

AN  
ORDINANCE

of the City Council of the City of Berkley, Michigan to Amend Article 2 Definitions, Article 5 Use Based Districts, Article 6 Site Design Based Districts, Article 8 Specific Use Provisions, Article 9 General Provisions, Article 13 Exterior Lighting Standards, Article 14 Off-Street Parking, Loading and Access Standards, Article 15 Site Plan Review Procedures and Requirements and Article 16 Nonconforming Lots, Uses and Structures of Chapter 138 Zoning of the Berkley Code of Ordinances to add definitions for medical office and outdoor service areas and to clarify the definition for carports, to remove egress windows as projections, to match two-family site layout approval processes in the RC district with the approval process for a two-family use, to include regulations for residential street types in the Downtown, Gateway Corridor, Woodward Corridor and Flex districts, to prohibit gun shops within 1,000 feet of a an existing child day center or child group day care home, to clarify setback requirements for accessory structures on corner lots, to prohibit properties from outlining windows and buildings with LED or similar lighting in any district, to provide dimensional requirements for compact car spaces, to clarify that a sketch plan is required for site plan review and to clarify requirements for non-conforming lots in site design-based districts,

THE CITY OF BERKLEY ORDAINS:

**SECTION 1:** Article 2 Definitions of the Berkley City Code is amended to modify the definition of *Carport* under *Accessory building or accessory structure* and to add definitions for *Medical Office* and *Outdoor Service Area*, as follows:

**ARTICLE 2 DEFINITIONS**

**SECTION 2.01** [Unchanged]

**SECTION 2.02 DEFINITIONS**

- D.** *Carport:* A covered area, either attached to a building or freestanding, for the parking or storage of currently licensed and registered motor vehicles, completely open on at least two ~~one sides and partially enclosed on the opposite side~~.

*Medical Office:* Facilities used by one or more licensed health care professionals for the examination and treatment of human patients on an out-patient basis.

*Outdoor Service Area:* Seating or dining area located outside the exterior walls of a restaurant, café, bar or other food or beverage service establishment where food or beverages are served or consumed by patrons. Such areas may include patios, decks, sidewalks, courtyards or similar spaces, whether enclosed or unenclosed, and may be located on private or public property.

**SECTION 2:** Article 5 Use Based Districts of the Berkley City Code is amended, as follows:

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## ARTICLE 5 USE BASED DISTRICTS

### SECTION 5.01 R-1AB SINGLE-FAMILY RESIDENTIAL DISTRICT - SECTION 5.08 C-1 CEMETERY DISTRICT [Unchanged.]

### SECTION 5.09 SUPPLEMENTAL DIMENSIONAL REGULATIONS APPLICABLE TO ALL USE BASED DISTRICTS

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

A. – C. [Unchanged.]

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

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

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

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

E. – G. [Unchanged.]

**SECTION 3:** Article 6 Site Design Based Districts of the Berkley City Code is amended, as follows:

## ARTICLE 6 SITE DESIGN BASED DISTRICTS

### SECTION 6.01 PURPOSE AND INTENT - SECTION 6.03 STANDARDS APPLICABLE TO ALL DISTRICTS. [Unchanged.]

### SECTION 6.04 RC- RESIDENTIAL CORRIDOR

A. – C. [Unchanged.]

D. *Authorized site layouts and use groups:* The tables in this Section determine the site layouts and use groups allowed in the RC zoning district based on street type and site type.

1. *Authorized site layouts.* Site layouts, determined by the street type and site type in the RC Regulating Plan, are allowed by the approval process in Table 6.04.D.1 below.

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| Table 6.04.D.1                                            |           |             |                         |
|-----------------------------------------------------------|-----------|-------------|-------------------------|
| Street Type                                               | Site Type | Site Layout | Approval                |
| <b>Residential</b>                                        | Small     | SF          | Principal               |
|                                                           | Medium    | SF          | Principal               |
| <b>Corridor</b>                                           | Small     | SF          | Principal               |
|                                                           |           | 2F          | <a href="#">Special</a> |
|                                                           | Medium    | 2F, ASF     | Principal               |
|                                                           |           | NR          | Special                 |
| <b>Double Frontage on both Residential &amp; Corridor</b> | Large     | MF, IN      | Special                 |

## SECTION 6.05 DT - DOWNTOWN

- A. – B. [Unchanged.]
- C. **Site Layouts:** The following site layouts are allowed in the DT district:
1. – 2. [Unchanged.]
  3. **Authorized site layouts.** Site layouts, determined by the street type and site type in the DT Regulating Plan, are allowed by the approval process in Table 6.05.C.3 below.

