

City of Berkeley
Zoning Ordinance Steering Committee

Wednesday, December 6, 2023
6:00 p.m. – 8:30 p.m.

AGENDA

- 1. Check in (5 min)**
- 2. Review of Previous Work (30 minutes)**
 - a. Draft Article 10 – Sign Regulations
 - b. Draft Article 12 – Landscaping and Screening
- 3. Review of Draft Articles (1.5 hours)**
 - a. Draft Article 13 – Exterior Lighting Standards
 - b. Draft Article 8 – Specific Use Provisions
- 4. Preview: Nonconformities and Zoning Board of Appeals (15 min)**
 - a. Ideas
 - b. Advice
- 5. Check out (10 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: November 20, 2023

RE: December 2023 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 December 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 the draft Signs and Landscaping articles. We did not discuss the Lighting article, but feedback was shared in the Google Drive. Based on your feedback, we have updated the articles to reflect the following:

Signs

- All mention of safety paths removed.
- Time/temperature signs deleted from the list of exempt signs
- Blade signs are moved to prohibited signs
- Items K & L in Section 10.04 combined.
- Pole and pylon signs regulated in the same manner and only allowed in the Woodward District based on the size and speed of traffic of that road.
- Wall signs added as permitted to R-1, R-2, RM, R-M-H
- Projecting signs added as permitted to R-M and R-M-H
- Awning signs added as permitted to R-M and R-M-H and RC: Greenfield
- One sign with a permit (wall, awning, monument, pole/pylon, projecting, roof) allowed per business per street frontage.
- When the parking is in the back, smaller signs are allowed over the public entrances.
- Eliminated "Special Event for Non residential use" column in Table 10.09B
- Eliminated time limitations for temporary signs, except for promotional events, but maintain allowances for additional temporary sign areas during election season.
- Removed provisions on colors
- The sign permit process moved to the Zoning Administration Article with a cross reference in the Sign Article.

Landscaping

- Tree wells discouraged.
- Landscaping calculations clarified
- Redundancies removed and replaced with reference to Chapter 130, Article II, and Sec. 130-44.
- Salt-tolerant requirement added near roads.
- Minor changes allowed administratively.


Review of Draft Articles

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 added.

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

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

Thank you for your time and contributions. We look forward to meeting with you on December 6th, 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 12

LANDSCAPING AND SCREENING

SECTION 12.01 INTENT

The intent of this section is to promote public health, safety, and welfare and the visual appearance and character of the City by requiring landscaping and/or screening for each development for which site plan and subdivision plat review is required. It is further the intent of this section to achieve the following:

- A. Minimize noise, air, and visual pollution.
- B. Improve the overall aesthetics and appearance, divide the expanse of pavement, and define parking areas and vehicular circulation within off-street parking lots and other vehicular use areas.
- C. Require buffering of residential areas from more intense land uses and public road rights-of-way.
- D. Prevent soil erosion depletion and promote subsurface water retention.
- E. Encourage an appropriate mixture of plant material, such as evergreen and deciduous trees and shrubs, to protect against insect and disease infestation and produce a more aesthetic and cohesive design.
- F. Promote the integration of existing trees and vegetation in landscape plans.

SECTION 12.02 APPLICATION OF REQUIREMENTS

These requirements must apply to all uses for which site plan review is required in Article 14. No site plan may be approved unless a landscape plan is provided that meets the requirements set forth herein and the requirements of Chapter 130, Article II – Trees, Bushes, and Shrubs of the Code of Ordinances for the City of Berkley.

SECTION 12.03 LANDSCAPE PLAN REQUIREMENTS

A separate landscape plan must be prepared by a landscape architect registered in the State of Michigan. The landscape plan must be submitted in conjunction with the review of a site plan. The landscape plan must demonstrate that all requirements of this section

are met, include the landscape plan requirements in Section 14.06.F, as well as, but not necessarily be limited to, the following items:

- A. The location, spacing, size (caliper), and root type (bare root, balled and/or burlapped) and descriptions for each plant type, including grass and ground cover, to be used within the required landscape area.
- B. A minimum scale of one (1) inch equals thirty (30) feet for property less than one (1) acre or one (1) inch equals fifty (50) feet for property greater than one (1) acre.
- C. Existing and proposed grades on site and fifty (50) feet beyond the site at intervals not to exceed two (2) feet.
- D. Height and type of construction of fences and walls, including footings, and typical straight cross section including slope, height, and width of berms and type of ground cover.
- E. Construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.
- F. Details in either text or drawing form to ensure proper installation and establishment of proposed plant materials.
- G. Identification of existing trees and vegetative cover to be preserved.
- H. Demonstration that the Clear Vision requirements set forth in Section 14.03 are met.
- I. Identification of landscape maintenance program including a statement that all diseased, damaged, or dead materials must be replaced in accordance with the standards of this Ordinance.

SECTION 12.04 SCREENING BETWEEN LAND USES

Transitions between neighborhoods are required to ensure compatibility between new or redeveloping commercial or mixed uses and adjacent low-scale residential neighborhoods.

- A. Buffering between commercial or mixed uses and single-family residential uses shall be achieved by a wall, decorative fencing, a landscaped screen barrier, a planting strip, and/or landscape berm as determined by the Planning Commission.
- B. A screening wall or decorative fencing must be a minimum of six (6) feet in height as measured on the side of the proposed wall having the higher grade. A required wall must be located on the lot line except where underground utilities interfere and except

in instances where conformity with front yard setback is required. Upon review of the landscape plan, the Planning Commission may approve an alternate location for a wall.

- C. The following screening requirements apply to commercial and multiple-family residential properties. When calculating the required number of trees and shrubs, round up to the nearest whole number.

Subject property	When adjacent to these land uses					
	Single Family Residential / Duplex	Multiple Family Residential	Office / Retail / Institutional	Industrial	Automotive	
Single Family Residential / Duplex						
Multiple Family Residential	Screen 1	Screen 1	Screen 1	Screen 1	Screen 1	Screen 1
Office / Retail / Institutional / Service	Screen 2	Screen 2				
Automotive	Screen 3	Screen 3	Screen 3			
Industrial	Screen 3	Screen 3	Screen 3			

Screen One: One (1) ornamental AND one (1) evergreen tree every forty (40) lineal feet along the property line.

Screen Two: One (1) ornamental OR one (1) evergreen tree AND seven (7) upright shrubs per each thirty (30) lineal feet along the property line

Screen Three: One (1) ornamental AND one (1) evergreen tree AND four (4) upright shrubs per each thirty (30) lineal feet along the property line.

SECTION 12.05 PARKING LOT LANDSCAPING

A. **Required landscaping within parking lots.** Separate landscape areas must be provided within parking lots that break up the broad expanse of pavement, guide the circulation of vehicular and pedestrian traffic, and moderate the changes to the micro-climate that results from the additional pavement. The following requirements must be met:

1. There must be a minimum of one (1) tree for every eight (8) parking spaces.
2. Landscaping must be arranged in curbed islands within the parking lot which must not be less than fifty (50) square feet in area.

3. A minimum distance of three (3) feet from the backside of the curb and the proposed landscape plantings must be provided. Where vehicles overhang a landscape island or strip, a minimum distance of five (5) feet from the backside of the curb and the proposed landscape plantings must be provided.

