way as to direct all light toward the Earth's surface and away from reflective surfaces.
- (2) Light fixtures or lamps shall be shielded/shaded in such a manner as to direct incident rays away from all adjacent property.
- (3) Lights on poles, including the base, shall not be taller than the building whose area they illuminate nor taller than 20 feet, whichever is shorter.
- (4) Luminaires shall shield the source of glare above 72 degrees from the vertical.
- (5) All fixtures shall meet the building code requirements for their particular zoning district.
- (6) Lighting shall not be arranged in such a way that it will shine toward roadways, onto adjacent residential property, or into the night sky.
- (7) Except as stated elsewhere in these regulations, light levels shall be limited to those published as recommended by the Illuminating Engineering Society of North America.

(b) *Nonresidential districts.*

- (1) Any light fixture shall be placed in such a manner that no light source is visible from any residential area or public/private roadway, walkway, trail or other public way when viewed at eye level.
- (2) The level of lighting shall not exceed 0.5 footcandles at any residential property line or 1.0 footcandles at any nonresidential property line.
- (3) Any canopy structure used at a business location shall have recessed lights with diffusers that do not extend below the surface of the canopy.
- (4) Any luminaire on a pole, stand or mounted on a building shall have a shield, an adjustable reflector and nonprotruding diffusor.

(Ord. No. O-01-03, § 2, 5-5-2003)

Sec. 138-144. - Exceptions.

The planning commission may waive any of the provisions stated in section 138-143 when after a request for such an exception has been made and reviewed, the planning commission determines that such an exception is necessary for the lighting application. In reviewing a request for such exception, the planning commission shall consider safety, design, and other factors deemed appropriate by the planning commission and shall consider the following:

- (1) The new or replacement luminaire is a full-cutoff luminaire when the rated output of the luminaire is greater than 1,800 lumens.
- (2) If a lighting recommendation or regulation applies, the minimum/maximum illuminance specified by the

recommendations or regulation is used.

- (3) If no lighting recommendation or regulation applies, the minimum illuminance adequate for the intended purpose is used, giving full consideration to safety, energy conservation, glare, and minimizing light trespass.
- (4) Adequate consideration has been given to conserving energy and minimizing glare, light pollution, and light trespass.

(Ord. No. O-01-03, § 2, 5-5-2003)

**Editor's note—** Ord. No. O-01-03, § 2, adopted May 5, 2003, enacted provisions intended for use as subsections 138-144(a)—(d). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections 138-144(1)—(4).

Secs. 138-145—138-150. - Reserved.

## DIVISION 5. - NONCONFORMING BUILDINGS AND USES

*Footnotes:*

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**Editor's note—** Ord. No. O-6-99, § 1, adopted June 21, 1999 repealed in their entirety the provisions of former §§ 138-151—138-167 which derived from the Code of 1981, § 33-128(1)—(15) and § 33-129 and pertained to similar provisions. Ord. No. O-6-99 replaced former §§ 138-151—138-167 with the current §§ 138-151—138-154 as set out herein.

**State Law reference—** Nonconforming uses and structures, MCL 125.583a.

Sec. 138-151. - Definitions.

*Nonconforming use:* Nonconforming uses are uses that were lawful when established but are no longer permitted within the zoning district or are now permitted only under a special use permit.

*Nonconforming structure:* Nonconforming structures include structures that were lawfully constructed but are no longer in compliance with the provisions of this chapter. Nonconforming structures may include signs, fences, buildings, and lots. Structures may be nonconforming in regard to size, parking, setbacks, height, or other similar characteristics.

(Ord. No. O-6-99, § 1, 6-21-1999)

Sec. 138-152. - General requirements; uses and structures.

Nonconformities that substantially and adversely affect the orderly development and market value of other property in the district shall not be permitted to continue without restriction.

If a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repair and maintenance, and is declared to be unsafe by the city and unlawful by reason of physical condition, it shall not be restored, repaired, or rebuilt except in conformity with the regulations of the applicable zoning district.

The city council may acquire by purchase or condemnation private property for the purpose of removing nonconforming structures or uses. The elimination of such nonconformity shall be declared to be for public purpose and public use. The acquired property shall not be used for public housing. The city council may institute and prosecute proceedings for the condemnation of nonconformities under the power of eminent domain in accordance with the provisions of the city charter or in accordance with Michigan Act No. 149 of the Public Act of 1911, as amended, or any other applicable statutes.

If a building permit has been obtained and work had been commenced and carried on continuously prior to the adoption of this chapter, then the adoption of this chapter shall not limit the construction of the building.

When a building or portion thereof is moved from one district to another, or to another location within the same zoning district, it must be made to conform to all the regulations of said district.

No nonconformity shall be permitted to continue if it was unlawful at the time it was established.

(Ord. No. O-6-99, § 1, 6-21-1999)

#### Sec. 138-153. - Requirements for nonconforming uses.

A nonconforming use may be continued and maintained provided there is no increase or enlargement of the area occupied by or devoted to such use. A nonconforming use shall not be added to or enlarged unless said use is made to conform to all regulations of the zoning district.

There may be a change of tenancy, ownership, or management of an existing nonconforming use provided there is no change in the nature of the nonconforming use.

Once a nonconforming use has stopped and the building that houses the nonconforming use remains vacant for 180 days, any subsequent use of the property shall be conforming.

(Ord. No. O-6-99, § 1, 6-21-1999)

#### Sec. 138-154. - Requirements for nonconforming structures.

A nonconforming building shall be maintained. Maintenance shall include necessary repairs and incidental alterations. Alterations shall not aggravate the nonconforming characteristic.

A building may be added to or enlarged if such addition conforms to the regulations of the applicable zoning district. Such addition or enlargement shall be treated as a separate building in determining conformity to all of the requirements of this chapter.

If a nonconforming building is damaged or partially destroyed by less than 50 percent of its market valuation (exclusive of foundations) as determined by a licensed assessor or appraiser, then the building may be restored and its previous occupancy or use continued. If a nonconforming building is damaged or partially destroyed by 50 percent or more than 50 percent of its market valuation (exclusive of foundations), then any restoration or new construction must comply with all current building and zoning codes.

(Ord. No. O-6-99, § 1, 6-21-1999)

Secs. 138-155—138-185. - Reserved.

## DIVISION 6. - SUPPLEMENTARY REGULATIONS

Sec. 138-186. - Essential services.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the city. It is the intention of this section to exempt such essential services from the application of this chapter.

(Code 1981, § 33-136(1))

Sec. 138-187. - Voting places.

The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in conjunction with a municipal or other public election.

(Code 1981, § 33-136(2))

**Cross reference—** Elections, ch. 46.

Sec. 138-188. - Height exceptions.

The height limitations of this chapter shall not apply to radio and television towers or public monuments.

(Code 1981, § 33-136(3))

Sec. 138-189. - Buildable lots.

Lots area requirements do not apply to lots existing prior to the adoption of the ordinance from which this chapter is derived; all other regulations shall apply.

Sec. 138-190. - Yard regulations.

- (a) When yard regulations cannot reasonably be complied with, as in the case of a planned development in the multiple-family district, or where their application cannot be determined on lots existing and of record at the

time the ordinance from which this chapter is derived became effective, and on lots of peculiar shape, topography, or due to architectural or site arrangement, such regulations may be modified or determined by the board of appeals.

- (b) For the purpose of side yard regulations, a multiple-family dwelling shall be considered as 1 building occupying 1 lot.

(Code 1981, § 33-136(6), (7))

#### Sec. 138-191. - Porches.

A porch or paved terrace may project into a front yard for a distance not exceeding 8 feet, but in no case shall a front porch be closer to the front property line than 15 feet. Same may be covered by an awning, roof or canopy but shall not be otherwise enclosed, except that the space below the surface of the porch or paved terrace will be concealed from view in accordance with prescribed standards.

(Code 1981, § 33-136(8))

#### Sec. 138-192. - Projections.

Projections may extend into a required side yard setback 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 given yard shall not exceed 30 percent of that wall's surface area.

Projections may have a foundation, such as brick or masonry fireplaces, or may be without foundation, such as box fireplaces, bay windows, and other types of cantilevers, including second story cantilevers.

Projections without a foundation shall be above grade at least 12 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 11 feet above the sidewalk if the planning commission determines the public health, safety, and welfare will not be adversely affected. The total of all projections into a given right of way shall not exceed 30 percent of that wall's surface area.

(Code 1981, § 33-136(9); Ord. No. O-06-14, § 1, 1-5-2015; Ord. No. O-1-21, § 1, 3-1-2021)

#### Sec. 138-193. - Number of buildings on a lot.

Except in the case of planned development, not more than 1 principal detached residential building shall be located on a lot, nor shall a principal detached residential building be located on the same lot with any other principal building.

(Code 1981, § 33-113)

#### Sec. 138-194. - Continuing obligations of owners.

The maintenance of yards and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. No legally required yards, other open space, or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, other open space, or minimum lot area requirements for any other building.

(Code 1981, § 33-116(1))

Sec. 138-195. - Bulk regulations.

- (a) *Division of lots.* No lot shall hereafter be divided into 2 or more lots and no portion of any lot shall be sold, unless all lots resulting from each such division or sale shall conform with all the applicable bulk regulations of the zoning district in which the property is located.
- (b) *Location of required open space.* All yards and other open spaces allocated to a building or dwelling group shall be located on the same lot as such building or dwelling group.

(Code 1981, § 33-116(2)—(4))

Sec. 138-196. - Incomplete dwellings.

No cellar, garage or any incompletely constructed structure in use as a dwelling at the effective date of the ordinance from which this chapter is derived shall be used as a dwelling for more than 3 years following such date, unless such structure has been brought to a state of external completion in conformity with the regulations of this chapter relative to dwellings in the district in which the structure is located. No such structure constructed after the effective date of the ordinance from which this chapter is derived shall be used as a dwelling unless such structure has been completed as a dwelling and an occupancy permit issued for such structure.

(Code 1981, § 33-117)

Sec. 138-197. - Interpretation of use.

Land uses (permitted or special) which, though not contained by name in a zoning district list of permitted or special uses, are deemed to be similar in nature and clearly compatible with the listed uses may be permitted if approved by the zoning board of appeals. The nonlisted uses which are approved shall be added to the appropriate use list at the time of periodic updating and revision.

(Code 1981, § 33-119)

Sec. 138-198. - Signs.

Any publicly displayed sign, symbol or notice on premises to advertise the business there transacted, or name of person or firm conducting such business on premises, or directing to some other locale, shall be regulated as required in chapter 94.

(Code 1981, § 33-123)

**Cross reference—** Signs generally, ch. 94.

Secs. 138-199—138-215. - Reserved.

## ARTICLE IV. - OFF-STREET PARKING AND LOADING

*Footnotes:*

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**Cross reference—** *Parking accommodations at drive-in restaurants, § 30-380; stopping, standing and parking generally, § 122-91 et seq.*

## DIVISION 1. - OFF-STREET PARKING REQUIREMENTS

*Footnotes:*

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**Editor's note—** *Ord. No. O-5-99, § 1, adopted July 19, 1999, repealed in their entirety the provisions of §§ former 138-216—138-238 which derived from the Code of 1981, § 33-120(1)—(15), (17)—(20), (22)—(24) and Ord. No. 57-95, § 1, adopted March 6, 1995. Ord. No. O-5-99 replaced former §§ 138-216—138-238 with the similar provisions of §§ 138-216—138-225, as set out herein.*

Sec. 138-216. - Purpose.

In all zoning districts, space shall be provided as specified in this chapter for the parking and storage of self-propelled motor vehicles for the use of occupants, employees and patrons of buildings hereafter erected, altered or extended after the effective date of this chapter. Such parking space shall be maintained and shall not be encroached upon so long as said building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this chapter.

(Ord. No. O-5-99, § 1, 7-19-1999)

Sec. 138-217. - Units of measurement.

- (a) *Total floor area.* The sum of the horizontal area of the first story measured to the inside face of interior walls, plus, similarly measured, that area of all other stories, including mezzanines which may be fit for occupancy, including the floor area of all accessory buildings measured similarly and the floor area of basements used for activities related to the principal use, such as storage.

The calculation shall exclude furnace and utility rooms, parking space located within a building, other mechanical equipment, unenclosed porches, public corridors and public toilets, whether located in a principal or an accessory building.

- (b) *Usable floor area.* In those cases where usable floor area cannot be determined, usable floor area shall be assumed to be equal to 70 percent of the total floor area of the building.
- (c) *Parking space requirements.* When determining parking requirements, any fraction equal to or greater than one-half shall go to the next higher number.

(Ord. No. O-5-99, § 1, 7-19-1999)

#### Sec. 138-218. - Shared parking/parking waivers.

- (a) *Collective or joint use of parking areas.* The joint use of parking facilities by two or more uses is permitted whenever such use is practicable and satisfactory to each of the uses intended to be served, and when all requirements for location, design and construction can be satisfied. A copy of any agreement between joint users shall be filed with the application for a business license. The agreement shall include a guarantee for continued joint use and a joint site maintenance agreement.

In computing capacities for any joint use, the off-street parking requirement is the sum of the individual requirements that will occur at the same time. In computing the required parking spaces for the total of joint off-street parking, the total spaces required may be reduced by the zoning officer whenever the facilities served do not operate during the same hours of the day or night and it can be clearly established that a simultaneous need for joint use parking will not occur.

- (b) *Reductions in existing off-street parking.* Effective with the date of this chapter, off-street parking existing in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.

(Ord. No. O-5-99, § 1, 7-19-1999)

#### Sec. 138-219. - Parking space requirements by use.

Minimum number of off-street parking spaces by type and use shall be determined in accordance with the following schedule. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use that the zoning officer considers similar in type.

	Use	Number of Parking Spaces Per Unit of Measure
<b>(1) Residential</b>		
	•Single-family residential detached or attached	•Two per dwelling unit
	•Two-family residential	•Two per dwelling unit
	•Multiple-family residential	•Two per dwelling unit

	<ul style="list-style-type: none"> <li>•Independent senior living facility</li> <li>•Assisted living facility</li> <li>•Skilled nursing facility</li> </ul>	<ul style="list-style-type: none"> <li>•One per residential dwelling unit</li> <li>•0.5 per residential dwelling unit</li> <li>•1.5 per 1,000 square feet of total area</li> </ul>
<b>(2) Institutional</b>		
	<ul style="list-style-type: none"> <li>•Church, chapel, synagogue, temple, or other place of worship</li> </ul>	<ul style="list-style-type: none"> <li>•One per three seats or one per five feet of pew, whichever is greater</li> </ul>
	<ul style="list-style-type: none"> <li>•Community center</li> </ul>	<ul style="list-style-type: none"> <li>•One per 250 square feet of usable floor area</li> </ul>
	<ul style="list-style-type: none"> <li>•Commuter college, university, business, vocational, religious schools and similar institutions enrolling students seventeen years of age or older</li> </ul>	<ul style="list-style-type: none"> <li>•One per employee and student</li> </ul>
	<ul style="list-style-type: none"> <li>•Convent</li> </ul>	<ul style="list-style-type: none"> <li>•One per 1000 square feet of usable floor area</li> </ul>
	<ul style="list-style-type: none"> <li>•Fraternity or sorority</li> </ul>	<ul style="list-style-type: none"> <li>•One per 100 square feet of usable floor area</li> </ul>
	<ul style="list-style-type: none"> <li>•Gymnasium</li> </ul>	<ul style="list-style-type: none"> <li>•One per three seats or five feet of bench, whichever is greater plus one per 100 square feet of usable floor area</li> </ul>
	<ul style="list-style-type: none"> <li>•Nursing homes, children's homes, and orphanages</li> </ul>	<ul style="list-style-type: none"> <li>•One per bed</li> </ul>
	<ul style="list-style-type: none"> <li>•Hospitals and sanitariums</li> </ul>	<ul style="list-style-type: none"> <li>•Two per bed</li> </ul>
	<ul style="list-style-type: none"> <li>•Libraries, museums or post offices</li> </ul>	<ul style="list-style-type: none"> <li>•One per 150 square feet of usable floor area</li> </ul>
	<ul style="list-style-type: none"> <li>•Nursery schools, day care or child care centers (Principal Use)</li> </ul>	<ul style="list-style-type: none"> <li>•One per 300 square feet of usable floor area plus one per employee</li> </ul>
	<ul style="list-style-type: none"> <li>•Park (Playfield with active sports facilities)</li> </ul>	<ul style="list-style-type: none"> <li>•Thirty-four per diamond or marked field of play</li> </ul>
	<ul style="list-style-type: none"> <li>•Park (Passive)</li> </ul>	<ul style="list-style-type: none"> <li>•Space equivalent to 5% of the total land area</li> </ul>
	<ul style="list-style-type: none"> <li>•Private and public elementary and junior high schools and similar institutions</li> </ul>	<ul style="list-style-type: none"> <li>•One per employee plus the requirements of the auditorium or multipurpose room or gymnasium plus ten</li> </ul>
	<ul style="list-style-type: none"> <li>•Private clubs or lodges</li> </ul>	<ul style="list-style-type: none"> <li>•One per 50 square feet of usable floor area</li> </ul>
	<ul style="list-style-type: none"> <li>•Private swimming pool clubs or other similar uses</li> </ul>	<ul style="list-style-type: none"> <li>•One per 100 square feet of water area plus one per 30 square feet used for spectator seating</li> </ul>
	<ul style="list-style-type: none"> <li>•Public and private high schools and similar institutions</li> </ul>	<ul style="list-style-type: none"> <li>•One per employee plus one per eight students plus the requirements of the auditorium, multipurpose room or gymnasium</li> </ul>

	<ul style="list-style-type: none"> <li>• Public and private schools converted for adult education classes</li> </ul>	• One per employee and student
	<ul style="list-style-type: none"> <li>• Stadia, sports arenas, or other places of outdoor assembly</li> </ul>	• One per three seats or five feet of bench, whichever is greater
	<ul style="list-style-type: none"> <li>• Theaters and auditoriums, public assembly halls</li> </ul>	<ul style="list-style-type: none"> <li>(a) With fixed seating—One per three seats</li> </ul>
		<ul style="list-style-type: none"> <li>(b) Without fixed seating—One per three persons who may legally be admitted therein at one time under the occupancy load as established by local, adopted building code</li> </ul>

## (3) Commercial

	<ul style="list-style-type: none"> <li>• Adult bookstore, nude, photographic studio, massage establishment</li> </ul>	• Three per 100 square feet of usable floor area
	<ul style="list-style-type: none"> <li>• Adult theater</li> </ul>	• See "Theater"
	<ul style="list-style-type: none"> <li>• Amusement center, video arcade, billiards/pool</li> </ul>	• Two per game table plus one per game device plus two
	<ul style="list-style-type: none"> <li>• Art gallery (sales)</li> </ul>	• One per 300 square feet of usable floor area plus two
	<ul style="list-style-type: none"> <li>• Auction house</li> </ul>	• One per two seats or two per 50 square feet of usable floor area, whichever is greater
	<ul style="list-style-type: none"> <li>• Auto body shop</li> </ul>	• Three per 250 square feet of usable floor area plus two screened storage spaces per service bay
	<ul style="list-style-type: none"> <li>• Auto parts store, auto rental</li> </ul>	• One per 300 square feet of usable floor area
	<ul style="list-style-type: none"> <li>• Automobile repair shop</li> </ul>	• One per 200 square feet of sales area plus three screened storage spaces per service bay
	<ul style="list-style-type: none"> <li>• Automobile sales</li> </ul>	• Seven per 1000 square feet of showroom plus one per 350 square feet of service bay
	<ul style="list-style-type: none"> <li>• Bakery shop</li> </ul>	• One per 100 square feet of usable floor area
	<ul style="list-style-type: none"> <li>• Banks, financial institutions</li> </ul>	• One per 200 square feet of usable floor area plus three per teller station plus eight stacking spaces for the first drive-in window and six stacking spaces per each additional window plus two per automatic teller machine (ATM)
	<ul style="list-style-type: none"> <li>• Banquet halls, dance halls, roller or</li> </ul>	• One per three persons who may legally

	skating rinks, tennis, clubs, exhibition, assembly or rental hall without fixed seats	be admitted therein at one time under the occupancy load as established by the local, adopted building code
	•Bar, lounge, tavern, night club with or without a restaurant	•One per 60 square feet of usable floor area
	•Beauty and barber shops, tanning or nail salon	•Three per service chair or station
	•Bed and breakfast	•One per guest room plus two
	•Boarding house	•Two per owner plus one per lodger
	•Bookstore, records, video or a combination of each	•Four per 1000 square feet of usable floor area
	•Bowling alley	•Five per alley
	•Car wash, full service	•Four per wash/drying/detailing bay/stall plus ten stacking spaces plus six
	•Car wash, self service	•Four stacking spaces plus two drying spaces per stall
	•Cartage, express and parcel delivery	•One per 500 square feet of usable floor area
	•Cemetery	•As required for the permitted accessory uses, see <u>division 11</u> , Cemetery District in article V of this chapter
	•Convenience or liquor store	•Six per 1000 square feet of usable floor area.
	•Dry cleaning	•One per 300 square feet of usable floor area
	•Exterminator	•Three per 1000 square feet of usable floor area
	•Funeral home or mortuary establishment	•One per 50 square feet of assembly room used for services, parlors and slumber rooms
	•Furniture and appliance, household equipment, decorator, office supply, showrooms	•One per 400 square feet of usable floor area
	•Gas station, full serve	•Two per service rack plus one per pump mechanism plus four
	•Gas station, self serve	•One (1) per pump mechanism plus two
	•Gas station, with convenience shop	•Six per 1000 square feet of usable floor area plus one per pump plus two
	•Grocery store	•Nine per 1000 square feet of usable floor area
	•Gunsmith/shop	•One per 250 square feet of usable floor area or four, whichever is greater
	•Hardware store	•Four per 1000 square feet of usable floor

		area
	•Health club	•One per 150 square feet of usable floor area designated for machines and free-weights plus one per 50 square feet of usable floor area designated for aerobics classes
	•Hotels, motels	•1½ per room
	•Indoor racquet facility	•Four per court
	•Laundromat and coin operated dry cleaners	•One per two washers and drying machines
	•Locksmith	•Three per 1000 square feet of usable floor area plus one per service vehicle
	•Massage parlor	•One per 100 square feet of usable floor area
	•Miniature golf course	•Three per hole of play
	•Motorcycle service and sales	•One per 200 feet of usable floor area or two, whichever is greater
	•Newspaper/magazine stand	•One per 300 square feet or three, whichever is greater
	•Nursery, greenhouse or garden center	•One per 300 square feet of usable floor area plus one per 300 square feet of outdoor space
	•Oil change shop	•Three per service bay plus two stacking spaces per service bay
	•Outdoor dining or sales	•Same as related interior uses
	•Pawn shop	•One per 300 square feet of usable floor area
	•Photography studio	•One per 200 square feet of usable floor area or four, whichever is greater
	•Planned commercial or shopping center	•One per 100 square feet of usable floor area. In addition, the parking requirements for restaurants located in shopping centers shall be calculated separately, based upon the restaurant requirements in this chapter
	•Printing and publishing	•One per 300 square feet of usable floor area or four, whichever is greater
	•Produce market/stand	•One per 100 square feet of usable floor area
	•Radio or television station or production facility	•One per 300 square feet of usable floor area
	•Rental equipment	•One per 200 square feet of usable floor area

	•Repair shop (appliance, furniture, shoe, non-vehicle)	•One per 250 square feet of usable floor area
	•Restaurants, carry out	•One per 75 square feet of usable floor area
	•Restaurants, fast-food, drive-in, drive-through	•One per 75 square feet of usable floor area plus ten stacking spaces for the first drive-through lane and five stacking spaces per additional lane
	•Restaurants, other	•One per 60 square feet of usable floor area
	•Retail store	•One per 225 square feet of usable floor area
	•Rifle range	•One per target area plus five
	•School, beauty	•Two per operator station plus three
	•School, dance	•One per 150 square feet of dance floor area plus five
	•Tattoo/body piercing studio	•One per 100 square feet of usable floor area
	•Taxi stand	•One per taxi
	•Telemarketing	•One per 25 square feet of usable floor area or ten, whichever is greater
	•Travel Agency	•One per 250 square feet of usable floor area
	•Veterinarian clinic	•One per 100 square feet of usable floor area

## (4) Office

	•Business and professional offices of architects, engineers, landscape architects, lawyers or similar allied professions	•One per 225 square feet of usable floor area
	•Office, dental	•Two per examination or treatment room plus three
	•Office, medical	•One per 100 square feet of usable floor area or ten, whichever is greater
	•Office, psychologist	•Two per examination or treatment room plus three
	•Blood and plasma office	•One per 75 square feet of usable floor area or eight, whichever is greater

## (5) Industrial

	•Industrial establishments, research and testing laboratories	•One per 250 square feet of usable floor area plus one per company vehicle, or ten, whichever is greater
	•Manufacturing establishment or	•One per 250 square feet of usable floor

	establishment for production, processing, assembly, compounding, preparation, cleaning, servicing, testing, repair, or storage of materials, goods, or products, and business offices accessory thereto	area plus one space per company vehicle and piece of mobile equipment or ten, whichever is greater
	•Wholesale and warehouse establishments	•One per 250 square feet of usable floor area
	•Heavy equipment storage yard, lumber and building materials yard	•One per 250 square feet of usable show room or sales area plus one per company vehicle
	•Cellular tower	•Two

(Ord. No. O-5-99, § 1, 7-19-1999; Ord. No. O-07-10, § 2, 7-19-2010)

#### Sec. 138-220. - Parking dimensions.

- (a) *Standard.* A basic residential or commercial parking space shall be an accessible rectangle having a width of nine feet and a length of 20 feet.
- (b) *Compact.* Compact car spaces shall be an accessible rectangle having a width of eight feet and a length of 16 feet. Compact car spaces shall account for no more than 30 percent of the total parking requirement and be clearly signed for "small cars only."
- (c) *Adjacent to walls and other structures.* When a parking space is located adjacent to a fixed object, such as a wall, fence, or support post, which interferes with the opening of any vehicle door, the width of the space shall be increased by one foot. Such parking spaces shall be located on the premises they are intended to serve.