| Table 6.05.C.3              |                                                                       |             |           |
|-----------------------------|-----------------------------------------------------------------------|-------------|-----------|
| Street Type                 | Site Type                                                             | Site Layout | Approval  |
| <b>Downtown</b>             | Small                                                                 | MU/NR       | Principal |
|                             | Medium                                                                | MU/NR       | Principal |
|                             | Large                                                                 | MU/NR, IN   | Special   |
| <b>Walkable Area</b>        | Small                                                                 | MU/NR       | Principal |
|                             | Medium                                                                | MU/NR, IN   | Principal |
|                             | Large                                                                 | MU/NR, IN   | Principal |
| <a href="#">Residential</a> | <a href="#">See Section 16.05 Requirements for Nonconforming Lots</a> |             |           |

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4. ***Authorized use groups.*** Authorized use groups, determined by the street type and site type in the DT regulating plan, are allowed by the approval process in Table 6.05.C.4 below.

| <b>Table 6.05.C.4</b>       |                                                                     |                                                                                                     |                 |
|-----------------------------|---------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|-----------------|
| <b>Street Type</b>          | <b>Site Type</b>                                                    | <b>Site Layout</b>                                                                                  | <b>Approval</b> |
| <b><i>Downtown</i></b>      | Small                                                               | Group 4: Mixed Use Small Impact<br>Professional and medical office are restricted to upper stories. | Principal       |
|                             |                                                                     | Group 3: Institution/Private Assembly                                                               | Special         |
|                             | Medium                                                              | Group 4: Mixed Use Small Impact<br>Professional and medical office are restricted to upper stories. | Principal       |
|                             |                                                                     | Group 3: Institution/Private Assembly<br>Group 5: Mixed Use High Impact                             | Special         |
|                             | Large                                                               | Group 4: Mixed Use Small Impact<br>Professional and medical office are restricted to upper stories. | Principal       |
|                             |                                                                     | Group 3: Institution/Private Assembly<br>Group 5: Mixed Use High Impact                             | Special         |
|                             | Small                                                               | Group 4: Mixed Use Small Impact                                                                     | Principal       |
|                             | Medium                                                              | Group 4: Mixed Use Small Impact                                                                     | Principal       |
|                             |                                                                     | Group 3: Institution/Private Assembly/Lodging                                                       | Special         |
| <b><i>Walkable Area</i></b> | Large                                                               | Group 4: Mixed Use Small Impact                                                                     | Principal       |
|                             |                                                                     | Group 3: Institution/Private Assembly/Lodging<br>Group 5: Mixed Use High Impact                     | Special         |
|                             |                                                                     |                                                                                                     |                 |
| <b><u>Residential</u></b>   | <b><u>See Section 16.05 Requirements for Nonconforming Lots</u></b> |                                                                                                     |                 |

5. – 6. [Unchanged.]

## **SECTION 6.06 GC – GATEWAY CORRIDOR**

- A. – C. [Unchanged.]

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**D. Authorized site layouts and use groups.** The tables in this Section determine the site layouts and use groups allowed in the GC zoning district based on street type and site type.

1. **Authorized site layouts.** Site layouts, determined by the street type and site type in the GC Regulating Plan, are allowed by the approval process in Table 6.06.D.1 below.

| Table 6.06.D.1       |                                                              |               |           |
|----------------------|--------------------------------------------------------------|---------------|-----------|
| Street Type          | Site Type                                                    | Site Layout   | Approval  |
| <b>Walkable Area</b> | Small                                                        | MU/NR         | Principal |
|                      | Medium                                                       | MU/NR, IN, MF | Principal |
|                      |                                                              | AT            | Special   |
|                      | Large                                                        | MU/NR, IN, MF | Principal |
|                      |                                                              | AT            | Special   |
|                      |                                                              |               |           |
| <b>Corridor</b>      | Small                                                        | MU/NR         | Principal |
|                      | Medium                                                       | MU/NR, IN, MF | Principal |
|                      |                                                              | AT            | Special   |
|                      | Large                                                        | MU/NR, IN, MF | Principal |
|                      |                                                              | AT            | Special   |
|                      |                                                              |               |           |
| <u>Residential</u>   | <u>See Section 16.05 Requirements for Nonconforming Lots</u> |               |           |