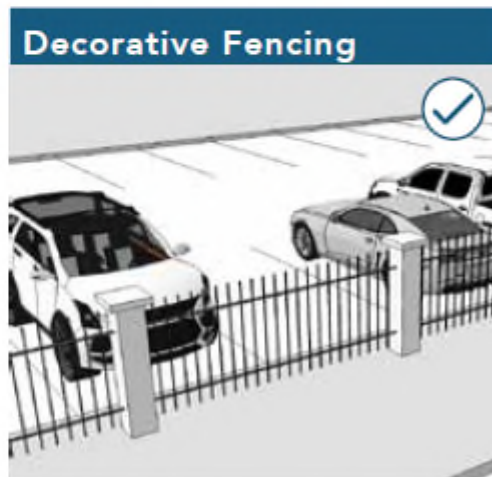
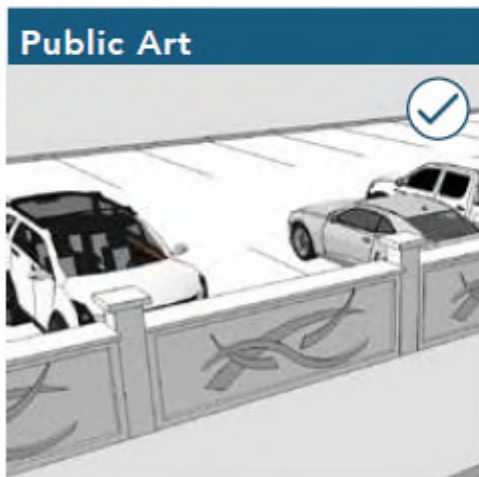
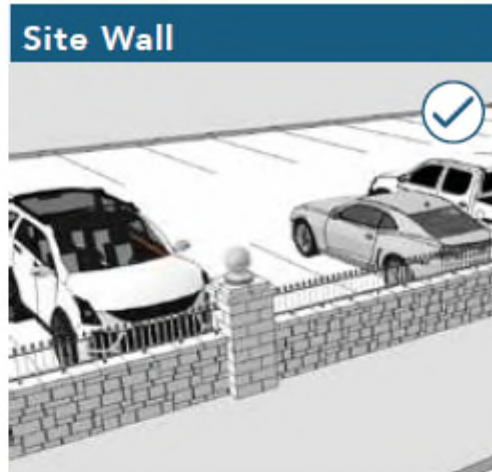
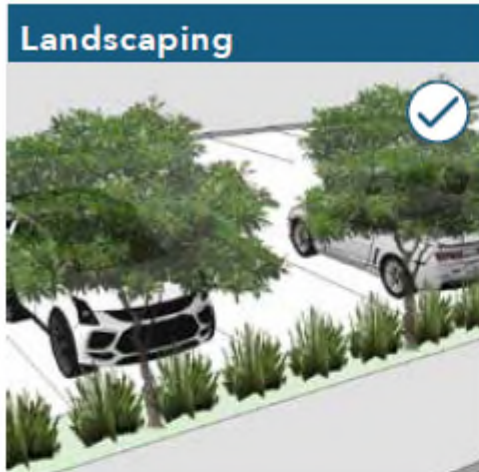
B. Where a parking lot in a Site Design Based Corridor District abuts a low-scale residential neighborhood or single-family land uses, the screening requirements depend on the site type, as indicated below.



C. **Landscaping at the perimeter of parking lots.** No parking shall be permitted between

the building and the street. All off-street parking areas shall be screened or buffered in a manner that separates the parking areas as seen from the public right-of-way. A minimum six (6) foot-wide buffer between the parking lot and street right-of-way or sidewalk shall be shown. The buffer shall include one (1) or combinations of the following:

1. Landscaping: minimum one (1) tree and ten (10) shrubs every forty (40) feet
2. Masonry screening wall: thirty (30) inches high from grade at the property line for the length of the wall
3. Public art or various possible building materials: thirty (30) inches high from grade at the property line for the length of the art piece
4. Decorative metal fencing: thirty (30) inches high from grade at the property line for the length of the fence



The Planning Commission, at its discretion, may approve alternative landscape plans at the perimeter of parking lots where landscaping within parking lots would be

impractical due to the size of the parking lot or detrimental to safe and efficient traffic flow, or would create an unreasonable burden for maintenance and snowplowing. The alternative landscape plan must include a differentiation between the parking lot and adjacent sidewalks, such as different materials, curbing, landscape planters, etc.

- D. Buildings set back from the sidewalk's edge must include streetscape landscaping.
- E. Landscaped curb extensions must be installed at intersections.

Section 12.06 REQUIRED STREET TREE GREENBELT PLANTING

The frontage of all public or private streets for any new or altered use which requires site plan review must be landscaped with street trees as follows:

- A. **Location.** The street trees must be centered between the sidewalk and the back of the street curb. The Planning Commission may grant a waiver of this condition with a finding that utilities necessitate a different location, or that the proposed location of the trees will align with already-established street trees along the same block face, provided that said existing trees are to remain. Trees should be planted at roughly even intervals.
- B. **Quantity.** A minimum of one (1) tree for every thirty (30) lineal feet of frontage, inclusive of proposed or existing access drives. Existing trees in good health to be preserved may count towards the street tree requirements.
- C. **Planting Area Size.** Tree planting areas provided for street trees must be sufficient for the species of tree provided. Tree pits or wells are discouraged and may only be allowed on blocks where tree pits or wells exist. Where no sufficient planting bed exists or can be provided for street trees within the right-of-way, the applicant may choose to either plant and maintain the required trees within the front yard; or to provide a fee in lieu of planting in the amount of one hundred (100%) percent of the materials and installation cost.
- D. **Placement and Utilities.** Street trees shall not be planted within six (6) feet of water or sewer lines and shall not interfere with overhead utility lines or underground utilities. Consideration should be given to the mature size and height of the tree when evaluating placement and species selection near utilities, both underground and overhead.
- E. **Required Species.** Street trees must be deciduous trees. Non-deciduous conifers/evergreens are not permitted to be used as road trees since they interfere with visibility, pedestrian safety, and vehicular circulation.

- F. **Recommended Species.** Native species are generally preferred. Canopy trees are preferred for road trees, but ornamental trees may be allowed under overhead utility lines.

SECTION 12.07 SITE LANDSCAPING

- A. In addition to any adjacent land use screening, street tree greenbelt, and/or parking lot landscaping required by this section, five percent (5%) of the site area, excluding existing public rights-of-way, must be landscaped. Such site area landscaping may include a combination of the following:
- a. Preservation of existing tree cover
 - b. Planting of new trees and plant material
 - c. Landscape plazas and gardens
 - d. Bioswales, raingardens, or retention ponds
 - e. Planter beds
 - f. Green roofs
 - g. Green walls (must equal a minimum of 10% of the site area)
- B. Site area landscaping must be provided to screen potentially incompatible, unsightly and/or objectionable site features such as, but not limited to, retention/detention ponds, transformer pads, air conditioning units, and loading areas.

SECTION 12.08 WASTE RECEPTACLES AND MECHANICAL EQUIPMENT SCREENING

- A. **Where Required.** The standards set forth in this Section must apply to all uses that have refuse disposal service by collective trash container as well as exterior mechanical equipment such as generators and air conditioning units. This does not include curbside pickup for single-family residential uses.
- B. Standards.
- 1. Landscaping to screen waste receptacles and mechanical equipment and required walls can contribute to five (5%) percent site area requirement for general site landscaping.

2. Waste receptacles and mechanical equipment must be screened on all sides with a wall, and gate at least as high as the container, but no less than six (6) feet in height and must be constructed of durable material and construction which is compatible with the architectural materials used in the site development.
3. Waste receptacles must be consolidated to minimize the number of collection sites, located in close proximity to the building they serve, and easily accessed by refuse vehicles without potential damage to parked vehicles.
4. Enclosures for waste receptacles and mechanical equipment must be located in a side or rear yard and screened from public view whenever possible.
5. Receptacles, equipment, and enclosures must be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.
6. Concrete pads and aprons of appropriate size and construction must be provided.

SECTION 12.09 TREE REPLACEMENT STANDARDS

The standards below are intended to encourage the preservation of existing mature, healthy trees on private property which contribute to the character, welfare, and quality of life in Berkley. These standards are intended to prevent the unnecessary removal of trees prior to, during, and following construction on a site. The standards of this Section in conjunction with the standards for site plan review promote the goals of the Berkley Master Plan and Chapter 130, Article II - Trees, Bushes and Shrubs of the Code of Ordinances for the City of Berkley.

- A. ***Tree Replacement.*** A tree location survey and tree protection plan, per Section 130-44 of the City Code of Ordinances must be submitted as part of any required site plan. Tree replacement must comply with the table in Section 130-44(b)(7).
- B. ***Clearance of Twenty-five percent (25%) or more of Existing Trees.*** Any property owner or their representative proposing to clear more than twenty-five percent (25%) of the trees of eight (8) inch diameter at breast height (D.B.H.) or greater on a site, as determined by the Planning Commission, shall first notify the City of the intent of such clearing and/or earth change and submit a proposed plan describing the site's features for review and approval by the Planning Commission.

