

# PUBLIC NOTICE

## CITY OF BERKLEY, MICHIGAN REGULAR MEETING OF THE CITY PLANNING COMMISSION

Tuesday, December 20, 2022  
7:00PM – City Hall Council Chambers  
Information: 248-658-3320

CALL TO ORDER  
PLEDGE OF ALLEGIANCE  
ROLL CALL  
APPROVAL OF AGENDA  
APPROVAL OF MINUTES – *Meeting minutes of October 25, 2022*  
COMMUNICATIONS  
CITIZEN COMMENTS

### OLD BUSINESS

1. **Outdoor Seating:** Discussion of ordinance language to regulate outdoor seating
2. **Vape Shops:** Discussion of an ordinance amendment to regulate the location of vape shops

### NEW BUSINESS

1. **Child Care Centers – Twelve Mile District:** Discussion of an ordinance amendment to add child care centers as a permitted use in the Twelve Mile District
2. **2023 Meeting Dates**

LIAISON REPORTS  
COMMISSIONER / STAFF COMMENTS  
ADJOURN

*Notice: Official Minutes of the City Planning Commission are stored and available for review at the office of the City Clerk. The City of Berkley will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting upon four working days notice to the city. Individuals with disabilities requiring auxiliary aids or services should contact the city by writing or calling: City Clerk, ADA Contact, Berkley City Hall, 3338 Coolidge, Berkley, Michigan 48072, (248) 658-3300.*

You can watch the meeting on Channel 10 for both Comcast and WOW, at <http://www.youtube.com/CityofBerkley> or <http://www.berkleymich.org/livestream>.



**Carlisle | Wortman**  
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

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**TO:** City of Berkley Planning Commission  
**FROM:** Megan Masson-Minock, AICP  
**DATE:** November 15, 2022  
**RE:** Outdoor service area zoning ordinance amendments

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Per our discussion last month, we have drafted the attached Zoning Ordinance amendment to allow outdoor service area for restaurants and other food service establishments as an accessory use with an annual temporary use permit with specific regulations. We based the amendments on the following items:

- “Parklets” or outdoor service areas in on-street parking areas will be handled in a separate discussion with the City Council.
- Rooftop outdoor service areas should be special land uses.
- Accessory outdoor service area must receive a permit, reviewed by the Zoning Administrator and re-issued on an annual basis. The needed elements for that application are listed in the proposed amendments.
- Accessory outdoor service areas are allowed on-site in the front yard and with a 50-foot setback in the side and rear yards from residentially zoned or property with first-floor residential uses. The proposed 50-foot setback is based on the distance of Amici’s outdoor service area from the adjacent residential property to the south. The setback could be reduced to 40 feet, since the adjacent parking on the north side of Twelve Mile is often 40 feet wide.
- On-site parking spaces may be used for outdoor seating areas as long as the minimum parking requirements for the principal building and any shared parking agreements are met.
- Outdoor service areas are prohibited in the public right-of-way between November 1 and March 31 to allow for snow clearance.
- No regulations on noise are proposed beyond a cross-reference to the City’s Noise Ordinance, but information on those regulations will be included in the application.
- Enclosures are required for outdoor service areas where alcohol is to be served, where the outdoor service area on the sidewalk is within one foot of the back of the curb, and where parking spaces are used for the service area.
- No requirements beyond provision of the liquor license and compliance with state standards are needed.
- Outdoor service areas must maintain the current regulations on an unobstructed sidewalk of 5 feet.

November 15, 2022

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- Outdoor service areas must have an unobstructed 5-foot access to door of associated principal building.
- Temporary shelters are allowed with basic safety rules and no time restrictions.
- Regulations for ramps and platforms, street furniture and furnishings, lighting and heating elements are proposed.
- Maintenance of the outdoor service area is the responsibility of the establishment.

If the Planning Commission is satisfied with the proposed amendments, the next step is to call a public hearing. Please let us know if you have any questions or concerns. We look forward to this discussion on November 22<sup>nd</sup>!