(Ord. No. O-5-99, § 1, 7-19-1999)

#### Sec. 138-221. - Barrier free parking requirements.

Each parking lot that serves a building, except single and two-family dwelling units, shall have a number of level parking spaces, identified by an above-grade sign placed six feet above grade which indicates the spaces are reserved for physically handicapped persons. Parking for the handicapped shall comply with the State of Michigan Barrier-Free Rules, Michigan Public Act No. 1 of 1996, as amended, and the adopted city building code. The number of barrier-free spaces required is as follows:

Total Parking Spaces in Parking Lot	Required Number of Barrier Free Parking Spaces
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6

201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of total
Over 1000	20 (plus 1 for each 100 over 1000)

(Ord. No. O-5-99, § 1, 7-19-1999)

Sec. 138-222. - Parking lot location, design, and construction.

(a) *Single- and two-family residential uses.*

(1) *Location.* The off-street parking facilities required for single- and two-family dwellings shall be located on the same lot or plot of ground as the buildings they are intended to serve.

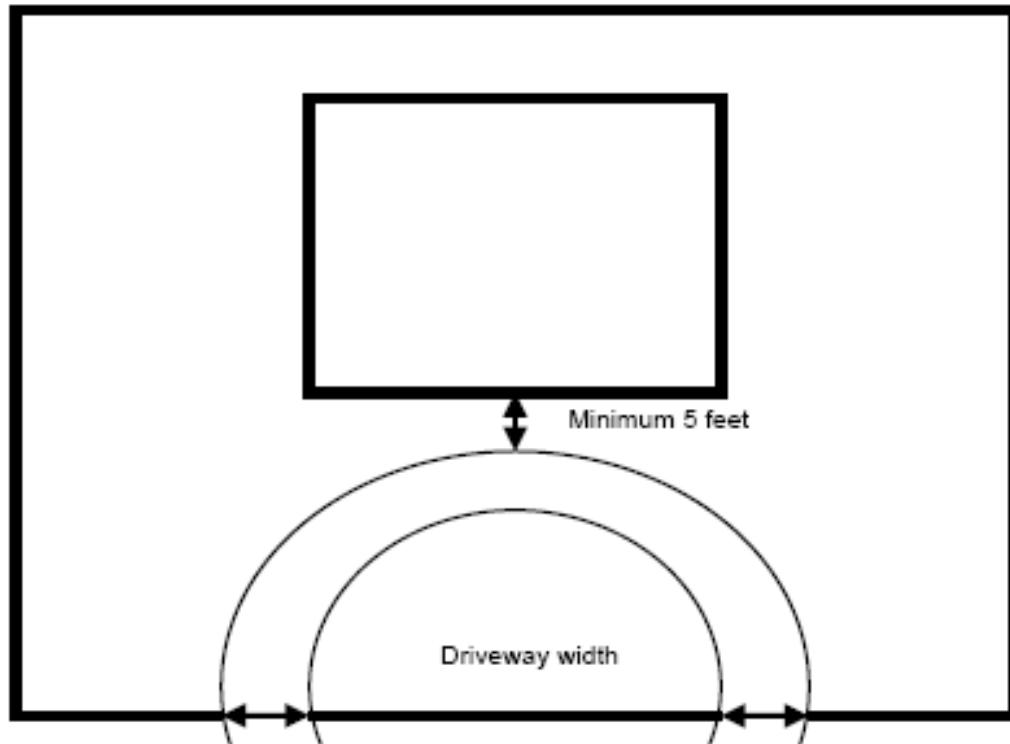
(2) *Commercial vehicles.*

- a. A commercial vehicle is defined as a truck, pick up truck, sedan or panel van, including tractors, trailers, semi-trailers, and step vans used for the transportation or delivery of goods or merchandise or used in the business occupation of the current resident. No commercial vehicle shall have a height greater than ten feet and a length greater than 24 feet.
- b. Parking of the following vehicles for more than 48 hours shall be prohibited in any residential district:
  - Semi-tractor;
  - Tow truck;
  - Cement truck;
  - Flat-bed truck whose bed exceeds 10 feet;
  - Tank body truck;
  - Cherry pickers;
  - Dump truck;
  - Stake truck whose bed exceeds ten feet; or
  - Any type of construction or industrial equipment but not limited to bull dozers and hi-lo's, or vehicles equipped with open racks for transporting glass, lumber or any type of extended materials.
- c. All permitted commercial vehicles shall be currently licensed and operative. Vehicles shall be limited to those used by current residents.

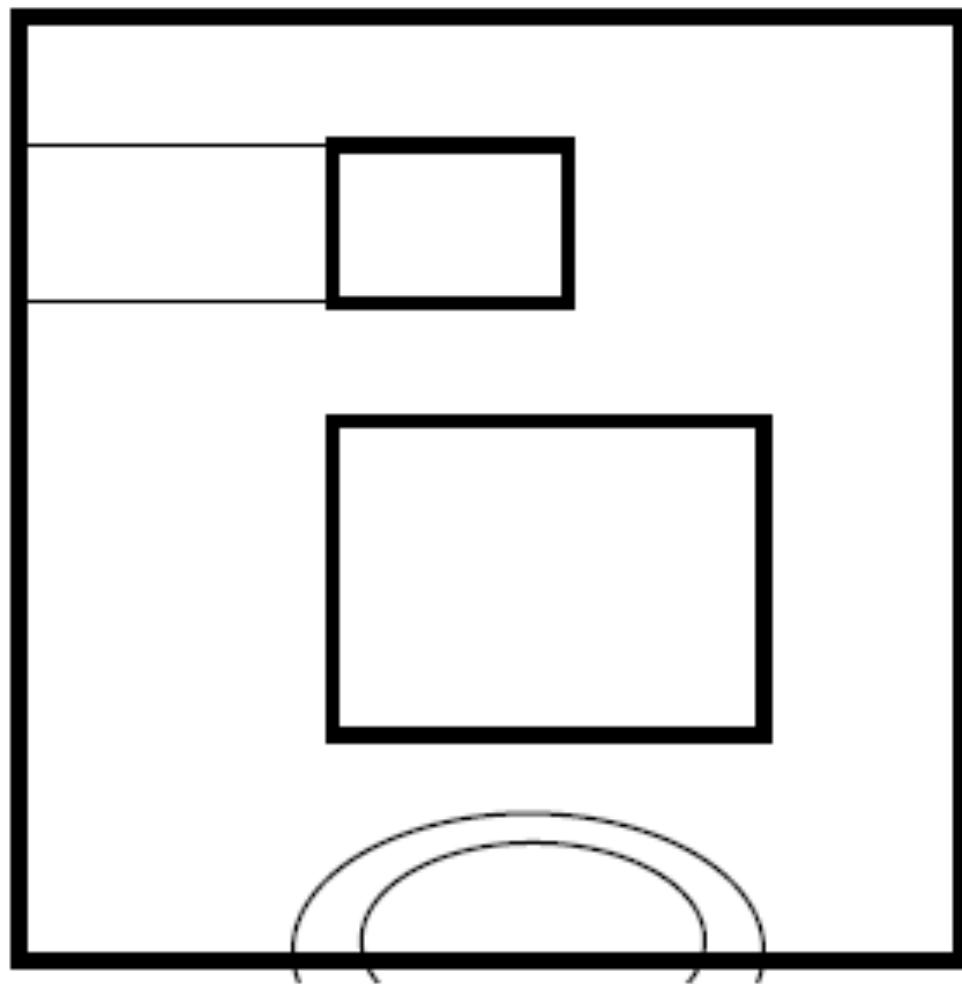
(3) *Residential drive ways.*

- a. *Number of driveways.*

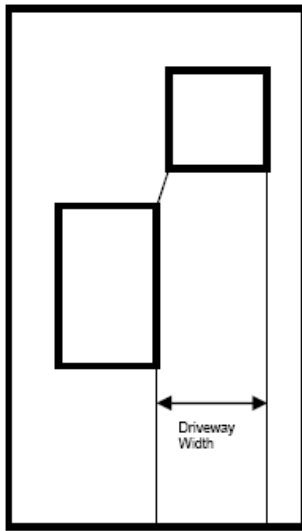
1. *For parcels less than 100 feet wide.* No more than one driveway and approach per dwelling unit shall
2. *For parcels 100 feet or more in width.* A circular driveway with two approaches on the same street is permitted. Circular driveways shall not exceed 10 feet in width and shall not be less than 5 feet from the front building line. The driveway shall not be less than 5 feet from the side lot line as measured along the front lot line. Total pavement within the front yard shall not exceed 35% of the front yard.



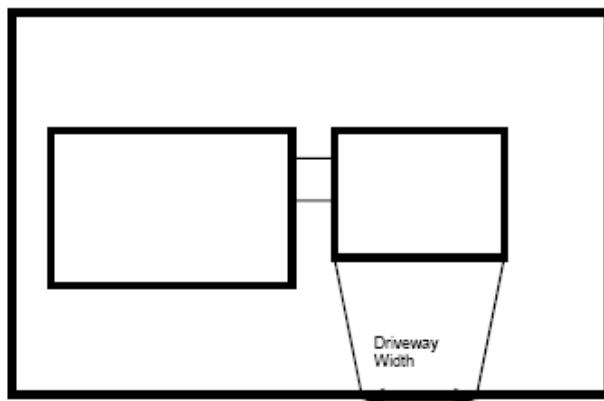
3. *For parcels 100 feet or more in width and a corner lot.* In addition to the circular driveway described above, a separate driveway and approach from the side street is permitted if garage access is required.



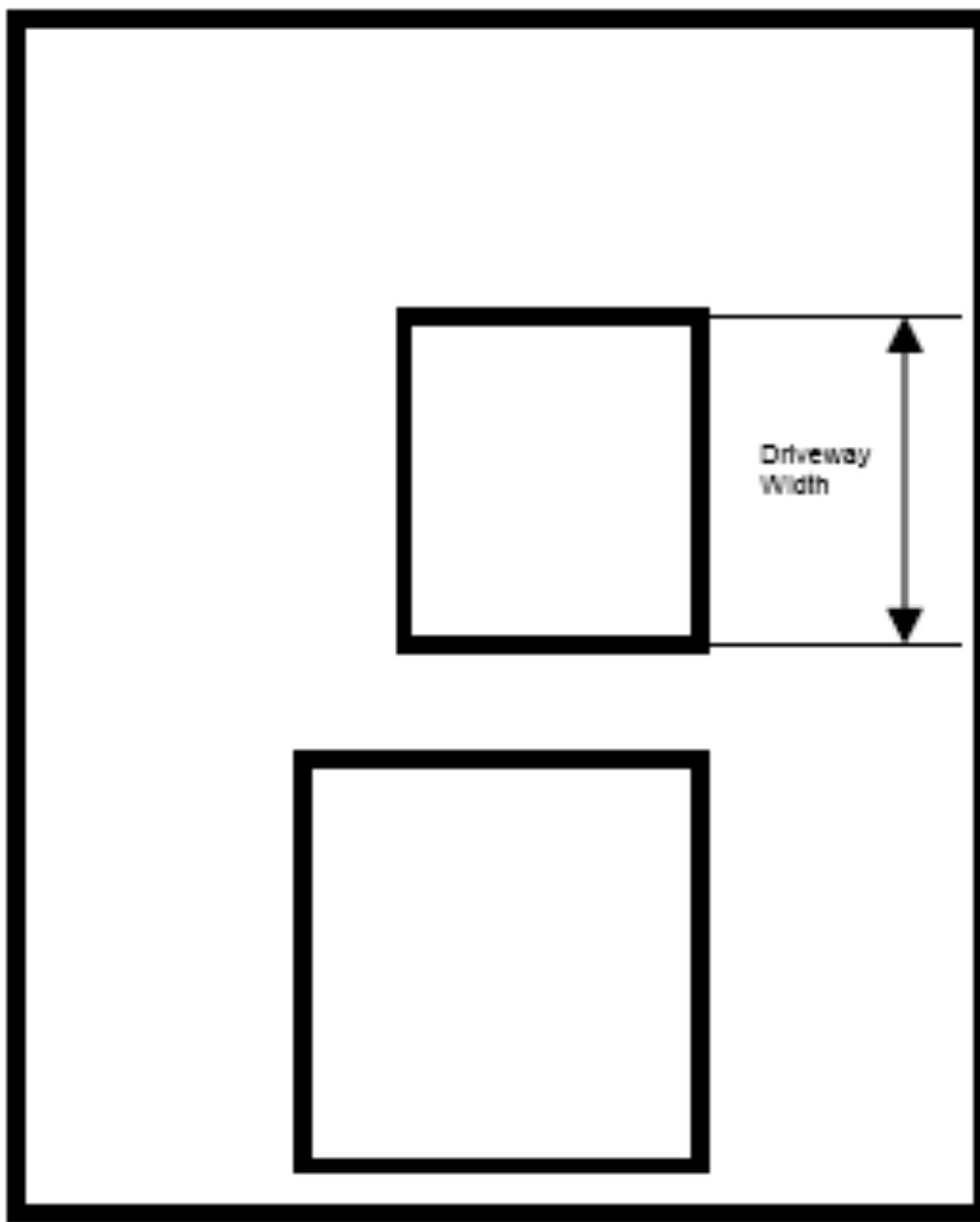
- b. *Parking in the side and rear yards.* No parking shall be permitted on any residential lot or combination of residential lots, in the side or rear yards except upon a hard surface material.
- c. *Recreation vehicles.* Recreation vehicles, as defined in chapter 70, mobile homes, trailers, and recreational vehicles of the City Code, shall be stored in a garage or in the rear yard. See section 70-3, Parking outside of licensed park, for further requirements.
- d. *Parking in the front yard.* No parking shall be permitted on any residential lot or combination of residential lots, in any portion of the area extending between the residential structure and the public street, except upon a driveway area, parking strip or garage existing to the side of the residential structure.



- e. *Interior lots.* The width of the driveway area or parking strip shall not exceed 16 feet between the front building line and the front lot line.
- f. *Interior lots with attached garages.* The width of a driveway area or parking strip shall not exceed the width of the garage and shall taper uniformly to a width of 16 feet at the front lot line.



- g. *Corner lots.* Garages on corner lots shall be rotated so the driveway accesses the side street. See section 33-115, accessory buildings and structures, for setback requirements. The width of a driveway area or parking strip shall not exceed 20 feet or the width of the garage, whichever is greater. The width of the driveway may be maintained to the side lot line.



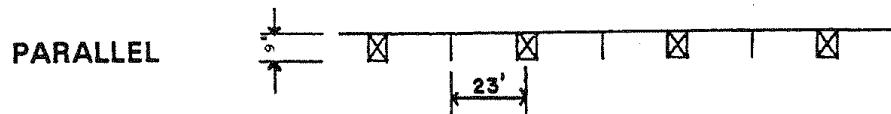
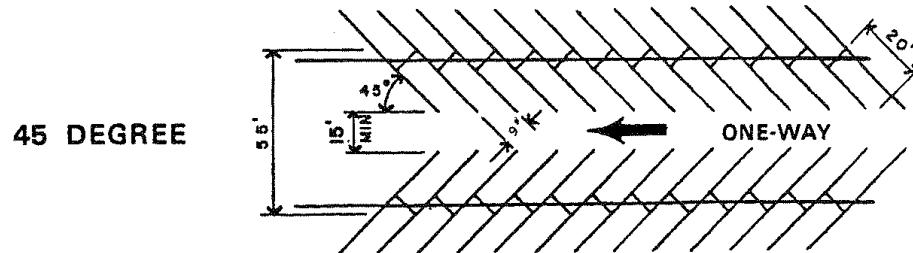
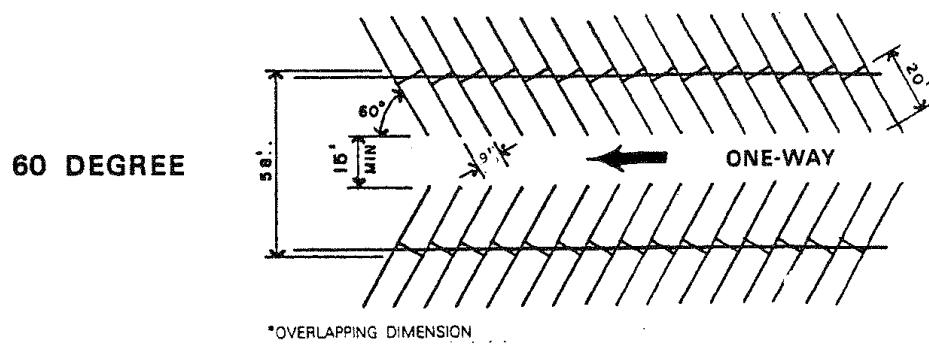
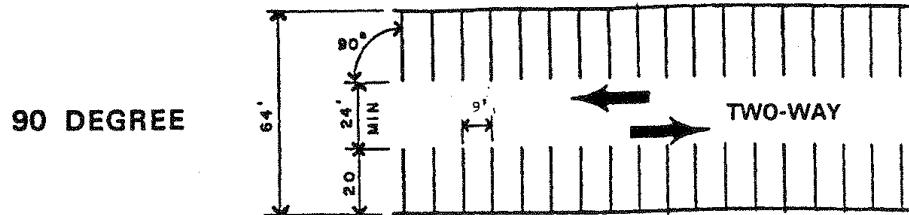
- h. *Lots fronting on Greenfield.* Those residential lots fronting on Greenfield Road between 12 Mile Road and Catalpa shall be permitted a driveway approach not exceeding 20 feet in width in the area between the lot line and the street curb wherein parking in an east-west direction shall be permitted, subject to all other parking regulations.
- i. *Lots backing to Coolidge.* Those residential lots backing to Coolidge between Twelve Mile Road and Webster that have a driveway and approach onto Coolidge as of June 19, 2008 shall be allowed to maintain and replace said driveway and approach. No additional driveways or approaches onto this portion of Coolidge shall be permitted.

(b) *Multiple-family uses.*

- (1) *Location.* The off-street parking facilities required for single- and two-family dwellings shall be located on the or plot of ground as the buildings they are intended to serve.
- (2) *Commercial vehicles.*
  - a. A commercial vehicle is defined as a truck, pick up truck, sedan or panel van, including tractors, trailers, semi-trailers, and step vans used for the transportation or delivery of goods or merchandise or used in the business occupation of the current resident. No commercial vehicle shall have a height greater than ten feet and a length greater than 24 feet.
  - b. Parking of the following vehicles for more than 48 hours shall be prohibited in any residential district:
    - Semi-tractor;
    - Tow truck;
    - Cement truck;
    - Flat-bed truck whose bed exceeds ten feet;
    - Tank body truck;
    - Cherry pickers;
    - Dump truck;
    - Stake truck whose bed exceeds ten feet; or
    - Any type of construction or industrial equipment but not limited to bull dozers and hi-lo's, or vehicles equipped with open racks for transporting glass, lumber or any type of extended materials.
  - c. All permitted commercial vehicles shall be currently licensed and operative. Vehicles shall be limited to those used by current residents.
- (3) *Design.*
  - a. *Parking lot ingress and egress.* Adequate ingress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.
  - b. *Backing onto public right-of-way.* Backing a vehicle onto or from public rights-of-way (public alley excepted) is prohibited in all areas except residential areas. Parking spaces shall be designed and arranged so that it is more convenient for the parking space user to accomplish the necessary backing movements on the private property than it is to work onto or from the public rights-of-way.
  - c. *Screenwalls.* Where parking and/or off-street loading areas for business, office or industry are abutting a residential district, a six-foot obscuring masonry wall shall be constructed on the property line of such abutting districts. See article III "General Provisions," division 2 "Fences," for further screenwall requirements. Ownership shall be shown of all lots or parcels intended for use as parking by an applicant when an application for a building permit or certificate of occupancy is filed.
  - d. *Attendant shelters.* Not more than one building for shelter of attendants shall be erected upon any

given parking area and each such building shall not be more than 50 square feet in area nor more than ten feet in height.

- e. *Aisle widths.* Aisle widths shall be required as follows to maintain vehicular and pedestrian safety. The planning commission may alter or revise the aisle width requirements if the commission finds that strict application of said requirements would endanger pedestrians or vehicular traffic.



## PARKING LAYOUTS

- (c) *Non-residential uses.*

- (1) *Location.*

- a. Required off-street for non-residential uses shall be on the same lot or within 500 feet of the building or use it is intended to serve, measured without crossing Twelve Mile Road, Coolidge Highway, Greenfield Road, Woodward Avenue, or Catalpa Drive from the nearest point of the required off-street

parking facility.

- b. If a non-residential use is within 500 feet of a municipal parking lot, without crossing a major thoroughfare, no on-premise parking shall be required.
- c. No parking lots shall be permitted as a principal use in a zoning district other than the parking district (P-1).

(2) *Design.*

- a. *Parking lot ingress and egress.* Adequate ingress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.
  - b. *Backing onto public right-of-way.* Backing a vehicle onto or from public rights-of-way (public alley excepted) is prohibited in all areas except residential areas. Parking spaces shall be designed and arranged so that it is more convenient for the parking space user to accomplish the necessary backing movements on the private property than it is to work onto or from the public rights-of-way.
  - c. *Screenwalls.* Where parking and/or off-street loading areas for business, office or industry are abutting a residential district, a six-foot obscuring masonry wall shall be constructed on the property line of such abutting districts. See article III "General Provisions," division 2 "Fences," for further screenwall requirements. Ownership shall be shown of all lots or parcels intended for use as parking by an applicant when an application for a building permit or certificate of occupancy is filed.
  - d. *Attendant shelters.* Not more than one building for shelter of attendants shall be erected upon any given parking area and each such building shall not be more than 50 square feet in area nor more than ten feet in height.
  - e. *Aisle widths.* Aisle widths shall be required as follows to maintain vehicular and pedestrian safety. The planning commission may alter or revise the aisle width requirements if the commission finds that strict application of said requirements would endanger pedestrians or vehicular traffic.
- (d) *Construction.* All parking areas and drives shall be provided with paving having an asphaltic or portland cement binder at least 4 inches in depth so as to provide a permanent, durable, and dustless surface. Single family residential driveways may be constructed of masonry pavers. All parking areas shall be graded and drained so as to dispose of all surface water accumulated within the area according to Oakland County requirements prior to the issuance of an occupancy permit. Approaches shall be provided with paving having a portland cement binder at least 6 inches in depth. Approaches shall have a 2 foot flare on each side of the driveway.