2. **Authorized use groups.** Authorized use groups, determined by the street type and site type in the GC regulating plan, are allowed by the approval process in Table 6.06.D.2 below.

| Table 6.06.D.2       |           |                                               |           |
|----------------------|-----------|-----------------------------------------------|-----------|
| Street Type          | Site Type | Site Layout                                   | Approval  |
| <b>Walkable Area</b> | Small     | Group 4: Mixed Use Small Impact               | Principal |
|                      | Medium    | Group 3: Institution/Private Assembly/Lodging | Principal |
|                      |           | Group 4: Mixed Use Small Impact               |           |
|                      |           | Group 5: Mixed Use High Impact                |           |
|                      |           | Group 6: Auto/Transportation                  | Special   |
|                      |           | Group 7: Miscellaneous Commercial             |           |

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|                           |                                                                       |                                                                                                                    |           |
|---------------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|-----------|
|                           |                                                                       | Uses                                                                                                               |           |
|                           | Large                                                                 | Group 4: Mixed Use Small Impact<br>Group 5: Mixed Use High Impact                                                  | Principal |
|                           |                                                                       | Group 6: Auto/Transportation<br>Group 7: Miscellaneous Commercial Uses                                             | Special   |
| <b><i>Corridor</i></b>    | Small                                                                 | Group 4: Mixed Use Small Impact                                                                                    | Principal |
|                           | Medium                                                                | Group 3: Institution/Private Assembly/Lodging<br>Group 4: Mixed Use Small Impact<br>Group 5: Mixed Use High Impact | Principal |
|                           |                                                                       | Group 6: Auto/Transportation<br>Group 7: Miscellaneous Commercial Uses                                             | Special   |
|                           | Large                                                                 | Group 3: Institution/Private Assembly/Lodging<br>Group 4: Mixed Use Small Impact<br>Group 5: Mixed Use High Impact | Principal |
|                           |                                                                       | Group 6: Auto/Transportation<br>Group 7: Miscellaneous Commercial Uses                                             | Special   |
|                           |                                                                       |                                                                                                                    |           |
| <b><i>Residential</i></b> | <a href="#">See Section 16.05 Requirements for Nonconforming Lots</a> |                                                                                                                    |           |

D. -E. [Unchanged.]

## SECTION 6.07 WOODWARD CORRIDOR

A. – C. [Unchanged.]

D. ***Authorized site layouts and use groups.*** The tables in this Section determine the site layouts and use groups allowed in the WC zoning district based on street type and site type.

2. ***Authorized site layouts.*** Site layouts, determined by the street type and site type in the WC Regulating Plan, are allowed by the approval process in Table 6.07.D.1 below.

**Table 6.07.D.1**

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| Street Type        | Site Type                                                    | Site Layout   | Approval  |
|--------------------|--------------------------------------------------------------|---------------|-----------|
| <b>Corridor</b>    | Small                                                        | MU/NR         | Principal |
|                    | Medium                                                       | MU/NR, IN, MF | Principal |
|                    |                                                              | AT            | Special   |
|                    | Large                                                        | MU/NR, IN, MF | Principal |
|                    |                                                              | AT            | Special   |
| <u>Residential</u> | <u>See Section 16.05 Requirements for Nonconforming Lots</u> |               |           |

3. **Authorized use groups.** Authorized use groups, determined by the street type and site type in the WC regulating plan, are allowed by the approval process in Table 6.07.D.2 below.

| Table 6.07.D.2  |           |                                                                                                                                                                 |           |
|-----------------|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| Street Type     | Site Type | Site Layout                                                                                                                                                     | Approval  |
| <b>Corridor</b> | Small     | Group 4: Mixed Use Small Impact                                                                                                                                 | Principal |
|                 | Medium    | Group 3: Institution/Private Assembly/Lodging<br>Group 4: Mixed Use Small Impact<br>Group 5: Mixed Use High Impact                                              | Principal |
|                 |           | Group 6: Auto/Transportation<br>Group 7: Miscellaneous Commercial Uses<br>Other: Adult regulated uses, per Section 8.03; pet sales; gun shops, per Section 8.21 | Special   |
|                 | Large     | Group 3: Institution/Private Assembly/Lodging<br>Group 4: Mixed Use Small Impact<br>Group 5: Mixed Use High Impact                                              | Principal |
|                 |           | Group 6: Auto/Transportation<br>Group 7: Miscellaneous Commercial Uses<br>Other: Adult regulated uses, per Section 8.03; pet sales; gun shops, per Section 8.21 | Special   |
|                 |           |                                                                                                                                                                 |           |

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|                    |                                                              |      |  |
|--------------------|--------------------------------------------------------------|------|--|
|                    |                                                              | 8.21 |  |
| <u>Residential</u> | <u>See Section 16.05 Requirements for Nonconforming Lots</u> |      |  |

E. -F. [Unchanged.]

## SECTION 6.08 FLEX

A. – C. [Unchanged.]

E. **Authorized site layouts and use groups.** The tables in this Section determine the site layouts and use groups allowed in the Flex zoning district based on street type and site type.