Sincerely,



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**CARLISLE/WORTMAN ASSOC., INC.**  
**Megan Masson-Minock, AICP**  
**Senior Associate**

**AN  
ORDINANCE**

**of the City Council of the City of Berkley, Michigan to Add Sec. 138-199, and to Amend Sec. 138-32, Section 138-387, Sec. 138-388, Sec. 138-418, Sec. 138-427, Sec. 138-428, Sec. 138-442, Sec. 138-443, Sec. 138-457, and Sec. 138-458 of Chapter 138 – Zoning to allow outdoor service areas as a principal permitted use and allow rooftop outdoor eating areas for restaurants and other food serving establishments as a special use.**

**THE CITY OF BERKLEY  
ORDAINS:**

**SECTION 1:** Section 138-32 of Chapter 138 of the Berkley City Code must be amended, as follows:

*Outdoor service area: A porch, patio, deck, sidewalk, parking lot, parking space, or other public or private land area used for seated dining and beverage service, which is adjacent and accessory to, but not located within the interior building walls of food and/or beverage establishments. Rooftop outdoor eating areas are not considered outdoor service areas.*

**SECTION 2:** Section 138-199 must be added to Division 6 of Chapter 138 of the Berkley City Code, as follows:

**Sec. 138-199. – Outdoor service areas.**

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

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

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

- (1) Sketch Plan: A sketch plan (top-view drawing of the outdoor service area) with:
  - a. The location of an outdoor service area in relation to the business it will serve; the entrance to the business; adjacent properties (include addresses) and their building entrances; and existing landscaping, road, trees, catch basins, fire hydrants, and other utilities.
  - b. The dimensions of the outdoor service area footprint.
  - c. The location of the access ramps, platforms, and enclosures.
  - d. Details of any hardware such as fasteners to be used in the construction of ramps and platforms.

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

- (1) When located in the side or rear yard of a site, an outdoor service area must be a minimum 50 feet from the property line of any single-family or multiple-family zoning district.
  - (2) Outdoor service areas must be setback at least 2 feet from adjacent vehicle traffic lanes, vehicle circulation aisles, or alleys.
  - (3) Outdoor service areas must be at least 3 feet from adjacent parking spaces not used as an outdoor service area.
  - (4) Outdoor services areas only may be allowed in on-site parking spaces or parking lots when parking provided without the spaces to be used for the outdoor service area still meets the minimum parking requirements for the principal building on-site as well as for any existing parking agreements.
- (c) *Time of Operation.* Permitted outdoor service areas may be operated all year. However, outdoor service areas in the public right-of-way are limited to April 1<sup>st</sup> through October 31<sup>st</sup>.
- (d) *Temporary Shelters.* Outdoor service area permittees may be allowed to erect temporary shelters, such as tents, igloos, bubbles, garden sheds, or similar type when in compliance with the following regulations:
- (1) Non-electric heating elements are prohibited inside any temporary shelters.
  - (2) The location of all non-electric portable heating elements must be a minimum of ten (10) feet from temporary shelters.
- (e) *Access.* All outdoor services areas, whether located on a sidewalk or accessed from a sidewalk, must allow a minimum of five (5) feet of unobstructed pedestrian access along the sidewalk, as well as ingress/egress to the principal use for which the outdoor service area is accessory.
- Outdoor service areas must comply with Michigan Barrier Free Code, including but not limited to the following:
- (1) Entrances must be a minimum of 48 inches wide.
  - (2) Connections between platforms, ramps, sidewalks, or parking spaces must be flush, and must not leave a horizontal gap greater than 1/2 inch, or a vertical separation greater than a quarter inch. 1:4 bevels are required for vertical differences that exceed a quarter inch.
  - (3) For outdoor service areas proposed on parking spaces with grades that exceed 5%, level platforms must be provided.
  - (4) Ramps must be provided for parking space outdoor service areas that are accessed from curbed sidewalks.