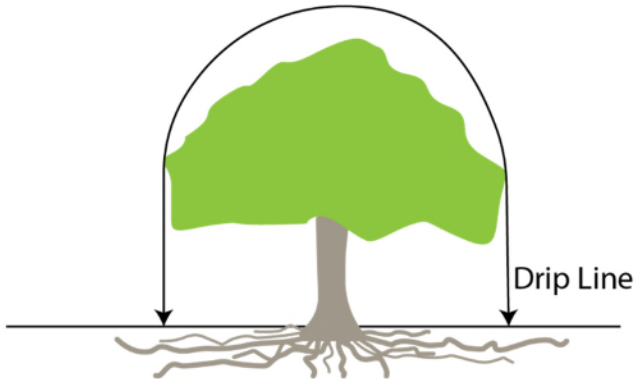
This sub-section shall not prevent tree clearing for approved building envelopes, swimming pools, decks, essential services, utility lines or construction drives; nor shall

this ordinance prohibit site alterations for farming purposes. The Planning Commission may waive the DBH standard for selective clearing of lower quality and non-native species including, but not limited to box elders, poplars, willows, and cottonwoods.

SECTION 12.10 LANDSCAPE ELEMENTS

- A. **Quality.** Plant materials must be of generally acceptable varieties and species, free from insects and diseases, hardy to this county, conform to the current minimum standards of the American Association of Nurserymen, and must have proof of any required governmental regulations and/or inspections.
- B. **Composition.** A mixture of plant material, such as evergreen and deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly-appearing arrangement. Native and/or drought-tolerant species, suitable to the climate of the City, are encouraged, as are salt-tolerant species adjacent to roads, sidewalks, driveways, or parking lots. High-maintenance plants, if necessary, should be limited to small areas.
- C. **Berms.** Berms must be constructed with slopes not to exceed a one to three (1:3) gradient. Berm slopes must be protected with sod, seed, or other form of natural ground cover. Utility lines and structures must be shown on the landscape plan.
- D. **Coordination with Utilities.** Provision must be made to coordinate landscaping with existing and proposed underground and overhead utility lines that avoid interference with plant growth.
- E. **Credit for Existing Vegetation.** The preservation and incorporation of existing trees and shrubs is encouraged. The Planning Commission, or the Community Development Director for administrative site plans, may allow existing shrubs and trees to satisfy the requirements of this section if all of the following requirements apply:
 - 1. Paving or other impervious site improvements do not encroach upon the drip line of the existing tree(s) to be preserved.
 - 2. If existing plant material is labeled "To Remain" on site plans by the applicant or required by the City, protective techniques must be installed during construction. No vehicle or other construction equipment may be parked or

stored within the drip line of any plant material intended to be saved.



3. The shrubs and/or trees are in good health. In the event that healthy shrubs or trees that are used to meet the minimum requirements of this Article or those labeled to remain are cut down, destroyed, damaged, or excavated at the drip line, as determined by the City, the applicant must replace them with trees which meet Article requirements.
4. The trees or shrubs proposed for credit are not a species that is invasive, brittle, susceptible to disease and insects, has a root structure that will interfere with underground utilities, drop excessive litter, or other undesirable characteristics. Species ineligible for credit are listed in Section 12.11-G.
5. The shrubs and/or trees meet the following minimum sizes and may receive credit in lieu of new plantings based on size shown in the table below:

Table 12.10A

Plant Material	Minimum Size	Size	Credit
Trees	2.5" in caliper	2.5" – 8"	1
		8" – 12"	2
		12" – 20"	3
		Over 20"	5
Shrubs	24" in height	All sizes	1

- F. **Prohibited materials.** The plant materials listed in Section 130-39 are specifically prohibited for use in any plan considered under provisions of these regulations. Look
- G. Installation, maintenance, and completion.

1. All landscaping required by this section must be planted before obtaining a certificate of occupancy or the appropriate financial guarantee such as cash, letter of credit, and/or certified check must be placed in escrow in the amount of the cost of landscaping to be released only after landscaping is completed.

2. All landscaping and landscape elements must be planted, and earth moving, or grading performed, in a sound workmanlike manner, according to accepted planting and grading procedures. All unpaved portions of the site must be planted with grass, ground cover or other suitable living plant material which must extend to the edge of any abutting street pavement edge. Grass areas in the front yard of all nonresidential uses must be planted with sod.

3. Landscaping required by this section must be maintained in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material must be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first. The Community Development Director may allow a minor change in the replacement landscaping. All landscaped areas must be provided with a readily available and acceptable watering system that provides water to plant materials on a regularly scheduled basis. The watering system must be separately metered unless otherwise approved by the City.

SECTION 12.11 MINIMUM SIZE AND SPACING REQUIREMENTS

Where landscaping is required, the following minimum size and spacing requirements for representative landscape materials must be applicable, unless otherwise specified in this section. Where caliper of a tree is referenced, it must be measured at diameter breast height (DBH), which is the diameter of the tree at four and a half (4 ½) feet above the ground.

Table 12.11 Minimum Size and Spacing Requirements		
	<i>Minimum Size Allowable</i>	<i>Recommended On-Center Spacing (in feet)</i>
	<i>Height/Caliper (DBH)</i>	

<i>Trees</i>	<i>6'</i>	<i>3' - 4'</i>	<i>2"</i>	<i>2.5"</i>	<i>30</i>	<i>25</i>	<i>15</i>	<i>10</i>	
Evergreen Trees, such as Fir, Spruce, Pine & Hemlock	.						.		
Narrow Evergreen Trees, such as Red Cedar, Arborvitae, and Juniper (selected varieties)		.						.	
Large Deciduous Trees, such as Oak, Maple, Beech, Linden, Ginko (male only), Honeylocust (seedless & thornless), Birch, and Sycamore				.	.				
Small Ornamental Deciduous Trees, such as Flowering Dogwood, Cherry, Plum, Pear, Crabapple, Redbud, Magnolia, and Hornbeam			.				.		
	<i>Minimum Size Allowable</i>				<i>Recommended On-Center Spacing (in feet)</i>				
	<i>Height</i>								
<i>Shrubs</i>	<i>6'</i>	<i>3' - 4'</i>	<i>24" - 36"</i>	<i>18" - 24"</i>	<i>10</i>	<i>6</i>	<i>5</i>	<i>4</i>	<i>3</i>
Large Evergreen Shrubs (upright), such as Pyramidal or Hicks Yew, Alberta Spruce, Chinese Juniper, Savin Juniper, and Mugho Pine		.					.		
Large Evergreen Shrubs (spreading), such as Spreading Yews or Junipers			.				.		
Small Evergreen Shrubs (upright), such as Brown's or Ward's, or Yews, and Boxwood				.			.		
Small Evergreen Shrubs (spreading), such as horizontal Juniper varieties or spreading Euonymous varieties				.			.		
Large Deciduous Shrubs, such as Lilac, Sumac, Weigela, Dogwood (Red Osier and Grey), and Viburnum varieties			.			.			
Small Deciduous Shrubs, such as Spirea, Fragrant Sumac, Japanese Quince, Cotoneaster, and Potentilla				.					.

SECTION 12.12 ACCESSORY STORMWATER CONTROL FEATURES

The integration of stormwater retention and detention ponds in the overall landscape concept is recommended. Naturalized stormwater management features that are integrated in a cohesive and logical manner to take advantage of site topography, orientation, and visibility should be utilized. Ponds with a natural, rather than square or rectangular, design and appearance are encouraged. Only seed mixes and native plants may be used to vegetate retention and detention ponds. The following Low Impact Development (LID) principles for stormwater management are recommended for incorporation into landscape design:

- A. **Swales.** Biofiltration swales are permitted in all districts.
- B. **Pervious paving.** Pervious paving is permitted in all districts, subject to adopted engineering standards.
- C. **Rain gardens.** Rain gardens installed accessory to one- or two-family uses in the R-1A/R-1B, R-1C/R-1D, and R-2 districts do not require engineering review.
- D. **Rain barrels or cisterns.** Rain barrels or cisterns are permitted in all districts. Underground cisterns or rain barrels are subject to engineering review and constructed in accordance with the State Building Code. Aboveground rain barrel or cistern systems in excess of 250 gallons must conform to the accessory building standards in place for those building types and be subject to engineering review and constructed in accordance with the Building Code.
- E. **Vegetated roofs.** Vegetated roof systems are permitted in all districts in accordance with the Building Code.
- F. **Other methods.** Other methods of onsite stormwater control may be submitted to the Community Development Director and, at their discretion, may be approved, approved subject to another City department(s) review, approved subject to Planning Commission review, or denied.
- G. The plant material required by this section may be used to meet plant material quantity and placement requirements of this Chapter, provided that Planning Commission or other approving body finds that the intent of this Chapter is met.

SECTION 12.13 WAIVER OR MODIFICATION OF STANDARDS FOR SPECIAL SITUATIONS

The Planning Commission or Zoning Administrator, when administrative review is allowed under Section 14.04, may determine if existing landscaping or screening intended to be preserved, or a different landscape design, would provide all or part of the required landscaping and screening. In making a determination to waive or reduce the landscape and screening requirements of this Article, the following may be considered.