1. **Authorized site layouts.** Site layouts, determined by the street type and site type in the Flex Regulating Plan, are allowed by the approval process in Table 6.08.D.1 below.

| Table 6.08.D.1       |                                                              |             |           |
|----------------------|--------------------------------------------------------------|-------------|-----------|
| Street Type          | Site Type                                                    | Site Layout | Approval  |
| <b>Walkable Area</b> | Small                                                        | NR/LW       | Principal |
|                      | Medium                                                       | NR/LW, IN   | Principal |
|                      |                                                              | I, AT       | Special   |
|                      | Large                                                        | NR/LW, IN   | Principal |
|                      |                                                              | I, AT       | Special   |
| <u>Residential</u>   | <u>See Section 16.05 Requirements for Nonconforming Lots</u> |             |           |

2. **Authorized use groups.** Authorized use groups, determined by the street type and site type in the Flex regulating plan, are allowed by the approval process in Table 6.08.D.2 below.

| Table 6.08.D.2       |           |                                                                                                                    |           |
|----------------------|-----------|--------------------------------------------------------------------------------------------------------------------|-----------|
| Street Type          | Site Type | Site Layout                                                                                                        | Approval  |
| <b>Walkable Area</b> | Small     | Group 4: Mixed Use Small Impact                                                                                    | Principal |
|                      | Medium    | Group 3: Institution/Private Assembly/Lodging<br>Group 4: Mixed Use Small Impact<br>Group 5: Mixed Use High Impact | Principal |

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|                    |                                                              |                                                                                                                                                |           |
|--------------------|--------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
|                    |                                                              | Group 6: Auto/Transportation<br>Group 7: Miscellaneous Commercial Uses<br>Group 8: Industrial Uses                                             | Special   |
|                    | Large                                                        | Group 4: Mixed Use Small Impact<br>Group 5: Mixed Use High Impact                                                                              | Principal |
|                    |                                                              | Group 3: Institution/Private Assembly/Lodging<br>Group 6: Auto/Transportation<br>Group 7: Miscellaneous Commercial<br>Group 8: Industrial Uses | Special   |
| <u>Residential</u> | <u>See Section 16.05 Requirements for Nonconforming Lots</u> |                                                                                                                                                |           |

F. -G. [Unchanged.]

**SECTION 6.09 EXCEPTIONS AND WAIVERS** [Unchanged.]

**SECTION 4:** Article 8 Specific Use Provisions of the Berkley City Code is amended, as follows:

**ARTICLE 8 SPECIFIC USE PROVISIONS**

**SECTION 8.01 HOME-BASED BUSINESSES - SECTION 8.20 ACCESSORY DWELLING UNITS.** [Unchanged.]

**SECTION 8.21 GUN SHOPS**

The parcel where a gun shop is located must meet the following location standards:

1. The parcel must be located in the Woodward District.
2. The parcel may not be within one thousand feet of another gun shop, pre-existing child day care center or child group day care home, or pre-existing public or private school providing education in kindergarten or any of the grades first through twelfth within the boundaries of the City of Berkley.

**G. SECTION 8.22 COMMERCIAL KENNELS/PET DAY CARE.** [Unchanged.]

**SECTION 5:** Article 9 General Provisions of the Berkley City Code is amended, as follows:

**ARTICLE 9 GENERAL PROVISIONS**

**SECTION 9.01 PURPOSE - SECTION 9.08 LOT LIMITATIONS.** [Unchanged.]

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## SECTION 9.09 ACCESSORY BUILDINGS AND STRUCTURES

[Unchanged.]

### A. *Layout requirements.*

1. – 4. [Unchanged.]
5. Setbacks
  - a. – c. [Unchanged.]
  - d. For corner lots, see Section 5.09E and 5.09F – Supplemental Dimensional Regulations Applicable to All Use Based Districts.