- (f) Ramps and Platforms. Ramps and platforms for outdoor service areas must comply with the following regulations:
- (1) Bolting of ramps and platforms into the road or penetrating the surface of the road/parking space is prohibited. Ramps and platforms may be bolted to the existing curb, but curbs must be restored to the satisfaction of the City of Berkeley DPW.
  - (2) Ramps and platforms must be designed and constructed to maintain unobstructed drainage flow along the gutter.
  - (3) Platform and ramp substructures must be made of quality materials: i.e., wood, treated wood or composite materials. Platform and ramp surfaces must be of a non-slip, composite material.
- (g) Enclosures. Enclosures are required for outdoor service areas in the following circumstances: when alcohol is served, when outdoor service areas on the sidewalk are within one foot of the back of the curb, and when using parking spaces. Enclosures must comply with the following regulations:
- (1) The enclosures must be clearly marked, using railings, planters, fencing, or similar materials.
  - (2) Enclosures must not block the view of traffic, including pedestrian traffic, or block the view of traffic control devices such as traffic signs, traffic signals, and other traffic warning devices.
  - (3) The minimum height of an enclosure is 36 inches and maximum height is 42 inches.
  - (4) For outdoor service areas serving alcohol, the enclosure must define and secure the outdoor service area for alcohol consumption.
  - (5) For sidewalk outdoor service areas within one foot of the back of the curb, the enclosure must be located along the curb separating the outdoor service area from the roadway.
  - (6) For outdoor service areas using parking spaces, the enclosure must be a continuous, rigid physical separation with a height of 42 inches on all sides of the outdoor service area adjacent to vehicle traffic lanes, vehicle circulation aisles, alleys, and parking spaces not used as an outdoor service area.
- (h) Alcohol service. Alcoholic beverages may be served in an outdoor service area, as licensed by the State, for consumption by customers of the licensee.
- (i) Street furniture and furnishings. Street furniture and furnishings are allowed in outdoor service areas when the following regulations are met:
- (1) Outdoor service area street furniture/fixtures must not block the view of traffic, including pedestrian traffic, or block the view of traffic control devices such as traffic signs, traffic signals, and other traffic warning devices.

- (2) All outdoor service area street furniture/fixtures must be of substantial weight so that at no time could the outdoor service area furniture present an obstruction or risk to public safety, especially during inclement weather. All umbrellas must be closed or removed each evening.
- (3) Hanging or overhead objects, including umbrellas, must have a minimum clearance of at least 7 feet.
- (4) All outdoor service area furniture/fixtures must be maintained in a state of good repair. Any outdoor service area furniture/fixtures having broken, peeling, or rusting features or are showing other signs of disrepair must be promptly removed and replaced.
- (5) All sun shading must be constructed of fire-retardant materials.
- (j) Lighting. Temporary, decorative outdoor lighting, such as string lights or electric candles, may be permitted in outdoor services areas when such lighting is limited to the hours of operation of the outdoor service area, does not create glare that negatively impacts public safety or adjacent properties, and is secured in a manner to prevent trip or electrical hazard. All other lighting must meet the requirements in Section 138-143(b).
- (k) Heating elements. Electric and non-electric heating elements may be permitted in outdoor services areas. Non-electric heating elements must be placed a minimum of 10 feet from all permanent or temporary structures. Electric heating elements must be secured in a manner to prevent tripping or electrical hazard.
- (l) Maintenance. The maintenance of an outdoor service area is the responsibility of the establishment. Maintenance includes, but is not limited to surface treatment and cleaning, litter control, sweeping, and snow and ice removal. Any sidewalk or public property permitted to be used as an outdoor service area must be kept neat and clean at all times and free from any substance that may cause pedestrian injury or damage to the sidewalk or public property.

**SECTION 4:** Section 138-387 of Chapter 138 of the Berkley City Code must be amended, as follows:

**Sec. 138-387. – Principal Uses permitted.**

Principal uses permitted in the LB district are as follows:

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



- televisions, small appliances, vacuum and sewing machines, etc.), beauty salons, hair salons, barber shops, manicuring studios, tanning salons, massage facilities, spa service facilities, self-service laundries, reproduction/copy centers, printing, mailing/shipping centers, while prohibiting service facilities of package shipping providers, but which may require a retail adjunct.
- (4) Any service establishments including a showroom or workshop of an electrician, decorator, caterer, baker, painter, upholsterer, tailor, seamstress/dressmaker, photography studios and similar service establishments that require a retail adjunct.
  - (5) Dry cleaning establishments of a retail nature. Strictly wholesale dry cleaning establishments must be prohibited.
  - (6) Business establishments which perform services on the premises such as, but not limited to, banks, credit unions, savings and loan associations, loan companies, insurance offices, travel services, and real estate offices. Bank, savings and loan associations and credit unions may include drive-up facilities only as an accessory use subject to the required provisions for stacking or waiting space, apart from required off street parking areas, at the rate of 4 car spaces for each service window or pedestal, in addition to providing a full car length space at the window or pedestal.
  - (7) Offices for any of the following occupations: executive, administrative, manufacturer representatives, building/construction company or contract sales headquarters, professional, accounting, writing, clerical, stenographic, drafting and real estate sales, subject to the limitations contained in section 138-390.
  - (8) Professional offices for medical (doctors, osteopaths, chiropractors, psychologists, and psychiatrists) dental and optical, including clinics (outpatient service only); and other similar or allied professions subject to the limitations contained in section 138-390.
  - (9) Professional offices for lawyers, architects, landscape architects, urban planners, engineers and other similar or allied professions, subject to the limitations contained in section 138-390.
  - (10) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
  - (11) Places of worship.
  - (12) Commercial recreational uses such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks, indoor tennis courts, athletic or health clubs, schools of dance, schools of martial arts, or similar forms of indoor commercial recreation.
  - (13) Restaurants, bars, lounges or other places serving food or beverage within enclosed buildings, not including drive-in or drive-through ~~or outdoor service~~ eating establishments.
  - (14) Single-family, two-family and multiple-family dwellings when located on the second floor or above a first floor permitted or special use. Single-family detached dwellings and first floor dwelling units are prohibited.
  - (15) Accessory structures and uses customarily incidental to the above permitted uses.

- (16) Marihuana retailers and medical marihuana provisioning centers.

**SECTION 5:** Section 138-388 of Chapter 138 of the Berkley City Code must be amended, as follows:

**Sec. 138-388. Special uses.**

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

- (1) Automobile service stations, subject to the requirements of section 138-389.
- (2) Drive-in and drive-through eating establishments.
- (3) Drive-through retail/service establishments.
- (4) Open air business uses when developed as uses accessory to primary uses and structures in the LB local business district as follows:
  - a. Rooftop outdoor seating areas for restaurants or other food serving establishments.
  - b. Outdoor retail sales of fruits, vegetables and plant materials not grown on site and sales of lawn furniture, playground equipment, hardware supplies and other home garden supplies.
  - c. Businesses in the character of open store fronts.
- (5) Commercial amusement device centers.
- (6) Nursery schools, day nurseries and child care centers, provided:
  - a. Applicants are licensed through the Michigan Department of Licensing and Regulatory Affairs (LARA). Proof of licensing must be provided to the city when submitting an application for a business license.
  - b. Facilities meet the minimum requirements established by the Michigan Department of Licensing and Regulatory Affairs (LARA) and meet the minimum standards of section 138-391 Area and bulk requirements and section 138-392 Building design requirements.
  - c. Facilities meet screening requirements as deemed reasonable by the planning commission, including masonry walls up to six feet in height, decorative fencing or landscaping.
  - d. Applicants, staff, and facilities meet the minimum standards established by the Michigan Child Care Organizations, MCL 722.111 et seq., as amended.

**SECTION 6:** Section 138-418 of Chapter 138 of the Berkley City Code must be amended, as follows:

**Sec. 138-418. Special uses.**

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

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

**SECTION 7:** Section 138-427 of Chapter 138 of the Berkley City Code must be amended, as follows:

**Sec. 138-427. Principal uses permitted.**

Principal uses permitted in the Gateway district are as follows:

- (1) Any generally recognized retail business whose principal activity is the sale of commodities on the premises, in a completely enclosed building including, but not limited to, the sale of groceries, meats, dairy products, baked goods and other food items dispensed for consumption off the site, drugs, pharmaceutical, apothecary items, flowers, dry goods, furnishings, jewelry, clothing millinery, shoes, books and periodicals, stationery and office supplies and hardware.
- (2) Specialty shops such as, but not limited to, antique shops, craft shops and shops for the sale of gifts and notions.
- (3) Personal service establishments which perform services on the premises directly for the consumer such as, but not limited to, repair shops (shoes, watches, jewelry, radios, televisions, small appliances, vacuum and sewing machines, etc.), beauty salons, hair salons, barber shops, manicuring studios, tanning salons, massage facilities, spa service facilities, self-service laundries, reproduction/copy centers, printing, mailing/shipping centers, while prohibiting service facilities of package shipping providers, but which may require a retail adjunct.
- (4) Any service establishments including a showroom or workshop of an electrician, decorator, caterer, baker, painter, upholsterer, tailor, seamstress/dressmaker, photography studios and similar service establishments that require a retail adjunct.
- (5) Dry cleaning establishments of a retail nature. Strictly wholesale dry cleaning establishments must be prohibited.
- (6) Business establishments which perform services on the premises such as, but not limited to, banks, credit unions, savings and loan associations, loan companies, insurance offices, travel services, and real estate offices. Bank, savings and loan associations and credit unions may include drive-up facilities only as an accessory use subject to the required provisions for