- A. Extent to which existing natural vegetation provides desired screening.
- B. The existence of a steep change in topography which would limit the benefits of required landscaping.
- C. Existing and proposed building placement.
- D. The abutting or adjacent land is developed or planned by the City for a use other than residential.
- E. Building heights and views.
- F. Conditions similar to the above exist such that no good purpose would be served by providing the landscaping or screening required.

SECTION 12.14 TREE PROTECTION DURING CONSTRUCTION

Protected trees shall be preserved to the greatest extent practicable through the use of site development techniques in Section 130-44 (d) Tree Protection Measures of the City Code of Ordinances.

Article 11

SIGN REGULATIONS

Section 11.01 INTENT

- A. The intent of this Article is to regulate the location, size, construction, and manner of display of signs and outdoor advertising in order to minimize their harmful effects on public health, safety and welfare. While this Article recognizes that signs and outdoor advertising are necessary to satisfy the needs of sign users for adequate identification and communication, failure to regulate them may lead to poor identification of individual businesses, deterioration and blight of the business and residential areas of the City, conflicts between different types of land use, reduction in traffic safety to pedestrians and motorists, and other impacts that are contrary to the purposes, intent, and interests identified in this section.
- B. The following municipal interests are considered by the City to be compelling government interests. Each interest is intended to be achieved under this Article in a manner that represents the least restrictive means of accomplishing the stated interest, and in all events is intended to promote an important government interest that would not be effectively achieved absent the regulations in this Article. Regulating the location, size, construction, and manner of display of signage in the most narrowly tailored manner represents the least restrictive means of addressing the targeted government interests of avoiding unsafe and nuisance-like conditions while maintaining and improving pedestrian and vehicular safety and efficiency; character and quality of life; economic development and property values; property identification for emergency response and wayfinding purposes; and unique character of areas of the City.
1. **Public Safety.** Maintaining pedestrian and vehicular safety are predominant and compelling government interests throughout the City, with particular emphasis on the safety of pedestrians. The sidewalk network provides facilities for pedestrians situated between vehicular roads and private properties throughout the City.

Since most signage on the private properties is intended and designed to attract the attention of operators of motor vehicles, thereby creating distractions that can jeopardize traffic and pedestrian safety, this ordinance is intended to regulate signs so as to reduce such distractions and, in turn, reduce the risk of crashes, property damage, injuries, and fatalities, particularly considering the rate of speed at which the vehicles are traveling in the districts identified in this article.

This Article is also intended to protect public safety by requiring signs that are poorly maintained and/or structurally unsafe to be repaired or removed to protect against fallen signs or deteriorating sign debris from entering improved roadways and sidewalks causing dangerous conditions for all modes of transportation, including pedestrians.

- a. The City encourages signage that will inform motorists and pedestrians of their desired destinations without conflicting with other structures and improvements. These interests are legitimately supported by limiting the maximum size of signage, providing setbacks, and specifying minimum-sized characters for efficient perception by motorists and pedestrians, while minimizing distractions that could put pedestrians at risk.
- b. In some circumstances, adjusting the size, setback, and other regulations applicable to signage may be important to avoid confusion and promote clarity where vehicular speeds vary on commercial/business thoroughfares.
- c. In multi-tenant buildings and centers, it is compelling and important to provide distinct treatment with a gradation of regulation for individual identification depending on base sign size, amount of road frontage, and the like, all intending to provide clarity to alleviate confusion and thus additional traffic maneuvers, provide a minimum size of characters to allow identification, and maintain maximum-sized overall signage to prevent line-of-sight issues.

- d. Maximum size and minimum setback of signage is compelling and important to maintain clear views for both traffic and pedestrian purposes.
2. ***Character and Quality of Life.*** Achieving and maintaining attractive, orderly, and desirable places to conduct business, celebrate civic events, entertain people, and provide for housing opportunities is directly related to the stability of property values needed to provide and finance quality public services and facilities within the City. This Article intends to allow signs that are of sufficient, but not excessive, size to perform their intended function as necessary to provide and maintain the City's character and support neighborhood stability. Signs that contribute to the visual clutter, contribute to the potential conflict between vehicular and pedestrian traffic, and distract from scenic resources and views, will be prohibited in efforts to preserve the character, aesthetic qualities and unique experience within the City. It is also the intent of this Article that signs will reflect the character of unique districts as may be established by the City's Master Plan, other adopted plans, the Zoning Article, or this Article.
3. ***Economic Development and Property Values.*** The establishment of the restrictions in this Article has a direct relationship to creating stability and predictability, allowing each private interest to secure reasonable exposure of signage, and thus promoting business success. The application of the restrictions in this Article allows businesses to reasonably command attention to the content and substance of their messages while concurrently allowing the promotion of other visual assets, including (without limitation) landscaping and architecture, all of which contribute to economic development and property value enhancement.
4. ***Avoidance of Nuisance-Like Conditions.*** Due to the concentration of people and activities, there is a potential for, and it is a compelling interest to avoid, blight, physical clutter, and visual clutter in the City. The result of these conditions leads to diminished property values, reduced attractiveness of the community, and reduced quality of life within the districts. Minimum regulations that substantially relate to

signage are important and necessary for the maintenance and well-being of positive conditions, good character and quality of life in the City. Ultimately, these regulations are compelling and important for the protection of all police power values.

- a. An excessive number of signs in one location creates visual blight and clutter, as well as confusion for the public. Thus, limiting the number of signs on properties, establishing setbacks from property lines, and requiring reasonable spacing between signs are compelling interests that can be directed with minimum regulation.
 - b. Signs that are too large can lead to confusion, undermine the purposes of the signs, and ultimately lead to physical and visual clutter. Establishing maximum sizes can be the subject of clear and effective regulations that address this compelling and important interest.
 - c. Requiring maintenance specifications for signs can minimize the creation of blight and clutter due to the deterioration of signs that are not durable or otherwise well-constructed, and such regulations would be consistent with construction codes for other structures.
 - d. There is a compelling governmental interest that signs avoid glare, light trespass, safety issues, and skyglow. The selection of proper fixture type(s) and location, use of supportive lighting technology, and control of light levels in a reasonable fashion is consistent with regulations that are narrowly tailored to achieve the City's interests.
5. ***Property Identification for Emergency Response and Wayfinding Purposes.*** Locating a business or residence by police, fire, and other emergency responders can be a matter of life and death, and thus it is a compelling interest to ensure that proper, understandable, unambiguous, and coordinated signage be permitted and required, and specifications for such purposes can be accomplished in a simple and narrow manner, as required by Chapter 106, Article V

Numbering of Buildings of the City of Berkley's Code of Ordinances. Wayfinding for vehicular and pedestrian purposes is also a compelling interest to avoid confusion in public rights-of-way, and unnecessary intrusions on private property. Sign specifications for such wayfinding can be coordinated with property identification for such emergencies and other purposes.

6. ***Maintaining Unique Character of Areas of the City.*** Acknowledge the unique character of certain areas and districts, and establish special time, place and manner regulations that reflect the unique aesthetic, historical, and/or cultural characteristics of these areas/districts.

