

City of Berkeley
Zoning Ordinance Steering Committee

Wednesday, January 3, 2024
6:00 p.m. – 8:30 p.m.

AGENDA

- 1. Check in (5 min)**
- 2. Review of Previous Work (1 hour)**
 - a. Draft Article 8 – Specific Use Provisions
- 3. Review of Draft Articles (1 hour)**
 - a. Article 16 – Nonconformities
 - b. Article 17 – Zoning Board of Appeals
- 4. Preview: Administration & Enforcement (10 min)**
 - a. Ideas
 - b. Advice
- 5. Check out (15 min)**
 - a. Community education and communication – Workshops in January

Decision-Making Process

The Steering Committee will make decisions by consensus, i.e., all members agree.

If consensus is not reached, CWA and staff will draft a memo to the Planning Commission, cc'd to City Council, explaining both sides of the issue. The Planning Commission would make a decision at its next meeting that would be acted upon during the Zoning Ordinance rewrite.

TO: City of Berkley Zoning Ordinance Steering Committee

FROM: Megan A. Masson-Minock, AICP
Michelle Marin

DATE: December 20, 2023

RE: January 2024 Zoning Ordinance Steering Committee Meeting

Thank you for another productive meeting earlier this month where we discussed sign, landscaping, and lighting regulations. At the upcoming January meeting, we would like to review the draft **Specific Use Provisions** article. The provisions are based on existing standalone articles, modifications to the existing specific use provisions within the district regulations, and additions based on Steering Committee input and our own recommendations.

Review of Previous Work

At the previous meeting, we discussed draft Article 11 – Signs, Article 12 – Landscaping, and Article 13 – Exterior Lighting Standards. The notes for that session on the Google Drive document the agreements and action items from the meeting. Due to preparations for the January community engagement sessions, we do not have revised drafts ready for the January meeting but will provide updated drafts for the February Steering Committee meeting.

As a reminder, the changes proposed in draft Article 8 – Specific Use provisions are:

Current Specific Use Provisions	CWA Recommended Changes
<ul style="list-style-type: none"> ● No specific use provisions article. Provisions are located in various places throughout zoning ordinance and general code of ordinances. ● Definitions provided for but specific provisions omitted for many of the uses. 	<ul style="list-style-type: none"> ● Instead of embedding specific use provisions within the district regulations where they are permitted, we propose a separate article to apply to all districts where a specific use may be permitted. ● Class 1 and class 2 home-based businesses introduced to encompass varying impacts. ● Detailed definitions provided for adult-oriented uses. ● Many provisions have been added.

Please come prepared to discuss the following questions that pertain to Specific Use Provisions:

- *What regulations are too restrictive?*
- *What regulations require additional restrictions?*
- *What have we missed?*

Review of Draft Articles

The following tables list current regulations and our recommended changes shown in the draft articles.

Current Nonconformities Regulations	CWA Recommended Changes
<ul style="list-style-type: none"> ● Regulations are a section in the General Provisions Article ● No provisions for nonconforming lots. 	<ul style="list-style-type: none"> ● Nonconformities is an Article, making these regulations easier to find. ● Definitions move to the Article 2 – Definitions ● A Purpose and Intent Section is proposed, with elements from the current Section 138-52, to clarify the reasons for the regulations. ● The sentence "Such addition or enlargement shall be treated as a separate building in determining conformity to all of the requirements of this chapter" is proposed to be removed from the sub-section that allows the enlargement of nonconforming building when the addition conforms with the regulations of the zoning district. ● A section on nonconforming lots is proposed.

Please come prepared to discuss the following questions that pertain to nonconformities:

- *Do these regulations make sense?*
- *What regulations require additional restrictions?*
- *What have we missed?*

Current Zoning Board of Appeals Regulations	CWA Recommended Changes
<ul style="list-style-type: none"> ● The regulations are split between Division 4 – Variances, Division 5 - Appeals and Section 138-548 ● The regulations are generally in compliance with the MZEA, except for the Section 601(3) that states a Planning Commission representative on the ZBA shall not participate in a public hearing on or vote on the same matter that the 	<ul style="list-style-type: none"> ● Regulations on the Zoning Board of Appeals, appeals and variances are consolidated into a single Article. ● "Written charges" are proposed as part of the process for City Council to remove a member of the ZBA. ● Section 17.03 has been expanded to include sub-sections on rules, votes, and representation. ● In line with the MZEA, the following provisions are proposed: <ul style="list-style-type: none"> ○ Planning Commission representative on the ZBA shall not participate in a public hearing

Current Zoning Board of Appeals Regulations	CWA Recommended Changes
<p>member voted on as a member of the Planning Commission.</p>	<p>on or vote on the same matter that the member voted on as a member of the Planning Commission.</p> <ul style="list-style-type: none"> ○ In order to grant a dimensional or use variance, the ZBA must find that all conditions exist listed in Section 17.04.E. 2 and 17.04.G.2, respectively. ● Standards are proposed for an appeal of an administrative decision. ● Section 17.05 has more detailed requirements for variance applications. ● A provision is proposed that a variance that has been denied may not be reapplied for within 12 months from the date of denial. ● Approval periods remain 12 months, except for a variance associated with a site plan, which is valid for 2 years, in line with the timeline for approved site plans.


Please come prepared to discuss the following questions that pertain to nonconformities:

- *Do these regulations make sense?*
- *Do these regulations comply with standard procedure?*
- *What have we missed?*

January Community Engagement Sessions

On the Google Drive, we have provided a draft facilitator script for the sessions and draft handouts for Session 1. Please review and provide us feedback!

Thank you for your time and contributions. We look forward to meeting with you on January 3rd, 6 - 8:30 p.m.! Should you have any questions, please do not hesitate to contact us.



CARLISLE/WORTMAN ASSOC., INC
Megan Masson-Minock, AICP
Principal



CARLISLE/WORTMAN ASSOC., INC.
Michelle Marin
Community Planner

Article 8

SPECIFIC USE PROVISIONS

Section 8.01 HOME-BASED BUSINESSES

All home-based businesses are subject to the following requirements.

- A. A home-based business must be clearly incidental and secondary to the primary residential use and conducted by a resident of the property.
- B. A home-based business must not change the character or appearance of the structure or the premises or have any other visible evidence of the conduct of a home-based business. There must be no external or internal alterations that are not customary in residential areas or structures.
- C. A home-based business must not create a nuisance or endanger the health, safety, welfare, or enjoyment of any other person in the area, by reason of noise, vibrations, glare, fumes, odor, electrical interferences, unsanitary or unsightly conditions, fire hazards, or the like that are involved in or resulting from such home-based business.
- D. A home-based business must not generate sewage or water use in excess of what is normally generated from a single-family dwelling in a residential area.
- E. A home-based business must be conducted within the dwelling unit or within an accessory building.
- F. ***Class 1 home-based businesses*** do not require a permit but are subject to the following additional requirements.
 - 1. There may be no on-site employees other than members of the immediate family living on the property.
 - 2. There must be no additional parking spaces provided for the home-based business.
 - 3. There must be no more than one (1) on-site customer or client at any time.

4. The exterior storage of materials, equipment, or refuse associated with the home-based business is prohibited.
 5. No signs may be used to advertise the home-based business.
 6. No article may be sold or offered for sale on the premises.
- G. ***Class 2 home-based businesses*** require special land use approval in accordance with Article 10 and are subject to the following additional requirements.
1. In lieu of a site plan, the application requires a plot plan that includes the information indicated in Article 15, Site Plan Review.
 2. There may be up to one (1) on-site employee other than members of the immediate family living on the property.
 3. There may be up to two (2) additional parking spaces provided. Parking spaces must be on the premises, are subject to the standards of Article 14, Parking and Access, and must not be located in the required front yard.
 4. One sign, consistent with Article 11, Signs, may be permitted.
 5. There must be no more than one (1) on-site customer or client at any time unless additional customers or clients are granted by the Planning Commission as part of the special land use review as set forth in Article 10, Special Land Uses.
 6. No article may be sold or offered for sale on the premises except as is prepared within the dwelling or accessory building or is provided as incidental to the service or profession conducted therein.
 7. The exterior storage of material, equipment, or refuse associated with the Class 2 home-based businesses may be permitted if adequate screening is provided from adjacent properties and streets.

Section 8.02 MOBILE HOMES IN SINGLE-FAMILY RESIDENTIAL DISTRICTS

One (1) individual mobile home located on a parcel of land or lot in a single-family residential district is permitted, provided that all of the following conditions are met.