- stacking or waiting space, apart from required off street parking areas, at the rate of 4 car spaces for each service window or pedestal, in addition to providing a full car length space at the window or pedestal.
- (7) Offices for any of the following occupations: executive, administrative, manufacturer representatives, building/construction company or contract sales headquarters, professional, accounting, writing, clerical, stenographic, drafting and real estate sales, subject to the limitations contained in section 138-410.
  - (8) Professional offices for medical (doctors, osteopaths, chiropractors, psychologists, and psychiatrists) dental and optical, including clinics (outpatient service only); and other similar or allied professions subject to the limitations contained in section 138-410.
  - (9) Professional offices for lawyers, architects, landscape architects, urban planners, engineers and other similar or allied professions, subject to the limitations contained in section 138-410.
  - (10) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
  - (11) Places of worship.
  - (12) Commercial recreational uses such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks, indoor tennis courts, athletic or health clubs, schools of dance, schools of martial arts, or similar forms of indoor commercial recreation.
  - (13) Restaurants, bars, lounges or other places serving food or beverage within enclosed buildings, not including drive-in, ~~or~~ drive-through ~~or outdoor service~~ eating establishments.
  - (14) Single-family, two-family and multiple-family dwellings when located on the second floor or above a first floor permitted or special use. Single-family detached dwellings and first floor dwelling units are prohibited.
  - (15) Accessory structures and uses customarily incidental to the above permitted uses.
  - (16) Marihuana retailers and medical marihuana provisioning centers.

**SECTION 8:** Section 138-428 of Chapter 138 of the Berkley City Code must be amended, as follows:

**Sec. 138-428. Special uses.**

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

- (1) Automobile service stations, subject to the requirements of section 138-429.
- (2) Drive-in and drive-through eating establishments.
- (3) Drive-through retail/service establishments.
- (4) Commercial amusement device centers.
- (5) Open air business uses when developed as uses accessory to primary uses and structures in the Gateway district as follows:
  - a. Rooftop outdoor seating areas for restaurants or other food serving establishments.

- b. Outdoor retail sales of fruits, vegetables and plant materials not grown on site and sales of lawn furniture, playground equipment, hardware supplies and other home garden supplies.
- c. Businesses in the character of open store fronts.

**SECTION 9:** Section 138-442 of Chapter 138 of the Berkley City Code must be amended, as follows:

**Sec. 138-442. Principal uses permitted.**

Principal uses permitted in the Coolidge Districts are as follows:

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

- (12) Commercial recreational uses such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks, indoor tennis courts, athletic or health clubs, schools of dance, schools of martial arts, or similar forms of indoor commercial recreation.
- (13) Restaurants, bars, lounges or other places serving food or beverage within enclosed buildings, not including drive-in, ~~or drive-through~~ ~~or outdoor service~~ eating establishments.
- (14) Dwellings above a business use.
- (15) Accessory structures and uses customarily incidental to the above permitted uses.
- (16) Marihuana retailers and medical marihuana provisioning centers.

**SECTION 10:** Section 138-443 of Chapter 138 of the Berkley City Code must be amended, as follows:

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

- (1) Automobile service stations, subject to the requirements of section 138-444.
- (2) Drive-in and drive-through eating establishments.
- (3) Drive-through retail/service establishments.
- (4) Open air business uses when developed as uses accessory to primary uses and structures in the Coolidge district as follows:
  - a. Rooftop outdoor seating areas for restaurants or other food serving establishments.
  - b. Outdoor retail sales of fruits, vegetables and plant materials not grown on site and sales of lawn furniture, playground equipment, hardware supplies and other home garden supplies.
  - c. Businesses in the character of open store fronts.
- (5) Commercial amusement device centers.