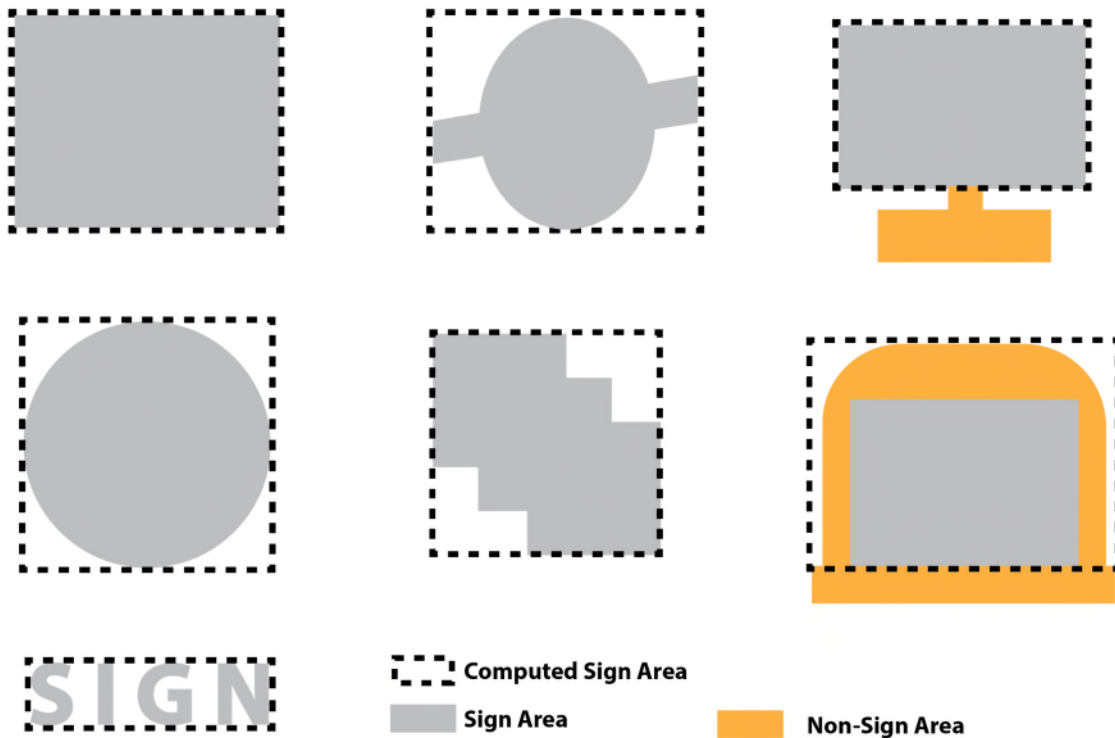
7. ***Protection of the Right to Receive and Convey Messages.*** The important governmental interests and regulations contained in this Article are not intended to target the content of messages to be displayed on signs, but instead seek to achieve *non-speech* objectives. In no respect do the regulations of signage prohibit a property owner or occupant from an effective means of conveying the desired message. Nothing in this Article is intended to prohibit the right to convey and receive messages, specifically noncommercial messages such as religious, political, economic, social, philosophical, or other types of speech protected by the First Amendment of the United States Constitution.

Section 11.02 SIGN COMPUTATION

- A. ***Sign area.*** The area of a sign face must be considered the smallest square, circle, rectangle, triangle, or combination of these that encompass the extreme limits of the writing, representation, emblem, or other display that forms an integral part of the background of the sign. The sign face must not include any supporting framework. In the case of awning signs, all three sides of the awning must be considered one sign face.

- B. ***Height.*** The height of a sign must be computed as the distance from the base of the sign at ground level to the top of the highest attached

component of the sign. Any berm or grading at the base of the sign will be included in the height, taking the measurement from the base of the berm or grading.



Section 11.03 EXEMPT SIGNS

- A. The following signs are permitted in all districts and are generally exempt from the regulations of this Article.
1. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance.
 2. Any sign inside a building that is not attached to a window or door and is not legible from a distance of more than three feet beyond the building where such sign is located.
 3. Signs mounted to a wall, mailbox, or lamppost not exceeding two (2) square feet in size, located on single family residential lots only.
 4. Flags.

- B. The following signs are permitted in non-residential districts and are generally exempt from the regulations of the Article from which this chapter was derived.
1. Banners, not exceeding six square feet, one per location.
 2. Barber poles, not exceeding 12 inches in diameter and eight feet in height.
 3. Fuel pumps.
 4. Vehicle signs.
 5. Window signs, not exceeding twenty-five (25) percent of glass.

Section 11.04 PROHIBITED SIGNS

All signs not expressly permitted under this Article, or exempt from regulation in accordance with Section 10.03 are prohibited. Prohibited signs must include, but not be limited to:

- A. Off-premises advertising signs.
- B. Animated signs.
- C. Electronic messaging signs.
- D. Blade signs.
- E. Beacons.
- F. Pennants.
- G. Signs that mimic official traffic control signs and devices.
- H. Illuminated signs that shine light directly onto traffic or that shine directly onto adjacent property.
- I. Illuminated signs that have blank sign faces.
- J. Sign support structures that do not or no longer support a sign or sign face.
- K. Any sign unlawfully installed, erected, or maintained.
- L. Signs installed in the public right-of-way without a permit on streets within the jurisdiction of the City of Berkeley.

Section 11.05 GENERAL STANDARDS

- A. **Safety.** All signs must meet the following requirements:
1. All signs must be erected and maintained in compliance with all applicable state construction codes, and other applicable ordinances governing construction within the City. In the event of conflict between this Article and other laws, the most restrictive must govern.
 2. All signs must be placed so as to not interfere with the visibility or effectiveness of any official traffic sign or signal; driver vision at any access point or intersection; or pedestrian movement on any public sidewalk. No signs must be erected or maintained which imitate, or may be confused with or construed as, an official traffic sign, signal or device, in size, color, lettering, or design any traffic sign or signal or other word, phrase, symbol, or character in such manner as to interfere with, mislead, confuse or create a visual impediment or safety hazard to pedestrian or vehicular traffic.
 3. No sign must be established or maintained on any parcel that will cause a traffic hazard by obstructing the view of drivers. Signage must also comply with the requirements of the Road Commission for Oakland County and Michigan Department of Transportation. No sign must be located within, project into or overhang a public right-of-way, except as otherwise permitted herein.
 4. No sign must be erected, relocated, or maintained so as to obstruct fire fighting or prevent free access to any door, window, or fire escape.
 5. Within all non-residential zoning districts, the street address must be displayed in a manner that complies with Chapter 106, Article V Numbering of Buildings of the City of Berkley's Code of Ordinances. Up to four (4) square feet of the area devoted to the street address may be excluded from the allowable sign area.
- B. **Framework.** All signs must be designed so that the supporting framework, other than the supporting poles on a freestanding sign, is contained within or behind the face of the sign or within the building to which it is attached so as to be totally screened from view.

- C. Illumination.** All signs which have illumination must meet the following standards:
1. **General Requirements.** If illumination is proposed, signs must be illuminated only by steady, stationary, shielded electrical light sources directed solely at the sign, or internal to it. All external lighting fixtures used to illuminate a sign must be shielded to direct light towards the sign. All illuminated signs must comply with the current National Electric Code requirements.
 2. **Traffic Hazards.** Sign illumination that could distract motorists or otherwise create a traffic hazard must be prohibited.
 3. **Facing Residential Side Streets.** Illuminated signs facing residential side streets must be turned off completely at 10:00 p.m. or close of business, whichever is later.
 4. The illumination of all signs must not exceed 0.3 footcandles above ambient light levels based on illumination measurement criteria set forth in Table 10.05.

Table 10.05	
Sign Area Versus Light Measurement Distance	
Area of Sign (Sq. ft.)	Light Measurement Distance (ft.)
10	32
15	39
20	45
25	50
30	55
35	59
40	63
45	67
50	71
*For signs with an area in square feet other than those specifically listed in this table (e.g., 12 sq. Ft., 400 sq. Ft., etc.), the measurement distance may be calculated with the following formula: Measurement Distance = $\sqrt{\text{Area of Sign Sq. Ft.} \times 100}$	

Section 11.06 PERMITTED SIGNS

Table 10.07 below indicates the zoning district or corridor where certain sign types are permitted. Regulations for specific sign types are in sections 10.08, 10.09, and 10.10.

Table 10.07							
District/ Corridor	Awning	Monument	Pole/Pylon	Projecting	Roof	Wall	Portable
R-1 LL & SL		Permitted				Permitted	
R-2		Permitted				Permitted	
R-M & R-M-H	Permitted	Permitted		Permitted		Permitted	
Community Centerpiece		Permitted				Permitted	
RC: <i>Greenfield</i>	Permitted	Permitted		Permitted		Permitted	Permitted
RC: <i>11 Mile</i>	Permitted	Permitted		Permitted		Permitted	Permitted
Downtown	Permitted	Permitted		Permitted		Permitted	Permitted
Woodward	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted
Gateway Corridor	Permitted	Permitted		Permitted	Permitted	Permitted	Permitted
Flex	Permitted	Permitted		Permitted		Permitted	Permitted
Cemetery	Permitted	Permitted				Permitted	

Section 11.07 PERMANENT SIGNS

Permanent signs are to be designated as either freestanding signs or building mounted signs. Freestanding signs include monument signs, pole signs, and pylon signs.

- A. All permanent freestanding signs must comply with the following regulations.

