

AN  
ORDINANCE  
of the City Council of the City of Berkley, Michigan to add Chapter 109 Subdivisions  
to the City of Berkley Code of Ordinances to provide regulations for subdivision  
development.

**THE CITY OF  
BERKLEY ORDAINS:**

**SECTION 1:** Chapter 109 is added to the Berkley City Code, as follows:

**CHAPTER 109**

**SUBDIVISIONS**

**DIVISION 1. - GENERALLY**

**Sec. 109-1. - Short title.**

The ordinance will be known and referred to as the “City of Berkley Subdivision Regulations.”

**Sec. 109-2. - Purposes.**

These subdivision regulations have been enacted to promote development patterns that support the creation of complete neighborhoods with a mix of housing, civic, retail, and service choices within a compact, walkable environment, in accordance with the City of Berkley’s Master Plan. The purpose of these regulations is to:

- (1) Provide clear standards for private development that influence the function and character of a neighborhood.
- (2) Ensure orderly growth and development through the conservation, protection, and proper use of land through adequate provisions for circulation, utilities, and services.
- (3) Ensure street connectivity and safety within walkable neighborhoods having numerous route options.
- (4) Promote walkable urban places.
- (5) Provide access to open space.
- (6) Promote the health, safety, and general welfare of the City.

**Sec. 109-3. - Authority.**

Where regulations are made, interpreted, and enforced by the City Council and City Planning Commission under the authority of the State of Michigan, Land Division Act, Act 288, Public Acts of 1967, as amended.

**Sec. 109-4. - Interpretation.**

The provisions of the regulations must be construed to be the minimum requirements necessary for the preservation of public health, safety, and welfare within the City. These regulations are not intended to repeal, abrogate, or supersede any existing regulations of the State of Michigan or Oakland County, except that these regulations must prevail in cases where they impose a lawful restriction or requirement more severe than existing statutes, laws, or regulations.

**Sec. 109-5. - Scope.**

Subsequent to the effective date of these regulations, no plat within the City of Berkley can be approved by the City Council unless it conforms to these regulations. In the absence of a City Council-approved master plan, reference to such plan must mean the general development plan plus any expansions thereof.

**DIVISION 2. - DEFINITIONS**

**Sec. 109-6. - Definitions.**

For the purpose of this Ordinance, certain rules of construction apply to the text:

- (1) Words used in the present tense include the future tense,
- (2) The singular includes the plural unless the context clearly indicates the contrary;
- (3) The term “must” is always mandatory and not discretionary and “may” is permissive;
- (4) Words or terms interpreted or defined by this Article must be used with a meaning of common or standard utilization.
- (5) Any word or term not defined herein has the meaning of common or standard use, which is reasonable for context in which used herein.

The following definitions apply to the meanings of respective terms as they are to be construed in these regulations.

**Alleys.** A strip of land dedicated to public use, generally for the purpose of providing access to the rear of properties to which the principal access is provided by an abutting street.

**As-built plans.** Construction plans revised to show an improvement as actually constructed.

**Block.** A tract of land that is bounded by a combination of streets, parks, cemeteries, civic spaces, railroad right-of-way, subdivided acreage, lines of watercourses, or water bodies, municipal boundary lines, or any other barrier to the continuity of development.

**Building line.** A line established in a plat for the purpose of prohibiting construction of any portion of a building or structure between such line and any easement, right-of-way, other public area, lakeshore, or riverbank.

**Certificate of final completion.** A certificate issued by the City Engineer, which signifies that the improvement for which the certificate is issued was installed according to the approved engineering plans and the City of Berkley Engineering Design Standards and has passed final City inspection.

**City.** The City of Berkley, Oakland County, State of Michigan.

**City clerk.** The clerk of the City of Berkley.

**City council.** The City Council of Berkley, Oakland County, Michigan.

**City engineer.** A civil engineer registered in the State of Michigan as a professional engineer and appointed to the position of City Engineer by the City Council.

**City staff.** The City Manager, Public Safety chief, City Engineer, City Finance Director, Zoning Administrator, Department of Public Works Director and Community Development Director.

**Commercial development.** A planned-commercial center providing building area, parking areas, service areas, screen planting, and turning movement and safety lane roadway improvements where necessary or required.

**Common open space.** An area within a subdivision which is held out of development by the proprietor and designed for the common use or enjoyment of residents of the subdivision. Common open space may contain such complementary structures as are necessary and appropriate for the use or enjoyment of the common open space.

**Council.** The City of Berkley City Council and mayor.

**County.** Oakland County, State of Michigan, U.S.A.

**County Health Department.** Oakland County Health Department.

**County Road Commission.** Oakland County Road Commission.

**County Water Resources Commission.** Oakland County Water Resources Commission.

**Crosswalk/way.** Right-of-way dedicated to public use, which crosses a block to facilitate pedestrian access to adjacent streets and properties.

**Cul-de-sac or cul-de-sac street.** A local street with only one (1) end open to vehicular traffic and being permanently terminated at the other end by a vehicular turn-around.

**Dead end street.** A street with only one end open to vehicular traffic and not provided with a vehicle turn-around at the other end.

**Dedication.** The intentional appropriation of land by the owner to public use.

**Development.** Any subdivision of land as herein defined or any material change in the use or appearance of any parcel of land subject to the provisions of the ordinance from which this article was derived, or the act of building structures and installing site improvements.

**Easement.** A grant by the property owner of the use of a strip of land by the public, a corporation, or private person or persons for a specific purpose or purposes.

**Engineer.** A civil engineer registered in the State of Michigan as a professional engineer.

**Floodplains.** The area adjoining a river, stream, water course, or lake which is inundated by a flood discharge which results from a 100-year storm of a 24 hour duration. The flood plain must include the stream channel and overbank area (the floodway) and the fringe areas of the floodway.

**Improvements.** Any additions to the natural state of the land, which increase its value, utility or habitability. Improvements include street pavement, with or without curbs and gutters, sidewalks, water mains, storm and sanitary sewers, street trees, and other appropriate and similar items.

**Land Division Act.** Act 288, 1967, of the State of Michigan Public Acts, as amended, formerly and commonly known as the Subdivision Control Act, Act 288, 1967.

**Lot.** A measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.

- (1) **Lot area.** The total area within the lot lines of the lot exclusive of any abutting public street right of way or private road easements.
- (2) **Lot coverage.** That part or percent of the lot occupied by buildings or structures including accessory buildings or structures, exclusive of unenclosed accessory structures such as, but not limited to decks, patios, gazebos, etc..
- (3) **Lot depth.** The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

- (4) **Lot width.** The horizontal straight-line distance between the side lot lines, measured between the two (2) points where the front setback line intersects the side lot lines.

**Master Plan.** The Master Plan for the City of Berkley, Oakland County, Michigan as adopted by the City Planning Commission in accordance with Act 33 of Public Acts of 2008, as amended.

**Model home.** A dwelling unit used initially for display purposes which typifies the type of dwelling units that will be constructed in the subdivision.

**Outlot.** An “outlot” when included within the boundary of a recorded plat, means a lot set aside for purposes other than a building site such as a park or other land dedicated to public use or reserved to private use.

**Parcel or tract.** A unit of land in single or joint ownership that has not been divided or subdivided according to the provisions of the Subdivision Control Act.

**Pedestrian way.** A separate right-of-way dedicated to or reserved for public use, which crosses blocks or other tracts of land for the purpose of facilitating pedestrian access to adjacent streets and properties.