**SECTION 11:** Section 138-457 of Chapter 138 of the Berkley City Code must be amended, as follows:

**Sec. 138-457. Principal uses permitted.**

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

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

- laundries, reproduction/copy centers, printing, mailing/shipping centers, while prohibiting service facilities of package shipping providers, but which may require a retail adjunct.
- (4) Any service establishments including a showroom or workshop of an electrician, decorator, caterer, baker, painter, upholsterer, tailor, photography studios and similar service establishments that require a retail adjunct.
  - (5) Dry cleaning establishments of a retail nature. Strictly wholesale dry cleaning establishments must be prohibited.
  - (6) Offices for any of the following occupations: executive, administrative, manufacturer representatives, building/construction company or contract sales headquarters, professional, accounting, writing, clerical, stenographic, drafting and real estate sales.
  - (7) Professional offices for medical (doctors, osteopaths, chiropractors, psychologists, and psychiatrists) dental and optical, including clinics (outpatient service only); and other similar or allied professions.
  - (8) Professional offices for lawyers, architects, landscape architects, urban planners, engineers and other similar or allied professions.
  - (9) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
  - (10) Places of worship.
  - (11) Commercial recreational uses such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks, indoor tennis courts, athletic or health clubs, schools of dance, schools of martial arts, or similar forms of indoor commercial recreation.
  - (12) Restaurants, bars, lounges or other places serving food or beverage within enclosed buildings, not including drive-in, ~~or drive-through~~ ~~or outdoor service~~ eating establishments.
  - (13) Apartments or townhouses,
  - (14) Dwellings above a business use.
  - (15) Accessory structures and uses customarily incidental to the above permitted uses.
  - (16) Marihuana retailers and medical marihuana provisioning centers.

**SECTION 12:** Section 138-458 of Chapter 138 of the Berkley City Code must be amended, as follows:

**Sec. 138-458. Special uses.**

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

- (1) Automobile service stations, subject to the requirements of section 138-409.
- (2) Drive-in and drive-through eating establishments.
- (3) Open air business uses when developed as uses accessory to primary uses and structures in the twelve mile district as follows:
  - a. Rooftop outdoor seating areas for restaurants or other food serving establishments.

- b. Outdoor retail sales of fruits, vegetables and plant materials not grown on site and sales of lawn furniture, playground equipment, hardware supplies and other home garden supplies.
- c. Businesses in the character of open store fronts.

DRAFT





**Carlisle | Wortman**  
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

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**TO:** City of Berkley Planning Commission  
**FROM:** Megan Masson-Minock, AICP  
**DATE:** November 15, 2022  
**RE:** Vape Shop Zoning Ordinance Amendments – Updated

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Based on direction from the Planning Commission at your last meeting, we have drafted the attached zoning ordinance amendments for your consideration. The ordinance amendments have the following changes:

- The term “tobacco and vape shop” is used consistently, including in Section 138-419 that lists prohibited uses in the Downtown District.
- The proposed definitions have been updated per the [E-Cigarette, or Vaping, Products Visual Dictionary \(cdc.gov\)](https://www.cdc.gov).
- Tobacco and vape shops are proposed to be principal uses in the Local Business District and by extension the Woodward District, as well as in the Gateway, Twelve Mile, Eleven Mile, and Greenfield District. Section 138-398- Building design Requirements, item (2) requires that development which faces Ellwood be residential in nature. Due to that existing provision, tobacco and vape shops would only be allowed on properties facing Greenfield in the Greenfield District.
- Vape and tobacco shops must be located a minimum of 1,000 feet from one another within the boundaries of the City. The attached map shows the current locations of operating and permitted tobacco and vape shops in the City of Berkley with a 1,000 foot buffer. Under the proposed zoning ordinance amendments, Smoker’s Island at 2675 Coolidge would be nonconforming since it is located in the Coolidge District. The business received a business license but has not opened.

If the Planning Commission is satisfied with the proposed amendments, the next step is to call a public hearing. Please let us know if you have any questions or concerns. We look forward to this discussion on November 22<sup>nd</sup>!