- A. The mobile home must comply with all pertinent building and fire codes for single-family dwellings including but not limited to the Michigan Residential Code.
- B. The mobile home must 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 must be constructed in accordance with the Michigan Residential Code.
- C. The mobile home must not have any exposed wheels, towing mechanism, or undercarriage.
- D. The mobile home must be connected to a public sewer and water supply.
- E. The mobile home must be aesthetically comparable in design and appearance to conventionally constructed homes in the zoning district in which it is located. It is the responsibility of the Planning Commission to determine whether this standard is met. The Planning Commission must make a determination that this standard has been met if it finds that all of the following conditions exist:
 - 1. 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.
 - 2. The proposed mobile home will have steps and/or porches that provide access to exterior doors, which are permanently attached to the ground and to the mobile home structure, and that are comparable to steps and/or porches of conventionally constructed homes typically found in the zoning district in which it is to be located.
 - 3. The proposed mobile home will be covered with a siding material that is in color, texture, malleability, direction of joints, and method of fastening to the structure comparable to the siding of

conventionally constructed homes typically found in the zoning district in which it is to be located.

4. The proposed mobile home will have the glass on its windows recessed at least one-and-a-half (1½) inches behind the exterior surface of its siding.
 5. The proposed mobile home will have front and rear or front and side exterior doors if such a combination of doors is found in a majority of homes in the zoning district in which it is to be located.
 6. The proposed mobile home will have a one (1) car garage or a two (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.
- F. The Planning Commission 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.

Section 8.03 BED AND BREAKFASTS

- A. Requirements.
1. No person may operate a bed and breakfast without first obtaining a Zoning Compliance Permit.
 2. The owner-operator must reside on the premises of the bed and breakfast establishment.
 3. Meal service or other services provided on the premises must only be available to transient guests of the bed and breakfast.
- B. Application Requirements.
1. All applications for a bed and breakfast permit must be filed with the City of Berkley Zoning Administrator.

2. Each applicant must certify to the City that the bed and breakfast included in the application is in compliance with the provisions of this Article. No permit may be issued unless the completed application form is accompanied by payment of the required fee, as established by the City Council.
- C. Structural and Occupancy Requirements.
1. Every guest bedroom must contain no fewer than seventy (70) square feet. Every guest bedroom occupied by more than one (1) person must contain no fewer than fifty (50) square feet of floor area for each occupant thereof.
 2. Every guest bedroom must have access to a bathroom, including a toilet, sink, and bathtub or shower, without going through another guest bedroom; and the bathroom must be on the same floor as the guest bedroom.
 3. One (1) private bathroom, exclusively for transient guests, must be provided for every two (2) guest bedrooms.
 4. Accessory dwellings in existence as of the effective date of this Section and located on the same parcel as a bed and breakfast may be utilized for guest bedrooms, in accordance with this Section.
 5. No separate cooking facilities are allowed in guest bedrooms.

Section 8.04 PRINCIPAL USES PERMITTED IN INDUSTRIAL BUILDINGS

Principal uses permitted in industrial buildings are as follows:

- A. Any of the following principal uses are permitted in industrial buildings, provided that they are conducted wholly within a completely enclosed building or within a designated area enclosed on all sides with a six (6) foot obscuring masonry wall not less than eight (8) inches thick:
1. Warehousing and wholesale establishments, and storage (other than accessory to a permitted retail use).

2. 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.
 3. The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials such as, but not limited to: 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.
 4. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
 5. Manufacture of musical instruments, toys, novelties metal or rubber stamps, or other small, molded rubber products.
 6. Manufacture or assembly of electrical appliances, electronic instruments and devices, radios, and phonographs (excluding large stampings).
 7. Laboratories, experimental, film, or testing.
 8. Manufacture and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves, and the like.
 9. Building material sales.
 10. 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.
 11. Automobile service, repair, or wash establishments.
 12. Carwashes.
- B. Permitted accessory uses.
- C. Other uses of similar and no more objectionable character
- D. Marihuana retailers and medical marihuana provisioning centers.

Section 8.05 ADULT-ORIENTED USES

- A. ***Intent and Purpose.*** In the development and execution of this Article, 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 are 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 one (1) area, as in not more than two (2) such uses within two thousand (2,000) feet of each other which would create adverse effects, nor may such use be located within a distance of two thousand (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 stores, adult entertainment centers, and adult mini entertainment centers.
- B. ***Definitions of Adult Business Uses.*** For the purposes of this Section, “adult business uses” are defined as and include the following:
1. Sexually oriented businesses, defined as and including the following:
 - a. Adult arcade, defined as a place to which the public is permitted or invited to view motion pictures, video or laser disc pictures, or other products of image-producing devices where the images displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”
 - b. Adult book store, adult novelty store, or adult video store, defined as a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration reading materials, photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations characterized by the depiction or description of “specified sexual activities” or “specified

anatomical areas” or instruments, devices or paraphernalia which are designed for use in connection with “specified sexual activities.”

- c. Adult cabaret, defined as a night club, bar, restaurant, or similar commercial establishment which, as one of its principal purposes features: persons who appear in a state of nudity or semi-nudity; live performances which are characterized by the exposure of “specified anatomical areas or by “specified sexual activities”; or, films, motion pictures, videos cassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”
 - d. Adult motion picture theater, defined as a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, videos, internet streams, or similar photographic reproductions are regularly and primarily shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”
 - e. Adult theater, defined as a theater, concert hall, auditorium, or similar commercial establishment that regularly and primarily features persons who appear in a state of nudity or semi-nudity, or live performances that are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”
 - f. Sexual encounter center, defined as a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration: (a) physical contact between two (2) or more persons when one (1) or more of the persons is in a state of nudity.
2. Adult motels, defined as an establishment for temporary lodging where each individual room has a main entry door on the exterior of the building and where rooms are advertised for rent for less than a twelve (12) hour period or where rooms are rented at hourly rates, or both.

- C. **Other Definitions.** In addition to the definitions set forth in Section 8.02.B, the following additional definitions are used in the regulation of adult businesses.
1. Nudity or a state of nudity means knowingly or intentionally displaying human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or a showing of the covered male genitals in a discernibly turgid state. Public nudity does not include a woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to feeding.
 2. Principal/Primary Purpose or Primarily means the sale or display of regulated material that comprises thirty-five percent (35%) or more of sales volume or occupies thirty-five percent (35%) or more of the floor area or visible inventory within the establishment.
 3. Semi-nude or semi-nude condition means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition includes the entire lower portion of the human female breast but does not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other apparel, provided the areola is not exposed in whole or in part.
 4. Specified anatomical areas means the human male genitals in a discernibly turgid state, even if completely or opaquely covered; or less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.
 5. Specified sexual activities means any of the following: the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; sex acts, actual, or simulated, including intercourse, oral copulation, masturbation or sodomy; or excretory functions as part of or in connection with any of the activities previously mentioned in this definition.

- D. **Locational Requirements.** In addition to compliance with the other provisions of this Section, the following separation and distancing requirements apply to adult business uses:
1. No adult business use may be located within one thousand (1,000) feet from the property line of another adult business use. For purposes of this subsection, the distance between any two (2) adult business uses must be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which the business is located.
 2. No adult business use may be located within five hundred (500) feet from the property line of any residential zoning district, lot or parcel in residential use, school property, church or other place of worship, public park, child care facility, nursery school, preschool or other use which is primarily oriented to youth (less than 18 years of age) activities. For the purpose of this subsection, measurement must be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult business use is conducted, to the nearest property line of any lot or parcel in residential use, school property, church or place of worship, public park, child care facility, nursery school, preschool or other use which is primarily oriented to youth (less than 18 years of age) activities.
 3. No adult business use may be located in any principal or accessory structure already containing an adult business use.
- E. **Existing Structures.** Existing structures and/or uses that are in violation of this Section are subject to the regulations set forth in Article 16, Nonconformities.
- F. **Parking.** All off-street parking areas for any adult business use must comply with Section 14, Parking and Access. Additionally, any adult business use must be illuminated during all hours of operation, and until one (1) hour after the business close.
- G. **Other Requirements.**

1. The hours of operation of any adult business use are limited to 10:00 a.m. to 12:00 a.m. Monday through Saturday.
2. No person operating an adult business use may permit any person under the age of 18 years of age to be on the premises.
3. Alcohol is not prohibited on the premises of any adult business use.
4. Entrances to a proposed adult business use must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that: a) "Persons under the age of 18 are not permitted to enter the premises," and b) "No alcoholic beverages of any type are permitted within the premises."
5. Adult business uses are permitted in the Woodward zoning district only and are subject to in all respects the standards and use provisions applicable to the district in which it is located or proposed to be located.
6. Adult business uses must comply with all other laws and ordinances applicable to the particular type of use, including without limitation, certification and licensing laws.