Table 10.08 A				
Regulations for freestanding signs by zoning district or corridor				
District/ Corridor	Minimum Setback (ft)	Maximum Height (ft)	Maximum Area Per Side (sq. ft.)	Number of permitted signs per business, per street frontage
R-1 LL & SL	3	3.5	15	1

Table 10.08 A				
Regulations for freestanding signs by zoning district or corridor				
District/Corridor	Minimum Setback (ft)	Maximum Height (ft)	Maximum Area Per Side (sq. ft.)	Number of permitted signs per business, per street frontage
R-2	3	3.5	15	1
R-M & R-M-H	3	7	40	1
Community Centerpiece	3	7	50	1
RC: <i>Greenfield</i>	3	7	15	1
RC: <i>11 Mile</i>		7	40	1
Downtown	3	7 ft	40	1 None if the lot is less than 50' in width or the building is less than 10' from the ROW
Gateway Corridor	3	7 ft	40	1 None if the lot is less than 50' in width or the building is less than 10' from the ROW
Woodward	3	20 ft for pole signs, 7 ft for monument	50	1
Flex	3	7 ft	40	1
Cemetery	3	7 ft	50	1

- B. Building mounted signs include awning signs, projecting signs, roof signs, and wall signs. All permanent building mounted signs must comply with the following regulations.

Table 10.08 B			
Regulations for building mounted signs by zoning district or corridor			
District/Corridor	Maximum Area (sq. ft.)	Number of permitted signs per business per frontage	Additional regulations
R-1 LL & SL	6 sq. ft.	1	Projecting and awning signs vertical clearance from ground level: 8 ft
R-2	6 sq. ft.	1	
R-M & R-M-H	10% of adjoining wall up to 100 sq. ft.	1	

Table 10.08 B			
Regulations for building mounted signs by zoning district or corridor			
District/ Corridor	Maximum Area (sq. ft.)	Number of permitted signs per business per frontage	Additional regulations
Community Centerpiece	10% of adjoining wall up to 100 sq. ft.	1	Projecting and awning signs max projection into ROW: 5 ft Roof sign max height: no higher than highest point of roof structure Signs may not obscure windows, molding or other architectural details
RC: Greenfield	10% of adjoining wall up to 100 sq. ft.	1	
RC: 11 Mile	10% of adjoining wall up to 100 sq. ft.	1	
Downtown	10% of adjoining wall up to 100 sq. ft.	1	
Gateway	10% of adjoining wall up to 100 sq. ft.	1	
Woodward	10% of adjoining wall up to 100 sq. ft.	1	
Flex	10% of adjoining wall up to 100 sq. ft.	1	
Cemetery	50 sq. ft.	1	

Section 11.08 TEMPORARY AND PORTABLE SIGNS

A. Temporary Signs in Non-Residential Districts.

1. All temporary signs in non-residential districts are subject to the regulations in Table 10.09A below:

Table 10.09A			
Type of Sign	Ground	Banner	Portable
Maximum Number per Business	1	1	1
Maximum Height	6 ft	6 ft, if ground mounted Height of building facing the street on which the sign is located if wall- mounted	3.5 ft
Maximum Sign Area (per side)	20 sq. ft.	20 sq. ft.	6 sq. ft.

Table 10.09A			
Type of Sign	Ground	Banner	Portable
Minimum Setback from R-O-W	5 ft	5 ft, 0 ft. if wall-mounted	See item 2
Illumination Allowed	No	No	No
Permit Needed	No	No	No

2. Requirements for Portable Signs: Portable signs may be allowed when the following standards are met:

- a. Signs are placed at public entrances to businesses, on either private property or the public sidewalk. For businesses with front and rear customer entrances, or frontages on two streets, one portable sign may be permitted at the second entrance.
- b. No sign must be placed within a distance of ten (10) feet from any fire hydrant, or twenty-five (25) feet from any intersection.
- c. The sign must be placed at least five feet from the curb. A clear path of five (5) feet of pedestrian passage must be maintained at all times.
- d. Each sign must be placed outside only during the hours when the business is open to the general public and must be stored indoors at all other times.
- e. Portable signs on wheels are prohibited.
- f. Portable signs that are chained or otherwise secured to a building, bench, pole, or other permanent structure or furnishing are prohibited.

B. Temporary Signs in Residential Districts. All temporary signs in residential districts are subject to the regulations in Table 10.09B below:

Table 10.09B		
Land Use	Single Family & Two Family Homes	Non-Residential Uses
Type(s) Allowed	Ground	Ground or banner
Maximum Number per Parcel	4	1
Maximum Height	4 feet	
Maximum Sign Area	6 sq. ft. R-1 & R-2 10 sq. ft. R-M and R-M-H	25 sq. ft. for banners, 16 sq. ft. for ground signs
Minimum Setback	5 ft from all property lines	
Illumination Allowed	No	No
Permit Needed	No	Yes, if over 6 sq. ft.

C. Standards for All Temporary Signs.

1. Temporary signs must be constructed of durable, all-weather materials and designed to remain in place and in good repair so long as they remain on display.
2. For promotional events with a permit from the City, display of temporary banners and temporary signs mounted on building walls (temporary wall signs) are allowed for up to two (2) continuous periods no greater than fourteen (14) days in a calendar year.
3. During the sixty (60) days prior and ten (10) days after an election, the maximum permitted temporary sign area increases to an additional six (6) square feet in the R-1 and R-2 districts and an additional ten (10) square feet in the R-M and R-M-H districts.

Section 11.09 DESIGN, CONSTRUCTION, AND MAINTENANCE REQUIREMENTS

- A. **Location.** Building mounted signs must not obscure windows, moldings, or other architectural details of a building.

- B. **Character.** Signs must be designed to be subordinate to the overall building composition and feature simple design character. A sign's lettering should be easy to read. Contrasting and/or complementary colors should be utilized to increase a sign's readability.
- C. **Materials.** Sign materials should be compatible with a building façade. Permanent durable materials are preferred, including glass, plastic with a matte finish, wood, metal, fabric, stone, or concrete. Highly reflective materials should be avoided.
- D. Building mounted signs for businesses in the Downtown and Gateway Zoning Districts that share the same building should be aligned with one another.

Section 11.10 NONCONFORMING SIGNS

All nonconforming signs or their support structures:

- A. Must not be replaced by another nonconforming sign;
- B. Must not be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type, or design of the sign;
- C. Must not be reestablished after the activity, business, or usage to which it relates has been discontinued for ninety (90) days or longer;
- D. Must not be reestablished after damage or destruction if the estimated expense of reconstruction exceeds thirty-five (35) percent of the appraised replacement cost.
- E. The words or symbols used, or the message displayed on a nonconforming sign, or its support structure may be replaced as long as the nonconformity is not increased.

Add permit section here or treat as a zoning permit? In zoning administration with a cross reference.

Article 10

SPECIAL LAND USES

Section 10.01 INTENT

This Article provides a set of procedures and standards for special uses of land or structures, which, because of their unique characteristics, require special consideration in relation to their location and compatibility with adjacent properties, other permitted uses, and the City of Berkeley as a whole.

The regulations and standards, herein, allow the Planning Commission to determine the appropriateness of a given special land use in relationship to its: location; design; size; intensity; impact on traffic, public services, utilities, and effect on natural features and resources. This Article also authorizes the Planning Commission to impose reasonable conditions on a special land use that are necessary to ensure the protection of public health, safety, convenience, and general welfare of the community.

Section 10.02 PROCEDURES

- A. **Applicant.** An applicant must be the owner of the land, an agent of the owner, or a person having an interest in the land for which the special land use approval is sought.
- B. Application.
 1. If the proposed special use involves the construction of a new building, construction of additional parking, or other substantial renovations to an existing building that requires an architect's or engineer's seal, site plan approval shall also be required as set forth in Article 14, Site Plan Review. The site plan review application must be applied for concurrently with the submittal of the special land use application. The site plan review application will be reviewed by the Planning Commission once the special land use is approved. All application forms must be supplied by the City of Berkeley.

2. If the proposed special use will utilize an existing building, without the need for substantial renovations, then no additional site plan submittal shall be required. However, a legible sketch plan illustrating the proposed activity and a narrative describing the proposed use and how it meets the standards outlined in Section 15.03 of this Ordinance shall be required.
 3. Any additional information that is necessary for the City to complete the review. Additional information the Zoning Administrator or Planning Commission finds necessary and may include but is not limited to natural features, stormwater management, surrounding land uses, public facilities/services, public utilities, and traffic.
- C. **Public Hearing.** Upon initiation of a Special Land Use review, Zoning Ordinance text amendment, Regulating Plan amendment, or Master Plan amendment, a public hearing on the proposed special land use must be scheduled before the Planning Commission. Notice of the hearing must be given in accordance with the provisions of Section 3.10, Public Notice Requirements.
- D. **Planning Commission Review and Recommendation.** Following the public hearing, the Planning Commission must identify and evaluate all factors relevant to the petition and report its findings and recommendations to the City Council. The Planning Commission may recommend approval, approval subject to conditions, or denial of a proposed special land use as follows:
1. **Approval.** The Planning Commission may recommend approval of the special land use if it is determined to be consistent with the standards and requirements of Section 10.03 of this Ordinance.
 2. **Conditional Approval.** The Planning Commission may recommend approval the proposed special land use subject to conditions, as set forth in Section 15.04 of this Ordinance.
 3. **Denial.** The Planning Commission must recommend the denial of an application if the special land use does not comply with all of the standards and requirements of this Ordinance or any provisions specific to the Zoning District that the proposed use is permitted by right.