**Planning Commission.** The Planning Commission of the City of Berkley as established under Act 33, Public Acts of 2008, as amended.

**Plat.** A map or chart of a subdivision of land showing the lot and street arrangement or other features of the area being subdivided.

- (1) **Concept plan.** A sketch plan of a proposed subdivision at sufficient accuracy and scale to serve the purposes of procedure for a pre-application review meeting as set forth in the ordinance.
- (2) **Preliminary plat.** A map showing the salient features of a proposed subdivision submitted to the City Council for purposes of preliminary consideration.
- (3) **Final plat.** A map of all or part of a subdivision prepared and certified as to its accuracy by a registered engineer or land surveyor. Such map must meet the requirements of the ordinance from which this article was derived and of the Land Division Act, Act 288, Public Acts of 1967, as amended.
- (4) **Replat.** The process of changing, or a map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.

**Proprietor.** Any natural person, firm, association, partnership, corporation, or combination of these, including a governmental agency undertaking any development as defined in the ordinance from which this article was derived, and which hold an ownership interest in land, whether recorded or not. The term “proprietor” includes such common references as subdivider, developer, and owner. The word “proprietor” must not include a person, firm, partnership, corporation, or combination of these, which hold an option to purchase land.

**Public utility.** A public corporation, franchise, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or Municipal regulations to the public: gas, steam, electricity, sewage disposal, telephone service (excluding cellular phone facilities), cable television services, telegraph, transportation, or water.

**Reserve strip.** A strip of land in a subdivision which extends across the end of a street proposed to be extended by future platting or a strip which extends along the length of a partial width street proposed to be widened by future platting, to the minimum permissible width. All reserve strips must be designated as outlots on the plat.

**Right-of-way.** A strip of land occupied or intended to be occupied by a street, pedestrian way, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer line, or for another special use. The term “right-of-way” for land platting purposes must mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way. Such land area within the right-of-way must not be included within the dimensions or areas of adjoining lots or parcels. Right-of-way intended for streets, pedestrian ways, water main, sanitary sewers, storm drains, or any other use involving maintenance by a public agency, must be dedicated to public use by the proprietor, when dedication is requested by the governing body.

**Right-of-way, street.** The distance between property lines measured at right angles to the centerline of the street.

**Sidewalk.** A facility, placed within the right-of-way of streets, or a facility connecting with buildings, parking lots, or other activities having access to the street right-of-way, for the purpose of providing safe movement of pedestrians.

**Street.** A right-of-way dedicated and deeded for public use, other than an alley, which provides for vehicular and pedestrian traffic.

- (1) **Arterial.** Those streets of considerable continuity having the primary functions of accommodating relatively large volumes of vehicular traffic and serving to connect areas of principal traffic generation and designated as an arterial in the commercial development plan of the subdivision.

- (2) **Collector.** Those streets used to collect and distribute traffic between local and major streets, including principal entrance streets to large residential and nonresidential developments.
- (3) **Local.** Those streets having a primary function of providing service access to abutting land uses and not designed for high volume of traffic.

**Street width.** The shortest distance between those lines delineating the right-of-way of streets.

**Structure.** Any object constructed, erected, or placed with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground.

**Subdivide or subdivision.** The partitioning or dividing of a parcel or tract of land by the proprietor thereof or by their heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development, where the act of division creates five or more parcels of land each of which is ten acres or less in area; or five or more parcels of land each of which is ten acres or less in area are created by successive divisions within a period of ten years. The term subdivision also refers to any area, which is subdivided in accordance with the foregoing definition.

**Subdivider.** Any natural person, firm, association, partnership, corporation, or combination of these, including a governmental agency undertaking any development as defined in the ordinance from which this article was derived, and which hold an ownership interest in land, whether recorded or not. The term “subdivider” includes such commonly references as proprietor, developer, and owner. The word “subdivider” must not include a person, firm, partnership, corporation, or combination of these, which hold an option to purchase land.

**Surveyor.** A land surveyor who is registered in the State of Michigan.

**Topographical map.** A map showing existing physical characteristics, with contour lines, to permit determination of proposed grades and drainage.

**Zoning Ordinance.** The Zoning Ordinance of the City of Berkley, Oakland County, Michigan, adopted in accordance with the provisions of Act 110 of the Public Acts of 2006, as amended, and which is now in effect as the Zoning Ordinance of the City of Berkley, Oakland County, Michigan.

## **DIVISION 3. - SUBDIVISION PROCEDURE**

### **Sec. 109-7. - Initial procedures.**

Before making or submitting a final plat for approval, the proprietor may make a concept plan for a pre-application review meeting and must make a preliminary plat and a final plat for review by City staff. The proprietor is encouraged to consult the City of Berkeley Master Plan, general development plans, and detailed plans of any units of government that affect the tract to be subdivided and the area surrounding it. The proprietor should also become acquainted with the Zoning Ordinance of the City, this Subdivision Ordinance, and other ordinances and requirements, which regulate the subdivision of land in the City. The proprietor should also discuss the concepts of the proposed subdivision with the City Engineer, the City Council, and the Planning Commission.

### **Sec. 109-8. – Pre-application review meeting.**

A pre-application review meeting is recommended as an aid both to the developer and to the City. Under this procedure, a developer provides a concept plan, which is described below, and City staff members, including the Community Development Director, the Zoning Administrator, Department of Public Works Director, Department of Public Safety, City Engineer/Engineering Consultant, and/or the City Planning Consultant, then review the information provided. During the pre-application review design stage, changes and additions, which may have to be made before a mutual agreement is reached, can be made as such with minimal difficulty. Acceptance of the concept plan does not assure acceptance of the preliminary or final plats. This material is intended to serve as an information base for discussions between the developer and City, County, and State officials and staff.

- (1) ***Submittal.*** The proprietor must submit to the City Zoning Administrator an electronic copy of the concept plan. The City Zoning Administrator must promptly transmit copies to the City Planning Consultant, Department of Public Works, Department of Public Safety, City Engineer/Engineering Consultant, Community Development Director and any other agency that must attend or be informed of the pre-application review meeting per item 3 of this Section.
- (2) ***Information required.*** The following information must be shown on the concept plan or submitted with it:
  - a. The plat date, north arrow, and scale;
  - b. The proposed name of subdivision or development, including the name of the City and the County;



- c. Names and addresses of the proprietor, planners, designer, engineer and/or surveyor who designed the subdivision layout;
- d. The concept plan must be drawn at a scale of 100 feet to one inch or larger and must include a legal description of the entire site to be subdivided. The legal description must include the location of the subdivision giving the numbers of the section, township, and range;
- e. An overall map showing the relationship of the subdivision to its surroundings, such as existing road rights-of-way, buildings, watercourses, railroads, public spaces and other physical features on and adjacent to the tract;
- f. Aerial photograph of the site and surrounding area, with the site defined;
- g. Location and purpose of existing and proposed rights-of-way of streets, alleys, easements, parks, open spaces, and lot lines with dimensions;
- h. All parcels of land proposed to be dedicated to public use and conditions of such dedication;
- i. Zoning status of the property and all the adjacent properties, including zoning of parcels on and adjacent to the tract;
- j. Civil jurisdiction of all properties;
- k. The tentative lot layout, number of lots, and typical lot size;
- l. Stages of development if the subdivision or development will be completed in more than one stage. Sequential listing is required for the various stages;
- m. Existing natural features such as trees, wooded areas, streams, marshes, ponds, and other wetlands with a clear indication of all natural features to remain and to be removed. Groups of trees must be shown by an approximate outline of the total canopy;
- n. Identification, location, and nature of all uses other than single-family residences to be included within the subdivision;
- o. The proprietor must furnish a statement indicating the proposed use to which the subdivision will be put, along with a description of residential building and number of dwelling units contemplated or the type of business so as to reveal the effect of the development on traffic, fire hazards or congestion of population. Such proposed uses may not be in conflict with the Zoning Ordinance;