Section 8.06 SENIOR ASSISTED AND INDEPENDENT LIVING

A. Types of Dwelling and Density.

1. ***Senior independent living.*** Dwellings may be provided as single-family detached, two-family, or multiple-family units. The minimum site area requirements for purposes of calculating density are as follows:

Table 8.06.A - Independent Living for the elderly minimum site area requirements	
<i>Dwelling unit size</i>	<i>Site Area/ Unit (square feet)</i>
Efficiency / one bedroom	2,000
Two bedroom	2,500
Each additional bedroom	500

2. Senior assisted living: Where such facilities contain individual dwelling units with kitchen facilities, the density requirements set forth in Section 8.06. A apply. Where facilities do not contain kitchen facilities within individual dwelling units, the site area per bed must be four hundred (400) square feet.

B. **Minimum Site Area.** The minimum site area must be two (2) acres.

C. **Building length.** A building for assisted or independent senior living must not exceed two hundred and fifty (250) feet in overall length, measured along the front line of connecting units, inclusive of any architectural features, which are attached to or connect the parts of the building together. The Planning Commission may permit buildings of greater length when it can be demonstrated that architectural design and natural and topographic features ensure that the building is in scale with the site and

surrounding areas.

D. **Perimeter Setbacks.** The minimum yard setbacks from the perimeter property boundaries must be no less than fifty (50) feet from all property lines.

E. **Minimum Floor Area.** Each dwelling unit must comply with the following minimum floor area requirements, excluding basements.

Table 8.06.B – Senior Living Minimum Floor Area		
<i>Dwelling Unit Size</i>	<i>Assisted Living Unit</i>	<i>Independent Living</i>
Efficiency	250	500
One bedroom	400	650
Two bedroom	650	800
Each additional bedroom	150	150

- F. **Open Space/Recreation.** Open space and recreation must be provided in accordance with the following requirements:
1. The total open space required must be a minimum of fifteen percent (15%) of the site.
 2. Recreation facilities must be appropriate and designed to meet the needs of the resident population. Active recreation must be located conveniently in relation to the majority of dwelling units intended to be served.
- G. **Resident Services.** Support services offered solely to residents may be permitted, provided such services are contained within the principal building and are strictly accessory to the principal use as a senior residential facility. Such support services may include congregate dining, health care, personal services, and social, recreational, and educational facilities and programs.
- H. **Security.** The applicant must specify and install a security system designed to protect the safety and welfare of residents. Such systems must be certified by the project architect or engineer to be designed consistent with the standards of the industry.

Section 8.07 HOSPITALS, NURSING HOMES, AND CONVALESCENT CENTERS

- A. The minimum lot area must be no less than fifteen hundred (1,500) square feet per bed.
- B. Perimeter setbacks must be no less than fifty (50) feet from the property line.
- C. The lot location must be such that at least one (1) property line abuts a collector street, secondary thoroughfare, or primary thoroughfare. More than one (1) point of vehicle ingress and egress must be provided directly from said thoroughfare.
- D. Ambulance entrances must be screened from adjacent residential areas in accordance with the standards set forth in Article 12, Landscaping and Screening.

Section 8.08 AUTOMOTIVE USES

A. Automobile Repair.

1. **Outdoor storage.** Dismantled, wrecked, or inoperable vehicles waiting for repair must not be stored outdoors for a period exceeding five (5) days. Outdoor storage must be enclosed by an opaque fence a minimum of six (6) feet in height, eight (8) feet in height maximum and/or must utilize landscape screening meeting the standards set forth in Article 12, Landscaping and Screening.
2. **Disposal containers.** Suitable containers must be provided and used for disposal of used parts, and such containers must be screened from view.
3. **Enclosed buildings.** All repair and maintenance activities, including hydraulic hoists, lubrication pits, and similar activities, must be performed entirely within an enclosed building.
4. **Retail sales limitations.** Retail sales must be limited to those items necessary to carry out the vehicle repair occurring on the subject site.

B. New, used, and vintage automobile sales.

1. **Setbacks.** No vehicle may be parked or displayed within twenty (20) feet of any street right-of-way.
2. **Noise.** Loudspeakers broadcasting voice or music outside of a building are permitted within five hundred (500) feet of any residential zoned or used property.
3. All vehicle delivery must be conducted on the premises and must not interfere with vehicular traffic on a public road.
4. All repair and maintenance activities must conform to the standards set forth in Section 8.08.A.

C. Automobile fueling/multi-use station.

1. **Setbacks.** The following minimum setbacks apply to canopies and pump facilities constructed in conjunction with fueling/multi-use.

Table 8.08 - Automobile fueling/multi-use station setbacks			
Setback	Canopy Support (feet)	Pump Islands (feet)	Canopy Edge (feet)
Front	35	30	25
Side	20	20	10
Rear	30	20	20

2. Fueling areas must be arranged so that motor vehicles do not park on or extend over abutting landscaped areas, sidewalks, streets, buildings, or adjacent properties while being served.
3. Canopy structures must be designed and constructed in a manner that is architecturally compatible with the principal building. The canopy structure must be attached to and made an integral part of the principal building unless it can be demonstrated that the design of the building and canopy in combination would be more functional and aesthetically pleasing if the canopy was not physically attached to the principal building.
4. Required fire protection devices under the canopy must be architecturally screened so that the tanks are not directly visible from the street. The screens must be compatible with the design and color of the canopy.
5. Canopy lighting must be recessed so that the light source is not visible from off-site.
6. Vehicular fueling/multi-use stations must be designed in a manner that promotes pedestrian and vehicular safety. The parking and circulation system within each development must accommodate the safe movement of vehicles, bicycles, pedestrians, and refueling activities throughout the proposed development and to and from surrounding areas in a safe and convenient manner.
7. All repair and maintenance activities must conform to the standards set forth in Section 8.08.A. Dismantled, wrecked, or immobile vehicles are not permitted to be stored on site.

8. If an accessory vehicle wash is proposed, it must comply with the standards set forth in Section 8.08.D.
- D. Vehicle Wash.
1. All washing activities must be carried out within a building. Vacuuming activities must be located at least fifty (50) feet from adjacent residentially zoned or used property.
 2. Automatic car wash facilities must have a mechanical dryer operation at the end of the wash cycle.
 3. All automatic car wash facilities must provide a demonstrated means at the exit ramp for each wash bay to prevent pooling or freezing of water.

Section 8.09 FUNERAL HOMES AND MORTUARIES

A funeral home or mortuary must be a licensed facility by the State of Michigan. A funeral home may contain one (1) dwelling unit for the owner and/or caretaker.

Section 8.10 GARDEN CENTERS AND NURSERIES

- A. Storage may not be located within the required front yard. Stored materials may not be located in any required parking or loading space(s). Storage of any kind may not interfere with the ingress and egress of fire and emergency vehicles and apparatus.
- B. Open storage of building materials, sand, gravel, stone, lumber, open storage, or construction contractor's equipment and supplies is permitted, provided such storage is screened on those sides abutting any residential district or public thoroughfare in accordance with the requirements of Article 12, Landscaping and Screening.
- C. The location and size of areas for storage, nature of items to be stored therein, and details of the enclosure, including a description of materials, height, and typical elevation of the enclosure, must be provided as part of the information submitted under Article 15, Site Plan Review.

- D. The loading and unloading of equipment must be conducted entirely within the site and must not be permitted within a public right-of-way.

Section 8.11 DRIVE-THROUGH AND DRIVE-IN FACILITIES

- A. All drive-through and drive-in facilities for permitted and special land uses including, but not limited to restaurants, banks, etc. are restricted to the side or rear elevations of all structures that provide drive-through services.
- B. A setback of at least sixty (60) feet must be maintained from an existing or proposed right-of-way.
- C. Ingress and egress points must be located at least sixty (60) feet from the intersection of any two (2) streets measured from the road right-of-way lines.
- D. A five (5) foot high, completely obscuring wall, fence, berm, landscaping, or combination thereof compatible with the surrounding area must be provided where abutting residential zoning districts or uses.

Section 8.12 OPEN AIR BUSINESSES

Open air businesses may be permitted as a special land use as set forth in Article 10, Special Land Uses. Open air businesses include the following uses.

- A. Retail sales of trees, shrubbery, plants, flowers, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
- B. Retail sale of fruit and vegetables.
- C. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park, and/or similar recreation uses.
- D. Bicycle, utility truck or trailer, motor vehicles, boats, or home equipment sale, rental, or repair services.
- E. Outdoor display and sale of garages, swimming pools, motor homes, modular buildings, snowmobiles, farm implements, and similar products.