4. **Table.** The application may be tabled if it is determined to be incomplete, if the applicant has not fully responded to the deficiencies identified in the review, or if the Planning Commission determines more time is needed to fully evaluate the special land use request. The application will be tentatively rescheduled for a future meeting date.
- E. **City Council Review and Action.** Following receipt of the findings and recommendation of the Planning Commission, the City Council must consider the proposed Special Land Use. A public hearing on the proposed special land use must be scheduled before the City Council.
- F. **Notice of Adoption.** Following the approval of a special land use, a notice will be published in accordance with the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, MCL 125.3101 *et seq.*, as amended.

Section 10.03 STANDARDS FOR SPECIAL LAND USES

The Planning Commission must consider the following general standards and any standards established for a specific use when reviewing a special use request.

- A. **Compatibility with Adjacent Uses.** The Special Land Use must be designed and constructed in a manner harmonious with the character of adjacent properties and the surrounding area, as compared to the impacts of permitted uses.
- B. **Compatibility with the Master Plan.** The proposed Special Land Use must be compatible and in accordance with the goals and objectives of the City of Berkley Master Plan and any associated sub-area and corridor plans, including the Downtown Master Plan.
- C. **Traffic Impact.** The proposed Special Land Use must be located and designed in a manner that will minimize the impact of traffic, taking into consideration the following:
 1. Pedestrian access and safety,
 2. Vehicle trip generation,
 3. Types of traffic,

4. Access location and design,
5. Circulation,
6. Parking design,
7. Street and bridge capacity, and
8. Traffic operations at nearby intersections and access points.

Efforts must be made to ensure that multiple transportation modes are safely and effectively accommodated in an effort to provide alternate modes of access and alleviate vehicular traffic congestion.

- D. ***Impact on Public Services.*** The proposed Special Land Use must be adequately served by essential public facilities and services, such as streets, pedestrian or bicycle facilities, police and fire protection, drainage systems refuse disposal, water and sewage facilities, and schools. Such services must be provided and accommodated without an unreasonable public burden.
- E. ***Compliance with Zoning Ordinance Standards.*** The proposed Special Land Use must be designed, constructed, operated, and maintained to meet the stated intent of the zoning districts and must comply with all applicable ordinance standards.
- F. ***Impact on the Overall Environment.*** The proposed Special Land Use must not unreasonably impact the quality of natural features and the environment in comparison to the impacts associated with typical permitted uses.
- G. ***Special Land Use Approval Specific Requirements.*** The general standards and requirements of this Section are basic to all uses authorized by Special Use Approval. The specific and detailed requirements relating to particular uses and area requirements must also be satisfied for those uses.
- H. The following factors will also be considered by the Planning Commission when reviewing a Special Land Use request.
 1. The nature and character of the activities, processes, materials, equipment, or conditions or operation, either specifically or typically associated with the use.

2. Vehicular circulation and parking areas.
3. Outdoor activity, storage, and work areas.
4. Hours of operation.
5. Production of traffic, noise vibration, smoke, fumes, odors, dust, glare, and light.

Section 10.04 CONDITIONS OF APPROVAL

- A. **Authority.** The City Council and Planning Commission, in their review of a request for Special Land Use approval, may at its discretion impose additional conditions when it is determined that such increases in standards or additional conditions are required to achieve or assure compatibility with adjacent uses and/or structures or to implement the Master Plan.
- B. **Scope.** Conditions that are imposed by must:
 1. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole;
 2. Be related to the valid exercise of the police power and purposes that are affected by the proposed use or activity;
 3. Be necessary to meet the intent and purpose of this section;
 4. Be related to the standards established in this section for the land use or activity under consideration; and
 5. Be necessary to ensure compliance with those standards.
- C. The conditions imposed with respect to the approval of a land use or activity must be written in the record of the approval action and must remain unchanged except upon the mutual consent of the approving authority and the landowner. The City must maintain a record of changes granted under the conditions of initial approval.

- D. In approving a special land use, the City Council may require a performance guarantee per Section 3.09 of this Zoning Ordinance.

Section 10.05 EXTENSIONS, AMENDMENTS, EXPANSIONS, AND CHANGES IN USES

The following provisions apply when there is an amendment or a proposed expansion to an approved Special Land Use or when there is a proposed change from one Special Land Use to another.

- A. **Extensions.** Special land use approval is valid for a period of two (2) years from the date of final action by the City Council within which time all necessary building or construction permits must be secured and substantial construction completed. A single extension may be granted for a period of more than one (1) year. The request for an extension must be made in writing and include a statement of why the extension is necessary, and confirmation of the ability to complete construction in conformity with the special use approval and, if applicable, final site plan as approved.
- B. **Amendments.** Any applicant who has been granted Special Land Use approval must notify the Zoning Administrator of any proposed amendment to the approved site plan. The Zoning Administrator must determine whether a proposed amendment requires new Special Land Use approval.
- C. **Expansions.** An expansion of any use requiring a Special Land Use approval that results in an increase of ten (10) percent or more of the building, parking, paved areas, or site area must require resubmittal in the manner described in this Article. A separate Special Land Use approval must be required for each use requiring Special Land Use Approval on a lot, or for any expansions of a Special Land Use approval.
- D. **Change in Use.** The applicant must be responsible for informing the Zoning Administrator of any change in an approved use, operations, or activities prior to any such change. The Zoning Administrator must determine if a new Special Use approval is required. A significant change must mean any department from the operation or use described in the approved application or any change that may cause external impacts such

as additional traffic, hours of operation, noise, additional outdoor storage, or display.

Section 10.06 INSPECTIONS

The City may make periodic investigations of developments authorized by special land use permits to determine continued compliance with all requirements imposed by the Planning Commission and this ordinance. Noncompliance with the requirements and conditions approved for the special land use shall constitute grounds to terminate said approval following a public hearing.

Section 10.07 REVOCATION

The revocation of a special land use may occur if its recipient fails to abide by its terms, conditions, or development agreement. The revocation procedure is as follows:

- A. If the City receives credible information that the special land use permit or conditions of approval have been violated, the Zoning Administrator shall prepare a report in writing specifying (i) the specific factual details of such violation(s); and (ii) any other information or recommendation relevant to a proper determination by the Planning Commission or the City Council, whichever approved the special land use permit, as to the nature of such violation(s) and the appropriate action to be taken by the City.
- B. The Zoning Administrator, after the investigation and based on the facts discovered, shall determine if the case goes forward. If the case does not go forward, the Zoning Administrator shall give the approving body a written report as to why that determination was made. If the case goes forward, the process in subsections C-H below shall be followed.
- C. The Zoning Administrator shall file the original report prepared under subsection 1 above with the City Council/Planning Commission and serve a copy of such report upon the owner of the property for which the special land use permit was granted or its authorized agent or employee, personally or by registered mail.

- D. Within thirty (30) days from the date such report has been filed with the City Council/Planning Commission, the Clerk/Zoning Administrator shall set a date for a hearing before the City Council/Planning Commission on the alleged violation(s) for a determination by the City Council/Planning Commission as to whether or not the City Council/Planning Commission shall revoke the special land use permit. Notice of this hearing shall be served by the City Clerk/Zoning Administrator upon the owner of the property for which the special land use permit was granted or its authorized agent or employee, personally or by registered mail, not less than ten (10) days before the scheduled hearing date, and such notice shall contain the following:
1. Notice of proposed action;
 2. Reason for the proposed action;
 3. Date, time, and place of hearing;
 4. A statement that the property owner may present evidence and testimony and confront adverse witnesses;
 5. A statement that the property owner has the right to be represented by legal counsel at the hearing.
- E. At all such hearings, the property owner shall have the legal right to defend against the allegations made by way of confronting any adverse witnesses, by being allowed to present live witnesses in its own behalf, by being allowed to present other evidence in its own behalf, and by being allowed to present arguments personally or through legal counsel in its own behalf.
- F. The City Council/Planning Commission shall prepare a written statement of its findings, which may be formal or informal in nature within a reasonable time, not to exceed sixty (60) days, after the conclusion of all such hearings. Such statement of findings may be embodied in a resolution adopted by the City Council.
- G. If the City Council/Planning Commission determines after due notice and proper hearing that competent, material and substantial evidence exists that a violation of the special land use permit and the conditions of approval has been committed by a property owner or that, even if no

violation has been demonstrated, nevertheless the interests of public health, safety, or welfare warrant that the City Council/Planning Commission revoke the special land use permit issued to the property, the City Council/Planning Commission may revoke the special land use permit.