- p. If the proprietor has an interest or owns any parcel identified as “outlots” or “excepted,” the concept plan must indicate how this property could be developed in accordance with the requirements of the existing or proposed zoning district in which it is located and with an acceptable relationship to the layout of the proposed concept plan;
  - q. An affidavit, signed by the proprietor, certifying the identity of all legal owners of record of the property in the subject subdivision; and
  - r. Proposed deed restrictions or protective covenants: if none, a statement of such in writing.
- (3) ***Pre-application review meeting.*** The pre-application review meeting must take place not later than thirty (30) days after the written request and concept plan are received. The meeting must be attended by the proprietor, Zoning Administrator, City Engineer/Engineering Consultant, City Planning Consultant, the City Mayor, the Chair of the Planning Commission, Public Works Department, Public Safety Department, the Water Resources Commission, the Health Department, and the County Road Commission if the proposed subdivision includes or abuts roads under the jurisdiction of the Road Commission. Representatives of the Michigan Department of Transportation, Department of Labor and Economic Opportunity, and Department of Environment, Great Lakes and Energy must be informed of and may attend the pre-application review meeting, if they are entitled to review the preliminary plat under sections 115 to 117 of the State of Michigan, Land Division Act, Act 288, Public Acts of 1967, as amended.
- (4) ***School authorities.*** The School Board or Superintendent of the school district having jurisdiction in the area concerned must be informed and made aware of the pre-application review meeting by the Zoning Administrator. A letter or document from the School Board or Superintendent indicating awareness of the proposed plat must be submitted to the Zoning Administrator and reviewed during the pre-application review meeting.
- (5) ***Procedures.*** The following procedures must be followed:
- a. The Zoning Administrator, Community Development Director, City Planning Consultant, Public Works Director and City Engineer/Engineering Consultant must review all details of the proposed subdivision within the framework of the Zoning Ordinance, within the various elements of the City Master Plan, with the Engineering Design Standards and within the standards of this Subdivision Ordinance.
  - b. After reviewing comments of the reviewing parties or agencies copies of the concept plan, the officials and representatives attending must make appropriate comments and suggestions concerning the proposed development. The Zoning Administrator must

retain one copy of the concept plan which must become a matter of permanent record in the City's files and the proprietor must be provided minutes of the pre-application review meeting.

- c. The Zoning Administrator must inform the Planning Commission and City Council of the results of the pre-application review meeting in writing.

**Sec. 109-9. - Preliminary plat—Tentative approval.**

Tentative approval under this section must confer upon the proprietor for a period of (1) one year from the date of approval of lot size, lot orientation, and street layout. Such tentative approval may be extended if applied for by the proprietor and granted by the City Council in writing.

- (1) ***Submittal.*** The proprietor must submit one (1) electronic copy and four (4) paper copies of the preliminary plat and other data to the City Clerk at least thirty (30) days before a meeting of the Planning Commission, and copies must be distributed to:

- a. City Clerk/staff;
- b. Planning Commission;
- c. Community Development Department
- d. Public Works Department
- e. City Engineer/Engineering Consultant;
- f. City Planning Consultant;
- g. Superintendent of schools; and
- h. Berkley Public Safety Department.

- (2) ***Information required.*** The following information must be shown on the preliminary plat or submitted with it:

- a. All items required as part of the application review for a concept plan in Section 109-8(2) of this chapter;
- b. Name and addresses abutting property owners and subdivisions;
- c. Layout of the streets indicating street names, surface composition, right-of-way widths, and connections with adjoining platted streets;
- d. Lot layout, dimensions, setback requirements, area of each lot in square feet or acres, and lot numbers;

- e. Indications of parcels of land intended to be dedicated or set aside for the use of property owners in the subdivision;
- f. Contours must be shown on the preliminary plat with sufficient detail to determine the appropriate development of the site;
- g. The proprietor must submit preliminary engineering plans for street, water, sewers, drainage, sidewalks, and other required public improvements. The engineering plans must contain enough detail to enable the City Engineer to make preliminary determination as to the conformance of the proposed improvements to the latest City of Berkeley Engineering Standards in the City Code and the Engineering Design Standards;
- h. Identification, location and nature of all uses other than single-family residences to be included within the subdivision;
- i. Four (4) copies of the proposed protective covenants and deed restrictions, or statement in writing that none are proposed;
- j. Zoning status of property included in the preliminary plat and of all the adjacent properties, civil jurisdiction of all properties; and
- k. Any additional information as required per the City of Berkeley Zoning Ordinance, Article 15, Site Plan Review.

If the preliminary plat does not meet all requirements, the Zoning Administrator must notify the proprietor by letter, giving the earliest date for resubmission of the plat and additional information required.

(3) ***Procedures.***

- a. The City Clerk must request the chair of the Planning Commission to place the preliminary plat on the agenda of the next regular meeting of the Planning Commission. A public hearing must be on the agenda with the preliminary plat, with due notice to be sent by registered mail to the applicant, owners of real property, and occupants of structures within three hundred (300) feet of the proposed plat and published in a newspaper of general circulation in the City, at least fifteen (15) days before the date of hearing.
- b. The Planning Commission must review the preliminary plat, the comments of the City staff and consultants and hold the public hearing. The following procedure must be followed:

1. After the public hearing, the Planning Commission may recommend tentative approval, tentative approval with conditions, or rejection of the preliminary plat to the City Council;
  2. Give its report to the City Council not more than thirty-three (33) days after the preliminary plat was submitted to the City Clerk.
- c. The City Council on or before their second meeting after receiving the recommendation from the Planning Commission must review said preliminary plat and must tentatively approve, tentatively approve with conditions, or reject, the preliminary plat. The City Council must record their approval on the plat and return one copy to the proprietor or set forth in writing its reasons for rejection and requirements for tentative approval within the following time period, as applicable:
1. Within sixty (60) days after the preliminary plat was submitted to the City Clerk, if a pre-application review meeting was conducted under Section 109-8 of this Subdivision Ordinance.
  2. Within ninety (90) days after it was submitted to the City Clerk, if a pre-application review meeting was not conducted under Section 109-8 of this Subdivision Ordinance.
- d. The proprietor upon receiving tentative approval from the City Council must submit the preliminary plat to all authorities as required by the Land Division Act, Act 288, Public Acts of 1967, as amended.

**Sec. 109-10. - Preliminary plat—Final approval.**

Final approval of the preliminary plat under this section must confer upon the proprietor for a period of two (2) years from the date of approval, the conditional right that the general terms and conditions under which preliminary approval was granted will not be changed. The two (2) year period may be extended if applied for by the proprietor and granted by the City Council in writing. Written notice of the extension must be sent by City Council to the other approving authorities.