Permeable pavement materials may be permitted, upon the review and recommendation by the city engineer. The planning commission shall have the authority to approve alternative paving materials in non-residential districts, based on the recommendation of the city engineer.

A zoning certificate shall be required for all driveway replacement and construction.

(Ord. No. O-5-99, § 1, 7-19-1999; Ord. No. O-01-08, §§ 1, 2, 5-19-2008; Ord. No. O-17-20, § 1, 12-7-2020)

Sec. 138-223. - Lighting and signage.

- (a) *Marking of parking lots.* All parking spaces shall be clearly marked to facilitate movement and to help maintain an orderly parking arrangement.
- (b) *Parking lot directional signs.* Directional signs and arrows and appropriate paving marking shall be installed and maintained by the owner or applicant to control the direction of traffic flows, as deemed necessary by the planning commission. All signs shall conform to the provisions in chapter 94, "Signs" of the Berkley City Code.
- (c) *Lighting of off-street parking areas.* Except for single-family and two-family residential parking lots, all parking lots shall be lighted after dark throughout the hours when they are accessible to the public. Such lighting shall not exceed an intensity of five footcandles nor shall it be less than 1½ footcandles at pavement level. The installation of such lighting shall be hooded or shielded as to reflect the light away from abutting or neighboring property.

(Ord. No. O-5-99, § 1, 7-19-1999)

Sec. 138-224. - Restrictions.

Required off-street parking space shall be for the use of occupants, employees, visitors, customers, clients, and patrons and shall be free of charge. Under no circumstances shall it be used for other than parking purposes, or allowed to become unusable (except for temporary repairs). Use of parking space for vehicles for sale, trucks, wrecked or junked vehicles or the repair or storage of vehicles is prohibited. No vehicle shall be parked in a required off-street parking area for a period longer than 48 hours. Loading spaces as required in this chapter shall not be construed as supplying off-street parking space.

(Ord. No. O-5-99, § 1, 7-19-1999)

Sec. 138-225. - Maintenance and administration.

- (a) *Applications.* The amount of required off-street parking space shall be stated on an application for a building permit to build a new building or enlargement of an existing building or a business license.
- (b) *Certificate of occupancy.* No certificate of occupancy and use will be issued upon completion of any building or extension or addition thereto unless and until all off-street parking and loading space requirements shown on the plans, or made a part of the building permit, shall be in place and ready for use.
- (c) *Maintenance.* All paving, directional devices and protective equipment, landscaping and other equipment furnished or required on the parking facility shall be maintained by the owner or tenant to insure safe pedestrian movement, vehicular operation, adequate protection of adjoining properties and to present a neat and attractive appearance.
- (d) *Violations.* A violation of the requirements of this section shall be a misdemeanor.

(Ord. No. O-05-99, § 1, 7-19-1999)

Sec. 138-226. - Parking requirement modification during site plan review.

An applicant for site plan approval may request the planning commission to modify the minimum numerical parking requirements of this chapter for off-street parking applicable to the proposed use, based upon the applicant's demonstration that a different parking standard would be more appropriate.

An approved deviation from the ordinance standard will be tied to the specific use and site plan approved and will not apply after the use on the site terminates or changes to another use. The planning commission may grant a parking modification up to ten percent of the total parking requirement for a particular use, as noted in section 138-219.

The planning commission shall have the authority and discretion to grant or deny the requested modification based on consideration of the following factors:

- (1) Current or anticipated levels of employees and/or patrons;
- (2) Peak period usage versus normal usage;
- (3) Banked or reserved parking for future use;
- (4) Opportunities to provide or accommodate green space, additional landscaping and to minimize impervious areas on the site;
- (5) Provision of valet parking or other means of accommodating parking off-site that will not overburden public parking and is a reasonable alternative to on-site parking. Further, the applicant must demonstrate that such valet parking will be available for the days and times needed and will not conflict with other businesses that share the same parking facility or valet service;
- (6) Neighborhood or other surrounding characteristics justify the requested deviation;
- (7) Strict application of the ordinance would unreasonably hinder development of the site for a permitted use, and an alternate parking requirement would be appropriate;
- (8) Modification will not negatively impact public parking in the city;
- (9) Proximity of the site to local or regional transit, including but not limited to SMART bus stops, bicycle sharing stations, lite rail, etc.

Any planning commission modification under this section shall be contingent on the continuing use of the property as approved. Any change in the use, scope or intensity of the property use will invoke reinstatement and application of the standard parking requirements of this chapter.

This section shall apply to all site plans on file with the city and awaiting review and approval as of the date of adoption of this ordinance and thereafter.

( Ord. No. O-15-20, § 1, 11-16-2020)

Secs. 138-227—138-255. - Reserved.

## DIVISION 2. - OFF-STREET LOADING

## Sec. 138-256. - General requirements.

- (a) *Location and screening.* All required loading berths shall be located on the same lot as the use served. All motor vehicle loading berths shall be screened in accordance with the provisions of article V, division 9, of this chapter and with additional screening as determined necessary by the planning commission pursuant to article V, division 10, of this chapter. No loading berth shall be located in a front yard.
- (b) *Size.* A required off-street loading berth shall be at least 12 feet in width by 30 feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of 15 feet.
- (c) *Access.* Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.
- (d) *Surfacing.* All open off-street loading berths shall be provided with pavement having asphaltic or Portland cement binder so as to provide a permanent, durable and dustless surface. All loading berths shall be graded and drained so as to dispose of all surface water accumulated within the area prior to the issuance of an occupancy permit.
- (e) *Repair and service.* No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities.

(Code 1981, § 33-121(1); Ord. No. O-19-01, § 1, 1-7-2002)

## Sec. 138-257. - Specific requirements.

- (a) Any institutional use, as defined in section 138-219, where the building floor area exceeds 10,000 square feet in area, shall provide a single off-street loading space.
- (b) Any commercial use, as defined in section 138-219, where the building floor area exceeds 10,000 square feet in area, shall provide a single off-street loading space. If the floor area exceeds 20,000 square feet, two off-street loading spaces shall be required.
- (c) Any office use, as defined in section 138-219, where the building floor area exceeds 15,000 square feet in area, shall provide a single off-street loading space.
- (d) Any industrial use, as defined in section 138-219, where the building floor area exceeds 10,000 square feet in area, shall provide a single off-street loading space. If the floor area exceeds 20,000 square feet, two off-street loading spaces shall be required.

(Code 1981, § 33-121(2); Ord. No. O-19-01, § 2, 1-7-2002)

## Secs. 138-258—138-265. - Reserved.

## DIVISION 3. - BICYCLE PARKING REQUIREMENTS

### Sec. 138-266. - Purpose.

The parking standards contained herein are intended to encourage public transit, bicycle usage and walking in lieu of automobiles. The requirements apply to bicycle parking on private property. For bicycle parking standards in the public right-of-way, see section 106-51.

(Ord. No. O-1-13, § 2, 4-1-2013)

Sec. 138-267. - Requirements.

- (a) *Number.* A single inverted U or loop-style bicycle rack or another approved bicycle rack that will accommodate two bicycles shall be required when a parking lot is developed or an existing parking lot is resurfaced (including removal of asphalt but not including repair). In lieu of installing a bicycle rack on private property, the city may require the applicant to provide a bicycle rack in the public right-of-way within the same block said property is located. In these cases, the city shall install the bicycle rack and shall require that the fee for the bicycle rack as determined by city council be accompanied with the permit fee for the parking lot.
- (b) *Location.* Bicycle parking shall be visible from a main entrance of the structure or facility. Bicycle racks shall be securely anchored to the ground and shall allow the bicycle wheel and frame to be locked to the bicycle rack.
- (c) *Size.* Each bicycle parking space shall be sufficient to accommodate a bicycle at least six feet in length and two feet wide. Bicycle racks shall be installed no closer than two feet from a wall or parked vehicle. The bicycle rack shall be located where access is not restricted by legally parked vehicles.
- (d) *Maintenance.* The surfacing of bicycle parking facilities shall be designed and maintained to be clear of mud and snow.
- (e) *Design.* Required bicycle parking shall consist of a fixed bicycle rack, such as a hoop style rack or another type of rack that meets these standards.



However, the City of Berkley recognizes that the installation of bicycle racks of innovative designs improves Berkley's transportation infrastructure and enhances the city's image as a livable city. Other designs will be considered. The following factors should be considered in developing and shall be considered in approving an individual design:

- (1) Caneable? (Can be detected by visually impaired person using cane to navigate)

- (2) Tripping hazard? (Nothing sticking out into pedestrian path of travel)
- (3) Lockable? (Able to use a standard U-lock with the rack)
- (4) Frame-restable? (36" height to allow leaning a bike against)
- (5) Child proof? (Child can't put head through space and become trapped)
- (6) Powder-coat or stainless-steel surface for durability
- (7) Tamper-proof bolts? (Securing rack to service walk or parking lot)



Styles that cannot ensure security and capacity shall not be approved. Below are some examples of such designs.



(Ord. No. O-1-13, § 2, 4-1-2013)

#### Sec. 138-268. - Parking credit.

Bicycle parking may be used to reduce the number of required off-street parking spaces. Existing developments may elect to reduce the required off-street parking by two car parking spaces by providing four bicycle parking spaces (i.e., by installing two inverted U, loop style, or other approved style of bicycle rack).

(Ord. No. O-1-13, § 2, 4-1-2013)

Sec. 138-269. - Approval process.

For new developments, the bike rack location and design shall be approved by the planning commission as part of site plan review. If a parking lot is being resurfaced, the bike rack location and design shall be approved by the building official as part of the building permit.

(Ord. No. O-1-13, § 2, 4-1-2013)

Secs. 138-270—138-275. - Reserved.

ARTICLE V. - DISTRICT REGULATIONS

DIVISION 1. - ESTABLISHMENT OF ZONING DISTRICTS AND MAPS

Sec. 138-276. - Districts enumerated.

For the purpose of this chapter, the city is hereby divided into the following districts:

R-1A	Single-family residential district
R-1B	Single-family residential district
R-1C	Single-family residential district
R-1D	Single-family residential district
R-2	Two-family residential district
R-M	Multiple-family residential district
R-M-H	High-rise multiple-family residential district
	Greenfield district
	Community centerpiece district
	Office district

	Downtown district
LB	Local business district
	Gateway district
	Coolidge district
	Twelve mile district
	Eleven mile district
	Woodward district
	Industrial district
P-1	Parking district
C-1	Cemetery district
PUD	Planned unit development

(Code 1981, § 33-21; Ord. No. O-10-97, § 1, 2-17-1997; Ord. No. O-19-01, § 2, 1-7-2002; Ord. No. O-05-08, § 1, 10-20-2008; Ord. No. O-01-09, § 1, 3-2-2009)

Sec. 138-277. - Boundaries.

- (a) The boundaries of the districts enumerated in section 138-276 are hereby established as shown on the zoning map, city zoning chapter, which accompanies this chapter, and which map with all notations, references and other information shown thereon shall be as much a part of this chapter as if fully described in this section.
- (b) Unless shown otherwise, the boundaries of the districts are lot lines, the centerlines of streets, alleys, roads or such lines extended, and the corporate limits of the city.
- (c) Where due to the scale, lack of detail or illegibility of the zoning map accompanying this chapter, there is any uncertainty, contradiction or confliction as to the intended location of any district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined upon written application to, or upon its own motion, by the board of appeals.

(Code 1981, § 33-22; Ord. No. O-10-97, § 1, 2-17-1997)

Sec. 138-278. - Zoning of vacated areas.

Whenever any street, alley or other public way within the city shall be vacated by official government action, and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley or public way shall automatically be subject to the same zoning regulations as are applicable to the adjacent lands.

(Code 1981, § 33-23(1))

Sec. 138-279. - Zoning of annexed areas.

Any area annexed to the city shall, immediately upon such annexation, be automatically classified as an R-1A district until a zoning district for said area has been adopted by the city council. The planning commission shall recommend appropriate zoning for such area within 3 months after matter is referred to the planning commission by the city council.

(Code 1981, § 33-24)

Secs. 138-280—138-295. - Reserved.

DIVISION 2. - R-1A, R-1B, R-1C, R-1D SINGLE-FAMILY RESIDENTIAL DISTRICT

*Footnotes:*

--- (9) ---

**Cross reference—** *Signs permitted in residential districts, § 94-7.*

Sec. 138-296. - Principal uses permitted.

In the R-1A, R-1B, R-1C and R-1D districts the following uses are permitted:

- (1) Single-family detached dwellings.
- (2) Publicly owned and operated libraries, parks, parkways and recreational facilities.
- (3) Municipal buildings and uses.
- (4) Accessory buildings and uses, provided that they shall be located as required in article III, division 1 of this chapter and article IV, division 1.
- (5) Temporary buildings and uses for construction purposes as permitted by the board of appeals for a period not to exceed 1 year.

(Code 1981, § 33-30)

Sec. 138-297. - Special uses.

The following uses shall be permitted as principal uses in R-1A, R-1B, R-1C and R-1D districts, provided they meet the supplementary provisions herein required, and provided further that they meet the requirements set forth in article III, division 6, Special Uses, of this chapter.

- (1) Churches and other facilities normally incidental thereto, provided:
  - a. Off-street parking shall be provided in accord with article IV, division 1, of this chapter.
  - b. Front yard setbacks shall be 30 feet.
  - c. Wherever a church parcel is adjacent to the side yard of a residential lot, a side yard of 15 feet shall be provided.
  - d. Vehicular ingress and egress to the church parcel shall be provided so that it shall be a distance of 5 feet from any residential lot.
- (2) Public, parochial and private elementary, intermediate, and/or high schools offering courses in general education, not operated for profit, provided:
  - a. Off-street parking shall be provided in accord with article IV, division 1, of this chapter.
  - b. Vehicular ingress and egress shall be so located so as to not conflict with pedestrian access to building entrances and play areas.
  - c. Loading and unloading areas, when located on the site so as to be adjacent to any residential front or side yards, shall be completely obscured from view.
- (3) Nursery schools, day nurseries and child care centers, provided:
  - a. There shall be allotted and maintained an outdoor play area equal to either 1,000 square feet or 100 square feet times the average number of children cared for at 1 time, whichever is greater.
  - b. All outdoor areas shall be screened from adjacent residential lots with a completely obscuring wall or fence 6 feet in height.
- (4) Public utility buildings, telephone exchange stations, electric transformer stations and substations and gas regulator stations, provided:
  - a. Operating requirements necessitate the locating within the residential district in order to serve the immediate vicinity.
  - b. No outdoor storage shall be conducted on the site.
  - c. Where transformer yards or equipment are open to view, a completely obscuring wall or fence at least 5 feet in height shall be provided on those sides adjacent to any residentially zoned parcels or with greenbelt planting of at least 10 feet in width. Such greenbelt shall be planted in evergreen and deciduous material and maintained in a healthful and growing condition.
- (5) Individual mobile homes located on a single parcel of land or lot in accordance with section 138-298, pertaining to mobile homes in single-family residential districts.

(Code 1981, § 33-31)

Sec. 138-298. - Mobile homes in single-family residential districts.

One individual mobile home located on a parcel of land or lot in a single-family residential district shall be permitted, provided that all of the following conditions are met:

- (1) It shall comply with all pertinent building and fire codes for single-family dwellings including but not limited to the Michigan Residential Code.
- (2) It shall be firmly and permanently attached to a solid foundation or basement not less in area than the perimeter area of the dwelling. The foundation and/or basement shall be constructed in accordance with the Michigan Residential Code.
- (3) It shall not have any exposed wheels, towing mechanism or undercarriage.
- (4) It shall be connected to a public sewer and water supply.
- (5) It shall be aesthetically comparable in design and appearance to conventionally constructed homes in the zoning district in which it is located. It shall be the responsibility of the city council to determine whether this standard is met. The city council shall make a determination that this standard has been met if it finds that all of the following conditions exist:
  - a. The proposed mobile home will have a combination of roof overhang and pitch comparable to the overhang and pitch of conventionally constructed homes typically found in the zoning district in which it is to be located.
  - b. The proposed mobile home will have steps and/or porches which provide access to exterior doors, which are permanently attached to the ground and to the mobile home structure, and which are comparable to steps and/or porches of conventionally constructed homes typically found in the zoning district in which it is to be located.
  - c. The proposed mobile home will be covered with a siding material which is in color, texture, malleability, direction of joints, and method of fastening to the structure comparable to siding of conventionally constructed homes typically found in the zoning district in which it is to be located.
  - d. The proposed mobile home will have the glass on its windows recessed at least 1½ inches behind the exterior surface of its siding.
  - e. The proposed mobile home will have front and rear or front and side exterior doors if such combination of doors is found in a majority of homes in the zoning district in which it is to be located.
  - f. The proposed mobile home will have a 1-car garage or a 2-car garage if such a garage is found in a majority of the homes in the zoning district in which it is to be located.

The city council may approve a mobile home as aesthetically comparable in design and appearance to conventionally constructed homes in the district in which it is to be located even if all of the above conditions do not exist, provided that it finds that the mobile home and/or its site has other design features which make it aesthetically comparable to conventionally constructed homes in the district.

(Ord. No. 12-96, § 2, 10-21-1996; Ord. No. O-13-20, § 1, 9-21-2020)

**Cross reference— Mobile homes, trailers and recreational vehicles, ch. 70.**

Sec. 138-299. - Area and bulk requirements.

See section 138-526, schedule of regulations, limiting the height and bulk of buildings, and minimum size of lots by permitted land use in single-family residential districts.

(Code 1981, § 33-32)

Secs. 138-300—138-315. - Reserved.

**DIVISION 3. - R-2 TWO-FAMILY RESIDENTIAL DISTRICT***Footnotes:*

--- (10) ---

**Cross reference— Signs permitted in residential districts, § 94-7.**

Sec. 138-316. - Principal uses permitted.

The following regulations shall apply to all R-2 districts and shall be subject further to the provisions of all applicable provisions of this chapter.

- (1) All principal and special approval uses permitted and as regulated in R-1A single-family residential districts, except as hereinafter modified.
- (2) Two-family dwellings, provided each dwelling contains a basement.
- (3) Accessory buildings and uses, provided that they shall be located as required in article III, division 1, of this chapter, and article IV, division 1.

(Code 1981, § 33-37)

Sec. 138-317. - Area and bulk requirements.

See section 138-526 limiting the height and bulk of buildings, and the minimum size of lots by permitted land use in R-2 two-family residential districts.

(Code 1981, § 33-38)

Secs. 138-318—138-335. - Reserved.

**DIVISION 4. - RM MULTIPLE-FAMILY RESIDENTIAL DISTRICT**

**Footnotes:**

--- (11) ---

**Cross reference—** Signs permitted in multiple family residential districts, § 94-8.

Sec. 138-336. - Principal uses permitted.

Principal uses permitted in the R-M district are as follows:

- (1) All principal and special approval uses permitted and as regulated in R-2 two-family residential districts, except as modified in this division.
- (2) Multiple-family dwelling units.
- (3) Private office for doctors or dentists or similar professions, provided that such offices are parts of dwelling units occupied by such doctors or dentists, or similar professions in residences and not more than 1 such doctor, dentist or similar professional practices in any such office.
- (4) Accessory buildings and uses, provided that they shall be located as required in article III, division 1, of this chapter, and article IV, division 1.
- (5) Where the R-M district is contiguous to a residentially zoned district, a masonry wall 6 feet in height shall be required on, or adjacent to, the property line between the multiple and residential zoned property.

(Code 1981, § 33-44)

Sec. 138-337. - Special uses.

The following uses shall be permitted as principal special uses in the R-M district, provided they meet the supplementary provisions required in this section, and provided further that they meet the requirements set forth in article IV, division 6, of this chapter.

- (1) Boardinghouses, when principal use exceeds the minimum floor area per unit by 20% for each room to be rented.
- (2) A dwelling constituting a home for children of others than those residing therein, or for the aged, indigent or physically handicapped, a rest or convalescent home (feeble minded, insane or drug or liquor addicts excluded) when located on a lot containing not less than 500 square feet for each occupant therein, and provided that no building is located nearer than 25 feet to any lot line.
- (3) Private clubs, lodges, fraternities and similar uses when such uses are not operated for profit.

(Code 1981, § 33-45)

Sec. 138-338. - Area and bulk requirements.

See section 138-526 limiting the height and bulk of buildings, and the minimum size of lot by permitted land use in the R-M district.

(Code 1981, § 33-46)

Secs. 138-339—138-355. - Reserved.

## DIVISION 5. - R-M-H HIGH-RISE MULTIPLE-FAMILY RESIDENTIAL DISTRICT

*Footnotes:*

--- (12) ---

**Cross reference**— Signs permitted in multiple family residential districts, § 94-8.

Sec. 138-356. - Preamble.

The high-rise multiple-family residential district (R-M-H) is created to implement master plan recommendations and in recognition of the limited numbers of residential dwelling sites within the city and to provide sites for high-rise apartment dwellings on reduced lot areas for families by providing alternative forms of residential dwellings, considering the limited quantity of single-family dwellings or sites available within the city, and to serve the residential needs of families desiring the apartment type of accommodation with central services as opposed to residential patterns found in the single-family residential and multiple-family residential districts, and preferably located adjacent to high traffic generators commonly found in areas adjacent to major thoroughfares, and in other areas when, in the opinion of the planning commission and city council, an adequate buffer area compatible with an R-M-H district is provided so that the R-M-H district will not have a detrimental effect on surrounding land area. This type of district is further created so as to provide a zone of transition between other residential districts, and major thoroughfares and nonresidential districts.

(Code 1981, § 33-47(1))

Sec. 138-357. - Principal uses permitted.

The following uses shall be permitted in R-M-H districts:

- (1) All principal uses permitted in the R-M, multiple-family residential district meeting the requirements set forth in such district with the exception of single-family dwellings, which shall be expressly prohibited from this district.
- (2) Senior citizens high-rise, multiple-residential dwelling units for the use of elderly persons, and under the requirements as defined by the United States Department of Housing and Urban Development (HUD), its Rules and Regulations, as amended.
- (3) Accessory buildings, structures and uses developed solely to serve the residents of the R-M-H district. Uses considered in this division as accessory uses include: swimming pools, recreation areas, pavilions and other similar uses or structures customarily incidental to any of the above uses.
- (4) The following business and service uses may be permitted in an R-M-H district, provided that such business or service uses shall only be permitted inside the residentially occupied structures at least 4

stories in height, and provided further that the following permitted uses shall be of a size and nature to supplement and be a convenience type use or service to the persons residing in the R-M-H dwellings as set forth in subsection (2) of this section, and that such businesses or services shall be clearly accessory and incidental to the residential uses and entirely within the walls of the principal structures, and totally obscured from any exterior view and accessible only from the interior of such buildings. Such business or service uses shall not exceed 25% of the floor space of the ground floor level or 50% of the floor space of a below ground or basement level. Such uses shall be prohibited on all floors above the first floor ground level. The following businesses and service uses shall be permitted:

- a. Hair salon.
- b. Newspaper and magazine shop.
- c. Laundry or dry-cleaning, pick-up and delivery only.
- d. Candy, tobacco, and personal notions shop.
- e. Similar uses as may be authorized by the zoning officer.

(Code 1981, § 33-47(2))

#### Sec. 138-358. - Use restrictions.

- (a) The uses which may be permitted in an R-M-H district shall be subject to the following restrictions:
  - (1) All dwelling units shall have at least 1 living room and 1 bedroom, as well as kitchen and sanitary facilities. No efficiencies shall be permitted.
  - (2) High-rise multiple-family residential dwellings of 3 stories or more shall have at least 1 property line of the proposed site abutting a major thoroughfare (Woodward Avenue, Coolidge Highway, Greenfield Road, 11 Mile Road, and 12 Mile Road).
  - (3) If senior citizen dwelling units are proposed, at least 1 of the property lines of the site shall be within 200 feet of at least 1 of the above-named major thoroughfares.