- F. Outdoor sale and storage of building materials, lumber and contractor's equipment, and similar materials.

Section 8.13 SELF-STORAGE FACILITIES

- A. All storage must be contained within a building.
- B. Other than the rental of storage units, no commercial, wholesale, retail, industrial, or business use may be permitted on or operated from the premises.
- C. The storage of any toxic, explosive, corrosive, or hazardous material is prohibited.
- D. On-site management and/or controlled access must be provided during hours of operation.
- E. All storage units must be served by paved access drives between buildings. Access drives must provide for continuous traffic circulation around all storage buildings. The minimum width of access drives serving storage units must be twenty-four (24) feet when storage units open onto (1) side of the access drive and thirty-six (36) feet when storage units open onto both sides of the access drive.
- F. All self-storage facilities must comply with the design standards of the applicable zoning district as detailed in Article 6, Site Design Based Districts.

Section 8.14 ADULT FOSTER CARE FACILITIES

Adult foster care facilities are subject to the following requirements:

- A. Adult foster care small group homes serving between seven (7) and twelve (12) persons.
 - 1. A site plan, prepared in accordance with Article 15, Site Plan Review, must be submitted.
 - 2. The subject parcel must meet the minimum lot area requirements for the zoning district in which it is located, provided there is a minimum site area of two thousand (2,000) sq. ft. per adult, excluding employees and/or caregivers.

3. The property is maintained in a manner that does not change the character or appearance of the structure or the premises . There must be no external or internal alterations that are not customary in residential areas or structures.
 4. One (1) off-road parking space per employee and/or caregiver must be provided.
 5. Appropriate licenses with the State of Michigan must be maintained.
- B. Adult foster care large group homes serving between thirteen (13) and twenty (20) persons.
1. A separate drop-off and pickup area is required adjacent to the main building entrance, located off of a public road and the parking access lane, and must be of sufficient size so as to not create congestion on the site or within a public roadway.
 2. A site plan, prepared in accordance with Article 15, Site Plan Review, must be submitted.
 3. The subject parcel must meet the minimum lot area requirements for the zoning district in which it is located, provided there is a minimum site area of two thousand (2,000) sq. ft. per adult, excluding employees and/or caregivers.
 4. The property is maintained in a manner that is consistent with the character of the neighborhood.
 5. One (1) off-road parking space per employee and/or caregiver and one (1) visitor be provided.
 6. Appropriate licenses with the State of Michigan must be maintained.
- C. Adult foster care congregate facilities serving more than twenty (20) persons.
1. A separate drop-off and pickup area is required adjacent to the main building entrance, located off of a public road and the parking access lane, and must be of sufficient size so as to not create congestion on the site or within a public roadway.

2. A site plan, prepared in accordance with Article 15, Site Plan Review must be submitted.
3. The subject parcel must meet the minimum lot area requirements for the zoning in which it is located, provided there is a minimum site area of two thousand (2,000) sq. ft. per adult, excluding employees and/or caregivers.
4. The property is maintained in a manner that is consistent with the character of the neighborhood.
5. One (1) off-road parking space per employee and/or caregiver and one (1) visitor must be provided.
6. Appropriate licenses with the State of Michigan must be maintained.
7. The building must meet all design standards for the underlying zoning district.
8. Such facilities may include multi-purpose recreational rooms, kitchens, and meeting rooms. Such facilities may also include medical examination rooms and limited space for ancillary services for the residents of the facility, such as barber and beauty facilities.

Section 8.15 CHILD CARE FACILITIES

A. General:

1. The property must be maintained in a manner that is consistent with the area.
2. A state licensed family day care home of six (6) or fewer children is considered a residential use of property.
3. All outdoor play areas must be enclosed by a fence that is designed to discourage climbing and is at least four (4) feet in height but no higher than six (6) feet.

B. Child day-care centers are subject to the following standards:

1. A separate drop-off and pick-up area must be provided adjacent to the main building entrance, located off a public street and the parking

access lane and must be of sufficient size so as to not create congestion on the site or within a public roadway.

2. There must be an on-site outdoor play area of at least fifteen hundred (1,500) square feet or seventy-five (75) square feet for each child present on the premises at any one time. Said play area must not be located within the front yard. This requirement may be waived by the Planning Commission if a public play area is available within three hundred (300) feet of the subject parcel.
3. For each child present at any one time, a center must have a minimum of fifty (50) square feet of indoor activity space for use by, and accessible to, the child, exclusive of all of the following: hallways, storage areas, closets, kitchens, and reception and office areas.
4. Appropriate licenses through the Michigan Department of Licensing and Regulatory Affairs (LARA) are required.

C. Child group day home homes are subject to the following standards:

1. The subject parcel must meet the minimum lot area requirements for the zoning district in which it is located.
2. There must be an on-site outdoor play area of at least five hundred (500) square feet. Said play area must not be located within the front yard. This requirement may be waived by the Planning Commission if a public play area is available within three hundred (300) feet of the subject parcel.
3. The hours of operation must not exceed sixteen (16) hours within a twenty-four (24) hour period, with a limitation on activity between the hours of 10:00 p.m. and 6:00 a.m.
4. One (1) off-street parking space per employee not a member of the group day care home family must be provided.

Section 8.16 PLACES OF ASSEMBLY

Places of assembly include theaters, convention centers, auditoriums, banquet halls, sports arenas, stadiums, places of worship, and other similar facilities where more than twenty (20) people meet or are assembled.

- A. All activities must primarily take place in a fully enclosed building. Areas designated for outdoor social, recreational, and/or worship activities must be designated on the site plan as set forth in Article 15, Site Plan Review.
- B. There must be no outside loudspeakers or amplified sound outside of a completely enclosed building, except for church bells, calls to prayer, or other similar purposes.
- C. **Bench seating.** In stadiums, sports arenas, places of worship, and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities, each twenty-four (24) inches of such seating is counted as one (1) seat. In cases where a place of assembly has both fixed seats and an open assembly area, requirements must be computed separately for each type and added together.
- D. Facilities incidental to religious institutions, when located in residential districts, must be used for worship or religious education purposes, in a manner that is consistent with residential zoning and compatible with adjacent residential property. No buildings may be used, leased, or rented for commercial purposes.
- E. Specific standards
 - 1. The minimum lot width must be one hundred and fifty (150) feet.
 - 2. The minimum site size must be three (3) acres.
 - 3. All front, side, and rear yard space must be a minimum of fifty (50) feet each from adjoining lot lines.

Section 8.17 INDOOR RECREATION FACILITIES

Indoor recreation facilities are enclosed establishments that provide exercise facilities including court sport facilities, team sports activities, skating rinks, arcades, bounce arena, climbing facilities, indoor golf, swimming facilities, bowling, shooting/archery range, and similar activities. The following regulations apply to indoor recreation facilities.

- A. The principal and accessory buildings and structures must not be located within one hundred (100) feet of any residential district or permitted use.

- B. All uses must be conducted completely within a fully enclosed building.
- C. The buildings must be soundproofed.

Section 8.18 OUTDOOR SERVICE AREAS

Outdoor service areas are permitted when in compliance with the following regulations:

- A. **Permit.** An outdoor service area may be permitted only upon the approval of an outdoor service permit by the Zoning Administrator. All outdoor service area permits will expire on December 31st of the current year unless another time frame is specified on the permit or by the requirements of this Section. Outdoor service area permits are required to be renewed annually, subject to administrative review.

All applications for an outdoor service area permit or permit renewal must include the following:

1. **Sketch Plan:** A sketch plan (top-view drawing of the outdoor service area) with:
 - a. The location of an outdoor service area in relation to the business it will serve; the entrance to the business; adjacent properties (include addresses) and their building entrances; and existing landscaping, road, trees, catch basins, fire hydrants, and other utilities.
 - b. The dimensions of the outdoor service area footprint.
 - c. The location of the access ramps, platforms, and enclosures.
 - d. Details of any hardware such as fasteners to be used in the construction of ramps and platforms.
 - e. The location and dimensions of all street furniture and furnishings, including, but not limited to tables, chairs, trash receptacles, benches, and sun shading.