- (1) **Submittal.** The preliminary plat for final approval must be submitted to the City Clerk.
- (2) **Information required.** The following information must be shown on the preliminary plat or submitted with it:
  - a. A list of all such authorities to the City Clerk, certifying that the list shows all authorities as required;

- b. Submit all approved copies of the preliminary plat to the City Clerk after all necessary approvals have been secured;
  - c. Copy of the receipt from the City Treasurer that all fees, as provided for in the Ordinance from which this article was derived, have been paid; and
  - d. Engineering review and inspection fees, and other charges and deposits provided for in the ordinance from which this article was derived.
- (3) **Procedures.** The City Council, after receipt of the necessary approved copies of the preliminary plat, must:
- a. Consider and review the preliminary plat at its next meeting, or within twenty (20) days from the date of submission, and approve it if the proprietor has met all conditions laid down for approval of the preliminary plat;
  - b. Instruct the City Clerk to promptly notify the proprietor of approval or rejection in writing, and if rejected, to give reasons;
  - c. Instruct the City Clerk to note all proceedings in the minutes of the meeting; said minutes must be open for inspection;
  - d. No construction of improvements must be commenced by the subdivider until they have:
    - 1. Received notice of final approval of the preliminary plat by the City Council;
    - 2. Entered into a subdivision agreement with the City for the construction of all required subdivision improvements; and
    - 3. Deposited with the City a performance escrow as required guarantee and cash under Section 109-26 of this Subdivision Ordinance.

**Sec. 109-11. - Final plat.**

Following final approval of the preliminary plat by the City Council, the proprietor must produce a survey and five (5) true plats and an electronic copy thereof to be made by a licensed surveyor.

- (1) **Submittal.** Final plats must be submitted to the City Clerk. A final plat must not be accepted after the date of expiration of the preliminary plat approval.

- (2) **Information required.** All final plats of subdivided land must comply with the provisions of survey and mapping requirements cited in the Land Division Act, Act 288, Public Acts of 1967, as amended.
- a. A policy of title insurance currently in force, covering all the land included within the boundaries of the proposed subdivision.
  - b. Submit all approved copies of the preliminary plat to the City Clerk after all necessary approvals have been secured.
- (3) Procedures.
- a. The final plat must be reviewed by the City Engineer/Engineering Consultant as to compliance with the approved preliminary plat and plans for utilities and other improvements.
  - b. The City Council must review all recommendations and act on the final plat within thirty (30) days.
  - c. The City Council must require all improvements and facilities to be constructed or require a bond in lieu of construction of facilities before it approves the final plat.
  - d. Upon the approval of the final plat by the City Council, the subsequent approvals must follow the procedure set forth in the Land Division Act, Act 288, Public Acts of 1967, as amended. If disapproved, the City Council must give the proprietor its reasons in writing.
  - e. The City Council must instruct the City Clerk to record all proceedings in the minutes of the meeting, which must be open for inspection and to sign the City certificate of the approved plat on behalf of the City Council.
  - f. A final plat received by the State Treasurer more than one (1) year following the date of approval of the City or County treasurer must be returned to the treasurer who must make a new certificate currently dated, relative to paid or unpaid taxes, special assessments, and tax liens or titles.

**Sec. 109-12. – Vacation, correction, or revision of plat.**

The Circuit Court of the County may, as provided in Public Act 288 of 1967, vacate, correct, or revise all or part of a recorded plat.

**DIVISION 4. - DESIGN STANDARDS FOR SUBDIVISION PLANNING**

**Sec. 109-13. - Streets and alleys.**

The specifications herein set forth are hereby declared to be the standards and general plan adopted by the City of Berkley City Council for the width and location of all highways, streets, and alleys, which may hereafter, be platted or accepted within the City of Berkley. All such regulations are intended to be in harmony with all road and right-of-way standards and policies of the Oakland County Road Commission and the City of Berkley Engineering Standards as provided in the City Code and Engineering Design Standards and to implement the City's commitment to Complete Streets, with accommodations for vehicles, bicycles, transit, and pedestrians.

Design of streets and alleys must conform to all road and right-of-way standards and policies of the City of Berkley Engineering Standards as provided in the City Code and Engineering Design Standards, the Oakland County Road Commission, and the latest publication and revision of A Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials. Where there is a conflict between any of the aforementioned, the more restrictive must govern.

- (1) ***Layout.*** The layout of proposed streets must provide for the continuation of existing streets in surrounding areas and/or must conform to a plan for the neighborhood approved by the Planning Commission in cases where topographical or other conditions preclude the continuation of existing streets. In general, such streets must be of a width as great as that of the street so extended. Due consideration must be given to the following:
  - a. Traffic safety; and
  - b. Continuation of the street layout from surrounding areas in order to integrate subdivisions into the fabric of the City.
- (2) ***Arterial streets.*** Where the subdivision abuts or contains an existing or proposed arterial street, the Planning Commission may, at its discretion, require the construction of deep lots with rear-service alleys, double frontage of lots with provision of a screen planting contained in a no-access reservation along the rear property lines, or other treatment which the Planning Commission considers essential for separation of through and local traffic and adequate protection of residential lots.
- (3) ***Private streets and alleys.*** Private streets and alleys are not permitted. All streets and alleys must be dedicated to the public.
- (4) ***Access to property.*** The following provisions apply:
  - a. All lots must have frontage on a public street.
  - b. All proposed buildings must have access to a public street or alley.



- c. Each residential lot within a subdivision must be provided with a satisfactory means of access for pedestrians and vehicles.
  - d. There must be no reserve strips controlling access to a street, except where the control of such is placed with the City Council.
  - e. Driveways and curb cuts must conform to the City of Berkley Engineering Standards as provided in the City Code and Engineering Design Standards and the Oakland County Road Commission standards, when the Road Commission has jurisdiction over the street in question.
- (5) **Intersections.** Intersecting streets must be laid out so that the intersection angles are ninety (90) degrees. Deviations from this may be considered by the City Engineer/Engineering Consultant. No more than two (2) streets must cross at one (1) intersection.
- (6) **Visibility.** No fence, wall, structure, or planting must be erected, established, or maintained on any corner lot that will obstruct the sight distance of the driver of a vehicle approaching the intersection. The minimum clearance of any overhanging portion of a tree thereof must be ten (10) feet over sidewalks and fourteen (14) feet over all streets.
- (7) **Half-street.** Half-streets are prohibited, except for such major streets as may be recommended in the City Master Plan or by the Oakland County Road Commission. They are permitted only when the City Planning Commission considers the use of a half-street essential to the reasonable development of the subdivision in accordance with the intent of these regulations and where it finds it practicable to require the dedication of the other half of the right-of-way when the adjoining property is subdivided. Wherever there already exists a dedicated and recorded half-street or half alley on an adjoining plat, the other half must be dedicated on the proposed plat to make the street or alley complete. A one-foot reserve may be required to be placed between a half-street and the subdivision boundaries. This reserve must be designated as an outlot and must be deeded in fee simple to the City at such time as the City so requests in writing.
- (8) **Street jogs.** Street jogs with centerline offsets of less than one hundred and fifty (150) feet are prohibited. Where streets intersect arterial streets, their alignment must be continuous.
- (9) **Cul-de-sac streets.** Cul-de-sac streets should be avoided. Where required for the utilization of the property, cul-de-sacs may be allowed by the Planning Commission. The maximum permissible length of cul-de-sacs streets is five hundred (500) feet in length. For cul-de-sacs more than two hundred (200) feet in length, the City Engineer/Engineering Consultant may require a mid-block crossing.