(Code 1981, § 33-47(3))

#### Sec. 138-359. - Area and bulk regulations.

In any R-M-H district, the following area and bulk regulations shall apply:

- (1) Each such district shall contain a contiguous parcel of land not less than 3 acres in area and comply with the requirements set forth in section 138-357, pertaining to uses permitted. Wherever an R-M-H district boundary line abuts a major thoroughfare, the site will be planned so as to provide all ingress and egress only to such major thoroughfare.
- (2) Whenever an R-M-H district boundary line shall abut an R-1, R-2 or R-M district, there shall be provided a greenbelt of 20 feet in width dedicated by the owners of the R-M-H district for the installation and maintenance of shade trees and a landscape development plan shall be submitted showing the location and species of such trees to be reviewed by the planning commission of the city, and monies to pay the

cost of such plant material and their installation shall be provided and deposited with the city by the dedicators of such greenbelt, together with such greenbelt dedication, and granting the city the right of access to such greenbelt if the owners shall fail at any time to maintain the greenbelt and monies expended therefor by the city shall be reimbursed to the city by the owners.

- (3) Every site in an R-M-H district shall have at least 1 of its boundary lines abutting a surface street, subject to the requirements stated in subsection (1) of this section.
- (4) In an R-M-H district the total number of rooms, not including kitchen and sanitary facilities, shall not be more than the area of the site in square feet divided by 500, excluding dedicated rights-of-way, service drives and alleyways.
- (5) The maximum ground coverage for buildings has been deducted from the total gross area of any R-M-H district, a minimum of 40% of the remaining land area shall be developed and maintained as landscaped area; provided, however, that the planning commission may grant a reduction in the minimum requirement for landscaped area upon a clear showing of hardship and necessity, provided that in no event shall the minimum requirement for landscaped area be less than 20% of the land area remaining after the deduction of maximum ground coverage for buildings.
- (6) The maximum height of any residential buildings in an R-M-H district shall not be greater than 120 feet, not to exceed 10 stories.
- (7) The minimum height of any residential building in an R-M-H district shall be 3 stories and not less than 26 feet, unless such buildings are erected and occupied in accordance with all ordinances regulating R-M multiple-family residential districts. In no event shall any accessory building or any other structure except than to be erected and occupied as multiple-family dwellings be greater than 1 story in height, not to exceed 15 feet.
- (8) Setback requirements. Front, side, and rear yards of every site in an R-M-H district shall be not less than 50 feet from any property line of the site to the nearest point of any building.
- (9) The minimum lot area per dwelling unit shall be 1,000 square feet, except that in any building of residential dwelling units 4 stories or higher, the minimum lot area per dwelling unit may be reduced 50 square feet per unit for each story above the third story and except in the event senior citizens dwelling units are planned, the minimum lot area per dwelling unit may be not less than 500 square feet.
- (10) Minimum usable floor area per dwelling unit shall be as set forth in the regulations for R-M multiple-family residential district, excluding efficiency units; provided, however, that in any senior citizens residential building, at least 50 square feet of additional floor area, per dwelling unit containing less than 650 square feet, is contained elsewhere in the building for the exclusive use of senior citizen residents for such activities as group physical therapy, recreation, hobbies, libraries, meeting rooms, lounge area, common dining areas and kitchen facilities.
- (11) No dwelling in an R-M-H district shall be leased or rented or occupied on a day-to-day basis. The intent and purpose hereof is to prohibit the operation and/or maintenance of a hotel or motel so-called. Not more than 1 family shall occupy 1 dwelling unit.

- (12) Building distance formula. In all R-M-H high-rise apartment districts the minimum distance between any 2 buildings shall be regulated according to the length and height of such buildings. The formula regulating the required distance between 2 buildings (referred to as building "A" and building "B" is as follows:

$$S = L_A + L_B + 2(H_A + H_B)$$

Where:

S	=	Required minimum horizontal distance between any wall of building "A" and any wall of building "B" or the vertical prolongation of either.
L <sub>A</sub>	=	Total length of building "A."
		The total length of building "A" is the length of that portion or portions of a wall or walls of building "A" from which, when viewed directly from above, lines drawn perpendicular to building "A" will intersect any wall of building "B."
L <sub>B</sub>	=	Total length of building "B."
		The length of building "B" is the length of that portion or portions of a wall or walls of building "B" from which, when viewed directly from above, lines drawn perpendicular to building "B" will intersect any wall of building "A."
H <sub>A</sub>	=	Height of building "A."
		The height of building "A" at any given level is the height above natural grade level of any portion or portions of a wall or walls, along the length of building "A." Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the walls along the total length of the building.
H <sub>B</sub>	=	Height of building "B."
		The height of building "B" at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building "B." Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the walls along the total length of the building.

(Code 1981, § 33-47(4))

Sec. 138-360. - Recreational space requirements.

The recreational space ratio to be used to determine the minimum required amount of recreational space to be provided on a zoning lot in the R-M-H district shall be determined by multiplying gross floor areas of all existing and proposed structures by 0.07. The resulting figure (the minimum required recreational space) shall include only that part of the ground area of a zoning lot which:

- (1) Is devoted to outdoor recreational space, greenery or service space for household activities which are normally carried on outdoors;
- (2) Is not devoted to private roadways open to vehicular transportation, access drives, accessory off-street parking space or aisles or accessory off-street loading berths;
- (3) Contains no structures on the ground except open porches and terraces;
- (4) Is accessible to the occupants of all dwelling units within the structure; and
- (5) Is located in a side or rear yard and has a minimum dimension of 18 feet if the development it is serving has 9 or less dwelling or rooming units, or is so located and has a minimum dimension of 25 feet if the development it is serving has 10 or more dwelling or rooming units. All required recreational spaces shall comply with the minimum dimension described above, and such dimension shall be measured along a perpendicular drawn from any point on 1 side of the recreational space to the opposite side.

(Code 1981, § 33-47(5))

Sec. 138-361. - Parking.

Off-street parking shall be in accordance with article IV, division 1, Off-Street Parking.

**MINIMUM DISTANCE BETWEEN HIGH RISE APARTMENT BUILDINGS**

Diagram—ms 2986

DIVISION 5.5. - INDUSTRIAL DISTRICT

*Footnotes:*

--- (13) ---

**Cross reference—** Businesses, ch. 30; signs permitted in industrial districts, § 94-11.

Sec. 138-362. - Preamble.

The industrial district is designed so as to primarily accommodate wholesale activities, warehouses, and industrial operations whose external, physical effects are restricted to the area of the industrial district and in no manner affect in a detrimental way any of the surrounding districts.

(Code 1981, § 33-78; Ord. No. O-04-08, § 1, 10-20-2008)

Sec. 138-363. - Principal uses permitted.

Principal uses permitted in the industrial district are as follows:

- (1) Any of the following uses conducted wholly within a completely enclosed building or within a designated area enclosed on all sides with 6-foot obscuring masonry wall not less than 8 inches thick:
  - a. Warehousing and wholesale establishments, and storage (other than accessory to a permitted retail use).
  - b. The compounding, processing, packaging or treatment of such products as: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery; tool, die, gauge and machine shops.
  - c. The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, leather, paper, plastics, precious or semiprecious metals or stones, shell, textiles, tobacco, wax, wire, wood and yarns.
  - d. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
  - e. Manufacture of musical instruments, toys, novelties and metal or rubber stamps, or other small molded rubber products.
  - f. Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs (excluding large stampings).
  - g. Laboratories, experimental, film or testing.
  - h. Manufacture and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
  - i. Building material sales.
  - j. Warehouse, storage and transfer and electric and gas service buildings and yards, heating and electric power generating plants and all necessary uses, coal, coke and fuel yards, water supply and sewage disposal plants, water and gas tanks and holders.
  - k. Automobile service, repair or wash establishments.
  - l. Carwashes.
- (2) Accessory uses.
- (3) Other uses of a similar and no more objectionable character.

(4) Marihuana retailers and medical marihuana provisioning centers.

(Code 1981, § 33-80; Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-14-19, § 1, 12-16-2019)

#### Sec. 138-364. - Special uses.

The following special uses shall be permitted in the industrial district: Radio and television towers and their attendant facilities shall be permitted in industrial districts, provided such towers shall be located on a continuous parcel of more than 40 acres, and have abutting access to a major thoroughfare.

(Ord. No. 12-96, § 2(33-163), 10-21-1996; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-365. - Required conditions.

- (a) No activities involving the storage, utilization or manufacture of materials or products which decompose by detonation shall be permitted within the city except such as are approved by the city council and are so licensed. Within an industrial district there shall be no dwellings, except existing dwellings, so used; schools, other than trade or industrial schools, hospitals or other institutions for human habitation or care, unless accessory and incidental to a permitted principal use; or all classes of business uses except when such uses are for the convenience shopping of persons in the industrial district, subject to the regulations applicable to such uses.
- (b) Any use established in the industrial district after the effective date of Ordinance 280 shall be operated so as to comply with the performance standards set forth in article III, division 4, of this chapter.

(Code 1981, § 33-81; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-366. - Area and bulk requirements.

See section 138-526, limiting the height and bulk of buildings, and the minimum size of lot by permitted land use in the industrial district.

(Code 1981, § 33-82; Ord. No. O-04-08, § 1, 10-20-2008)

#### Secs. 138-367—138-380. - Reserved.

### DIVISION 6. - OFFICE DISTRICT

*Footnotes:*

--- (14) ---

**Cross reference—** Businesses, ch. 30; signs permitted in office building districts, § 94-9.

#### Sec. 138-381. - Preamble.

The office districts are designed to permit business office and professional office uses, professional services and other business uses which are of a nonretail nature. Retail activity is only allowed as an accessory function for the uses as stated in this division, and as subject to the provisions of section 138-384.

(Ord. No. 9-96, § 2(33-51), 12-2-1996; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-382. - Principal uses permitted.

No land, building or premises within the office district shall be used for other than the following specified purposes:

- (1) Office buildings or suites for any of the following occupations: executive, administrative, manufacturer representatives, building/construction company or contract sales headquarters, accounting, writing, clerical, stenographic, drafting and real estate sales, subject to the limitations contained in section 138-384.
- (2) Professional offices for medical (doctors, osteopaths, chiropractors, psychologists and psychiatrists) dental and optical, including clinics (outpatient service only), and other similar or allied professions subject to the limitations contained in section 138-384.
- (3) Professional offices for lawyers, architects, landscape architects, urban planners, engineers and other similar or allied professions subject to the limitations contained in section 138-384.
- (4) Business schools, colleges, private schools or vocational schools operated for profit, not including nursery schools, child daycare or adult foster care facilities.
- (5) Private lodge halls, service clubs and fraternal organizations or other recognized special interest or group organizations.
- (6) Places of worship.
- (7) Funeral homes and mortuary establishments.
- (8) Municipal offices, post offices and public utility offices, without storage yards, serving persons living in the adjacent residential areas.
- (9) Accessory structures and uses customarily incidental to the above permitted uses.

(Ord. No. 9-96, § 2(33-53), 12-2-1996; Ord. No. O-20-01, § 1, 1-7-2002; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-383. - Special uses.

The following special uses shall be permitted in the office district subject to the procedures and regulations in article VI, division 6, of this chapter:

- (1) Veterinary clinics, excluding dog runs and outdoor kennels.
- (2) Outpatient drug and alcohol rehabilitation clinics, not to be located within a drugfree school zone.
- (3) Outpatient blood and plasma donation facilities, not to be located within a drugfree school zone.
- (4) Nursery schools, day nurseries and child care centers, provided:

- a. Applicants are licensed through the Michigan Department of Licensing and Regulatory Affairs (LARA). Proof shall be provided to the city when submitting an application for a business license.
- b. Facilities meet the minimum requirements established by the Michigan Department of Licensing and Regulatory Affairs (LARA) and meet the minimum standards of section 138-384 Required conditions and section 138-385 Area and bulk requirements.
- c. Facilities meet screening requirements as deemed reasonable by the planning commission, including masonry walls up to six feet in height, decorative fencing or landscaping.
- d. Applicants, staff, and facilities meet the minimum standards established by the Michigan Child Care Organizations Act, MCL 722.111 et seq., as amended.

(Ord. No. 9-96, § 2(33-54), 12-2-1996; Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-07-19, § 1, 9-16-2019)

#### Sec. 138-384. - Required conditions.

The following conditions shall apply to all uses permitted in the office district:

- (1) No interior display shall be visible from the exterior of any building within this office district. The total area devoted to interior retail display, including both objects displayed and the floor area set aside for persons observing such display, shall not exceed 25 percent of the usable floor area of either the first or second story or the basement.
- (2) Retail sales and related displays, beyond that which would be considered as an accessory use to the above uses, shall be prohibited.
- (3) Warehousing and indoor storage of goods or materials, beyond that which would be considered as an accessory use to the above uses, shall be prohibited.
- (4) The outdoor storage of goods or materials shall be prohibited.
- (5) The outdoor sales of goods or materials shall be prohibited.

(Ord. No. 9-96, § 2(33-55), 12-2-1996; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-385. - Area and bulk requirements.

See section 138-526, limiting the height and bulk of buildings in the office district.

(Ord. No. 9-96, § 2(33-56), 12-2-1996; Ord. No. O-04-08, § 1, 10-20-2008)

#### DIVISION 6.5. - LB LOCAL BUSINESS DISTRICT

*Footnotes:*

--- (15) ---

**Cross reference—** Businesses, ch. 30; signs permitted in local business and Woodward business district, § 94-10.

## Sec. 138-386. - Preamble.

The LB local business districts are designed to provide pedestrian retail business uses and services which will supply the day-to-day convenience, shopping and service needs on the premises for persons residing in adjacent residential areas and that cater to the needs of a larger consumer population.

(Ord. No. 10-96, § 2(33-60), 12-2-1996; Ord. No. O-04-08, § 1, 10-20-2008)

## Sec. 138-387. - Principal uses permitted.

Principal uses permitted in the LB district are as follows:

- (1) Any generally recognized retail business whose principal activity is the sale of commodities on the premises, in a completely enclosed building including, but not limited to, the sale of groceries, meats, dairy products, baked goods and other food items dispensed for consumption off the site, drugs, pharmaceutical, apothecary items, flowers, dry goods, furnishings, jewelry, clothing millinery, shoes, books and periodicals, stationery and office supplies and hardware.
- (2) Specialty shops such as, but not limited to, antique shops, craft shops and shops for the sale of gifts and notions.
- (3) Personal service establishments which perform services on the premises directly for the consumer such as, but not limited to, repair shops (shoes, watches, jewelry, radios, televisions, small appliances, vacuum and sewing machines, etc.), beauty salons, hair salons, barber shops, manicuring studios, tanning salons, massage facilities, spa service facilities, self-service laundries, reproduction/copy centers, printing, mailing/shipping centers, while prohibiting service facilities of package shipping providers, but which may require a retail adjunct.
- (4) Any service establishments including a showroom or workshop of an electrician, decorator, caterer, baker, painter, upholsterer, tailor, seamstress/dressmaker, photography studios and similar service establishments that require a retail adjunct.
- (5) Dry cleaning establishments of a retail nature. Strictly wholesale dry cleaning establishments shall be prohibited.
- (6) Business establishments which perform services on the premises such as, but not limited to, banks, credit unions, savings and loan associations, loan companies, insurance offices, travel services, and real estate offices. Bank, savings and loan associations and credit unions may include drive-up facilities only as an accessory use subject to the required provisions for stacking or waiting space, apart from required off street parking areas, at the rate of 4 car spaces for each service window or pedestal, in addition to providing a full car length space at the window or pedestal.
- (7) Offices for any of the following occupations: executive, administrative, manufacturer representatives, building/construction company or contract sales headquarters, professional, accounting, writing, clerical, stenographic, drafting and real estate sales, subject to the limitations contained in section 138-390.
- (8) Professional offices for medical (doctors, osteopaths, chiropractors, psychologists, and psychiatrists)

dental and optical, including clinics (outpatient service only); and other similar or allied professions subject to the limitations contained in section 138-390.

- (9) Professional offices for lawyers, architects, landscape architects, urban planners, engineers and other similar or allied professions, subject to the limitations contained in section 138-390.
- (10) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
- (11) Places of worship.
- (12) Commercial recreational uses such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks, indoor tennis courts, athletic or health clubs, schools of dance, schools of martial arts, or similar forms of indoor commercial recreation.
- (13) Restaurants, bars, lounges or other places serving food or beverage within enclosed buildings, not including drive-in, drive-through or outdoor service eating establishments.
- (14) Single-family, two-family and multiple-family dwellings when located on the second floor or above a first floor permitted or special use. Single-family detached dwellings and first floor dwelling units are prohibited.
- (15) Accessory structures and uses customarily incidental to the above permitted uses.
- (16) Marihuana retailers and medical marihuana provisioning centers.

(Ord. No. 10-96, § 2(33-62), 12-2-1996; Ord. No. O-20-01, § 2, 1-7-2002; Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-14-19, § 2, 12-16-2019)

#### Sec. 138-388. - Special uses.

The following special uses shall be permitted in the LB local business district, subject to the regulations in article VI, division 6, Special Uses, of this chapter:

- (1) Automobile service stations, subject to the requirements of section 138-389.
- (2) Drive-in and drive-through eating establishments.
- (3) Drive-through retail/service establishments.
- (4) Open air business uses when developed as uses accessory to primary uses and structures in the LB local business district as follows:
  - a. Outdoor seating areas for restaurants or other food serving establishments.
  - b. Outdoor retail sales of fruits, vegetables and plant materials not grown on site and sales of lawn furniture, playground equipment, hardware supplies and other home garden supplies.
  - c. Businesses in the character of open store fronts.
- (5) Commercial amusement device centers.
- (6) Nursery schools, day nurseries and child care centers, provided:
  - a. Applicants are licensed through the Michigan Department of Licensing and Regulatory Affairs (LARA).

- Proof of licensing shall be provided to the city when submitting an application for a business license.
- b. Facilities meet the minimum requirements established by the Michigan Department of Licensing and Regulatory Affairs (LARA) and meet the minimum standards of section 138-391 Area and bulk requirements and section 138-392 Building design requirements.
  - c. Facilities meet screening requirements as deemed reasonable by the planning commission, including masonry walls up to six feet in height, decorative fencing or landscaping.
  - d. Applicants, staff, and facilities meet the minimum standards established by the Michigan Child Care Organizations, MCL 722.111 et seq., as amended.

(Ord. No. 10-96, § 2(33-63), 12-2-1996; Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-07-19, § 2, 9-16-2019)

#### Sec. 138-389. - Automobile service stations.

- (a) *Uses.* The following uses may be permitted in conjunction with automobile service stations:
  - (1) Retail sales of gasoline, oil and similar products.
  - (2) Automobile maintenance, including minor mechanical repairs.
  - (3) Automobile towing, including parking of a wrecker and inoperative vehicles waiting for immediate repair.
  - (4) Parking and storage in inoperative vehicles, provided that such parking or storage areas shall be within an enclosed building or shall be screened by a brick wall not less than 6 feet in height.
  - (5) Carwashes.
- (b) *Site development standards.* Special use approval shall be granted for automobile service stations which comply with the following site development standards:
  - (1) An automobile filling and service station shall not be located nearer than 500 feet to a school, church, public park or auditorium.
  - (2) The minimum site size shall be 15,000 square feet, and, in addition, gasoline filling and service stations shall have 500 square feet of site area for each additional pump over 4, and 1,000 square feet of site area for each additional service bay over 2.
  - (3) The minimum site width shall be 130 feet.
  - (4) All points of entrance or exit for motor vehicles shall be no closer than 30 feet from the intersection of the right-of-way lines proposed in the city's land use plan for those streets on which it fronts. Points of entrance or exit for motor vehicles shall be no closer than 20 feet from any adjacent property line. The minimum driveway width at the curbline shall be 22 feet and the maximum driveway width at the curbline shall be 30 feet. The minimum width of access drive shall be 16 feet. The angle of intersection of the centerline of any driveway with the centerline of the street shall not be less than 60 degrees, unless separated acceleration and deceleration lanes are provided.
  - (5) All equipment including hydraulic hoist, pits and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. There shall be no outdoor storage of merchandise such as tires, lubricants and other accessory equipment except that

outdoor trash storage may be provided in a properly screened container consisting of a brick masonry wall at least 6 feet high with a sturdy, 100% view-obscuring gate.

- (6) All activities, except those required to be performed at the fuel pump shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.
- (7) There shall be no aboveground tanks for the storage of gasoline, liquefied petroleum gas, oil or other inflammable liquids or gas.
- (8) The automobile service station shall provide 1 parking space for each person employed at the station during any given period of the day. Each required parking space shall be no less than 200 square feet in area. No outdoor storage or parking of vehicles other than those used by employees while on duty.

(Code 1981, § 33-160; Ord. No. 12-96, § 2, 10-21-1996; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-390. - Required conditions.

All permitted and special uses in the LB district shall not include motor vehicle repair establishments, nor shall it include dwellings, except existing dwellings so used and dwellings as permitted in section 138-387.

(Ord. No. 10-96, § 2(33-64), 12-2-1996; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-391. - Area and bulk requirements.

See section 138-526, limiting the height and bulk of buildings, and the minimum size of lot by permitted land use for the LB district.

(Ord. No. 10-96, § 2(33-65), 12-2-1996; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-392. - Building design requirements.

- (a) The first floor elevation of a building that fronts a street shall be composed of a minimum of 40 percent and a maximum of 80 percent windows. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.
- (b) The building elevation that fronts a street shall contain an entrance. The entrance shall access the first floor of the building. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.
- (c) The planning commission may revise these requirements, if the commission finds that the standards for site plan approval, as outlined in section 138-678, have been met.

(Ord. No. O-01-01, § 1, 2-5-2001; Ord. No. O-08-02, § 1, 7-15-2002; Ord. No. O-04-08, § 1, 10-20-2008)

### DIVISION 7. - GREENFIELD DISTRICT

## Sec. 138-393. - Preamble.

The Greenfield district is designed so as to primarily accommodate those uses that are compatible with a residential district but may require more intensive traffic than is appropriate for local streets.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-09-08, § 1, 11-3-2008; Ord. No. O-06-09, § 1, 7-20-2009)

## Sec. 138-394. - Principal uses permitted.

Principal uses permitted in the Greenfield district are as follows:

- (1) Single family homes, townhouses, and apartments.
- (2) Professional offices for medical (doctors, osteopaths, chiropractors, psychologists, and psychiatrists) dental and optical, and other similar or allied professions.
- (3) Offices for any of the following occupations: executive, administrative, manufacturer representatives, building/construction company or contract sales headquarters, professional, accounting, insurance, travel services, drafting and real estate sales.
- (4) Professional offices for lawyers, architects, landscape architects, urban planners, engineers and other similar or allied professions.
- (5) Places of worship.
- (6) Assembly halls.
- (7) Senior housing facilities, including assisted living and nursing homes.
- (8) Day care centers.
- (9) Dwellings when located above a business or office use.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-09-08, § 1, 11-3-2008; Ord. No. O-06-09, § 1, 7-20-2009)

## Sec. 138-395. - Special uses.

The following special uses shall be permitted in the Greenfield district, subject to the regulations in article IV, division 6, Special Uses, of this chapter:

- (1) Clinics, including outpatient and urgent care.
- (2) Any generally recognized retail business whose principal activity is the sale of commodities on the premises, in a completely enclosed building including, but not limited to, the sale of groceries, meats, dairy products, baked goods and other food items dispensed for consumption off the site, pharmaceuticals, apothecary items, flowers, dry goods, furnishings, jewelry, clothing, shoes, books and periodicals, stationery and office supplies and hardware.
- (3) Personal service establishments which perform services on the premises directly for the consumer such as, but not limited to, repair shops (shoes, watches, jewelry, small appliances, etc.), hair salons, barber shops, manicuring studios, spa service facilities, self-service laundries, reproduction/copy centers,

printing, mailing/shipping centers, while prohibiting service facilities of package shipping providers, but which may require a retail adjunct.