- f. The location of outdoor lighting fixtures, if proposed, as well as the location of wiring and a description of how the wiring will be secured to prevent tripping or electrical hazards.
 - g. Location of on-site driveways and adjacent alleys.
 - h. If using on-site parking spaces, the setback dimensions of the enclosure from traffic lanes, vehicle circulation aisles, alleys, and adjacent parking spaces not used in the outdoor service area.
- 2. Photographs, drawings, or manufacturer's brochures fully describing the appearance of all proposed tables, chairs, umbrellas, awnings, canopies, lighting, or other furnishings/fixtures related to the outdoor service area, including but not limited to portable heaters, and other fixtures used during colder weather.
- 3. A signed Hold Harmless Agreement as provided by the City.
- 4. For an outdoor service area proposed in a public right-of-way or on other public property, a Certificate of Liability Insurance, in an amount acceptable to the City, and naming the City as an additionally insured.
- 5. For an outdoor service area in which alcohol is served, a liquor liability policy or certificate of insurance naming the City as an additional insured.
- 6. If outdoor lighting is proposed, the Zoning Administrator may require a photometric plan.
- 7. If temporary shelters are proposed, a separate sketch plan must be submitted with the following:
 - a. The location and dimensions of all temporary shelters within the permitted outdoor service area.
 - b. A dimensioned interior seating layout.
 - c. The materials of which the shelters are fabricated.

- d. The type, size and location of portable heating elements, fuel tanks, and decorative lighting.
- e. The type and location of lighting to be used.
- f. The power source for portable heating elements and lighting, with description of how the wiring will be secured to prevent tripping or electrical hazards.

B. **Location.** Outdoor service areas are allowed in on-site parking spaces or lots, sidewalks, and similar areas, with the following limitations:

- 1. When located in the side or rear yard of a site, an outdoor service area must be a minimum 50 feet from the property line of any single-family or multiple-family zoning district.
- 2. Outdoor service areas must be setback at least two (2) feet from adjacent vehicle traffic lanes, vehicle circulation aisles, or alleys.
- 3. Outdoor service areas must be at least three (3) feet from adjacent parking spaces not used as an outdoor service area.
- 4. Outdoor services areas only may be allowed in on-site parking spaces or parking lots when parking provided without the spaces to be used for the outdoor service area still meets the minimum parking requirements for the principal building on-site as well as for any existing parking agreements.

C. **Time of Operation.** Permitted outdoor service areas may be operated all year. However, outdoor service areas in the public right-of-way are limited to April 1st through October 31st.

D. **Temporary Shelters.** Outdoor service area permittees may be allowed to erect temporary shelters, such as tents, igloos, bubbles, garden sheds, or similar types when in compliance with the following regulations.

- 1. Non-electric heating elements are prohibited inside any temporary shelters.

2. The location of all non-electric portable heating elements must be a minimum of ten (10) feet from temporary shelters.
- E. **Access.** All outdoor service areas, whether located on a sidewalk or accessed from a sidewalk, must allow a minimum of five (5) feet of unobstructed pedestrian access along the sidewalk, as well as ingress/egress to the principal use for which the outdoor service area is accessory. Outdoor service areas must comply with the Michigan Barrier Free Code.
- F. **Ramps and Platforms.** Ramps and platforms for outdoor service areas must comply with the following regulations:
1. Bolting of ramps and platforms into the road or penetrating the surface of the road/parking space is prohibited. Ramps and platforms may be bolted to the existing curb, but curbs must be restored to the satisfaction of the City of Berkley Department of Public Works.
 2. Ramps and platforms must be designed and constructed to maintain unobstructed drainage flow along the gutter.
 3. Platform and ramp substructures must be made of quality materials: i.e., wood, treated wood or composite materials. Platform and ramp surfaces must be of a non-slip, composite material.
- G. **Enclosures.** Enclosures are required for outdoor service areas in the following circumstances: when alcohol is served, when outdoor service areas on the sidewalk are within one foot of the back of the curb, and when using parking spaces. Enclosures must comply with the following regulations:
1. The enclosures must be clearly marked, using railings, planters, fencing, or similar materials.
 2. Enclosures must not block the view of traffic, including pedestrian traffic, or block the view of traffic control devices such as traffic signs, traffic signals, and other traffic warning devices.
 3. The minimum height of an enclosure is thirty-six (36) inches and the maximum height is forty-two (42) inches.

4. For outdoor service areas serving alcohol, the enclosure must define and secure the outdoor service area for alcohol consumption.
 5. For sidewalk outdoor service areas within one foot of the back of the curb, the enclosure must be located along the curb separating the outdoor service area from the roadway.
 6. For outdoor service areas using parking spaces, the enclosure must be a continuous, rigid physical separation with a height of forty-two (42) inches on all sides of the outdoor service area adjacent to vehicle traffic lanes, vehicle circulation aisles, alleys, and parking spaces not used as an outdoor service area.
- H. ***Alcohol service.*** Alcoholic beverages may be served in an outdoor service area, as licensed by the State, for consumption by customers of the licensee.
- I. ***Street furniture and furnishings.*** Street furniture and furnishings are allowed in outdoor service areas when the following regulations are met:
1. Outdoor service area street furniture/fixtures must not block the view of traffic, including pedestrian traffic, or block the view of traffic control devices such as traffic signs, traffic signals, and other traffic warning devices.
 2. All outdoor service area street furniture/fixtures must be of substantial weight so that at no time could the outdoor service area furniture present an obstruction or risk to public safety, especially during inclement weather. All umbrellas must be closed or removed each evening.
 3. Hanging or overhead objects, including umbrellas, must have a minimum clearance of at least seven (7) feet.
 4. All outdoor service area furniture/fixtures must be maintained in a state of good repair. Any outdoor service area furniture/fixtures having broken, peeling, or rusting features or showing other signs of disrepair must be promptly removed and replaced.
 5. All sun shading must be constructed of fire-retardant materials.

- J. **Lighting.** Temporary, decorative outdoor lighting, such as string lights or electric candles, may be permitted in outdoor service areas when such lighting is limited to the hours of operation of the outdoor service area, does not create glare that negatively impacts public safety or adjacent properties, and is secured in a manner to prevent trip or electrical hazard. All other lighting must meet the requirements in Article 13, Exterior Lighting Standards.
- K. **Heating elements.** Electric and non-electric heating elements may be permitted in outdoor service areas. Non-electric heating elements must be placed a minimum of ten (10) feet from all permanent or temporary structures. Electric heating elements must be secured in a manner to prevent tripping or electrical hazards.
- L. **Maintenance.** The maintenance of an outdoor service area is the responsibility of the establishment. Maintenance includes, but is not limited to surface treatment and cleaning, litter control, sweeping, and snow and ice removal. Any sidewalk or public property permitted to be used as an outdoor service area must be always kept neat and clean and free from any substance that may cause pedestrian injury or damage to the sidewalk or public property.

Section 8.19 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 one thousand (1,000) feet of a pre-existing public or private school providing education in kindergarten or any of grades one (1) through twelve (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.

Section 8.20 RETAIL PET STORES

A retail pet store located in the City is prohibited from selling, adopting, exchanging, transferring, or offering for sale, adoption, exchange, or transfer dogs, cats, or rabbits. This section does not prohibit a retail pet store from collaborating with and providing space to an animal protection shelter or an animal control shelter to showcase dogs, cats, or rabbits available for adoption on a not-for-profit basis. The retail pet store may not charge or retain an adoption fee or any other fee for providing space to showcase any such dog, cat, or rabbit.

Section 8.21 MUNICIPAL FACILITIES

Section 8.22 PUBLIC UTILITY BUIDLINGS

Section 8.23 TOBACCO AND VAPE SHOPS

The property where a tobacco and vape shop is located must not be within one thousand (1,000) feet of another tobacco and vape shop within the boundaries of the City of Berkeley.

Article 16

NONCONFORMING LOTS, USES, AND STRUCTURES

Section 16.01 PURPOSE AND INTENT

- A. It is the purpose of this Article to provide regulations governing lots, buildings, structures, and uses which were lawful prior to the enactment of this Ordinance, or amendments thereto, but which are regulated under the provisions of this Ordinance.
- B. It is recognized that there exists within the districts established by this Ordinance and subsequent amendments, lots, structures, and uses of land and structures that were lawful before this Article was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Article that nonconformities must not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zoning district.
- C. The standards of this Article are intended to accomplish the following:
 - 1. Eliminate nonconforming uses which are incompatible with permitted uses.
 - 2. Permit legal nonconforming buildings, structures, or uses to remain until they are discontinued or removed.
 - 3. Encourage investment in the City by bringing nonconforming structures into compliance with this Ordinance.
 - 4. Encourage upgrading of site elements such as site landscaping, parking, paving, signage, access, pedestrian circulation, or other features of a site to comply with current Ordinance standards.
 - 5. Encourage a combination of contiguous nonconforming lots of record to create lots that conform to current standards and are compatible with other lots in the appropriate zoning district.

- D. Nothing in this Article must be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Article provided progress has been diligently pursued and substantial construction has occurred.
- E. The authorization of nonconformities that were legally established prior to the enactment or amendment of this Ordinance to continue does not apply to buildings, structures, or uses that were not legally established prior to the enactment or amendment of this Ordinance. Those nonconforming uses or nonconforming structures that have not been legally established must be declared illegal and must be discontinued at the effective date of this Ordinance.