- (10) ***Dead-end streets.*** Dead-end streets are only permitted in cases where the Planning Commission is of the opinion that there is a reasonable expectation that such streets will be extended to a suitable outlet when the adjacent property is platted. If the Planning Commission permits the platting of dead-end streets with the expectation of such future extension, the Planning Commission must determine whether the subdivider must provide a temporary turnaround at the closed end of the street. A one-foot reserve may be required to be placed at the end of a dead-end street, which terminates at subdivision boundaries. This reserve must be designated as an outlot and must be deeded in fee simple to the City at such time as the City so requests in writing.
- (11) ***Alleys.*** Alleys may be permitted or required in residential areas, for the purposes of vehicular access and trash pick-up. Alleys may be permitted or required in commercial or industrial areas for the purpose of service access, such as for off-street parking and loading. Alleys must meet the following standards:
  - a. All alleys must have a minimum width of twenty-six (26) feet.
  - b. A diagonal cut-off must be made at all acute and right-angle intersections of two (2) alleys sufficient to provide an inside turning radius of thirty (30) feet.
  - c. Dead-end alleys are prohibited except when provided with forty (40) foot outside turning radius at the dead end.
- (12) ***Street names.*** Street names which might cause confusion with names of existing streets in or near the City of Berkley are not permitted. Streets that will be continuations of existing streets must be called by the same names as such existing streets. All names must be approved by the City Planning Commission, the Public Safety Chief, and the Oakland County Road Commission.
- (13) ***Building lines and setback lines.*** Building lines must conform to the requirements of the City Zoning Ordinance.
- (14) ***Right-of-ways width.*** The minimum right-of-way width must be sixty-six (66) feet. Greater right-of-way widths for arterial streets as required by the Road Commission or designated in the City Engineering Design Standards may be required as necessary.
- (15) ***Horizontal alignment.*** The centerline of pavement must coincide with the centerline of right-of-way, except for roads with irregular right-of-way widths and with the approval of the City Planning Commission.
- (16) ***Street grades and curvature.*** Horizontal and vertical alignment must be provided on all proposed streets.

- (17) ***Radii at intersections.*** Minimum edge of pavement or curb radii must be uniform at intersections and must comply with the City of Berkley Engineering Design Standards. The low end of the range is preferred, but the City Engineer/Engineering Consultant may require radii within the ranges specified above to accommodate the turning movements of larger vehicles, such as but not limited to garbage haulers, freight trucks, school buses, or fire trucks.
- (18) ***Surface drainage.*** Surface drainage and detention must be provided in accordance with the City of Berkley Engineering Standards as provided in the City Code and Engineering Design Standards. In the event it is found to be essential to the economic development of substantial portions of a project, drainage easements may be permitted.
- (19) ***Street drainage.*** All streets and alleys must be provided with facilities for adequate surface drainage. Storm drains must be underground and curb-type design is required. The City Engineer/Engineering Consultant may approve alternative cross sections on a case-by-case basis. Plans for such drainage must be approved by the City Engineer/Engineering Consultant.
- (20) ***Streets standards and specifications.*** Streets and roads must be provided in accordance with the street and road standards adopted by the Michigan Department of Transportation, the County Road Commission, and the City of Berkley.

**Sec. 109-14. - Pedestrian ways.**

- (1) A right-of-way and facilities for mid-block pedestrian crosswalks in the middle of blocks are required for a block more than six hundred and sixty (660) feet in length. A right-of-way and/or facilities for mid-block pedestrian crosswalks may be required for blocks equal to or less than six hundred and sixty (660) feet in length, where necessary to obtain convenient pedestrian circulation to schools, parks, or shopping areas. The City Engineer/Engineering Consultant should decide whether the right-of-way or facilities are needed based on land uses, present and future demand, pedestrian compliance, speed, safety, and crash history of the street or similar streets in the City. Right-of-way and/or facilities for mid-block pedestrian crosswalk must be placed in locations with appropriate sight distance as certified by an engineer. The right-of-way must be at least ten feet wide and extend entirely through the block. Appropriate signing, pavement markings and appurtenances must be provided.
- (2) ***Sidewalks.*** Sidewalks with sufficient right-of-way must be installed on both sides of the street in all subdivisions, except in Industrial Parks under Section 109-21 of this Subdivision Ordinance. Access easements may be required should the sidewalks be installed outside of the public right-of-way.

**Sec. 109-15. - Utility and other easements.**

- (1) A subdivider must contact the City of Berkley Public Works Department for preferred locations of utilities. Water main and sanitary sewer service must be placed within public right-of-way, except with written approval of City staff and City Council. If public utilities are placed outside of the public right-of-way, easements must be granted in accordance with the City of Berkley Engineering Standards as provided in the City Code and Engineering Design Standards.
- (2) All public utilities within the subdivision must be underground.
- (3) Storm sewer, drainage and surface drainage easements must be provided along sewers, any natural water course, drainage ditch, channel or stream. Such easements must be of adequate width for the particular conditions of the site.
- (4) The subdivider must work with private utilities to determine the placement of such utilities and easements.

**Sec. 109-16. - Lots.**

The size, shape, and orientation of lots must be appropriate for the location of the subdivision as for the type of development and use contemplated. Lots must be of such size as to permit a variety of house types, to provide side yards for desirable access, light, air, privacy, and safety from fire hazard, and to provide for setbacks from the street line and allow sufficient space for household purposes. All lots must conform to the requirements of the City Zoning Ordinance. All lots when developed, must be connected to City sewer and water systems.

- (1) **Area.** The width and depth of lots must be such that the minimum lot areas will be in accordance with the adopted City of Berkley Zoning Ordinance.
- (2) **Width.** The minimum width of any lot is forty (40) feet, except that greater widths may be required in the Zoning Ordinance. Where desirable to plat wedge-shaped lots to best utilize a parcel of land, the required lot width is measured at a line located twenty-five (25) feet from the front of the property line.
- (3) **Depth.** No lot must be less than one hundred and ten (110) feet in depth. The depth of a lot must not exceed a depth-to-width ratio of four to one (4 to 1). Greater depths may be required by the Zoning Ordinance to comply with minimum lot area requirements.
- (4) **Side lot lines.** Side property lines of lots must generally be perpendicular to straight lines or radial to curved street line. Property lines on sides and rear of lots must be straight. The Planning Commission may allow variations to match the lot shapes of adjacent areas, preserve natural features, and allow for recreational facilities or pathways.

- (5) Corner lots must have extra width to permit appropriate building setbacks from both streets. If the Zoning Ordinance does not require a greater width, this Subdivision Ordinance must control in which case the corner lot should be ten (10%) to twenty (20%) percent wider than minimum interior lots. Lots abutting a pedestrian mid-block crosswalk must be treated as corner lots unless the width of the crosswalk right-of-way is not less than one-third of the width of the street right-of-way that the crosswalk intersects.
- (6) Single-family residential lots must not open or face directly onto an arterial street, or other heavily traveled street, shopping centers, or another large nonresidential area. In such situations, single-family residential lots must be laid out in one of the following ways:
- a. Lots can back onto the above features but must be separated therefrom by a landscaped strip with a berm, wall, or fence along the rear property line. The landscaped strip must meet the requirements for landscape screening between land uses in the Zoning Ordinance. The landscaped strip must not be considered part of the lot's minimum length or area. The landscaping must be such as to create a screen to ensure the privacy of each lot.
  - b. Lots may face onto a heavily traveled street with shared driveways and rear alley. A maximum of five (5) single-family residential lots can share a single driveway.
  - c. Lots may face onto intersecting streets with driveways opening onto the intersecting streets. These corner lots, which abut the arterial street right-of-way, must include a ten (10) foot wide landscape strip with street trees. Where the landscaped strip abuts a residential street at an arterial street right-of-way, a clear vision (sight) easement must be designated on the plat.
  - d. Lots may be grouped around short loop streets, which open onto the arterial street. In such situations, the corner lots abutting the arterial street right-of-way must each contain the landscaped strip required in subsections (6)(a) and (6)(c) of this section.
  - e. The layout of lots, whichever method is used, is intended to restrict the number of access points to the arterial streets and thereby reduce the number of traffic hazard points, preserve the traffic carrying capacity of the arterial street, and protect each lot's privacy and its freedom from noise and litter. Any landscaped strip required above must not be part of the normal road right-of-way or utility easement but be designated as an outlot.
- (7) ***Lot division or combination.*** The division or combination of a lot in a recorded plat is prohibited, unless approved following the application and procedures in Chapter 110 of the of the City Code of Ordinances.