- (4) Any service establishments including a showroom or workshop of an electrician, decorator, caterer, baker, painter, upholsterer, tailor, photography studios and similar service establishments that require a retail adjunct.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-09-08, § 1, 11-3-2008; Ord. No. O-06-09, § 1, 7-20-2009)

Sec. 138-396. - Prohibited uses.

- (a) The outdoor sales or storage of goods or materials shall be prohibited.
- (b) Drive through uses shall be prohibited.
- (c) Houses built after 1939 shall not be converted into business uses.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-09-08, § 1, 11-3-2008; Ord. No. O-06-09, § 1, 7-20-2009)

Sec. 138-397. - Area and bulk requirements.

Greenfield district uses and building types are transitional. The uses are slightly more intensive than a single family residential district, but not as intensive as the business uses. New uses and buildings in the Greenfield district shall be contextual while improving the appearance of the Greenfield district. The following regulations shall apply:

- (1) Single family homes shall be subject to same requirements as those in the R-1D District.
- (2) Setbacks:

If new development is . . .	And it is next to . . .	Then required separation is at least
A building 30 feet or less in height	A single family house	15 feet
A parking lot	Any type of building	15 feet
A building between 31 and 40 feet in height	A single family house	30 feet
A building between 31 and 40 feet in height	A building between 31 and 40 feet in height	15 feet

(3) The maximum height of a building in the Greenfield district shall be 3 stories, but not more than 40 feet.

(4) The standards for site plan approval, as outlined in section 138-678, shall also apply.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-09-08, § 1, 11-3-2008; Ord. No. O-06-09, § 1, 7-20-2009)

#### Sec. 138-398. - Building design requirements.

- (a) All development in the Greenfield district (except single family detached houses) shall front and have primary access from Greenfield.
- (b) Developments that face Ellwood shall be residential in character.
- (c) The planning commission may require screening including masonry walls up to 6 feet in height, decorative fencing or landscaping.
- (d) The first floor elevation of a building that fronts a street shall be composed of a minimum of 30 percent and a maximum of 80 percent windows. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.
- (e) The building elevation that fronts a street shall contain an entrance. The entrance shall access the first floor of the building. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.
- (f) The planning commission may revise these requirements, if the commission finds that the standards for site plan approval, as outlined in section 138-678, have been met.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-09-08, § 1, 11-3-2008; Ord. No. O-06-09, § 1, 7-20-2009)

#### Sec. 138-399. - Approval process.

Plans for the development of any principal permitted use (except a single family detached house) shall be approved by the planning commission according to site plan review, article VI administration and enforcement, division 7 of this chapter. In addition, notice shall be given not less than 15 days previous to the site plan review meeting. The notice shall be sent by mail or personal delivery to the owners of property for which the approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. If the name of occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of the structure, except that if a structure contains more than one dwelling unit of spatial area owned or leased by different individuals, one occupant of each unit shall receive notice. In the case of a single structure containing more than four dwelling units or spatial areas leased by different individuals, notice may be sent to the manager or owner who shall be requested to post the notice at the primary entrance of the structure. The notice shall describe the nature of the proposed development, indicate the property that is the subject of the proposed development, state when and where the meeting will take place, and indicate when and where written comments will be received concerning the development.

Plans for the development of any special use shall be approved by the city council according to special use, article VI administration and enforcement, division 6 of this chapter.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-09-08, § 1, 11-3-2008; Ord. No. O-06-09, § 1, 7-20-2009)

Secs. 138-400—138-405. - Reserved.

## DIVISION 8. - COMMUNITY CENTERPIECE DISTRICT

Sec. 138-406. - Preamble.

The community centerpiece district is designed to primarily accommodate parks, recreation centers, schools, and other land uses as the centerpieces of residential neighborhoods.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-01-09, § 2, 3-2-2009)

Sec. 138-407. - Principal uses permitted.

Principal uses permitted in the community centerpiece district are as follows:

- (1) Publicly owned and operated parks;
- (2) Schools, private or public and related school facilities;
- (3) Day care centers or nursery schools;
- (4) Community centers, or other city facilities;
- (5) Places of worship and other facilities normally incidental thereto;
- (6) Private clubs, lodges, fraternities and similar uses when such uses are not operated for profit;
- (7) Senior independent living facilities provided that the maximum lot coverage does not exceed 35%.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-01-09, § 2, 3-2-2009)

Sec. 138-408. - Area and bulk requirements.

Lands zoned community centerpiece district are anchors for single family residential neighborhoods. As such, the uses are slightly more intensive than a single family residential district, but must remain appropriate in their use as an anchor. New uses and buildings in the community centerpiece district shall be contextual while improving the appearance of the district. The following regulations shall apply:

- (1) Setbacks:

If new development is . . .	And it is next to . . .	Then required separation is at least
A building 30 feet or less in height	A single family house	15 feet

A parking lot	Any type of building	15 feet
A building between 31 and 40 feet in height	A single family house	30 feet
A building between 31 and 40 feet in height	A building between 31 and 40 feet in height	15 feet

- (2) The maximum height of any building in the community centerpiece district shall be three stories, but no more than 40 feet.
- (3) The maximum lot coverage for any development in the community centerpiece district shall not exceed 35 percent.
- (4) The standards for site plan approval, as outlined in section 138-678, shall also apply.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-01-09, § 2, 3-2-2009; Ord. No. O-09-10, § 1, 8-16-2010)

#### Sec. 138-409. - Approval process.

Plans for the development of any principal permitted use (except public schools and related public school facilities) shall be approved by the planning commission according to site plan review, article VI administration and enforcement, division 7 of this chapter. In addition, notice shall be given not less than 15 days previous to the site plan review meeting. The notice shall be sent by mail or personal delivery to the owners of property for which the approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. If the name of occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of the structure, except that if a structure contains more than one dwelling unit of spatial area owned or leased by different individuals, one occupant of each unit shall receive notice. In the case of a single structure containing more than four dwelling units or spatial areas leased by different individuals, notice may be sent to the manager or owner who shall be requested to post the notice at the primary entrance of the structure. The notice shall describe the nature of the proposed development, indicate the property that is the subject of the proposed development, state when and where the meeting will take place, and indicate when and where written comments will be received concerning the development.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-01-09, § 2, 3-2-2009)

#### Secs. 138-410—138-415. - Reserved.

#### DIVISION 9. - DOWNTOWN DISTRICT

**Sec. 138-416. - Preamble.**

The intent of the downtown district is to promote pedestrian retail trade. The district is designated to take full advantage of adjacent municipal parking lots.

(Ord. No. O-09-01, § 3, 9-17-2001; Ord. No. O-04-08, § 1, 10-20-2008)

**Sec. 138-417. - Principal permitted uses.**

Principal uses permitted in the downtown district are as follows:

- (1) Restaurants, carryout or standard, except drive through uses.
- (2) Bars, cocktail lounges, or taverns.
- (3) Retail uses, dealing with the sale of new merchandise, such as, but not limited to the following:
  - a. Gift shops.
  - b. Clothing stores, including shoes, hats, and accessories.
  - c. Jewelry store.
  - d. Kitchenware, small appliance stores.
  - e. Furniture stores.
  - f. Toy stores.
- (4) Retail uses, dealing with the sale of previously owned merchandise, such as, but not limited to the following:
  - a. Antique shops.
  - b. Art galleries.
- (5) Personal service uses, including the following:
  - a. Hair salons.
  - b. Nail salons.
  - c. Tanning salons.
- (6) Dance studios and health clubs.
- (7) Food uses, not including convenience stores, such as, but not limited to the following:
  - a. Produce markets.
  - b. Specialty food stores.
  - c. Wine shops.
  - d. Butcher shops.
  - e. Bakeries.

- (8) Movie theaters, stage theaters, and comedy clubs.
- (9) Residences, when located above the first floor.
- (10) Offices or agencies, when located above the first floor.
- (11) Marihuana retailers and medical marihuana provisioning centers.

(Ord. No. O-09-01, § 3, 9-17-2001; Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-14-19, § 3, 12-16-2019)

#### Sec. 138-418. - Special uses.

The following special uses shall be permitted in the downtown district, subject to the regulations in article VI administration and enforcement, division 6 special uses, of this chapter:

- (1) Offices or agencies, when located on the first floor.
- (2) Banks.
- (3) Convenience stores.
- (4) Outdoor sales or eating areas, when developed as accessory to primary uses and structures.
- (5) Repair shops or workshops such as, but not limited to, clothing, shoes, watches, televisions, small appliances, electrician, painter, and upholstery.
- (6) Resale shops.

(Ord. No. O-09-01, § 3, 9-17-2001; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-419. - Prohibited uses.

The following uses shall be prohibited within the downtown district:

- (1) Gas stations.
- (2) Auto repair shops.
- (3) Drive through uses.
- (4) Tattoo, body piercing studios.
- (5) Tobacco shops.
- (6) Stores selling live animals.
- (7) Parking lots, as a principal use.
- (8) First floor residences.

(Ord. No. O-09-01, § 3, 9-17-2001; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-420. - Area and bulk requirements.

See [section 138-526](#) for height and density requirements for the downtown district.

(Ord. No. O-09-01, § 3, 9-17-2001; Ord. No. O-04-08, § 1, 10-20-2008)

Sec. 138-421. - Building design requirements.

- (a) The first floor elevation of a building that fronts a street shall be composed of a minimum of 40 percent and a maximum of 80 percent windows. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.
- (b) The windowsills along major or minor streets shall be no more than 36 inches above the sidewalk.
- (c) The building elevation that fronts a street shall contain an entrance. The entrance shall access the first floor of the building. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.
- (d) The planning commission may revise these requirements, if the commission finds that the standards for site plan approval, as outlined in section 138-678, have been met.

(Ord. No. O-09-01, § 3, 9-17-2001; Ord. No. O-08-02, § 2, 7-15-2002; Ord. No. O-04-08, § 1, 10-20-2008)

Secs. 138-422—138-425. - Reserved.

DIVISION 10. - GATEWAY DISTRICT

Sec. 138-426. - Preamble.

The Gateway districts are located at entry points to the City of Berkley. They are designed to enhance these important locations as landmarks and to provide retail business uses and services which will supply the day-to-day convenience, shopping and service needs on the premises for persons residing in adjacent residential areas and that cater to the needs of a larger consumer population.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-05-08, § 2, 10-20-2008)

Sec. 138-427. - Principal uses permitted.

Principal uses permitted in the Gateway district are as follows:

- (1) Any generally recognized retail business whose principal activity is the sale of commodities on the premises, in a completely enclosed building including, but not limited to, the sale of groceries, meats, dairy products, baked goods and other food items dispensed for consumption off the site, drugs, pharmaceutical, apothecary items, flowers, dry goods, furnishings, jewelry, clothing millinery, shoes, books and periodicals, stationery and office supplies and hardware.
- (2) Specialty shops such as, but not limited to, antique shops, craft shops and shops for the sale of gifts and notions.
- (3) Personal service establishments which perform services on the premises directly for the consumer such as, but not limited to, repair shops (shoes, watches, jewelry, radios, televisions, small appliances, vacuum

and sewing machines, etc.), beauty salons, hair salons, barber shops, manicuring studios, tanning salons, massage facilities, spa service facilities, self-service laundries, reproduction/copy centers, printing, mailing/shipping centers, while prohibiting service facilities of package shipping providers, but which may require a retail adjunct.

- (4) Any service establishments including a showroom or workshop of an electrician, decorator, caterer, baker, painter, upholsterer, tailor, seamstress/dressmaker, photography studios and similar service establishments that require a retail adjunct.
- (5) Dry cleaning establishments of a retail nature. Strictly wholesale dry cleaning establishments shall be prohibited.
- (6) Business establishments which perform services on the premises such as, but not limited to, banks, credit unions, savings and loan associations, loan companies, insurance offices, travel services, and real estate offices. Bank, savings and loan associations and credit unions may include drive-up facilities only as an accessory use subject to the required provisions for stacking or waiting space, apart from required off street parking areas, at the rate of 4 car spaces for each service window or pedestal, in addition to providing a full car length space at the window or pedestal.
- (7) Offices for any of the following occupations: executive, administrative, manufacturer representatives, building/construction company or contract sales headquarters, professional, accounting, writing, clerical, stenographic, drafting and real estate sales, subject to the limitations contained in section 138-410.
- (8) Professional offices for medical (doctors, osteopaths, chiropractors, psychologists, and psychiatrists) dental and optical, including clinics (outpatient service only); and other similar or allied professions subject to the limitations contained in section 138-410.
- (9) Professional offices for lawyers, architects, landscape architects, urban planners, engineers and other similar or allied professions, subject to the limitations contained in section 138-410.
- (10) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
- (11) Places of worship.
- (12) Commercial recreational uses such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks, indoor tennis courts, athletic or health clubs, schools of dance, schools of martial arts, or similar forms of indoor commercial recreation.
- (13) Restaurants, bars, lounges or other places serving food or beverage within enclosed buildings, not including drive-in, drive-through or outdoor service eating establishments.
- (14) Single-family, two-family and multiple-family dwellings when located on the second floor or above a first floor permitted or special use. Single-family detached dwellings and first floor dwelling units are prohibited.
- (15) Accessory structures and uses customarily incidental to the above permitted uses.
- (16) Marihuana retailers and medical marihuana provisioning centers.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-05-08, § 2, 10-20-2008; Ord. No. O-14-19, § 4, 12-16-2019)

Sec. 138-428. - Special uses.

The following special uses shall be permitted in the Gateway district, subject to the regulations in article IV, division 6, special uses, of this chapter:

- (1) Automobile service stations, subject to the requirements of section 138-429.
- (2) Drive-in and drive-through eating establishments.
- (3) Drive-through retail/service establishments.
- (4) Commercial amusement device centers.
- (5) Open air business uses when developed as uses accessory to primary uses and structures in the Gateway district as follows:
  - a. Outdoor seating areas for restaurants or other food serving establishments.
  - b. Outdoor retail sales of fruits, vegetables and plant materials not grown on site and sales of lawn furniture, playground equipment, hardware supplies and other home garden supplies.
  - c. Businesses in the character of open store fronts.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-05-08, § 2, 10-20-2008)

Sec. 138-429. - Automobile service stations.

- (a) *Uses.* The following uses may be permitted in conjunction with automobile service stations:
  - (1) Retail sales of gasoline, oil and similar products.
  - (2) Automobile maintenance, including minor mechanical repairs.
  - (3) Automobile towing, including parking of a wrecker and inoperative vehicles waiting for immediate repair.
  - (4) Parking and storage in inoperative vehicles, provided that such parking or storage areas shall be within an enclosed building or shall be screened by a brick wall not less than 6 feet in height.
  - (5) Carwashes.
- (b) *Site development standards.* Special use approval shall be granted for automobile service stations which comply with the following site development standards:
  - (1) An automobile filling and service station shall not be located nearer than 500 feet to a school, church, public park or auditorium.
  - (2) The minimum site size shall be 15,000 square feet, and, in addition, gasoline filling and service stations shall have 500 square feet of site area for each additional pump over 4, and 1,000 square feet of site area for each additional service bay over 2.
  - (3) The minimum site width shall be 130 feet.
  - (4) All points of entrance or exit for motor vehicles shall be no closer than 30 feet from the intersection of the

right-of-way lines proposed in the city's land use plan for those streets on which it fronts. Points of entrance or exit for motor vehicles shall be no closer than 20 feet from any adjacent property line. The minimum driveway width at the curbline shall be 22 feet and the maximum driveway width at the curbline shall be 30 feet. The minimum width of access drive shall be 16 feet. The angle of intersection of the centerline of any driveway with the centerline of the street shall not be less than 60 degrees, unless separated acceleration and deceleration lanes are provided.

- (5) All equipment including hydraulic hoist, pits and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. There shall be no outdoor storage of merchandise such as tires, lubricants and other accessory equipment except that outdoor trash storage may be provided in a properly screened container consisting of a brick masonry wall at least 6 feet high with a sturdy, 100% view-obscuring gate.
- (6) All activities, except those required to be performed at the fuel pump shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.
- (7) There shall be no aboveground tanks for the storage of gasoline, liquefied petroleum gas, oil or other inflammable liquids or gas.
- (8) The automobile service station shall provide one parking space for each person employed at the station during any given period of the day. Each required parking space shall be no less than 200 square feet in area. No outdoor storage or parking of vehicles other than those used by employees while on duty.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-05-08, § 2, 10-20-2008)

#### Sec. 138-430. - Required conditions.

All permitted and special uses in the Gateway district shall not include motor vehicle repair establishments, nor shall it include dwellings, except existing dwellings so used and dwellings as permitted in section 138-427.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-05-08, § 2, 10-20-2008)

#### Sec. 138-431. - Area and bulk requirements.

See section 138-526, limiting the height and bulk of buildings, and the minimum size of lot by permitted land use for the Gateway district.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-05-08, § 2, 10-20-2008)

#### Sec. 138-432. - Building design requirements.

- (a) The first floor elevation of a building that fronts a street shall be composed of a minimum of 40 percent and a maximum of 80 percent windows. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.
- (b) The building elevation that fronts a street shall contain an entrance. The entrance shall access the first floor of

the building. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.

- (c) Siding, generally considered residential, regardless of orientation, and T111-type material shall not be permitted.
- (d) The planning commission may revise these requirements, if the commission finds that the standards for site plan approval, as outlined in section 138-678, have been met.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-05-08, § 2, 10-20-2008)

Secs. 138-433—138-440. - Reserved.

## DIVISION 11. - COOLIDGE DISTRICT

Sec. 138-441. - Preamble.

The Coolidge districts are designed to provide pedestrian retail business uses and services which will supply the day-to-day convenience, shopping and service needs on the premises for persons residing in adjacent residential areas and that cater to the needs of a larger consumer population.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-07-08, § 1, 10-20-2008)

Sec. 138-442. - Principal uses permitted.

Principal uses permitted in the Coolidge Districts are as follows:

- (1) Any generally recognized retail business whose principal activity is the sale of commodities on the premises, in a completely enclosed building including, but not limited to, the sale of groceries, meats, dairy products, baked goods and other food items dispensed for consumption off the site, drugs, apothecary items, flowers, dry goods, furnishings, jewelry, clothing, shoes, books and periodicals, stationery and office supplies and hardware.
- (2) Specialty shops such as, but not limited to, antique shops, craft shops and shops for the sale of gifts and notions.
- (3) Personal service establishments which perform services on the premises directly for the consumer such as, but not limited to, repair shops (shoes, watches, jewelry, small appliances, etc.), hair salons, barber shops, manicuring studios, spa service facilities, self-service laundries, reproduction/copy centers, printing, mailing/shipping centers, while prohibiting service facilities of package shipping providers, but which may require a retail adjunct.
- (4) Any service establishments including a showroom or workshop of an electrician, decorator, caterer, baker, painter, upholsterer, tailor, photography studios and similar service establishments that require a retail adjunct.

- (5) Dry cleaning establishments of a retail nature. Strictly wholesale dry cleaning establishments shall be prohibited.
- (6) Business establishments which perform services on the premises such as, but not limited to, banks, credit unions, savings and loan associations, insurance offices, travel services and the like. Banks and other financial institutions may include drive-up facilities only as an accessory use subject to the required provisions for stacking spaces.
- (7) Offices for any of the following occupations: executive, administrative, manufacturer representatives, building/construction company or contract sales headquarters, professional, accounting, writing, clerical, stenographic, drafting and real estate sales.
- (8) Professional offices for medical (doctors, osteopaths, chiropractors, psychologists, and psychiatrists) dental and optical, including clinics (outpatient service only); and other similar or allied professions.
- (9) Professional offices for lawyers, architects, landscape architects, urban planners, engineers and other similar or allied professions.
- (10) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
- (11) Places of worship.
- (12) Commercial recreational uses such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks, indoor tennis courts, athletic or health clubs, schools of dance, schools of martial arts, or similar forms of indoor commercial recreation.
- (13) Restaurants, bars, lounges or other places serving food or beverage within enclosed buildings, not including drive-in, drive-through or outdoor service eating establishments.
- (14) Dwellings above a business use.
- (15) Accessory structures and uses customarily incidental to the above permitted uses.
- (16) Marihuana retailers and medical marihuana provisioning centers.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-07-08, § 1, 10-20-2008; Ord. No. O-14-19, § 5, 12-16-2019)

#### Sec. 138-443. - Special uses.

The following special uses shall be permitted in the Coolidge district, subject to the regulations in article VI, division 6, special uses, of this chapter:

- (1) Automobile service stations, subject to the requirements of section 138-444.
- (2) Drive-in and drive-through eating establishments.
- (3) Drive-through retail/service establishments.
- (4) Open air business uses when developed as uses accessory to primary uses and structures in the Coolidge district as follows:
  - a. Outdoor seating areas for restaurants or other food serving establishments.
  - b. Outdoor retail sales of fruits, vegetables and plant materials not grown on site and sales of lawn

furniture, playground equipment, hardware supplies and other home garden supplies.

- c. Businesses in the character of open store fronts.

- (5) Commercial amusement device centers.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-07-08, § 1, 10-20-2008)

Sec. 138-444. - Automobile service stations.

- (a) *Uses.* The following uses may be permitted in conjunction with automobile service stations:

- (1) Retail sales of gasoline, oil and similar products.
- (2) Automobile maintenance, including minor mechanical repairs.
- (3) Automobile towing, including parking of a wrecker and inoperative vehicles waiting for immediate repair.
- (4) Parking and storage in inoperative vehicles, provided that such parking or storage areas shall be within an enclosed building or shall be screened by a brick wall not less than 6 feet in height.
- (5) Carwashes.

- (b) *Site development standards.* Special use approval shall be granted for automobile service stations which comply with the following site development standards:

- (1) An automobile filling and service station shall not be located nearer than 500 feet to a school, church, public park or auditorium.
- (2) The minimum site size shall be 15,000 square feet, and, in addition, gasoline filling and service stations shall have 500 square feet of site area for each additional pump over 4, and 1,000 square feet of site area for each additional service bay over 2.
- (3) The minimum site width shall be 130 feet.
- (4) All points of entrance or exit for motor vehicles shall be no closer than 30 feet from the intersection of the right-of-way lines proposed in the city's land use plan for those streets on which it fronts. Points of entrance or exit for motor vehicles shall be no closer than 20 feet from any adjacent property line. The minimum driveway width at the curbline shall be 22 feet and the maximum driveway width at the curbline shall be 30 feet. The minimum width of access drive shall be 16 feet. The angle of intersection of the centerline of any driveway with the centerline of the street shall not be less than 60 degrees, unless separated acceleration and deceleration lanes are provided.
- (5) All equipment including hydraulic hoist, pits and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. There shall be no outdoor storage of merchandise such as tires, lubricants and other accessory equipment except that outdoor trash storage may be provided in a properly screened container consisting of a brick masonry wall at least 6 feet high with a sturdy, 100% view-obscuring gate.
- (6) All activities, except those required to be performed at the fuel pump shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.
- (7) There shall be no aboveground tanks for the storage of gasoline, liquefied petroleum gas, oil or other

inflammable liquids or gas.

- (8) The automobile service station shall provide one parking space for each person employed at the station during any given period of the day. Each required parking space shall be no less than 200 square feet in area. No outdoor storage or parking of vehicles other than those used by employees while on duty.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-07-08, § 1, 10-20-2008)

#### Sec. 138-445. - Required conditions.

All permitted and special uses in the Coolidge district shall not include motor vehicle repair establishments or single or two family dwellings

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-07-08, § 1, 10-20-2008)

#### Sec. 138-446. - Area and bulk requirements.

See section 138-526, limiting the height and bulk of buildings, and the minimum size of lot by permitted land use for the Coolidge district.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-07-08, § 1, 10-20-2008)

#### Sec. 138-447. - Building design requirements.

- (a) The first floor elevation of a building that fronts a street shall be composed of a minimum of 40 percent and a maximum of 80 percent windows. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.
- (b) The building elevation that fronts a street shall contain an entrance. The entrance shall access the first floor of the building. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.
- (c) Siding, generally considered residential, regardless of orientation, and T111-type material shall not be permitted.
- (d) The planning commission may revise these requirements, if the commission finds that the standards for site plan approval, as outlined in section 138-678, have been met.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-07-08, § 1, 10-20-2008)

#### Secs. 138-448—138-455. - Reserved.

### DIVISION 12. - TWELVE MILE DISTRICT

#### Sec. 138-456. - Preamble.

The twelve mile district is designed to provide pedestrian retail business uses and services which will supply the day-to-day convenience, shopping and service needs on the premises for persons residing in town houses and apartments within the district as well as those residing in adjacent residential areas.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-06-08, § 2, 10-20-2008)

Sec. 138-457. - Principal uses permitted.