- H. ***Criteria for revocation.*** The City Council/Planning Commission may revoke the special land use permit upon a determination by the City Council or Planning Commission that based upon competent material and substantial evidence presented at the public hearing, any of the following exists:
1. Violation of the special land use permit, any of the conditions of the special land use, and any provisions of a development agreement attached to the special land use permit.
 2. Maintenance of a nuisance upon the premises, including, but not limited to, any of the following:
 - a. Existing violations of building, zoning, health, fire, or regulatory codes.
 - b. A pattern of conduct on the property which violates the terms of the special land use permit.
 - c. A pattern of conduct on the property which creates a public nuisance.
 - d. Perjury or any material misrepresentation of information in any application required or hearing held pertaining to the grant, renewal, or revocation of any license or permit.

Article 13

EXTERIOR LIGHTING STANDARDS

Section 13.01 INTENT

The intent of this section is to provide reasonable regulations to direct the location, design, illumination level, and use of outdoor lighting from both direct and indirect sources to minimize its undesirable effects. Off-street parking and loading areas, driveways, building entryways, walkways, and other outdoor pedestrian ways, and building complexes with common areas need to be sufficiently illuminated to ensure the security and safety of people and property. Lighting standards set forth herein are also intended to:

- A. Provide for and control lighting in outdoor public places where public health, safety, and welfare are potential concerns.
- B. Protect drivers and pedestrians from the glare of non-vehicular light sources.
- C. Protect neighbors, the environment, and the night sky from nuisance glare and light trespass from improperly selected, placed, aimed, applied, maintained, or shielded light sources.
- D. Highlight the distinctive features of a site, such as the building entrance, architectural details, signs, outdoor use areas, or public art.
- E. Promote energy-efficient lighting design and operation.
- F. Protect and retain the visual character of Berkley.

Section 13.02 APPLICABILITY

All outdoor lighting installed after the effective date of the Zoning Ordinance must comply with the requirements of Article 13. This includes, but is not limited to, new lighting equipment, light fixtures, replacement lighting, or any other outdoor lighting whether it is attached to structures, poles, buildings, or any other location.

Section 13.03 STANDARDS FOR EXTERIOR LIGHTING

Lighting from direct sources must be subject to the following standards:

- A. ***Shielding and Light Trespass.*** Lighting must be placed, directed, and shielded to direct the light onto the site and away from adjoining properties with the use of full-cutoff luminaires. Lighting must be shielded so that it does not cause glare for vehicles, bicycles, and pedestrians. Directional luminaires such as floodlights and wall-mounted luminaires must be shielded and aimed so they do not create glare when viewed from neighboring property. The use of floodlights and wall-mounted luminaires to light parking areas must be prohibited unless there is a finding by the Planning Commission that no other acceptable means of lighting is possible. Lighting under canopies must be recessed or full cutoff luminaires aimed straight down.
- B. ***Maximum Illumination Levels.*** Lighting for uses adjacent to residentially zoned or used property must be designed and maintained such that illumination levels do not exceed one-half (0.5) footcandle at ground level along common property lines. Lighting for uses adjacent to nonresidential properties must be designed and maintained such that illumination levels do not exceed one (1.0) footcandles at ground level along common property lines. Maximum light levels must not exceed twenty (20.0) footcandles in any given area measured at ground level.
- C. ***Maximum Height.*** Lights on poles, including the base, shall not be taller than the building whose area they illuminate nor taller than twenty (20) feet, whichever is shorter.
- D. ***Light Color Standard.*** Correlated color temperature of any outdoor light source must not exceed thirty-five hundred (3500) Kelvin and must be specified on the lighting plans set forth in Section 13.03.D.
- E. Lighting Plans.
 - 1. All lighting, including ornamental lighting, must be shown on site plans in sufficient detail to allow determination of the effects of such lighting upon adjacent properties and traffic safety.
 - 2. The lighting plan must include a photometric plan which plots

illuminance in footcandles on a ten (10) feet by ten (10) feet horizontal grid over the entire site up to and including all property boundaries. The lighting plan must include a layout of all proposed and existing luminaires, and a photometric analysis plotted in a manner that demonstrates that Ordinance requirements are met. The lighting plan must also include luminaire details, glare reduction devices, mounting heights, and pole and pole foundation details.

3. Lighting plans must be coordinated with landscape plans to minimize conflict between landscaping and intended light distribution; and

F. ***Reduction of Lighting at Night.*** All outdoor lighting must be reduced to at least fifty (50%) percent of the light level at full illumination one (1) hour after closing. Lighting reductions must not be required under the following circumstances:

1. Where a business operates twenty-four (24) hours.
2. Where lighting is intended to reduce real or perceived risk.
3. Where lighting is intended to discourage intruders, vandals, or burglars, and to protect merchandise and property.

Section 13.04 CONDITIONS OF APPROVAL

Lighting from indirect or reflected sources must be subject to the following standards:

- A. Glare from any process (such as or similar to arc welding or acetylene torch cutting) that emits harmful ultraviolet rays must be performed in such a manner as not to be seen from any point beyond the property line, and so as not to create a public nuisance or hazard along lot lines.
- B. The design and/or screening of the development must minimize to the greatest extent possible that glare from automobile and commercial or industrial vehicle headlights must not be directed into any adjacent property, including residential property.
- C. Exterior doors must be located, operated, and maintained so as to prevent

any glare and light from creating a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses.

Section 13.05 EXEMPTIONS

The following types of lighting are exempt from this Ordinance:

- A. Luminaires used for public roadway illumination.
- B. All temporary emergency lighting needed by the police, fire, or other emergency services, as well as all vehicular luminaires, must be exempt from the requirements of this Article.
- C. Interior lighting within a building that is not visible or does not create glare outside of the building.
- D. Residential lighting fixtures for single-family houses, accessory dwellings, duplexes, and associated accessory buildings that do not produce glare and have a maximum exterior illumination level of fourteen (14.0) footcandles.
- E. Decorative landscape lighting for lawns, gardens, or yards that are within five (5) feet of the ground and have a maximum illumination of fourteen (14.0) footcandles.
- F. Seasonal lighting associated with holidays including, but not limited to Christmas, Hanukkah, Halloween, New Year, or Diwali with individual lamps that have a maximum illumination level of fourteen (14.0) footcandles.
- G. All hazard warning luminaires required by federal regulatory agencies are exempt from the requirements of this article, except that all such luminaires used must be red and must be shown to be as close as possible to the federally required minimum lumen output requirement for the specific task.
- H. Luminaires used primarily for signal illumination may be mounted at any height required to ensure roadway safety, regardless of lumen rating.
- I. Illumination of the American and state flags must be exempt from the requirements of this Ordinance, providing that such lighting does not produce glare on roadways and neighboring residential properties.
- J. Installations existing prior to the enactment of this Ordinance are exempt

from its requirements. However, any changes to an existing lighting system, fixture replacements, or any grandfathered lighting system that is moved must meet these standards.

Section 13.06 PROHIBITED LIGHTING

The following types of outdoor lighting are specifically prohibited.

- A. Lighting that could be confused for a traffic control device.
- B. Lighting that is oriented upward, except as otherwise provided for in this Ordinance.
- C. Searchlights, beacons, and laser source light fixtures.
- D. Lights that blink, flash, move, revolve, flicker, change intensity, or change color.
- E. Any lamp or bulb when not within a luminaire and which is visible from the property boundary line of the parcel on which it is located, except for landscape ornamental lighting.
- F. Lighting inside of an awning when the awning material is translucent.
- G. Building or roof-mounted lighting intended to attract attention to the building and/or use and not strictly designed for security and safety purposes must not be permitted.
- H. Outlining windows with LED or other lighting materials is not permitted in the Downtown or Corridor Districts.