- (8) ***Division of unplatted parcel.*** The division of unplatted land must conform to the procedure and regulation in Chapter 110 of the City Code of Ordinances.

**Sec. 109-17. - Blocks.**

The size and shape of blocks must be appropriate for the type of lots and land use proposed. Blocks must be designed so as to continue the established street pattern of the City, permit good lot orientation, safe street design, and economical use of the land.

- (1) ***Length.*** The length of blocks between intersecting streets must be between two hundred (200) and one thousand (1,000) feet. The Planning Commission may allow exceptions to this regulation where the topography of the land makes it advisable to do so in order to protect the public safety and convenience. In blocks exceeding one thousand (1,000) feet in length, the Planning Commission may require the reservation of a twenty (20) foot wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic of five (5) feet wide for pedestrian traffic only where needed or desirable and may specify further, at its discretion, the five (5) foot wide paved footpath be provided by the proprietor.
- (2) ***Perimeter.*** The perimeter of a block, measured by the length of all four (4) street faces, must be between eighteen hundred (1,800) linear feet and twenty-two hundred (2,200) linear feet.

The Planning Commission may allow exceptions to the above regulations where the topography of the land makes it advisable to do so in order to protect the public safety and convenience.

- (3) ***Arrangement.*** A block must be designed as to provide two (2) tiers of lots. A single tier of lots may be permitted in the following situations:
- a. Lots back into an arterial street, natural feature, or subdivision boundary; or
  - b. A portion of or an entire tier is a dedicated park, recreation space, pathway, or facility.
- (4) ***Non-residential blocks.*** Blocks intended for purposes other than residential must be specially designed for such purposes and must have adequate provision for off-street parking and loading in accordance with the requirements of the Zoning Ordinance.

**Sec. 109-18. - Use.**

- (1) ***Control.*** No property must be subdivided for residential use if such is considered unsuitable for building purposes by existing State of Michigan Local Ordinance and Statutes.

- (2) **Restrictions.** Wherever property is subdivided with the intention that it must have a use different than that designed in the Zoning Ordinance, such use must be stated in an application for an amendment to the Zoning Ordinance in a separate statement filed with the Planning Commission. Conformance with the objectives of the City general development plan must be required so as to ensure general uniformity of land uses within blocks and neighborhoods.
- (3) **Conformance with Zoning Ordinance.** Property use and area restrictions must be in accordance with the Zoning Ordinance.
- (4) **Land subject to flooding.** Any area of land within the proposed subdivision which is subject to flooding or inundation by storm water must be clearly shown on final plat. Such land must not be platted for residential occupancy, or for such uses as may increase danger to health, life or property, or unduly aggravate the flood hazard. No building must be placed within the one hundred (100) year floodplain. Any earth change within the one hundred (100) year floodplain must only be allowed with permission of the Michigan Department of Natural Resources.

**Sec. 109-19. - Open spaces and Linkages.**

In the design of the plat, thorough and equitable consideration must be given by the subdivider and the Planning Commission for the provision of suitable sites for recreation; including tot lots, both active and passive recreation areas, schools, and for other public purposes. Linkages to the Non-Motorized Network in the City of Berkley must be considered as well. All plats must meet the following standards:

- (1) The area reserved for recreation must be provided for all plats having twenty (20) or more residential dwelling units the size of such reserved area for recreation must be no less than three hundred (300) feet by three hundred (300) feet or ninety thousand (90,000) square feet. This reserved area must be increased in size by two hundred (200) square feet for each residential dwelling unit in the development exceeding thirty (30) dwelling units.
- (2) If a plat abuts or is located within five hundred (500) feet of any portion of a public trail, a direct linkage from the subdivision to such public trail must be provided.

**Sec. 109-20. - Commercial or industrial modification.**

These subdivision design standards may be modified in accordance with Division 5 of this Article in the case of subdivisions specifically for commercial or industrial development, including shopping district, wholesaling areas, and planned industrial districts. In all cases, however, adequate provision must be made for off-street parking and loading areas as well as for traffic circulation.

**Sec. 109-21. - Commercial developments.**

Where commercial developments such as shopping centers, or office parks fall within the definition of subdivision as set forth in Act 288, P.A. 1967, as amended, such development must conform to all provisions of the Subdivisions Ordinance that may be reasonably applied. Such development must conform to all Zoning Ordinance requirements.

In addition to other requirements of this Ordinance, the plan must show the following:

- (1) Basic building pattern to be constructed.
- (2) The general pattern of tenants or types of stores and shops.
- (3) The parking and circulation pattern must be clearly delineated and must be designed so that the circulation system is safe and convenient to customers, can be used with a minimum of congestion, and permits ease of entry and exit from parking spaces.
- (4) Compliance with dimensional standards provided by the City of Berkley Zoning Ordinance.
- (5) Landscaping features on the site should be provided pursuant to the Zoning Ordinance.
- (6) Any intended future expansion should be provided for in the layout of the initial center and should be shown on the concept plan, if applicable, and the preliminary plat. The area to be included in the expansion, and all connections thereto must be indicated on the preliminary and final plats. Parking areas, utilities, landscaping, etc., must be designed with future expansion in mind.
- (7) All separate buildings in the center, not connected to the principal center buildings, such as but not limited to supermarkets, gasoline service stations, theaters, offices, drive-ins, and facilities, must be shown on the plans, along with the circulation and parking patterns to service such facilities.
- (8) Pedestrian movement from parking bays to the center and other buildings should be clearly defined and so laid out as to separate, to the greatest extent possible, pedestrians from moving vehicles.

**Sec. 109-22. - Restrictive covenants.**

Covenants designed to preserve the character of the subdivision and to help retain its stability, permanence, and marketability are encouraged. Such covenants should be recorded with the plat and should be blanket covenants that apply to the entire subdivision. Such covenants are intended to complement the City's continuing regulation of the subdivision through its zoning and building code powers.



Blanket covenants may contain items such as, but not limited to:

- (1) Land use control.
- (2) Architectural control, including walls and fences as well as buildings; yards and setback requirements.
- (3) Minimum lot size.
- (4) Prohibition of nuisances
- (5) Regulation of signs.
- (6) Control of type, duration, location, etc., of temporary buildings or vehicles, such as travel trailers, etc., to be stored on each site;
- (7) Scenic or open space easements;
- (8) Other similar controls.

Covenants must be discussed with the Planning Commission during the initial procedures and/or preliminary plat stages and must be coordinated with existing or anticipated police power controls.