Principal uses permitted in the twelve mile district are as follows:

- (1) Any generally recognized retail business whose principal activity is the sale of commodities on the premises, in a completely enclosed building including, but not limited to, the sale of groceries, meats, dairy products, baked goods and other food items dispensed for consumption off the site, pharmaceuticals, apothecary items, flowers, dry goods, furnishings, jewelry, clothing, shoes, books and periodicals, stationery and office supplies and hardware.
- (2) Specialty shops such as, but not limited to, antique shops, craft shops and shops for the sale of gifts and notions.
- (3) Personal service establishments which perform services on the premises directly for the consumer such as, but not limited to, repair shops (shoes, watches, jewelry, small appliances, etc.), hair salons, barber shops, manicuring studios, spa service facilities, self-service laundries, reproduction/copy centers, printing, mailing/shipping centers, while prohibiting service facilities of package shipping providers, but which may require a retail adjunct.
- (4) Any service establishments including a showroom or workshop of an electrician, decorator, caterer, baker, painter, upholsterer, tailor, photography studios and similar service establishments that require a retail adjunct.
- (5) Dry cleaning establishments of a retail nature. Strictly wholesale dry cleaning establishments shall be prohibited.
- (6) Offices for any of the following occupations: executive, administrative, manufacturer representatives, building/construction company or contract sales headquarters, professional, accounting, writing, clerical, stenographic, drafting and real estate sales.
- (7) Professional offices for medical (doctors, osteopaths, chiropractors, psychologists, and psychiatrists) dental and optical, including clinics (outpatient service only); and other similar or allied professions.
- (8) Professional offices for lawyers, architects, landscape architects, urban planners, engineers and other similar or allied professions.
- (9) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
- (10) Places of worship.
- (11) Commercial recreational uses such as bowling alleys, billiard halls, indoor archery ranges, indoor skating

rinks, indoor tennis courts, athletic or health clubs, schools of dance, schools of martial arts, or similar forms of indoor commercial recreation.

- (12) Restaurants, bars, lounges or other places serving food or beverage within enclosed buildings, not including drive-in, drive-through or outdoor service eating establishments.
- (13) Apartments or townhouses,
- (14) Dwellings above a business use.
- (15) Accessory structures and uses customarily incidental to the above permitted uses.
- (16) Marihuana retailers and medical marihuana provisioning centers.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-06-08, § 2, 10-20-2008; Ord. No. O-14-19, § 6, 12-16-2019)

#### Sec. 138-458. - Special uses.

The following special uses shall be permitted in the twelve mile district, subject to the regulations in article VI, division 6, special uses, of this chapter:

- (1) Automobile service stations, subject to the requirements of section 138-409.
- (2) Drive-in and drive-through eating establishments.
- (3) Open air business uses when developed as uses accessory to primary uses and structures in the twelve mile district as follows:
  - a. Outdoor seating areas for restaurants or other food serving establishments.
  - b. Outdoor retail sales of fruits, vegetables and plant materials not grown on site and sales of lawn furniture, playground equipment, hardware supplies and other home garden supplies.
  - c. Businesses in the character of open store fronts.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-06-08, § 2, 10-20-2008)

#### Sec. 138-459. - Automobile service stations.

- (a) *Uses.* The following uses may be permitted in conjunction with automobile service stations:
  - (1) Retail sales of gasoline, oil and similar products.
  - (2) Automobile maintenance, including minor mechanical repairs.
  - (3) Automobile towing, including parking of a wrecker and inoperative vehicles waiting for immediate repair.
  - (4) Parking and storage in inoperative vehicles, provided that such parking or storage areas shall be within an enclosed building or shall be screened by a brick wall not less than 6 feet in height.
  - (5) Carwashes.
- (b) *Site development standards.* Special use approval shall be granted for automobile service stations which comply with the following site development standards:
  - (1) An automobile filling and service station shall not be located nearer than 500 feet to a school, church,

public park or auditorium.

- (2) The minimum site size shall be 15,000 square feet, and, in addition, gasoline filling and service stations shall have 500 square feet of site area for each additional pump over 4, and 1,000 square feet of site area for each additional service bay over 2.
- (3) The minimum site width shall be 130 feet.
- (4) All points of entrance or exit for motor vehicles shall be no closer than 30 feet from the intersection of the right-of-way lines proposed in the city's land use plan for those streets on which it fronts. Points of entrance or exit for motor vehicles shall be no closer than 20 feet from any adjacent property line. The minimum driveway width at the curbline shall be 22 feet and the maximum driveway width at the curbline shall be 30 feet. The minimum width of access drive shall be 16 feet. The angle of intersection of the centerline of any driveway with the centerline of the street shall not be less than 60 degrees, unless separated acceleration and deceleration lanes are provided.
- (5) All equipment including hydraulic hoist, pits and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. There shall be no outdoor storage of merchandise such as tires, lubricants and other accessory equipment except that outdoor trash storage may be provided in a properly screened container consisting of a brick masonry wall at least 6 feet high with a sturdy, 100% view-obscuring gate.
- (6) All activities, except those required to be performed at the fuel pump shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.
- (7) There shall be no aboveground tanks for the storage of gasoline, liquefied petroleum gas, oil or other inflammable liquids or gas.
- (8) The automobile service station shall provide one parking space for each person employed at the station during any given period of the day. Each required parking space shall be no less than 200 square feet in area. No outdoor storage or parking of vehicles other than those used by employees while on duty.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-06-08, § 2, 10-20-2008)

#### Sec. 138-460. - Required conditions.

All permitted and special uses in the twelve mile district shall not include motor vehicle repair establishments.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-06-08, § 2, 10-20-2008)

#### Sec. 138-461. - Area and bulk requirements.

See section 138-526, limiting the height and bulk of buildings, and the minimum size of lot by permitted land use for the twelve mile district.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-06-08, § 2, 10-20-2008)

#### Sec. 138-462. - Building design requirements.

- (a) The first floor elevation of a building that fronts a street shall be composed of a minimum of 40 percent and a maximum of 80 percent windows. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.
- (b) The building elevation that fronts a street shall contain an entrance. The entrance shall access the first floor of the building. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.
- (c) Siding, generally considered residential, regardless of orientation, and T111-type material shall not be permitted.
- (d) The planning commission may revise these requirements, if the commission finds that the standards for site plan approval, as outlined in section 138-678, have been met.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-06-08, § 2, 10-20-2008)

Secs. 138-463—138-470. - Reserved.

## DIVISION 13. - WOODWARD DISTRICT

### *Footnotes:*

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**Cross reference—** Businesses, ch. 30; signs permitted in local business and Woodward business district, § 94-10.

Sec. 138-471. - Preamble.

The Woodward district is designed to permit both office building district uses and local business district uses, and additional uses oriented to serve a higher volume of vehicular traffic and suitable to a location along Woodward Avenue corridor.

(Ord. No. 11-96, § 2(33-69), 12-2-1996; Ord. No. O-04-08, § 1, 10-20-2008)

Sec. 138-472. - Principal uses permitted.

Principal uses permitted in the Woodward district are as follows:

- (1) Any office, professional or business uses permitted in the office districts as principal uses permitted and special uses, except municipal offices, post offices and public utility offices.
- (2) Any retail business or service establishment permitted in the LB local business districts as principal uses permitted.
- (3) New car automobile sales showrooms, excluding outdoor automobile storage, display and sales.
- (4) Accessory uses, customarily incidental to the above permitted uses.

(Ord. No. 11-96, § 2(33-71), 12-2-1996; Ord. No. O-04-08, § 1, 10-20-2008)

Sec. 138-473. - Special uses.

The following conditional uses shall be permitted in the Woodward district, subject to the regulations in article IV, division 6, of this chapter.

- (1) All special uses as permitted in the LB local business district.
- (2) Carwash.
- (3) Motor vehicle repair establishments, excluding outdoor storage.
- (4) Bus passenger stations.
- (5) Hotels and motels, including manager's residence. Units shall not contain less than 250 square feet of floor area.
- (6) Hospitals and other larger medical facilities not permitted in the office districts or LB local business districts.
- (7) Multivendor retail sales establishments such as, but not limited to, farmers markets and trade centers when conducted within a completely enclosed building.
- (8) Adult uses as defined in this subsection (8) and regulated in section 138-434, pertaining to adult-oriented uses.
  - a. *Adult book or video store.* An establishment, having as a substantial or significant portion of its stock in trade, books, video tapes, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined in this subsection (8)) or an establishment with a segment or section devoted to the sale or display of such material.
  - b. *Adult entertainment center.* An enclosed building with a capacity of 50 or more persons used for presenting material or live entertainment distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
  - c. *Adult minientertainment center.* An enclosed building with a capacity for less than 50 persons used for presenting material or live entertainment distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
  - d. *Specified sexual activities.* For the purpose of this section, the term "specified sexual activities" is defined as:
    1. Human genitals in a state of sexual stimulation or arousal.
    2. Acts of human masturbation, sexual intercourse or sodomy.
    3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

- e. *Specified anatomical areas.* For the purpose of this section, the term "specified anatomical areas" is defined:
  1. Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
  2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.
- (9) *Outdoor theaters.* Because outdoor theaters possess the unique characteristic of being used only after darkness, and since they develop a concentration of vehicular traffic in terms of ingress and egress from their parking area, they shall be permitted in the Woodward district. Outdoor theaters shall further be subject to the following conditions:
  - a. The proposed internal design shall receive approval from the building inspector and city engineer as to adequacy of drainage, lighting and other technical aspects.
  - b. Points of ingress and egress shall be available to the outdoor theater from abutting major thoroughfares (120-foot right-of-way or greater) and shall not be available from the residential street.
  - c. All vehicles, waiting or standing to enter the facility shall be provided off-street waiting space. No vehicle shall be required to wait or stand within a dedicated right-of-way.

(Ord. No. 11-96, § 2(33-72), 12-2-1996; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-474. - Adult-oriented uses.

- (a) In the development and execution of this chapter, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Specific regulations of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any 1 area (i.e., not more than 2 such uses within 2,000 feet of each other which would create adverse effects, nor shall such use be located within a distance of 2,000 feet from any school, place of worship or public or institutional buildings or facilities). The uses to which these controls refer are as follows: Adult book or video store, adult entertainment center, adult minientertainment center, nude photographic studios and massage establishments.
- (b) The city council may waive this locational provision for adult book or video stores, adult entertainment centers and adult minientertainment centers if the following findings are made:
  - (1) The proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this chapter will be observed.
  - (2) The proposed use will not enlarge or encourage the development of a skid row area.
  - (3) The establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation, nor will it interfere with any program of urban renewal.
  - (4) All applicable regulations of this chapter will be observed.

- (c) It shall be unlawful to hereafter establish any adult book or video store, adult entertainment center, adult minientertainment center within 1,000 feet of any building containing a residential dwelling or rooming unit. This prohibition may be waived if the person applying for the waiver shall file, with the city council, a petition which securing approval of the proposed regulated use by 51% of the persons owning, residing or doing business within a radius of 1,000 feet of the location of the proposed use. The petitioner shall attempt to contact all eligible locations within the radius and must maintain a list of all addresses at which no contact was made. A minimum of 150 responses is required. If the 1,000-foot radius is not sufficiently populated to provide 150 residences and/or business places to respond, the radius will be increased in increments of 100 feet until there shall be an area large enough to cover 150 eligible residences and/or business places. The city council shall set rules and regulations governing the procedure for securing the petition of consent provided for in this section. The rules shall provide that the circulator of the petition requesting a waiver shall subscribe to an affidavit attesting to the fact that the petition was circulated in accordance with the rules of the city council and that the circulator personally witnessed the signatures on the petition and that the same were affixed to the petition by the person whose name appeared thereon. The form of the petition shall be approved by the city council and shall clearly and unambiguously specify the nature and intent of the request for signature. The city council shall not consider the waiver of locational requirements until the above described petition shall have been filed and verified.
- (d) All adult book or video stores, adult entertainment centers, adult minientertainment centers or retail establishments offering material described in this section shall comply with the following performance standards:
- (1) Any display of adult oriented materials be shielded from public view either placed behind a counter, or by providing a separately established room which would have restricted access controlled by the owner or employee.
  - (2) All access to adult oriented material be restricted to persons 18 years of age or older.
  - (3) Signage be posted regarding the restrictions to this type of material; and
  - (4) The location of the counter or room be limited to an area away from the main entry.

(Ord. No. 12-96, § 2(33-161), 10-21-1996; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-475. - Required conditions.

All permitted and special uses in the Woodward district shall not include dwellings, except existing dwellings so used and dwellings as permitted in section 138-407.

(Ord. No. 11-96, § 2(33-73), 12-2-1996; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-476. - Area and bulk requirements.

See section 138-526, limiting the height and bulk of buildings, and the minimum size of lot by permitted land use in the Woodward district.

(Ord. No. 11-96, § 2(33-74), 12-2-1996; Ord. No. O-04-08, § 1, 10-20-2008)

Sec. 138-477. - Building design requirements.

- (a) The first floor elevation of a building that fronts a street shall be composed of a minimum of 40 percent and a maximum of 80 percent windows. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.
- (b) The building elevation that fronts a street shall contain an entrance. The entrance shall access the first floor of the building. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.
- (c) The planning commission may revise these requirements, if the commission finds that the standards for site plan approval, as outlined in section 138-678, have been met.

(Ord. No. O-01-01, § 1, 2-5-2001; Ord. No. O-08-02, § 3, 7-15-2002; Ord. No. O-04-08, § 1, 10-20-2008)

Secs. 138-478—138-485. - Reserved.

DIVISION 14. - ELEVEN MILE DISTRICT

Sec. 138-486. - Preamble.

The eleven mile district is designed so as to primarily accommodate wholesale activities, warehouses, manufacturing, technology, and other business to business uses. Businesses that require outdoor storage are also permitted in the eleven mile district.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-03-09, § 1, 4-6-2009)

Sec. 138-487. - Principal uses permitted.

Principal uses permitted in the eleven mile district are as follows:

- (1) Warehousing and wholesale establishments, and storage (other than accessory to a permitted retail use).
- (2) Communications and information businesses.
- (3) The design, manufacture, and testing of such technology as electronics, robotics, medical devices and instruments.
- (4) Establishments involved in chemistry, biotechnology and nanotechnology.
- (5) The design, manufacture, and testing of alternative energy and power generation.
- (6) The compounding, processing, packaging or treatment of such products as: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery; tool, die, gauge and machine shops from the following previously prepared materials: canvas, cellophane, cloth, cork, feathers, felt,

fiber, fur, glass, hair, leather, paper, plastics, precious or semiprecious metals or stones, shell, textiles, tobacco, wax, wire, wood and yarns.

- (7) Welding or metal fabrication.
- (8) The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
- (9) Manufacture of musical instruments, toys, novelties and metal or rubber stamps, or other small molded rubber products.
- (10) Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs (excluding large stampings).
- (11) Laboratories, experimental, film or testing.
- (12) Manufacture and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
- (13) Building material sales.
- (14) Warehouse, storage and transfer and electric and gas service buildings and yards, heating and electric power generating plants and all necessary uses, coal, coke and fuel yards, water supply and sewage disposal plants, water and gas tanks and holders.
- (15) Automobile service or repair establishments.
- (16) Carwashes.
- (17) Artist studios or florists, where retail sales are accessory to the primary use.
- (18) Reserved.
- (19) Professional offices for lawyers, architects, landscape architects, urban planners, engineers or other similar or allied professions.
- (20) Accessory uses.
- (21) Other uses of a similar and no more objectionable character.
- (22) Marihuana retailers and medical marihuana provisioning centers.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-03-09, § 1, 4-6-2009; Ord. No. O-08-18, § 1, 8-13-2018; Ord. No. O-14-19, § 7, 12-16-2019)

#### Sec. 138-488. - Special uses.

The following special uses shall be permitted in the eleven mile district, subject to the regulations in article IV, division 6, special uses, of this chapter:

- (1) Radio and television towers and their attendant facilities shall be permitted in eleven mile districts, provided such towers shall be located on a continuous parcel of more than 40 acres, and have abutting access to a major thoroughfare.
- (2) Animal kennels or animal day care establishments.

- a. The outdoor area shall not be within 60 feet of a residential district.
  - b. The animals are permitted outside only between 6:30 a.m. and 10:30 p.m.
  - c. The outdoor area shall be enclosed on all sides with a wall or fence at least eight feet in height.
- (3) Automobile sales.
- a. Outdoor displays of new or used vehicles for sale are permitted.
  - b. All vehicles for sale in an outdoor display must be in good repair, in conditions that include but are not limited to:
    1. Vehicles displayed must have tires in place.
    2. Vehicles displayed must be without any leaking gas or without any other leaking automotive fluids.
    3. Vehicles must not have any exposed sharp metal or glass edges.
    4. Vehicles must be free of major body damage.
  - c. Where outdoor displays of new or used vehicles for sale abut a residential district or residential use at the rear property line, a masonry obscuring wall a minimum of six feet high and a maximum of eight feet high shall be installed at the rear property line.
  - d. An outdoor lighting plan conforming to the outdoor lighting standards and requirements of ch. 138, article III, division 4.5 of the zoning ordinance shall be provided for planning commission review and approval.
  - e. Outdoor loudspeakers or public address system shall not be permitted.
  - f. Minimum building size of 400 square feet is required.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-03-09, § 1, 4-6-2009; Ord. No. O-08-18, § 1, 8-13-2018)

#### Sec. 138-489. - Required conditions.

- (a) Except where otherwise specified, all uses shall be conducted wholly within a completely enclosed building or within a designated area enclosed on all sides with a six-foot obscuring masonry wall not less than eight inches thick.
- (b) No activities involving the storage, utilization or manufacture of materials or products which decompose by detonation shall be permitted within the city except such as are approved by the city council and are so licensed.
- (c) There shall be no dwellings, schools, other than trade or industrial schools, hospitals or other institutions for human habitation or care, unless accessory and incidental to a permitted principal use; or all classes of business uses except when such uses are for the convenience shopping of persons in the eleven mile district, subject to the regulations applicable to such uses.
- (d) Any use established in the eleven mile district after the effective date of Ordinance 280 shall be operated so as to comply with the performance standards set forth in article III, division 4, of this chapter.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-03-09, § 1, 4-6-2009; Ord. No. O-08-18, § 1, 8-13-2018)

Sec. 138-490. - Area and bulk requirements.

See section 138-526, limiting the height and bulk of buildings, and the minimum size of lot by permitted land use in the eleven mile district.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-03-09, § 1, 4-6-2009)

Sec. 138-491. - Building design requirements.

- (a) The first floor elevation of a building that fronts a street shall be composed of a minimum of 20 percent and a maximum of 80 percent windows. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.
- (b) The building elevation that fronts a street shall contain an entrance. The entrance shall access the first floor of the building. When there is a choice between a major thoroughfare and a minor street, the elevation that faces the major thoroughfare shall be considered the front.
- (c) Siding, generally considered residential, regardless of orientation, and T111-type material shall not be permitted.
- (d) The planning commission may revise these requirements, if the commission finds that the standards for site plan approval, as outlined in section 138-678, have been met.

(Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-03-09, § 1, 4-6-2009)

Secs. 138-492—138-495. - Reserved.

DIVISION 15. - P-1 PARKING DISTRICT

*Footnotes:*

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**Editor's note**— Ord. No. O-06-00, § 1, adopted July 17, 2000, has been treated as amending div. 10 in its entirety to read as herein set out. Formerly, div. 10, consisting of §§ 138-481—138-489 pertained to similar subject matter and derived from the Code of 1981, §§ 33-87—33-93, 33-95, and Ord. No. 20-95, § 1, adopted March 6, 1995.

**Cross reference**— Signs permitted in parking districts, § 94-12; stopping, standing and parking generally, § 122-91 et seq.

Sec. 138-496. - Preamble.

The P-1 parking districts are designed to accommodate the off-street parking for those nonresidential uses which are not able to provide adequate space within their own district boundaries. The intent of the parking district is to provide a buffer between business uses and residential uses.

(Ord. No. O-06-00, § 1, 7-17-2000; Ord. No. O-04-08, § 1, 10-20-2008)

**Sec. 138-497. - Principal uses permitted.**

Principal uses permitted in the P-1 district are as follows:

Off-street vehicular parking for customers and employees.

(Ord. No. O-06-00, § 1, 7-17-2000; Ord. No. O-04-08, § 1, 10-20-2008)

**Sec. 138-498. - Special uses.**

The following special uses shall be permitted in the P-1 parking district, subject to the regulations in article VI, division 6 special uses, of this chapter.

Drive-through retail/service use, subject to the following conditions:

- (1) Drive through shall be accessory to and normally incidental to a permitted retail/service establishment within the office, LB, or Woodward districts.
- (2) The required amount of off-street parking shall be maintained.
- (3) Drive through shall not be permitted if accessory to an eating, grocery, or other food service establishment.
- (4) Drive through shall not be permitted if accessory to a gas station or car wash.
- (5) Hours of operation shall be limited to 9 a.m. to 6 p.m. Monday through Saturday.

(Ord. No. O-06-00, § 1, 7-17-2000; Ord. No. O-04-08, § 1, 10-20-2008)

**Sec. 138-499. - Required conditions.**

- (a) The parking area shall be used principally for parking of private passenger vehicles, and such parking shall be limited to periods of less than 48 hours. Space for delivery trucks, which are prohibited from P-1 districts, shall be provided in accordance with article IV, division 2, of this chapter.
- (b) No commercial repair work or service of any kind, or sale or display of vehicles, shall be conducted in such parking area.
- (c) Minimum size shall be 4,000 square feet and shall be contiguous to a LB, Woodward, office or industrial district,
- (d) There may be a private driveway, or public street or public alley between such P-1 district and such LB, Woodward, office or industrial districts.
- (e) Any driveway in the P-1 district shall be at least 20 feet from any adjacent property located in any residential district and not less than 20 feet from the intersection of any two streets.

(Ord. No. O-06-00, § 1, 7-17-2000; Ord. No. O-04-08, § 1, 10-20-2008)

**Sec. 138-500. - Construction.**

All parking areas shall be provided with paving having an asphaltic or portland cement binder so as to provide a permanent, durable, and dustless surface. All parking areas shall be graded and drained so as to dispose of all surface water accumulated within the area according to Oakland County requirements prior to the issuance of an occupancy permit. All drives shall be provided with paving having a portland cement binder so as to provide a permanent, durable, dustless surface.

(Ord. No. O-06-00, § 1, 7-17-2000; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-501. - Lighting and signage.

Lighting and signage requirements shall be in accordance with article IV off-street parking and loading, division 1 off-street parking, section 138-223 lighting and signage of this chapter.

(Ord. No. O-06-00, § 1, 7-17-2000; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-502. - Screening.

Screenwall requirements shall be in accordance with article III, division 2 fences, of this chapter.

(Ord. No. O-06-00, § 1, 7-17-2000; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-503. - Approval and modifications.

Plans for the development of any principal permitted use shall be approved by the planning commission according to site plan review, article VI administration and enforcement, division 7 of this chapter, before construction is started. The planning commission may alter the setback and wall requirements if the commission finds that strict application of such requirements will endanger pedestrian or vehicular traffic.

Plans for the development of any special use shall be approved by the city council according to special use, article VI administration and enforcement, division 6 of this chapter.

(Ord. No. O-06-00, § 1, 7-17-2000; Ord. No. O-04-08, § 1, 10-20-2008)

#### Secs. 138-504—138-515. - Reserved.

### DIVISION 16. - C-1 CEMETERY DISTRICT

#### *Footnotes:*

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**Cross reference—** Signs permitted in cemetery districts, § 94-13.