### H. SECTION 8.22 COMMERCIAL KENNELS/PET DAY CARE. [Unchanged.]

SECTION 6: Article 13 Exterior Lighting Standards of the Berkley City Code is amended, as follows:

## ARTICLE 13 EXTERIOR LIGHTING STANDARDS

### SECTION 13.01 INTENT. – SECTION 13.05 EXEMPTIONS [Unchanged.]

### SECTION 13.06 PROHIBITED LIGHTING

The following types of outdoor lighting are specifically prohibited:

- A. – E. [Unchanged.]
- F. Outlining windows or building facades with LED or other lighting materials is not permitted in any district ~~the Downtown or Corridor Districts.~~

SECTION 7: Article 14 Site Plan Review Procedures and Requirements of the Berkley City Code is amended, as follows:

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

### SECTION 14.01 INTENT. – SECTION 14.03 CLEAR VISION ZONE [Unchanged.]

### SECTION 14.04 VEHICLE PARKING REQUIREMENTS

- A. – Q. [Unchanged.]
- R. *Off-Street Parking Facilities Space Layout, Standards, Construction and Maintenance.*

Wherever the off-street parking standards in this Section require the construction of an off-street parking facility, such off-street parking lots must be laid out, constructed and maintained in accordance with the following standards and regulations.

  1. – 12. [Unchanged.]
  13. Plans for the layout of off-street parking facilities must be in accordance with the

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following minimum requirements:

| Table 14.04-2             |                                 |                |                                           |                                            |
|---------------------------|---------------------------------|----------------|-------------------------------------------|--------------------------------------------|
| Off-Street Parking Layout |                                 |                |                                           |                                            |
| Parking Pattern           | Maneuvering Land<br>Width (ft.) |                | Parking Space<br>Width (ft.) <sup>1</sup> | Parking Space<br>Length (ft.) <sup>1</sup> |
|                           | <i>One-Way</i>                  | <i>Two-Way</i> |                                           |                                            |
| 90°                       | 20 feet                         | 24 feet        | 9 feet                                    | 20 feet                                    |
| 60°                       | 20 feet                         | 24 feet        | 9 feet                                    | 20 feet                                    |
| 45°                       | 20 feet                         | 24 feet        | 9 feet                                    | 24 feet                                    |
| 30°                       | 20 feet                         | 24 feet        | 9 feet                                    | 24 feet                                    |
| 0° (parallel parking)     | 20 feet                         | 24 feet        | 9 feet                                    | 24 feet                                    |

<sup>1</sup> Compact car spaces may be reduced to 8 feet in width and 16 feet in length. See Section 14.04.R.12 for additional compact car regulations.

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

**SECTION 8:** Article 15 Site Plan Review Procedures and Requirements of the Berkley City Code is amended, as follows:

#### **SECTION 15.01 INTENT. – SECTION 15.02 BUILDING, STRUCTURES AND USES REQUIRING SITE PLAN REVIEW** [Unchanged.]

#### **SECTION 15.03 SITE PLAN REVIEW PROCEDURES**

**A. *Sketch Plan.*** Except as otherwise required by this Ordinance, an applicant has the option for submitting a sketch plan to the Zoning Administrator for informal review. All applications for ~~special land uses~~ site plans must be accompanied by a sketch plan. A sketch plan drawn to a reasonable scale must have the following information.

1. – 6. [Unchanged.]

**B. – E.** [Unchanged.]

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

**SECTION 9:** Article 16 Nonconforming Lots, Uses and Structures of the Berkley City Code is amended, as follows:

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## ARTICLE 16 NONCONFORMING LOTS, USES AND STRUCTURES

### SECTION 16.01 PURPOSED AND INTENT. – SECTION 16.04 REQUIREMENTS FOR NONCONFORMING STRUCTURES [Unchanged.]

### SECTION 16.05 REQUIREMENTS FOR NONCONFORMING LOTS

A. – B. [Unchanged.]

C. 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. In use-based districts, the minimum setbacks and distances between dwelling units and maximum lot coverage for the applicable use must be met. In site design-based districts, the applicable site layout requirements must be met, except for minimum lot area and width.
2. Two 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.

### SECTION 10: Severability Clause

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

### SECTION 11: Penalty

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

### SECTION 12: Effective Date

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

### SECTION 13: Publication

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

Introduced on the First Reading at the Regular City Council Meeting on \_\_\_\_\_ .

Adopted on the Second Reading at the Regular City Council Meeting on \_\_\_\_\_ .

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Bridget Dean, Mayor

Attest:

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Victoria E. Mitchell, City Clerk

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