Covenants must be recorded prior to the sale of any lot within the subdivision. The City Council has authority to enforce covenants as conferred by the Land Division Act, Act 288, 1967, as amended.

**Sec. 109-23. - Subdivision improvements.**

It is the purpose of this Section to establish and define the public improvements which the proprietor will be required to provide as conditions for final plat approval; to outline the procedures and responsibilities of the proprietor and the various public officials and agencies concerned with the administration, planning, design, construction and financing of public facilities; and to establish procedures for assuring compliance with these requirements.

- (1) **Standards.** Improvements must be provided by the proprietor in accordance with these regulations, the latest revision of the City of Berkley Engineering Standards as provided in the City Code and Engineering Design Standards or with any other applicable standards and requirements which may from time to time be established by ordinance by the governing body, and by the published rules of the various departments of the City and County and State agencies. The improvements required under this article must be considered as the minimum acceptable standard.

- (2) **Preparation of plans.** It is the responsibility of the proprietor to have prepared by a registered engineer a complete set of construction plans for the required public streets, utilities, and other facilities required in this section. Such construction plans must conform to the preliminary plans, which have been approved with the preliminary plat, and must be prepared in conjunction with the final preliminary plat. Construction plans are subject to approval by the responsible public agencies and must be prepared in accordance with the City of Berkeley Engineering Standards as provided in the City Code and Engineering Design Standards and their standards and specifications.
- (3) **Engineering drawings of improvements.** Engineering drawings of all required improvements must be reviewed and approved by the City Engineer/Engineering Consultant. Improvements to be made under the jurisdiction of the County Road Commission, County Water Resources Commission, or other County or State agencies, must be submitted to the appropriate agency for review and approval. Where review and approval of engineering drawings is made by a County or State agency, the City Engineer/Engineering Consultant must obtain written confirmation of such approvals.

No grading, land filling, removal of trees or other vegetation, or construction of improvements must commence until the engineering drawings of same have been approved as provided in the ordinance from which this article was derived.

- (4) **Modification during construction.** All installations and construction must conform to the approved engineering drawings. If the proprietor chooses to make minor modifications in design and/or specifications during construction, they must submit revisions to the City Engineer/Engineering Consultant, and any other agency having jurisdiction, for approval. No work outside of the approved engineering drawings must be allowed until approval has been granted. The City may require that any work done prior to approval of the changes be removed at the expense of the proprietor. All changes must be shown on the as-built drawings.
- (5) **As-built drawing.** Upon completion of construction, the proprietor must submit to the City Engineer/Engineering Consultant one (1) electronic and three (3) paper copies of as-built engineering drawings for review and approval prior to final plat approval. Each set of drawings must be certified by the proprietor's engineer. Similar drawings must also be submitted of improvements installed under bond, after final plat approval.
- (6) **Easements.** Upon completion of construction, descriptions of all easements within the subdivision must be provided to the City Engineer/Engineering Consultant for review and approval. Once approved, it is the responsibility of the City to record the easements with the Oakland County Register of Deeds. Copies of the recorded easements must be

submitted to the City staff and the City Engineer/Engineering Consultant prior to final plat approval.

- (7) **Construction schedule.** The proprietor must submit to the City Engineer/Engineering Consultant a general schedule of the timing and sequence for the construction of all required improvements prior to final approval of the preliminary plat. The schedule must meet the procedural requirements and inspection needs of the City, County, and State agencies.

**Sec. 109-24. - Utilities and improvements.**

In order to provide healthful, clean, and desirable living conditions, the subdivider is entirely responsible for installing the following site improvements or must furnish a surety bond acceptable to the City Council sufficient to permit the completion of all contemplated improvements, before a plat is accepted by the City.

- (1) **Street pavement and storm drainage.** All subdivisions must have streets and intersections of bituminous pavement surfacing with enclosed storm sewers as required in the City of Berkley Engineering Standards as provided in the City Code and Engineering Design Standards and approved by the City staff and City Engineer/Engineering Consultant. All such improvements must be provided by the subdivider/developer. All work must be carried out under the supervision of the City Engineer/Engineering Consultant as outlined in the City Code and Engineering Design Standards.
- (2) **Installation of public utilities.** Public utilities must be located in accordance with the City of Berkley Engineering Standards as provided in the City Code and Engineering Design Standards. The underground work for utilities must be stubbed to the property line and made available for future connection. All public utilities in a subdivision must be underground.
- (3) **Sanitary sewerage system.** The location and design of all trunkline and lateral sanitary sewers and any other necessary appurtenances, such as pump stations, must conform to the City of Berkley Engineering Standards as provided in the City Code and Engineering Design Standards and be approved by the City staff and City Engineer/Engineering Consultant and all applicable reviewing agencies. All work must be carried out and provided by subdivider/developer under the supervision of the City Engineer/Engineering Consultant as outlined in the City Code and Engineering Design Standards.
- (4) **Water system.** The location and design of water mains with house connections and the installation of fire hydrants, and any other necessary appurtenances must conform to the City of Berkley Engineering Standards as provided in the City Code and Engineering Design Standards and be approved by the City staff, City Engineer/Engineering Consultant,

and all applicable reviewing agencies as to suitability. All work must be carried out and provided by subdivider/developer under the supervision of the City Engineer/Engineering Consultant.

- (5) **Sidewalks.** Sidewalks, along with crosswalks where necessary, must be provided along all streets and at any other location where the City Council and/or Planning Commission must determine that sidewalks are necessary for public safety or convenience. Sidewalks must conform to the City of Berkley Engineering Standards as provided in the City Code and Engineering Design Standards and be approved by the City Engineer/Engineering Consultant and all applicable reviewing agencies as to suitability. All work must be carried out and provided by subdivider/developer under the supervision of the City Engineer/Engineering Consultant as outlined in the City Code and Engineering Design Standards.
- (6) **Curbs and gutters.** Concrete curbs and gutters are required on all streets and must be constructed in accordance with the City of Berkley Engineering Standards as provided in the City Code and Engineering Design Standards. All work must be carried out and provided by subdivider/developer under the supervision of the City Engineer/Engineering Consultant as outlined in the City Code and Engineering Design Standards.
- (7) **Driveways.** All driveway openings in curbs must conform to the City of Berkley Engineering Standards as provided in the City Code and Engineering Design Standards.
- (8) **Street name signs.** Street name signs must be installed in the appropriate locations at each street intersection in accordance with the requirements of the City of Berkley.
- (9) **Trees.** Trees must be provided in the margins, a minimum distance of five (5) feet between the edges of the sidewalk and the edge of the street, of both sides of all streets, public or private, and must be placed at the minimum rate of two (2) per single family residential lot or at a maximum distance apart of thirty (30) feet. Trees may also be required to be installed according to the same distances in pedestrian ways. The species and locations of trees to be installed in the street margins must be approved by the City Manager or their designee per Section 130-44 of the City Code of Ordinances.

All trees must be protected from damage by wind and other elements during the first full year after planting.

- (10) **Street lighting.** Streetlights, where provided, must have underground wiring. Light standards must meet the minimum specifications of the electric utility company serving that area of the proposed subdivision. Where lights are to be provided, they must be installed prior to the occupancy of structures within the subdivision. Streetlights must be

provided in all subdivisions. All lighting must be compliant with Article 13 of the Zoning Ordinance.