#### Sec. 138-516. - Preamble.

The C-1 cemetery districts are designed to accommodate a use which possesses unique characteristics making it impractical to include in any other use district classification. The unique characteristics are that the large land areas devoted to this use affect the continuity of local streets and that this use does not require the normal services (sewers, water, etc.).

(Code 1981, § 33-100; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-517. - Principal uses permitted.

Premises in such C-1 districts shall be used only for burial grounds and the drives and buildings normally incidental thereto, and shall be developed and maintained subject to such regulations as are provided in this division.

(Code 1981, § 33-102; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-518. - Required conditions.

- (a) All access in the C-1 district shall be provided from major thoroughfares (a right-of-way width of 120 feet or greater), or from secondary thoroughfares (a right-of-way width of 86 feet or greater).
- (b) All sides of the cemetery within the city in the C-1 district shall be screened with a continuous and obscuring wall not less than 6 feet in height or a galvanized chainlink type steel fence 6 feet in height measured from the surface of the ground. The land falling between the wall and/or fence and a public street shall be planted with trees, flowers and grass and landscaped and maintained by the cemetery owner in a healthful growing condition.
- (c) Before a cemetery is permitted there must be a satisfactory drainage plan approved by the city engineer.

(Code 1981, § 33-103; Ord. No. O-04-08, § 1, 10-20-2008)

#### Secs. 138-519—138-525. - Reserved.

### DIVISION 17. - SCHEDULE OF REGULATIONS

#### Sec. 138-526. - Schedule of regulations.

	<u>Minimum Size of Lot per Unit</u> —		<u>Maximum Height of Buildings</u> —	<u>Minimum Yard Setback</u> —			<u>Minimum Floor Area Per Unit</u> —			
Districts	Area in	Width	In	Front	At	Total	Rear	Maximum	With	Without

	Square Feet (a)	in Feet	Feet		Least 1 Side Yard	of 2 Side Yards		Percentage of Lot Coverage (Area of All Structures)	Base- ment	Base- ment
R-1A	12,000	100	40	25(b)	5(c, d)	15	20	35(e)	1,800	2,000
R-1B	8,800	80	30	25(b)	5(c, d)	15	20	35(e)	1,500	1,700
R-1C	6,600	<u>50</u>	30	25(b)	5(c, d)	15	20	35(e)	1,300	1,500
R-1D	4,400	40	30	25(b)	5(c, d)	15	35	35(e)	1,300	1,500
R-2	4,000	40	30	25(b)	5(c, d)	15	35	35	1,100	1,300
R-M	(e)	(e)	30	25(b)	10(g)	20(f)	35	35	(h)	(h)
R-M-H	(See article V, division 5, High-Rise Multiple-Family Residential District)									
Greenfield	(See article V, division 7, Greenfield District)									
Community centerpiece	(See article V, division 8, Community Centerpiece District)									
Office	—	—	30	10(j, k)	(m)	(m)	10	—	—	—
Downtown	—	—	—	(n)	(n)	(n)	10	—	—	—
Local business	—	—	40	10(j, k)	(m)	(m)	10	—	—	—

Twelve mile	—	—	40	(n)	(n)	(n)	10	—	—	—
Coolidge	—	—	40	10(j, k)	(m)	(m)	10	—	—	—
Gateway	—	—	40	10(j, k)	(m)	(m)	10	—	—	—
Woodward	—	—	50	10(j, k)	m	m	10	—	—	—
Eleven mile	—	—	40	10(j, k)	(m)	(m)	10	—	—	—
Industrial	—	—	40	10(j, k)	(m)	(m)	10	—	—	—
Parking	—	—	15		(See sections <u>138-496</u> —138-503)					
Cemetery	(See article V, <u>division 16</u> , Cemetery District)									

(Code 1981, § 33-108; Ord. No. O-10-97, § 1, 2-17-1997; Ord. No. O-21-97, § 1, 10-20-1997; Ord. No. O-09-01, § 4, 9-17-2001; Ord. No. O-09-07, § 2, 1-7-2008; Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-08-08, § 1, 11-3-2008; Ord. No. O-14-20, § 1, 9-21-2020)

#### Sec. 138-527. - Notes to schedule of regulations.

- (a) In calculating the area of a lot that adjoins an alley, one-half the width of such alley abutting the lot shall be considered as part of such lot.
- (b) The front yard setback shall be 25 feet or equal to the average setback of the six adjacent buildings on the same block, whichever is greater.

## (c) Exterior side yards on corner lots:

When a rear yard abuts a rear yard, the exterior side yard setback shall not be less than ten feet.

When a rear yard abuts a side yard, the exterior side yard setback shall be as follows:

Distance from Rear Lot Line to Structure	Setback Required
0 to 5 feet	No structures permitted
5-35 feet	25 feet
Greater than 35 feet	10 feet

## (d) There shall be a distance of at least 15 feet between dwellings.

(e) Maximum lot coverage for corner lots shall not exceed 45 percent. See chapter 138, article III, division 1. for additional requirements.

(f) No multiple dwelling shall be erected on a lot or parcel of land that has an area of less than 10,000 square feet. The total number of rooms (other than kitchen and sanitary facilities) provided shall not be more than the area of the parcel in square feet divided by 500.

$$\text{Total number of rooms} = \text{Area of parcel} / 500$$

(g) Every lot on which a multiple dwelling is erected shall be provided with a side yard on each side of such lot. Each side yard shall be increased by one-half foot for each ten feet or part thereof by which the length of the multiple dwelling exceeds 50 feet in overall dimension along the adjoining lot line.

(h) The following minimum floor areas shall be met (the number of rooms listed is in addition to the kitchen and sanitary facilities):

Efficiency apartment: One-room—250 square feet minimum floor area per unit.

One-bedroom: Three-room—450 square feet minimum floor area per unit.

Two-bedroom: Four-room—600 square feet minimum floor area per unit.

Three-bedroom: Five-room—750 square feet minimum floor area per unit.

The maximum floor area for an efficiency apartment shall not exceed 300 square feet (in addition to the kitchen and sanitary facilities).

(i) Reserved.

(j) Parking shall be permitted in the front yard after approval of the parking plan layout and points of access by

the planning commission. The setback shall be measured from the nearest side of existing and/or proposed right-of-way lines.

- (k) Front yard setbacks shall be ten feet or equal to the setback of the adjacent buildings, whichever is less.
- (l) Reserved.
- (m) No side yards are required along the interior side lot lines except as otherwise specified in the building code. On the exterior side yard that borders on a residential district, there shall be provided a setback of at least ten feet on the side or residential street.
- (n) No setback shall be permitted, unless the planning commission finds that the proposed setback shall be developed as a defined plaza, outside eating area, or other pedestrian space.

(Code 1981, §§ 33-109, 33-136(5); Ord. No. O-10-97, § 1, 2-17-1997; Ord. No. O-21-97, § 2, 10-20-1997; Ord. No. O-09-01, § 4, 9-17-2001; Ord. No. O-09-07, § 2, 1-7-2008; Ord. No. O-04-08, § 1, 10-20-2008; Ord. No. O-08-08, § 1, 11-3-2008; Ord. No. O-7-13, § 2, 12-16-2013)

#### Sec. 138-528. - Marihuana business regulations.

- (a) A marihuana business must front on a major thoroughfare with the primary ingress/egress onto a major thoroughfare.
- (b) The marihuana business must have all applicable state and local licenses and approvals to operate.
- (c) The property where the marihuana business will be located must be entirely within the boundaries of the city, and must not be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.
- (d) Notwithstanding any other provision in the zoning ordinance, a marihuana business must operate within a fully enclosed building.
- (e) Pursuant to article XV of chapter 30 of the Berkley City Code, all marihuana business license approvals are subject to the following:
  - (1) Public notice requirements as outlined in section 30-806; and
  - (2) Site plan approval from the planning commission must be obtained prior to receiving license approval from the city council. Failure to do so will result in license denial as outlined in section 30-813.

(Ord. No. O-14-19, § 1, 12-16-2019)

#### Secs. 138-529, 138-530. - Reserved.

### DIVISION 18. - PLANNED UNIT DEVELOPMENT

#### Sec. 138-531. - Preamble.

Planned unit development (PUD) is intended to offer an alternative to traditional development by permitting flexibility in the regulations for development. The PUD standards are provided to allow a combination of uses, while maintaining a consistent implementation of the goals and objectives of the city's master plan.

(Ord. No. O-03-04, § 1, 5-17-2004; Ord. No. O-04-08, § 1, 10-20-2008)

Sec. 138-532. - Regulations.

- (a) *Zoning.* A PUD may be permitted in all zoning districts.
- (b) *Land area.* A PUD shall contain a minimum land area of one-half (0.5) acre.
- (c) *Usage.* Any land use authorized in this division may be included in a PUD, subject to adequate public health, safety, and welfare protection mechanisms being designed into the development to ensure the compatibility of varied land uses both within and outside the development.

(Ord. No. O-03-04, § 1, 5-17-2004; Ord. No. O-03-05, § 1, 3-7-2005; Ord. No. O-04-08, § 1, 10-20-2008)

**Editor's note**— Ord. No. O-03-04, § 1, adopted May 17, 2004, enacted provisions intended for use as subsections 138-532(1)—(3). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections 138-532(a)—(c).

Sec. 138-533. - Recognizable benefit.

The applicant shall demonstrate to the city that the PUD provides for the protection of the integrity of the surrounding neighborhood and at least three of the following site design elements that could not be attained through a project designed under conventional zoning.

- (1) High quality architectural design, beyond the site plan requirements of this title.
- (2) Extensive landscaping, beyond the site plan requirements of this title.
- (3) Preservation or enhancement of historic resources.
- (4) Provision of open space or public plazas.
- (5) Efficient consolidation of poorly dimensioned parcels.
- (6) Shared vehicular access between properties or uses.
- (7) A complementary mix of uses or a variety of housing types.

In granting the relaxation of any district requirements, the city may require the applicant to demonstrate through documentation that the project will not be detrimental to the public health, safety, welfare of the future occupants, the surrounding neighborhood, or the city as a whole. Such documentation may include, but is not limited to, traffic impact studies, environmental impact studies, market needs assessments, infrastructure impact studies and any other reports or studies.

(Ord. No. O-03-04, § 1, 5-17-2004; Ord. No. O-04-08, § 1, 10-20-2008)

**Editor's note—** Ord. No. O-03-04, § 1, adopted May 17, 2004, enacted provisions intended for use as subsections 138-533A.—G. To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections 138-533(1)—(7).

Sec. 138-534. - Approval procedure.

The approval of a planned unit development application shall require rezoning of the property in accordance with section 138-591 based upon a recommendation of the planning commission and approval of the city council.

- (1) *Pre-application conference.* Prior to the submission of an application for PUD approval, the applicant shall meet with the planning commission. The applicant shall present the following:
  - a. A sketch plan illustrating a development using conventional zoning permitted under the City Code.
  - b. A sketch plan illustrating the development proposed under the PUD.
  - c. Each sketch plan shall include the following information: total number of acres in the project; a statement of the number of residential units, if any; the number, size, and type of nonresidential uses, the number of acres to be occupied by each type of use; the known deviations from ordinance regulations to be sought; and the number of acres to be preserved as open or recreational space.
  - d. Documentation indicating how the proposed development represents a recognizable benefit, section 138-533.

If the planning commission agrees that the PUD proposal has merit and has potential to meet the standards for approval, an application may be filed for plan review in conformance with the requirements set forth below. If the planning commission does not agree that the proposed PUD meets the standards for approval, it shall deny the proposal and provide reasons in writing to the applicant.

- (2) *Application for site plan review.* Following the preapplication conference, the applicant shall submit a site plan of the proposed PUD and all other necessary documents stipulated in section 138-535. The site plan shall be prepared in accordance with the standards set forth in article VI, division 7 of this chapter.
  - a. *Planning commission action.* The site plan shall be noticed for public hearing as a rezoning before the planning commission and otherwise acted upon by the planning commission and the city council, as provided by law. Following the hearing, the planning commission shall review the site plan and shall take one of the following actions:
    1. *Approval.* Upon finding that the site plan meets the criteria and standards set forth herein, the planning commission shall recommend approval with or without conditions. Approval shall constitute approval of the uses and design concept as shown on the site plan. Recommendation of the site plan by the planning commission shall not bind the city council to approve the site plan. The planning commission shall, to the extent it deems appropriate, submit detailed recommendations relative to the PUD project including, without limitation, recommendations with respect to matters on which the city council shall exercise discretion.

2. *Postponement.* Upon finding that the site plan does not meet the criteria and standards set forth herein, if revised, the planning commission may postpone action until a revised plan is resubmitted.
3. *Denial.* Upon finding that the site plan does not meet the criteria and standards set forth herein, the planning commission shall recommend denial.

The planning commission shall, to the extent it deems appropriate, submit detailed recommendations relative to the PUD project including, without limitation, recommendations with respect to matters on which the city council shall exercise discretion.

- b. *City council action.* Upon receiving a recommendation from the planning commission, the city council shall review the site plan. Taking into consideration the recommendations of the planning commission and the criteria and standards set forth herein, the city council shall approve with or without conditions, postpone, or deny the site plan.

Prior to approval of a site plan, the city council shall require all standards and conditions of approval to be incorporated in a development agreement. The city council may cause to have legal documents, covenants, or contracts prepared and may require the execution thereof by the applicant, which documents involve the city and are required as a result of the conditions contained in the PUD approval.

(Ord. No. O-03-04, § 1, 5-17-2004; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-535. - Application

- (a) A site plan in accordance with section 138-679.
- (b) A narrative report prepared by the applicant shall accompany the site plan providing the following:
  - (1) A description of the project, including all proposed uses.
  - (2) A discussion of the market concept and feasibility of the project.
  - (3) An explanation of the manner in which the standards for approval have been met.
  - (4) A separately delineated specification of all deviations from this division which would otherwise be applicable to the uses and development proposed in the absence of the application of the PUD article.
  - (5) Hours of operation of the proposed uses.
  - (6) A specific schedule of the intended development and construction details, including phasing or timing.
  - (7) A specific schedule of the general improvements to constitute a part of the development, including, without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities, and visual screening features.
  - (8) A specification of the exterior building materials with respect to the structures proposed in the project.
  - (9) Identify the person or entity that will have control over the project.
- (c) The city may require the applicant to demonstrate through documentation that the project will not be detrimental to the public health, safety, welfare of the future occupants, the surrounding neighborhood, or

the city as a whole. Such documentation may include, but is not limited to, traffic impact studies, environmental impact studies, market needs assessments, infrastructure impact studies and any other reports or studies.

(Ord. No. O-03-04, § 1, 5-17-2004; Ord. No. O-04-08, § 1, 10-20-2008)

**Editor's note—** Ord. No. O-03-04, § 1, adopted May 17, 2004, enacted provisions intended for use as subsections 138-535(1)—(3). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections 138-535(a)—(c).

#### Sec. 138-536. - Conditions.

Reasonable conditions may be required with the approval of a PUD, to the extent authorized by law, for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.

(Ord. No. O-03-04, § 1, 5-17-2004; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-537. - Standards for approval.

The city shall consider the following standards when determining whether to approve, approve with conditions or deny a proposed PUD:

- (1) A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the PUD regulations.
- (2) The proposed type and density of use shall not result in an unreasonable increase in the need for or burden upon public services, facilities, streets and utilities.
- (3) There shall be underground installation of utilities, including electricity and telephone, unless otherwise approved by the city.
- (4) The proposed development shall be consistent with the public health, safety and welfare of the city.
- (5) The proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.
- (6) The proposed development shall be under single ownership or control such that there is a single entity having responsibility for completing the project in conformity with this division.
- (7) The proposed development shall be consistent with the goals and policies of the master plan.

(Ord. No. O-03-04, § 1, 5-17-2004; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-538. - Fees.

Any application for a PUD shall be accompanied by a fee as determined by the city council. It is the intention of this chapter that the fee schedule shall incorporate all fees necessary to completely pay the cost for professional planning, engineering, and legal reviews of the PUD proposal as may be required by the planning commission and the city council.

(Ord. No. O-03-04, § 1, 5-17-2004; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-539. - Phasing.

Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of the health, safety, and welfare of the users of the PUD and the residents of the surrounding area. In addition, in developments that include residential and non-residential uses, the relative mix of uses and the scheduled completion of construction for each phase shall be disclosed and determined to be reasonable in the discretion of the planning commission.

(Ord. No. O-03-04, § 1, 5-17-2004; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-540. - Commencement of construction.

Substantial construction shall be commenced within one year following final approval of a PUD and shall proceed substantially in conformance with the schedule set forth by the applicant, as required by section 138-539. If construction is not substantially commenced and continues within such time, approval of the PUD shall expire and be null and void. In the event approval of the PUD has expired, the city council shall require a new application that shall be reviewed in light of then existing and applicable law and ordinance provisions.

(Ord. No. O-03-04, § 1, 5-17-2004; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-541. - Effect of approval.

When approved, the PUD with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such authorization. Notice of adoption of the final PUD plan and conditions shall be recorded by the applicant at the county register of deeds.

(Ord. No. O-03-04, § 1, 5-17-2004; Ord. No. O-04-08, § 1, 10-20-2008)

#### Sec. 138-542. - Amendments.

An approved PUD may be amended at the discretion of the city consistent with the procedures for original approval. Further the zoning board of appeals shall not have the authority to grant variances for the standards contained in this chapter for any duly approved PUD, such authority being specifically reserved to the city council.

(Ord. No. O-03-04, § 1, 5-17-2004; Ord. No. O-04-08, § 1, 10-20-2008)

Secs. 138-543—138-545. - Reserved.

## ARTICLE VI. - ADMINISTRATION AND ENFORCEMENT

### *Footnotes:*

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**Editor's note—** Ord. No. O-10-08, § 1, adopted December 15, 2008, amended chapter 138, article VI, in its entirety to read as herein set out. Formerly article VI pertained to similar subject matter, and derived from the Code of 1981, §§ 33-141—33-145, 33-147—33-149, 33-152; Ord. No. 22-95, § 1, adopted March 6, 1995; Ord. No. 18-96, § 1, adopted October 21, 1996; Ord. No. O-12-99, § 1, adopted January 3, 2000; Ord. No. O-01-01, § 1, adopted February 5, 2001; and Ord. No. O-11-01, § 1, adopted September 17, 2001.

**Cross reference—** Administration, ch. 2.

## DIVISION 1. - GENERALLY

Sec. 138-546. - Organization.

The administration of this chapter is hereby vested in the zoning officer, zoning board of appeals, and the city planning commission. This section shall first set out the authority of each of these 3 offices, and then describe the procedure and substantive standards.

(Ord. No. O-10-08, § 1, 12-15-2008)

Sec. 138-547. - Zoning officer.

The zoning officer, shall be appointed by the city manager, and shall carry out the duties prescribed in this chapter as well as such other duties as may be required of other offices to which he may be appointed. The zoning officer, reviewing departments and such deputies or assistants who have been or shall be duly appointed by the city manager, shall enforce this chapter and in addition thereto, and in furtherance of such authority shall:

- (1) Issue all zoning occupancy certificates and make and maintain records thereof.
- (2) Conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this chapter.
- (3) Issue violation notices requiring compliance within 30 days, or a longer period of time when reasonable compliance is governed by weather conditions, and advise suspected violators of right of appeal.
- (4) Require that all construction or work of any type be stopped when such work is not in compliance with this chapter; and revoke any permit which was unlawfully issued, or any permit wherein work not in compliance with this chapter has been performed, and such work has not been corrected within the period of time so established in the notification of such defects.
- (5) Have possession of permanent and current records of this chapter including, but not limited to, all maps, amendments, special uses, variances, appeals and applications therefore.

- (6) Assist in providing public information relative to this chapter.
- (7) Forward to the city planning department all applications for special uses and for amendments to this chapter that are initially filed with the zoning officer.
- (8) Forward to the zoning board of appeals applications for appeals, variances, nonlisted uses, or other matters on which the board of appeals is required to pass under this chapter.
- (9) Enforce all orders of the zoning board of appeals.
- (10) Initiate, direct and review, from time to time, a study of the provisions of this chapter, and to make reports of their recommendations to the city planning department and the city planning commission not less frequently than once a year.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-548. - Zoning board of appeals.

- (a) *Creation.* The zoning board of appeals of 7 members is hereby established, having powers and duties in accordance with Public Act 12 of 2008. The city council shall appoint 7 members who are electors of the city, each to be appointed for a term of 3 years. Appointments for the first year shall be for a period of 1, 2 and 3 years, respectively, so as nearly as may be to provide for the appointment of an equal number each year; thereafter, each member shall hold office for a full 3-year term.
- (b) *Compensation.* Members of the board of appeals shall receive no compensation.
- (c) *Alternate members.* The city council shall, in addition, appoint 2 alternate members, who shall serve and vote in the absence of a regular member if a regular member is absent from or unable to attend a meeting of the board of appeals. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the board of appeals.
- (d) *Removal of office.* Members of the zoning board of appeals, may after a public hearing, be removed by the council for misfeasance, malfeasance, or nonfeasance of office. See section 2-40 Ethics.
- (e) *Meetings.* A copy of the minutes of all meetings shall be filed with the city clerk showing the date, time, place, members present, members absent, any decisions made and all roll call votes taken at the meeting.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-549. - City planning commission.

- (a) *Creation.* The city planning commission, as established under the provisions of Public Act 33 of 2008 is the planning commission referred to in this chapter. See chapter 90 for additional duties.
- (b) *Jurisdiction.* The city planning commission shall discharge the following duties under this chapter:
  - (1) Review all applications for amendments to this chapter (text or map), and report findings and recommendations to the city council in the manner prescribed in this chapter for amendments.

- (2) Review all applications for special land uses and report findings and recommendations to the city council in t prescribed in this chapter.
  - (3) Hear and decide on site plan review and other matters upon which it is required to pass under this chapter and state law.
- (c) *Meetings.* A copy of the minutes of all meetings shall be filed with the city clerk showing the date, time, place, members present, members absent, any decisions made and all roll call votes taken at the meeting.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-550. - Fees.

Fees for inspections, reviews, and the issuance of permits or certificates or copies thereof required or issued under the provisions of this chapter may be collected by the city in advance of issuance. The amount of such fees shall be established by resolution of the city council and shall cover the cost of inspection and supervision resulting from enforcement of this chapter.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-551. - Violations.

Violations of this chapter are municipal civil infractions.

(Ord. No. O-10-08, § 1, 12-15-2008; Ord. No. O-12-19, § 1, 10-21-2019)

#### Sec. 138-552. - Public hearing notification requirements.

- (a) *Applicability.* These provisions apply to the following requests that require a public hearing:
- (1) Zoning text and map amendments (including rezonings);
  - (2) Appeals;
  - (3) Variances;
  - (4) Special land uses; and
  - (5) Planned unit development.
- (b) *Public notice.* The following public notice procedure shall apply to all public hearings:
- (1) *Notice contents.* The notice shall contain the following information:
    - a. Description of the nature of the request and purpose of the public hearing;
    - b. Citation of the applicable zoning ordinance sections;
    - c. Address and parcel number of the subject property;
    - d. Date, time, and location of the public hearing;
    - e. When and where comments will be received concerning the request.
  - (2) *Newspaper publication.* The notice of the public hearing must be published in the official newspaper of

general circulation for publication of notices within the city not less than 15 days prior to the date of the hearing.

- (3) *Mailed notice.* The notice of the public hearing must be mailed to owners and occupants of all properties and structures within 300 feet of the subject property, including those located outside of the city limits, if applicable. Notices must be postmarked not less than 15 days prior to the date of the hearing.

Such notice shall be delivered in person or sent by first-class mail addressed to the respective owners and occupants at the address given in the last assessment roll.