Section 16.02 GENERAL REQUIREMENTS: USES AND STRUCTURES

- A. 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.
- B. 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.
- C. The City Council may acquire by purchase or condemnation private property to remove nonconforming structures or uses. The elimination of such nonconformity shall be declared to be for public purposes 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.
- D. If a building permit has been obtained and work has 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.

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

Section 16.03 REQUIREMENTS FOR NONCONFORMING USES

- A. 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.
- B. 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.
- C. 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.

Section 16.04 REQUIREMENTS FOR NONCONFORMING STRUCTURES

- A. A nonconforming building shall be maintained. Maintenance shall include necessary repairs and incidental alterations. Alterations shall not aggravate the nonconforming characteristic.
- B. A building may be added to or enlarged if such addition conforms to the regulations of the applicable zoning district.
- C. 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.

Section 16.05 REQUIREMENTS FOR NONCONFORMING LOTS

- A. Previously lawful lots of record that could no longer be created under this Ordinance or an amendment to this Ordinance, also referred to as legally nonconforming lots may not be divided, sold, or modified in a manner that increases any nonconformity, except as allowed in this Section.

- B. A lot described above, may continue, subject to the standards outlined below:
 - 1. Legally nonconforming lots may be used for a permitted or special land use for the zoning district in which it is located, even if the lot area, lot width, and frontage standards are not met.

 - 2. Two (2) or more lots of record on the effective date of this Ordinance or an amendment to this Ordinance with continuous frontage that are under single ownership or control are considered a single lot for the purposes of this Ordinance if any individual lot or lots do not meet the standards of this Ordinance, including, but not limited to, lot area, lot width, frontage, setbacks, and coverages.

Article 17

ZONING BOARD OF APPEALS

Section 17.01 ESTABLISHMENT

A Zoning Board of Appeals is hereby established, which must perform its duties and exercise its powers as provided in this Article and by Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended.

Section 17.02 MEMBERSHIP

- A. The Zoning Board of Appeals must consist of seven (7) members appointed by the City Council as follows:
 - 1. The members of the Board of Appeals must be selected from the electors of the City. The members selected must be representative of the population distribution and the various interests present in the City.
 - 2. Each member of the Board of Appeals is to be appointed for a term of three (3) years. Appointments for the first year must be for a period of one, two, and three years, respectively, so as nearly as may be to provide for the appointment of an equal number of Board of Appeals members each year; thereafter, each member holds office for a full three-year term.

- B. The City Council may appoint two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. The alternate member may be called as specified in the Zoning Ordinance to sit as a regular member of the Zoning Board of Appeals in the absence of a regular member if a regular member is absent from or unable to attend one (1) or more consecutive meetings of the Zoning 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 or is a Planning Commission member who voted on the same matter when the matter was considered by the Planning Commission. The alternate member, having been appointed, must serve in the case until a final decision has been

made. The alternate member must have the same voting rights as a regular member of the Zoning Board of Appeals.

- C. The terms of the Planning Commission member and any City Council member must run concurrently with their respective current term on the Planning Commission or City Council. A successor must be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms must be filled for the remainder of the term.
- D. Members of the Zoning Board of Appeals receive no compensation.
- E. Members of the Zoning Board of Appeals are subject to the minimum standards of ethical conduct for all city officers in Section 2-40. Ethics of the City Code.
- F. A member must disqualify himself or herself from a vote in which they have a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which they have a conflict of interest must constitute misconduct in office.
- G. Members of the Zoning Board of Appeals may be removable by the City Council for nonperformance of duty, misconduct in office, misfeasance, malfeasance, or nonfeasance of office upon written charges and after a public hearing.

Section 17.03 RULES GOVERNING THE BOARD OF APPEALS

- A. **Rules.** The Zoning Board of Appeals must adopt rules of procedures to govern its procedures. The Zoning Board of Appeals must elect a Chairperson and Vice-Chairperson from its membership in accordance with adopted rules of procedure.
- B. **Votes.** A concurring vote of a majority of the members of the Zoning Board of Appeals is necessary for any decision related to administrative review, interpretation, and dimensional variances. A concurring vote of two-thirds (2/3) of the members of the Zoning Board of Appeals is necessary for any decision related to use variance.
- C. **Representation.** Any applicant may appear on their own behalf at a hearing

or may be represented by an agent or attorney.

- D. **Time Limit.** The Zoning Board of Appeals must hear and decide upon all matters properly before it within a reasonable time. The decision of the Zoning Board of Appeals must be in the form of a resolution containing a full record of its findings and determinations in each case. The time limit may be extended by written agreement between the applicant and the Zoning Board of Appeals.
- E. **Meetings and Record of Proceedings.** Meetings of the Zoning Board of Appeals must be held at the call of the Chairperson and at such times as the Board in its rules and regulations might specify. The Zoning Board of Appeals may not conduct business unless a majority of the members of the Board are present. The Board must maintain a record of its proceedings and all its official actions. The vote of each member upon a question, or a member's absence or abstention, must be recorded into the minutes of the meeting. A copy of the minutes of all meetings must 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.
- F. **Public Hearing and Notification.** The Zoning Board of Appeals must hold a public hearing on all appeals, interpretations, and variance requests. Public hearing and notification requirements are set forth in Section 3.10.

SECTION 17.04 POWERS AND DUTIES OF ZONING BOARD OF APPEALS

- A. **General.** The Zoning Board of Appeals has the power to act on matters as provided in this Article and Act 110, of the Public Acts of 2006, as amended (MCL 125.3601 et. seq.). The specific powers of the Board are enumerated in the following Sections of this Article.
- B. **Delegated Duties.** The Zoning Board of Appeals must hear and decide upon the following:
 - 1. Appeals of administrative decisions.
 - 2. Requests for interpretation of the Zoning Ordinance or Zoning Map.

3. Requests for variances.
 4. All matters upon which it is required to pass under this Article.
- C. ***Appeals of Administrative Decisions.*** The Zoning Board of Appeals must hear and decide appeals where it is alleged there is an error of law in any order, requirement, decision, or determination made by an administrative official or body in the enforcement of this Article.
1. Appeals must be filed in writing within thirty (30) days of the written decision in question with the Zoning Administrator. The appellant must have a property interest and stand to be recognized under the law to challenge the decision. The appellant must submit a clear description of the order, requirement, decision, or determination for which the appeal is made and the grounds of the appeal. The appellant may be required by the Zoning Board of Appeals to submit additional information to clarify the appeal.
 2. Appeals may be taken by the person aggrieved or by any officer, department, board, agency, or bureau of the City or State governments. In addition, a variance in the Zoning Ordinance may be applied for and granted under Section 4 of the Uniform Condemnation Procedures Act, 1980 PA 87, MCL 213.54.
 3. An appeal stays all proceedings in the furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Appeals that a stay would cause imminent peril to life and property. In such case, proceedings must not be stayed other than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Zoning Administrator from whom the appeal is taken, and on due cause shown.
 4. An administrative decision may be reversed, in whole or in part, or may be modified. To that end, the Zoning Board of Appeals must have all the powers of the Zoning Administrator from whom the appeal is taken. In reaching its decision, the Zoning Board of Appeals must only modify or reverse an administrative decision being appealed if one (1)

or more of the following requirements are met:

- a. The administrative decision was arbitrary or capricious.
- b. The administrative decision was based on an erroneous finding of material fact.
- c. The administrative decision constituted an abuse of discretion.
- d. The administrative decision was based on an erroneous interpretation of the Zoning Ordinance or zoning law.

D. Interpretation.

1. The Zoning Board of Appeals must hear and decide requests for interpretation of the Zoning Ordinance or the Zoning Map, taking into consideration the intent and purpose of the Zoning Ordinance and the Master Plan. In an interpretation of the Zoning Map, the Zoning Board of Appeals must be governed by the Rules of Interpretation set forth in Section 4.03, Interpretation of District Boundaries. The Zoning Board of Appeals does not have the power to alter or change zoning district boundaries, except where uncertainty exists as to the location of a boundary, land use classifications of any property, or Zoning Ordinance text.
2. A record must be kept by the Zoning Board of Appeals of all decisions for interpretation of the Zoning Ordinance or Zoning Map. The Zoning Board of Appeals may request the Planning Commission to initiate an Ordinance amendment that would correct or clarify the Ordinance.