**Sec. 109-25. - Protection of natural features.**

Due regard must be shown for all natural features, such as large trees, exceptionally fine groves of trees, water courses, scenic points, historic spots, and similar community assets, which if preserved, will add attractiveness and value to the subdivision. The subdivider/developer must take every precaution against injury to natural features, to store their apparatus, materials, supplies, and equipment in such a manner as not to damage natural features or trees. Any tree features liable to damage must be fenced or boxed in. Any trees to be protected must 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.

**Sec. 109-26. - Guarantee of completion of improvements required by the City.**

(1) ***Financial guarantee arrangements, exceptions.*** In lieu of the actual installation of the required public improvements, the City Council, on recommendation of the Planning Commission, may permit the subdivider to provide a financial guarantee of performance for those requirements, which are not under the jurisdiction of the County Road Commission, County Drain Commission or any other agency responsible for the administration, operation, and maintenance of the applicable public improvement. The Planning Commission may recommend, and the City Council may waive, financial guarantees of performance under the ordinance from which this article was derived for sidewalks, streetlights, or street trees. The completion of public improvements is required prior to the issuance of occupancy permits.

(2) **Performance bond.**

- a. ***Accrual.*** The bond must accrue to the City, covering construction, operation, and maintenance of the specific public improvement.
- b. ***Amount.*** The bond must be in an amount equal to the total estimated cost of completing construction of the specific public improvement, including contingencies, as estimated by the City Council and City Staff.
- c. ***Term length.*** The term length in which the bond is in force must be for a minimum period necessary to construct the public improvement, as specified by the City Council.
- d. ***Bonding or surety company.*** The bond must be with a surety company authorized to do business in the State of Michigan, acceptable to the City Council.

- e. ***The escrow agreement.*** Must be drawn and furnished by the City Council and City Staff and Attorney.

(3) **Cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit.**

- a. ***Treasurer, escrow agent, or trust company.*** A cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, such surety acceptable by the City Council, must accrue to the City. These deposits must be made with the City Treasurer or deposited with a responsible escrow agent or trust company, subject to the approval of the City Council.
- b. ***Dollar value.*** The dollar value of the cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit, must be equal to the total estimated cost of construction of the specific public improvement including contingencies, as estimated by the City Council and City Staff.
- c. ***Escrow time.*** The escrow time for the cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit, must be for a period to be specified by the City Council.
- d. ***Progressive payment.*** In the case of cash deposits or certified checks, an agreement between the City and the subdivider may provide for progressive payment out of the cash deposit or reduction of certified check, negotiable bond, or irrevocable bank letter of credit, to the extent of the cost of the completed portion of the public improvement, in accordance with a previously entered into agreement.

**Sec. 109-27. - Condition of City approval of final plat—Financial guarantees.**

With respect to financial guarantees, the approval of all final subdivision plats is conditioned on the accomplishments of one (1) of the following:

- (1) The construction of improvements required by the ordinance from which this article was derived must have been completed by the subdivider and approved by the City Council.
- (2) Surety acceptable to the City must have been filed in the form of a cash deposit, certified check, negotiable bonds, irrevocable bank letter of credit, or surety bond.
  - a. ***Special agreement.*** A special agreement must be entered into between the subdivider and the City Council where street trees and streetlights have been required by the City Council.
  - b. ***Inspection of public improvements under construction.*** Before approving a final plat and construction plans and specifications for public improvements, an

agreement between the subdivider and the City Council must be made to provide for checking or inspecting the construction and its conformity to the submitted plans.

- c. ***Penalty in case of failure to complete the construction of a public improvement.***  
In the event the subdivider must, in any case, fail to complete such work within such period of time as required by the conditions of the guarantee for the completion of public improvements, it is the responsibility of the City Council to proceed to have such work completed. In order to accomplish this, the City Council must reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, irrevocable bank letter or credit, or negotiable bond which the subdivider may have deposited in lieu of a surety bond, or may take such steps as may be necessary to require performance by the bonding or surety company, and as included in a written agreement between the City Council and the subdivider.

**Sec. 109-28. - Development Agreements**

The City Council may, as a condition of approval, require the proprietor to enter into a Development Agreement with the City. Such agreement must set forth and define responsibilities for the proprietor and the City and comply with the minimum terms stated within the City of Berkley Zoning Ordinance.

**DIVISION 5. - VARIANCES**

**Sec. 109-29. - General.**

The Planning Commission may recommend to the City Council a variance from the provisions of this Ordinance on a finding that undue hardship may result from strict compliance with specific provisions or requirements of the ordinance from which this article was derived or that application of such provision or requirement is impracticable. The Planning Commission must only recommend variances that it deems necessary to or desirable for the public interest. In making its findings, as required herein below, the Planning Commission must consider the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, the impact to public utilities and area drainage, and the probable effect of the proposed work in the proposed subdivision upon traffic conditions in the vicinity. The Planning Commission must not recommend a variance unless all the findings below are made after a public hearing. The Planning Commission must include its findings and the specific reasons therefore in its report of recommendations to the City Council and must also record its reasons and actions in its minutes.

- (1) That there are such special circumstances or conditions affecting said property that the strict application of the provisions of the ordinance from which this article was derived would clearly be impracticable or unreasonable. In such cases, the subdivider must first state his reasons in writing as to the specific provision or requirement involved and submit them to the Planning Commission;
- (2) That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated;
- (3) That such variance will not violate the provisions of the State Land Division Act, Act 288, 1967, as amended;
- (4) That such variance will not have the effect of nullifying the interest and purpose of the ordinance from which this article was derived and the general development plan of the City.

**Sec. 109-30. - Topographical/physical limitation modification.**

Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of the ordinance from which this article was derived would result in extraordinary hardship to the subdivider because of unusual topography, other physical conditions, or other such conditions which are not self-inflicted, or that these conditions would result in inhibiting the achievement of the objectives of the ordinance from which this article was derived, the Planning Commission may recommend to the City Council a modification or a waiver of these requirements be granted contingent upon the following:

- (1) The proposed project will constitute a desirable and stable community development.
- (2) The proposed project will be in harmony with adjacent areas.

**DIVISION 6. - FEES**

**Sec. 109-31. - Schedule of fees.**

The schedule of fees for subdivision plat must be as follows:

- (1) *Application fees.* Pre-application review meeting, preliminary and final plat review fees, planning fees, engineering fees, attorney fees, inspection fees and other applicable development charges must be paid by the subdivider/developer as may be provided for as follows, or by other ordinances of the City. The subdivider/developer must, upon first submission of a concept plan pay to the City Clerk a fee as listed in a fee schedule adopted by the City Council.



There must be an additional fee as listed in a fee schedule adopted by the City Council.

- (2) **Engineering review fees.** Such fees must be established by resolution of the City Council.

## **DIVISION 7. - VIOLATION—PENALTY**

### **Sec. 109-32. - Penalty.**

Any person who must violate any of the provisions of the ordinance from which this article was derived, whether such person be the agent of the owner of the property, must be fined not to exceed the sum of one hundred (\$100) dollars, and the cost of the prosecution or by imprisonment for not more than ninety (90) days or both, at the discretion of the court. Each day such violation must exist must constitute a separate offense. Furthermore, all persons must be subject to the penalties set forth in the State Land Division Act, Act 288, 1967, as amended.

### **SECTION 2: 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 3: 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 4: Effective Date**

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

### **SECTION 5: 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 Monday, February 24, 2025 .

Adopted on the Second Reading at the Regular City Council Meeting on Monday, March 17, 2025 .

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Bridget Dean, Mayor

Attest:

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Victoria E. Mitchell, City Clerk