If an occupant's name is not known, the term "occupant" may be used. Notification need not be given to more than one occupant of the structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, one occupant of each unit shall be given notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas leased by different persons, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

- (4) *City website notice.* The notice of the public hearing shall be posted on the city's website not less than 15 days prior to the date of the hearing.
- (5) *Temporary sign on subject property.* A temporary sign providing notice of the public hearing shall be conspicuously placed in the front yard of the subject property not less than seven days prior to the hearing date.
- a. Public hearing signs shall be provided by the City of Berkley and placed on the subject property with the permission of the property owner.
  - b. If the property is located on a corner lot, a public hearing sign shall be conspicuously placed in each yard abutting a street.
  - c. If the property is located in a district without an established front or side yard, the sign may be conspicuously placed in the street-facing window of the principal structure on the subject property.

(Ord. No. O-03-20, § 5, 3-31-2020)

Secs. 138-553—138-560. - Reserved.

## DIVISION 2. - ZONING OCCUPANCY CERTIFICATES

Sec. 138-561. - Required.

No building, or addition thereto, constructed after the effective date of the ordinance from which this chapter is derived, and no addition to a previously existing building shall be occupied, and no land, vacant on the effective date of the ordinance from which this chapter is derived, shall be used for any purpose until a zoning/occupancy certificate has been issued by the zoning officer. No change in a use shall be made until a certificate of occupancy has been issued by

the zoning officer. Every certificate of occupancy shall state that proposed building or structure and the use of occupancy complies with the provisions of this chapter, and that all required city planning commission and zoning board of appeals approvals have been obtained. Any permit or certificate issued in conflict with the provisions of this chapter shall be null and void.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-562. - Application.

Every application for a building permit shall be deemed to be an application for a zoning occupancy certificate. Every application for a zoning occupancy certificate for a new use of land where no building permit is required shall be made directly to the zoning officer.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-563. - Plans and drawings.

Every application for a zoning occupancy certificate shall be accompanied by:

- (1) A plot plan in a number prescribed by the zoning officer, in duplicate, of the piece or parcel of land, lots, blocks, or parts or portions thereof, drawn to scale showing the actual dimensions of the piece or parcel, lots, blocks, or portions thereof, according to the registered or recorded plat of such land; and
- (2) Additional drawings, drawn to a scale in such form as may, from time to time, be prescribed by the zoning officer showing the ground area, height and bulk of the building or structure, the building lines in relation to lot lines, the use to be made of the building, structure or land, and such other information as may be required by the zoning officer for the proper enforcement of this chapter;
- (3) The zoning officer may, in those cases where in his judgment it is necessary, require certification by a registered professional engineer, registered architect or registered land surveyor.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-564. - Issuance of zoning/occupancy certificate.

No zoning/occupancy certificate for a building, or portion thereof, constructed after the effective date of the ordinance from which this chapter is derived; shall be issued until construction has been completed and the premises inspected and certified by the zoning officer to be in conformity with the provisions of this chapter, and that all required city planning commission and zoning board of appeals approvals have been obtained. No zoning/occupancy certificate for a building, or addition thereto, constructed after the effective date of the ordinance from which this chapter is derived, shall be issued and no addition to a previously existing building shall be occupied until the premises have been inspected and certified by the zoning officer to be in compliance with all applicable standards. Pending the issuance of a regular certificate, a temporary certificate may be issued to be valid for a period not to exceed 60 days from its date during the completion of any addition or during partial occupancy of the premises. No temporary occupancy permit shall

be issued if the proposed use does not conform, in the opinion of the zoning officer, to the spirit of the provisions of this chapter, nor during the existence of any condition which would constitute an immediate hazard to the health and safety to the occupants of the premises or the general public. The zoning/occupancy certificate shall be issued or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, not later than 14 days after the zoning officer is notified in writing that the building or premises are ready for occupancy.

(Ord. No. O-10-08, § 1, 12-15-2008)

Secs. 138-565—138-580. - Reserved.

### DIVISION 3. - AMENDMENTS

Sec. 138-581. - Purpose.

For the purpose of promoting the public health, safety and general welfare, conserving the value of property throughout the community, and lessening or avoiding congestion in the public streets and highways, the city council may, from time to time, in the manner set forth in this section, amend the regulations imposed in the districts created by this chapter or amend district boundary lines, provided that in all amendatory ordinances adopted under the authority of this section, due allowance shall be made for existing conditions, the conservation of property values, the direction of building development to the best advantage of the entire community, and the uses to which property is devoted at the time of the adoption of such amendatory ordinance.

(Ord. No. O-10-08, § 1, 12-15-2008)

Sec. 138-582. - Application.

Text amendments may be proposed by any governmental body or any interested person or organization, with the exception of map amendments which may be initiated by any governmental body or by persons having a freehold interest in the subject property, or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest or an exclusive possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest or an exclusive possessory interest and which is specifically enforceable. An application for an amendment to this chapter shall be filed with the city in such form and accompanied by such information as required by the city.

(Ord. No. O-10-08, § 1, 12-15-2008)

Sec. 138-583. - Hearing on application.

The city planning commission shall hold at least one public hearing on each application for an amendment at such time and place as shall be established by the city planning commission. the hearing shall be conducted and a record of such proceedings shall be preserved in such manner as the city planning commission shall by rule, prescribe from time

to time, or as may be required by Charter.

(Ord. No. O-10-08, § 1, 12-15-2008)

Sec. 138-584. - Notice of hearing.

See section 138-552 for public hearing notification process and requirements.

(Ord. No. O-10-08, § 1, 12-15-2008; Ord. No. O-03-20, § 1, 3-31-2020)

Sec. 138-585. - Findings of fact and recommendation of the city planning commission.

The city planning commission shall make written findings of fact and shall submit same together with its recommendations to the city council within 30 days of receipt of the application, and at the conclusion of the public hearing. Where the purpose and effect of the proposed amendment is to change the zoning classification of particular property, the planning commission shall make findings based upon the evidence presented to it in each specific case with respect to the following matters:

- (1) Existing uses of property within the general area of the property in question;
- (2) The zoning classification of property within the general area of the property in question;
- (3) The suitability of the property in question to the uses permitted under the existing zoning classification;
- (4) The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification; and
- (5) The objectives of the current master plan for the city.

The city planning commission shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such amendment is not detrimental to the public interest. The planning commission may recommend the adoption of an amendment changing the zoning classification of the property in question to any classification less intensive than that requested by the applicant.

(Ord. No. O-10-08, § 1, 12-15-2008)

Sec. 138-586 - Action by the city council.

- (a) The city council shall not act upon a proposed amendment to this chapter until it shall have received a written report and recommendation from the planning commission on the proposed amendment.
- (b) The city council may grant or deny any application for an amendment; provided, however, that in case of a written protest against any proposed amendment of the regulations or districts, signed and acknowledged by the owners of at least 20% of the area of land included in the proposed change, or by the owners of at least 20% of the land included within an area extending outward 100 feet from any point on the boundary of the

land included in the proposed change, such amendment shall not be passed, except by the three-fourths vote of the city council. For the purpose of this section publicly owned land shall be excluded in calculating the 20% land area requirement.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-587. - Effect of denial of amendment.

No application for a map amendment which has been denied by the city council shall be resubmitted for a period of one year from the date of the order of denial, except on the grounds of new evidence or proof of change of condition found to be valid by the city planning commission or the city council.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-588. - Notice of adoption.

Following adoption of a zoning ordinance amendment by the city council, one notice of adoption shall be published in a newspaper of general circulation within the city within 15 days after adoption. The notice shall include the following information:

- (1) Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment;
- (2) The effective date of the ordinance amendment; and
- (3) The place and time where a copy of the ordinance may be purchased or inspected.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Secs. 138-589—138-600. - Reserved.

### DIVISION 4. - VARIANCES

#### Sec. 138-601. - Purpose.

The zoning board of appeals may grant variances from the zoning and sign chapters of the Berkley City Code in accordance with the general standards established in Act 12 of 2008. Requests for specific dimensional variances may be granted administratively by the building department.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-602. - Application.

An application for a variance shall be filed in writing with the city. The application shall contain such information as the board may, by rule, require.

(Ord. No. O-10-08, § 1, 12-15-2008)

Sec. 138-603. - Reserved.

**Editor's note—** Ord. No. O-08-20, § 1, adopted May 18, 2020, repealed § 138-603, which pertained to administrative review and derived from Ord. No. O-10-08, § 1, December 15, 2008.

Sec. 138-604. - Hearing on application.

The board shall thereafter reach its decision within 90 days from the date of the public hearing on the request for variance. the decision of the board shall not become final until the expiration of 5 days from the date of entry of such order unless the board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

(Ord. No. O-10-08, § 1, 12-15-2008)

Sec. 138-605. - Notice of hearing.

See section 138-552 for public hearing notification process and requirements.

(Ord. No. O-10-08, § 1, 12-15-2008; Ord. No. O-07-14, § 1, 1-5-2015; Ord. No. O-03-20, § 2, 3-31-2020)

Sec. 138-606. - Standards for variances.

The zoning board of appeals shall not vary the regulations of this chapter, as authorized in this section unless it shall make findings based upon the evidence presented to it in each specific case that:

- (1) *Dimensional (non-use variances).*
  - a. The need for the variance is due to unique circumstances or physical conditions of the property.
  - b. The need for the variance is not the result of actions of the property owner or previous property owners.
  - c. Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.
  - d. The requested variance is the minimum variance necessary to do substantial justice to applicant as well as other property owners.
  - e. The requested variance will not adversely impact the surrounding properties.
- (2) *Use variances.*
  - a. The building or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the current zoning district.
  - b. The need for the variance is due to unique circumstances or physical conditions of the property.

- c. The proposed use will not alter the essential character of the neighborhood.
- d. The need for the variance is not the result of actions of the property owner or previous property owners.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-607. - Action by the zoning board of appeals.

The zoning board of appeals may grant or deny any application for a variance; provided, however, that in the case of a use variance, such variance shall not be passed, except by a two-thirds vote of the zoning board of appeals.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-608. - Conditions.

The zoning board of appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this section and the objectives of this chapter.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-609. - Validity.

Variances from the regulations of this chapter shall be granted by the zoning board of appeals only in accordance with the general standards established in Public Act 12 of 2008 and the specific standards set forth in this chapter. No order of the zoning board of appeals granting a variance shall be valid for a period longer than 12 months from the date of such order unless the building permit or zoning certificate is obtained within such period and the erection or alteration of a building is started or the use is commenced within such period.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Secs. 138-610—138-620. - Reserved.

### DIVISION 5. - APPEALS

#### Sec. 138-621. - Purpose.

An appeal may be taken to the zoning board of appeals by any person or by any office, department, board or bureau aggrieved by a decision of the zoning officer or planning commission.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-622. - Application.

Appeals taken by any party against a zoning officer decision which permits development shall be filed not later than 10 days after the start of construction or alterations or a change in use authorized by any permit or certificate issued by the zoning officer or within 30 days after the decision or the action complained of, by filing with the zoning officer a notice of appeal specifying the grounds thereof. The zoning officer shall forthwith transmit to the board all of the papers constituting a record upon which the action appealed from was taken.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-623. - Stay of proceedings.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning officer certifies to the board, after the notice of the appeal has been filed, that by reason of facts stated in the certificate a stay would, in the officer's opinion, cause imminent peril to life and property, in which case the proceedings shall not be stayed unless otherwise by a court of record on application, on notice of the zoning officer and on due cause shown.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-624. - Hearing on application.

The board shall thereafter reach its decision within 90 days from the date of the public hearing on the appeal. The decision of the board shall not become final until the expiration of 5 days from the date of the entry of such order unless the board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-625. - Notice of hearing.

See [section 138-552](#) for public hearing notification process and requirements.

(Ord. No. O-10-08, § 1, 12-15-2008; Ord. No. O-07-14, § 2, 1-5-2015; [Ord. No. O-03-20](#), § 3, 3-31-2020)

#### Sec. 138-626. - Action of board.

The board may affirm or may reverse, wholly or in part, or modify the order, requirement, decision or determination of the zoning officer and, to that end, shall have all the powers of the officer from whom the appeal is taken. However in the case of an appeal from a site plan review, the appeal shall not be passed except by a two-thirds vote of the zoning board of appeals.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Secs. 138-627—138-650. - Reserved.

## DIVISION 6. - SPECIAL USES

### Sec. 138-651. - Purpose.

The procedures for special use approval are instituted to provide an opportunity to use property for an activity that may be detrimental to other permitted land uses of the district. It is recognized that there are variations in the nature of special uses which because of their unique characteristics cannot be properly classified as normally permitted in any particular district without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. These procedures are adopted to provide guidelines for the city to follow in arriving at a special use decision to ensure the public health, safety, and welfare.

(Ord. No. O-10-08, § 1, 12-15-2008)

### Sec. 138-652. - Applicability.

Where a use is classified as a special use under this chapter and exists as a special use or permitted use at the date the ordinance from which this chapter is derived, it shall be considered to be a legal special use for as long as the recorded reason of condition or permit exists.

(Ord. No. O-10-08, § 1, 12-15-2008)

### Sec. 138-653. - Standards.

The special use application shall be reviewed by the planning commission and city council and approved upon finding that:

- (1) The proposed use will promote the use of land in a socially and economically desirable manner.
- (2) The proposed use is necessary for the public convenience at that location.
- (3) The proposed use is compatible with adjacent land uses.
- (4) The proposed use is designed so that the public health, safety and welfare shall be protected.
- (5) The proposed use will not cause injury to other property in the neighborhood.

(Ord. No. O-10-08, § 1, 12-15-2008)

### Sec. 138-654. - Required information.

- (a) If the proposed special use involves construction of a new building, construction of additional parking, or other substantial renovations to an existing building that require an architect's or engineer's seal, site plan approval shall also be required. See article VI administration and enforcement, division 7 site plan review.
- (b) If the proposed special use will utilize an existing building, without the need for substantial renovations, then no additional site plan submittal shall be required. However, a legible sketch plan illustrating the proposed

activity and a narrative describing the proposed use and how it meets the standards outlined in section 138-652 shall be required.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-655. - Application.

An application for special use shall be submitted to the city on such forms and containing such information that the city shall prescribe.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-656. - Notice of hearing.

See section 138-552 for public hearing notification process and requirements.

(Ord. No. O-10-08, § 1, 12-15-2008; Ord. No. O-03-20, § 4, 3-31-2020)

#### Sec. 138-657. - Hearing on application.

The planning commission shall hold a public hearing. Following the public hearing, the planning commission shall review the request and make a recommendation to the city council in the form of a motion. The recommendation may be subject to certain conditions or changes being made.

- (1) If the planning commission requires additional information, the application may be postponed to a date certain until such information has been received.
- (2) Following the review and recommendation of the planning commission, the application shall be forwarded to the city council at its next scheduled meeting. The city council shall consider the request, along with the planning commission recommendation, and approve, approve with conditions, or deny the application for special use approval.
- (3) Each action taken with reference to special use approval shall be duly recorded in the minutes of the planning commission and city council and shall state the grounds for the action taken upon each special use submitted for its approval.
- (4) Special use approval shall be obtained from the city council before issuance of a zoning/occupancy certificate for any special use.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-658. - Appeals.

Once a special use approval has been granted, no variance requests regarding the approved site plan shall be permitted.

(Ord. No. O-10-08, § 1, 12-15-2008)

Sec. 138-659. - Conformity.

- (a) When an applicant receives special use approval, the site shall be developed in complete conformity with the application and the conditions placed upon it. The special use approval shall be valid for a period of one year, if no action is taken regarding the request, the approval shall expire. No time extension to the special use approval shall be granted.
- (b) In approving a special use, the city council may require that a cash deposit, letter of credit, or other financial guarantee acceptable to the city be furnished by the applicant, to ensure compliance with such requirements.
- (c) Conditions and requirements stated as part of the special use approval authorization shall be a continuing obligation of the property owner. Continuance of a special use approval shall be withheld only upon a determination by the zoning officer that violations of conditions pertaining to the granting of the permit continue to exist more than 30 days after an order to correct has been issued.
- (d) Should a special use cease to operate for a period of six months, the special use approval shall expire.

(Ord. No. O-10-08, § 1, 12-15-2008)

Secs. 138-660—138-675. - Reserved.

DIVISION 7. - SITE PLAN REVIEW

Sec. 138-676. - Purpose.

- (a) The intent of this division is to provide for consultation and cooperation between the applicant and the planning commission, so that both parties might realize maximum utilization of land and minimum adverse effects upon the surrounding area.
- (b) It is hereby recognized that peculiarities of lot contour, existing and potential development of adjacent properties and existing and potential traffic and pedestrian circulation patterns require a flexibility in the location of buildings, open spaces, parking lots and driveways that cannot be achieved by detailed specifications. It is therefore required that all development within the districts listed in section 138-677 be submitted to the planning commission for its review and approval prior to the issuance of building permits. Nothing contained in this section is intended to allow a greater density of population nor less required open space than that which is specified.

(Ord. No. O-10-08, § 1, 12-15-2008)

Sec. 138-677. - Applicability.

- (a) Any development not located in single family residential districts shall require site plan review.
- (b) Site plan review is also required for development of all institutional uses permitted in single-family districts such as, but not limited to: churches, schools and public facilities.

(c) Development requiring site plan review shall include:

- (1) Construction of a building;
- (2) Structural alteration of a building that includes adding floor area or height to the building;
- (3) Additional parking;
- (4) Façade alterations that include 50% or more change in the exterior surface material of any one façade of a building.
- (5) Façade alterations that reduce the size and/or number of windows.

(Ord. No. O-05-08, § 3, 10-20-2008; Ord. No. O-10-08, § 1, 12-15-2008; Ord. No. O-01-09, § 3, 3-2-2009; Ord. No. O-16-20, § 1, 11-16-2020)

#### Sec. 138-678. - Administrative review.

Administrative review for site plan review shall be conducted by the building department in cases where:

- (1) The façade alterations do not change the surface material more than 50 percent of any one façade
- (2) The number or size of the windows are increasing in size.
- (3) The structure requiring site plan review is an accessory structure. An accessory structure must conform to site standards according to ch. 138, article III, division 1 of the Berkley Code of Ordinances. Accessory structures located within single residential districts do not require planning commission review and approval.

The zoning administrator shall have the discretion to request site plan review and approval by the planning commission, based on the size, scope and/or intensity of a proposed project. The applicant shall be responsible for providing all required information for site plan approval.

(Ord. No. O-10-08, § 1, 12-15-2008; Ord. No. O-11-18, § 1, 9-17-2018; Ord. No. O-16-20, § 1, 11-16-2020)

#### Sec. 138-679. - Standards.

The site plan shall be reviewed and approved by the planning commission upon finding that:

- (1) The site meets the requirements of this Code.
- (2) The proposed development does not create adverse effects on public utilities, roads, or sidewalks.
- (3) Pedestrian and vehicular areas are designed for safety, convenience, and compliment adjacent site design.
- (4) Site design, architecture, signs, orientation, and materials are consistent with the city's master plan objectives and the design of the neighboring sites and buildings.
- (5) Landscaping, lighting, dumpster enclosures, and other site amenities are provided where appropriate and in a complementary fashion.
- (6) Site engineering has been provided to ensure that existing utilities will not be adversely affected.

(Ord. No. O-10-08, § 1, 12-15-2008)

Sec. 138-680. - Required information.

The following information shall be included on the site plan for final review, unless waived by the planning commission. The site plan shall be to a reasonable scale and indicate:

- (1) Seal of architect and/or engineer who prepared plans.
- (2) An appropriate descriptive legend, including north arrow, scale, legal description and the names and addresses of the architect or engineer responsible for the preparation of the site plan.
- (3) The existing (and proposed) zoning.
- (4) Location and size of all structures (including location of entrances and loading points).
- (5) All outside dimensions of each structure, its distance from the property lines, its area and its height.
- (6) With multiple-family residential proposals, the number and location of one-bedroom units, two-bedroom units, etc., and include typical floor plans with square feet of floor areas.
- (7) Recorded and measured dimensions of all lot lines and location and design of all lots.
- (8) Adjacent property's structures, uses, zoning and other significant features of the community, where appropriate (using a location sketch).
- (9) Location of all existing and proposed drives and parking areas including types of surfacing, parking layout and dimensions.
- (10) Dimensions of road widths and rights-of way.
- (11) All existing easements and vacated easements and rights-of way.
- (12) All required minimum setbacks (from the existing or proposed right-of-way from adjacent properties).
- (13) Locations of lawns and landscaped areas, types and number of species, and how the landscaping is to be accomplished.
- (14) Locations, sizes, and types of existing trees over four inches in diameter (before and after proposed development).
- (15) Location and type of outside lighting, include site and fixture photometrics.
- (16) All proposed screen and freestanding architectural walls, including typical cross-sections and the heights above ground on both sides of walls.
- (17) Elevation drawings of all existing and proposed buildings on the site drawn to a scale of one inch equals four feet, or to another scale adequate to determine compliance with this chapter and to provide any other information needed to evaluate the overall site design on the basis of the criteria set forth in this section.
- (18) Color and type of façade materials. Samples representing color and materials shall be presented to the planning commission.
- (19) Stormwater engineering including: existing and proposed grading of the site, location of existing and proposed utilities, stormwater calculations for a 100-year storm, the drainage area on site that will detain

the 10-year storm, and a profile of the sanitary sewer.

(Ord. No. O-10-08, § 1, 12-15-2008; Ord. No. O-16-20, § 1, 11-16-2020)

#### Sec. 138-681. - Approval process.

- (a) *Sketch plan (optional).* An item may be submitted to the planning commission for informal discussion. No approval shall be granted. However, the applicant may wish to present and discuss a proposed project and any anticipated problems before applying for site plan approval.
- (b) *Site plan approval.*
  - (1) An application for site plan approval shall be submitted to the city planning commission on such forms and containing such information that the planning commission shall prescribe.
  - (2) The planning commission is hereby authorized to approve, approve with conditions, or deny all site plans submitted under this chapter.
  - (3) Approval may be issued by the planning commission, subject to the applicant receiving board of appeals variances, as required by the zoning chapter.
  - (4) Each action taken with reference to site plan review and approval shall be duly recorded in the minutes of the planning commission and shall state the grounds for the action taken upon each site plan submitted for its approval.

(Ord. No. O-10-08, § 1, 12-15-2008)

#### Sec. 138-682. - Revisions.

An applicant for site plan approval may wish to revise a previously approved site plan. A site plan outlining the differences in the original approved site plan and the requested changes shall be submitted to the city. The approval process shall be similar to that outlined above. If the revised site plan is denied, the applicant may develop the site plan as originally approved or appeal the matter as outlined below.

If a change is deemed to be minor in scope or intensity, the revised site plan may be approved administratively. Such minor revisions may include:

- (1) Additions or alterations to the landscape plan or landscape materials.
- (2) Relocation or additional screening of trash enclosure.
- (3) Alterations to the internal parking layout of the off-street parking lot, restriping, etc.

Any major revisions to the site plan, as determined by the zoning administrator, shall be subject to review and approval by the planning commission.

(Ord. No. O-10-08, § 1, 12-15-2008; Ord. No. O-16-20, § 1, 11-16-2020)

#### Sec. 138-683. - Appeals.

An applicant for site plan approval shall have the right of appeal to the zoning board of appeals, and in such cases, the board may reverse, affirm or modify the action of the planning commission by the concurring vote of two-thirds of the members of the board.

(Ord. No. O-10-08, § 1, 12-15-2008)

Sec. 138-684. - Conformity; extension of approval period.

When an applicant receives final site plan approval, the site shall be developed in complete conformity with the approved site plan, except as provided for under revisions and appeals. A site plan shall be valid for a period of one year from date of final site plan approval. An applicant may request up to two one-year extensions, to be reviewed by the planning commission for reasonable cause. The request for site plan extension must be submitted in writing to the community development department prior to the expiration of the site plan. Upon request, the applicant shall provide a proposed timeline for the proposed project or development.

(Ord. No. O-10-08, § 1, 12-15-2008; Ord. No. O-16-20, § 1, 11-16-2020)

Sec. 138-685. - Site maintenance.

The city planning commission shall not approve any site plan under this chapter unless and until the applicant signs a site maintenance agreement in a form approved by city council.

(Ord. No. O-10-08, § 1, 12-15-2008)