E. Dimensional and Other Non-Use Variances.

1. Where literal enforcement of the provisions of the Zoning Ordinance would involve practical difficulties within the meaning of this Article, the Zoning Board of Appeals must have the power to authorize such variation of the provisions of this Article with such conditions and safeguards as it may determine as may be in harmony with the spirit of this Article and so that public safety and welfare are secured, and substantial justice is done.
2. Dimensional or other non-use variances must not be granted by the

Zoning Board of Appeals unless it can be determined that all of the following facts and conditions exist:

- a. Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for permitted purposes or would render conformity with such restrictions unnecessarily burdensome.
 - b. A grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
 - c. Relief can be granted in such fashion that the spirit of the Zoning Ordinance will be observed, and public safety and welfare secured.
 - d. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property value within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.
 - e. The Zoning Board of Appeals must not find that any of the above criteria have been met without substantial evidence provided by the applicant to that effect.
 - f. The proposed variance will be the minimum necessary, and no variance must be granted where a different solution not requiring a variance would be possible.
- F. Dimensional Variance in Special Use Approval and Planned Unit Developments. The Zoning Board of Appeals may grant dimensional or other

site plan-related variances, such as, but not limited to, lot dimensions, setbacks, building height, and lot coverage for special approval uses. The Zoning Board of Appeals must not have the power to reverse or modify the Planning Commission's decision to approve or deny a special use permit, nor grant variances to any conditions placed on special use approval. The Zoning Board of Appeals must not have the authority to grant variances to any regulations or any requirement placed upon a project approved as a Planned Unit Development or conditional rezoning. However, the Zoning Board of Appeals must have the authority to decide appeal requests by individual lot or unit owners for variances from other sections of the Zoning Ordinance following final approval of a Planned Unit Development, provided such variances do not affect the terms or conditions of the original approval.

G. Use Variances.

1. Where literal enforcement of the provisions of the Zoning Ordinance would involve practical difficulties within the meaning of this Article, the Zoning Board of Appeals must have the power to authorize such variation of the provisions of this Article with such conditions and safeguards as it may determine as may be in harmony with the spirit of this Article and so that public safety and welfare are secured, and substantial justice is done.
2. Use variances must not be granted by the Zoning Board of Appeals unless it can be determined that all of the following facts and conditions exist:
 - 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 a 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.

SECTION 17.05 RULES AND PROCEDURES FOR VARIANCES

A. General.

1. An application for a variance must be filed by the record owner of the lot in question, or by an agent authorized in writing to act on the record owner's behalf, with the Zoning Administrator.
2. The application must be accompanied by a site plan drawn to the scale of a maximum of one inch equals twenty feet (1" = 20') and a minimum of one inch equals fifty feet (1" = 50') must be placed on a standard sheet, and must contain the following information unless otherwise waived by the Zoning Administrator:
 - a. Dimensional elements for which a variance is requested.
 - b. Dimensional relationships of the subject lot to the structures located on all adjacent properties.
3. The application must be accompanied by an affidavit executed by the applicant explaining:
 - a. Why compliance with the strict letter of the restrictions governing area, setback, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or how conformity with such restrictions would be unnecessarily burdensome.
 - b. How a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district.
 - c. Could a lesser relaxation than that applied for give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
 - d. How relief can be granted in such fashion that the spirit of the Zoning Ordinance will be observed, and public safety and welfare secured.
4. After a public hearing and upon findings of fact based upon the applicable standards set forth in this Article, the Zoning Board of

Appeals may approve the variance(s) as requested, approve variance(s) that better comply with the Ordinance than that requested, or deny the request.

5. The Zoning Board of Appeals may impose conditions with an affirmative decision. The conditions may include those necessary to promote the public health, safety, and welfare, ensure compatibility with surrounding land uses, and protect and preserve natural features. Any conditions imposed by the Zoning Board of Appeals must be related to a valid exercise of the police power and purposes which are affected by the proposed use or activity.
6. A variance that is legally utilized and maintained runs with the property and any subsequent owners may legally continue the variance under its original or amended terms.
7. An application for a variance that has been denied wholly or in part by the Zoning Board of Appeals must not be resubmitted for a period of twelve (12) months from the date of denial, except on grounds of new evidence not previously discovered at the time the variance was denied or changed conditions found by the Zoning Board of Appeals to be valid.

B. Decision of the Zoning Board of Appeals.

1. The Zoning Board of Appeals may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.
2. At the conclusion of the hearing, the Zoning Board of Appeals may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision. The Zoning Board of Appeals may also request the Zoning Administrator to prepare findings and conclusions.
3. If the Zoning Board of Appeals determines to grant variance relief, it must be the minimum relief required to allow reasonable use of the

property, while maintaining the essential character of the area. Such relief may be in the form of one (1) or more non-use variances and/or in the form of a use variance. The motion may include conditions that are authorized by law.

SECTION 17.06 ZONING BOARD OF APPEALS APPROVAL

The Board of Appeals may require the applicant to submit all necessary surveys, plans, or other information necessary for the Board of Appeals to investigate thoroughly the matter before it. The Board of Appeals may impose such conditions or limitations in granting a variance as it may deem necessary to comply with the spirit and purposes of this Article.

SECTION 17.07 APPROVAL PERIODS

- A. No order of the Zoning Board of Appeals permitting the erection or alteration of a building is valid for a period longer than twelve (12) months, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
- B. No order of the Board of Appeals permitting a use of a building or premises is valid for a period longer than twelve (12) months, unless such use is established within such period; provided, however, that such order must continue in force and effect if a building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with such permit.
- C. In all cases where site plan approval is required in accordance with Article 14, any variance is valid for a period of two (2) years from the date of final site plan approval subject to the requirements set forth in Section 17.07, subsection A and B.

City of Berkley
Zoning Ordinance Steering Committee
Wednesday, December 6, 2023, 6:00 p.m. – 8:30 p.m.
Megan's Notes

1. **Check in:** Impressions of Joint Meeting. Most impressions were favorable. Some Steering Committee members expressed concern that some elected and appointed officials not on the Steering Committee do not fully understand the changes proposed in the Zoning Ordinance rewrite.

2. **Review of Draft Articles**

- a. Draft Article 11 – Sign Regulations

Steering Committee member Marty Smith felt that the intent of the proposed article was too long and repetitive. Both staff and the consultant pointed out that the City Attorney had reviewed this language and that signs are often litigated. Since the Committee does not have consensus, the Planning Commission will be asked to weigh in. Staff will also consult with the City Attorney as to whether the language in the intent is necessary. Staff will also consult with the City Attorney on:

- Whether the "Prohibited Signs" list can contain a qualifier of "include, but are not limited to".
- Standards for all temporary signs in Section 11.08.C, particularly the provision that allows the additional time, square feet, and # of signs during an election period.

The Committee agreed on the following:

- The sign area should be the smallest rectangle that encompasses the extreme limits of the sign copy, as shown in the illustrations.
- A graphic will be added showing copy area on an awning, with a triangle side with copy.
- Table 10.08 B needs to be updated with recently amended language for signs for buildings with multiple tenants.

- b. Draft Article 12 – Landscaping and Screening

The Committee reviewed the draft article and agreed on the following:

- In Section 12.03 and elsewhere in the Zoning Ordinance rewrite, when a professional must prepare plans, the phrase should be "signed and sealed by".
- One (1) foot grade required on landscaping plans.

City of Berkeley
Zoning Ordinance Steering Committee
Wednesday, December 6, 2023, 6:00 p.m. – 8:30 p.m.
Megan's Notes

- In Section 12.04 and throughout, make it clear that a wall is the 1st option when a buffer is required and the Planning Commission may allow a fence instead.
- In Section 12.05, adding "unless a waiver is granted under Section 12.13 and specifying that trees in parking lots are only required when 8 or more parking spaces are provided.
- Diagrams for Site Design Based Corridor Districts parking lot screening need to be revised.
- Provisions added to parking lot screening that the barrier completely screens when across the street from residentially zoned or use property.
- The Director of Public Works or their designee determines a fee in lieu.
- Make the following changes to Section 12.08:
 - Add a cross-reference to the exterior appliance section in General Provisions to Section 12.08.
 - Specify that ground-mounted mechanical equipment may be screened by landscaping.
 - Require that waste receptacles be constructed of masonry.
- Make the following changes to Section 12.09 – Tree Replacement Standards
 - Specify that it applies to everything but single-family residential.
 - Use the current ordinance replacement standards. If the replacement trees cannot fit, allow for a contribution to the tree fund.
 - Require trees surveys with size, species, health/condition.
 - On the areas excluded from tree clearing requirements, delete swimming pools and areas for farming purposes.
- Move "Utility lines and structures must be shown on the landscape plan" from Section 12.10.C to Section 12.03.
- Delete requirement for front yards to be planted with sod.
- In Section 12.11, make explicit that these are examples of species, not requirements.

The Committee and two members of the Environmental Advisory Committee discussed how to prevent invasive species and encourage native species. CWA will add more language encouraging native species. Staff agreed that if the

City of Berkley
Zoning Ordinance Steering Committee
Wednesday, December 6, 2023, 6:00 p.m. – 8:30 p.m.
Megan's Notes

Environmental Advisory Committee or the Tree Board would provide lists of encouraged species that those lists could be given to applicants. In terms of prohibited species other than trees, the Committee felt that if another group provided the list and it was in an Ordinance, like the Tree Board and Section 130-39 of the City Code, that the list could be maintained on a regular basis and cross-referenced and enforced via the Zoning Ordinance.

c. Draft Article 13 – Exterior Lighting Standards

The Committee reviewed this article and agreed to the following:

- The residential lighting regulations in Section 13.05.D, which provides an exemption for single and two-family dwellings, were not satisfactory. CWA will revise the provisions to differentiate between decorative (brightness defined) and floodlights; require that floodlights be downward directed and fully shielded; and that there is no light trespass at the property line.
- Delete "red and must" from Section 13.05.G
- Change reference to "grandfathered" to "nonconforming"
- Allow lighting inside an awning and building lighting by deleting these items from Section 13.06 Prohibited Lighting.

d. Draft Article 8 – Specific Use Provisions

The Committee did not discuss this draft article.

3. Non-Conformities and Zoning Board of Appeals

The Committee decided that no significant changes should be made to these articles in the rewrite.

4. Check out

- a. Workshops in January: The Committee advised CWA to keep the language as simple as possible and to use graphics. Staff detailed how the workshops were being advertised. All of the workshops are from 6-8 p.m. at the Berkley High School Collaborative Center. The topics and dates are:
- Zoning Districts: Change or Stay the Same, January 8
 - Duplexes & Multiple Family: Where, What, and How, January 17
 - Parking: The Berkley Shuffle, January 24
 - Development Review: How a Plan Becomes a Building, January 31

City of Berkley
Zoning Ordinance Steering Committee
Wednesday, December 6, 2023, 6:00 p.m. – 8:30 p.m.
Megan's Notes

- b. Steering Committee: Questions & suggestions to staff by December 13, 2023
- c. Staff & CWA: Materials for next meeting to Steering Committee by December 20, 2023
- d. Next meeting date: January 3, 2024

Berkley's Zoning Ordinance: The Regulations to Realize Our Vision for the Future.

What is a Zoning Ordinance?

The State of Michigan enables municipalities to enact a Zoning Ordinance. A Zoning Ordinance typically regulates land use, building size and placement, parking, landscaping, and parcel size. These regulations, using “zones” to allow different uses and buildings in different places, define how each property within the City may be developed or redeveloped.

Why do we need to rewrite the City's Zoning Ordinance?

The City of Berkley last comprehensively updated its Zoning Ordinance in 1993. In the past three decades, buildings and land uses have changed as well as how we work, shop, move, and play. The Zoning Ordinance needs to be rewritten to implement the recently updated Master Plan, comply with state and federal law, and deliver the quality and type of development envisioned by the Berkley community.

Zoning District Changes

The Zoning Ordinance rewrite includes changes to the City Zoning Map. New districts are proposed, impacting the overall zoning districts and, in some cases, individual properties. The proposed zoning map is intended to reflect the goals of the 2021 City of Berkley Master Plan more accurately, including the Future Land Use Map. The new zoning districts consolidate regulations and group areas of the City with similar character and needs to create more accessible and streamlined zoning regulations.

Today's Workshop

There are 7 stations at today's community workshop. Please visit each station to learn about the proposed changes to the zoning district and the reasoning that led to these proposed changes. We recommend you spend 10 minutes at each station. The facilitation team will notify you when it's time to switch.

1. Single-Family Zoning Districts
2. Two-Family and Multiple-Family Zoning Districts
3. Flex Zoning District
4. Greenfield Corridor Zoning District
5. Woodward, Gateway, and Downtown Zoning Districts
6. Community Centerpiece & Cemetery Zoning Districts
7. Parking Overlay District

As you visit each station, we invite you to offer your input and responses to the questions posed. Stickers and markers are available for your use where indicated on each station board. Staff will be available to answer any clarifying questions about the content and process. We recommend spending about 10 minutes at each station.

ZONING DISTRICT QUIZ RAFFLE

As you work through each of the 7 stations, prepare responses to the following questions. When you think you've answered them all, show a member of the Facilitation Team. If all answers are correct, you'll be entered into a raffle!

1. The proposed zoning district(s) with unique design requirements based on their site.

2. The proposed zoning district(s) where single-family residential is allowed by right.

3. The proposed zoning district(s) along Eleven Mile Road.

4. The proposed zoning district(s) that includes Berkley High School.

5. The proposed zoning district(s) that lies atop an underlying zoning district.

6. The proposed zoning district(s) that are based on land use.

7. The proposed zoning district(s) where single-family residences have a 40 ft min. lot width.

8. How is building height determined in the proposed Community Centerpiece zoning district?

9. The proposed zoning district that includes most of the properties in the City.

Thank you for attending today's Zoning Ordinance Rewrite community workshop to discuss the Zoning District changes!

Your input is valuable as the steering committee is considering changes to the Zoning Districts in the City of Berkley. Local knowledge from community members like you collectively contributes to the ground-truthing necessary to craft a strong Zoning Map. Your reactions – including your support, concerns, and confusion – will help the rewrite team refine and adjust the proposed zoning districts.

Current Zoning Districts

- Single Family Residential R-1A
- Single Family Residential R-1B
- Single Family Residential R-1C
- Single Family Residential R-1D
- Two Family Residential R-2
- Multiple Family Residential RM
- Multiple Family Residential RMH
- Community Centerpiece
- Office
- Gateway
- Downtown
- Local Business
- Greenfield
- Twelve Mile
- Coolidge
- Industrial
- Eleven Mile
- Parking
- Cemetery
- PUD

Proposed Zoning Districts



- Single Family Residential R-1A + R-1B
- Single Family Residential R-1C + R-1D
- Two Family Residential R-2
- Multiple Family Residential RM (low-density)
- Multiple Family Residential RMH (high-density)
- Community Centerpiece
- Downtown
- Flex
- Gateway Corridor
- Residential Corridor
- Woodward
- Cemetery
- PUD
- Parking Overlay

Summary of proposed changes:

- 2 single-family zoning districts instead of 4: distinct by large lots and small lots.
- Two-family zoning district expanded to include more properties.
- Eleven Mile and Industrial districts combined into “Flex.”
- Various commercial corridors combined into one “Gateway Corridor” district.
- Changes to lot width, lot area, and building height in various zoning districts.
- Parking zoning district transitioned into an overlay district.
- Local business and office zoning districts were removed and absorbed into Gateway District.
- Greenfield zoning district removed; new Residential Corridor district that also includes residences along Eleven Mile Road.
- Where zoning districts have been consolidated, regulations have been changed to account for broader property types.

Facilitator Script – Community Workshop #1, Jan 8

1. Introduction (6:00 – 6:15pm)

Thank everyone for coming. Introduce yourself. Explain that this is part of the Berkley Zoning Ordinance Rewrite process to comprehensively update the ordinance to reflect the goals of the Master Plan. City staff and consultants facilitated a two-year process with four phases:

1. Current ordinance assessment
2. Development of draft regulations for new ordinance
3. Review of full draft of new ordinance
4. Zoning Ordinance adoption

These community workshops are part of phase 2. The community workshop topics were selected to garner feedback on the proposed changes to areas likely to have the greatest impact and/or community response. Explain how the station rotation will work and how the facilitators will be available to answer questions at each station. Explain the raffle. A whole-group discussion will commence afterward.

2. Station rotation (6:15 – 7:30pm)

Ask participants to spend roughly 10 minutes at each station and engage with the materials as indicated on each of the 7 boards. Each station includes stickers and markers. Instruct participants to gather at each board and rotate when ready, ensuring a balance of participants at each board. Inform them that you will notify them every 10 minutes when it's time to move to a new station, but if they need to leave before 7:30, they may rotate more quickly.

3. Discussion and Raffle Check (7:30pm – 7:55pm)

Review board results and use the results to prompt discussion with the whole group. Using Socratic Method practices, encourage participants to discuss topics further – as needed. During the discussion, one facilitator should check raffle quizzes, and place complete/correct quizzes into a pile for the raffle.

4. Raffle (7:55 – 8pm)

After creating a pile of complete/correct quizzes, pull from pile to determine winner.