Sincerely,

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**CARLISLE/WORTMAN ASSOC., INC.**  
**Megan Masson-Minock, AICP**  
**Senior Associate**

# Currently Operating or Permitted Tobacco and Vape Shops in City of Berkley with 1,000-Foot Buffer November 15, 2022

CITY OF BERKLEY,  
MICHIGAN  
ZONING MAP

JUNE, 2017  
CITY SIZE 2.6 SQUARE MILES



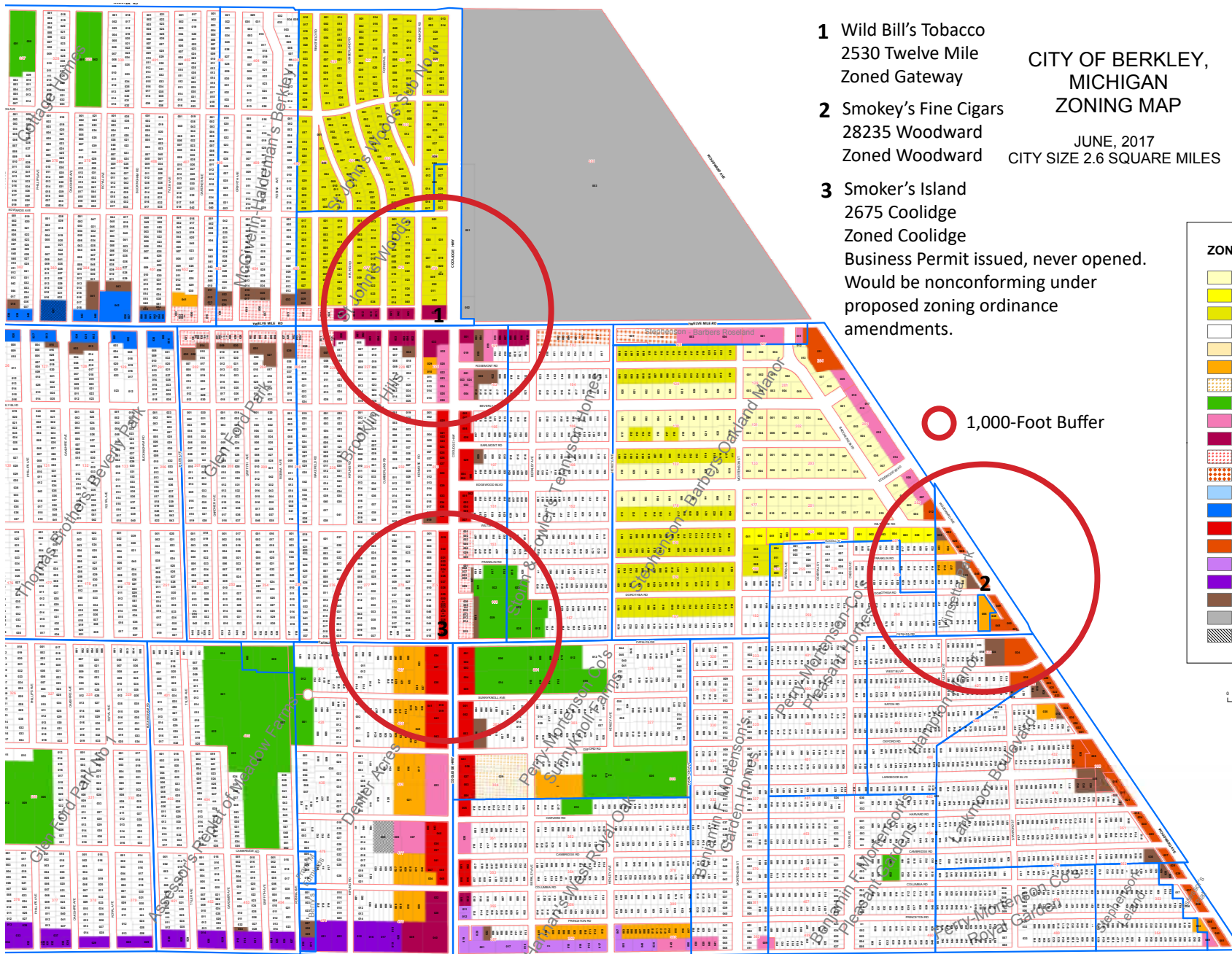
- 1 Wild Bill's Tobacco  
2530 Twelve Mile  
Zoned Gateway
- 2 Smokey's Fine Cigars  
28235 Woodward  
Zoned Woodward
- 3 Smoker's Island  
2675 Coolidge  
Zoned Coolidge  
Business Permit issued, never opened.  
Would be nonconforming under  
proposed zoning ordinance  
amendments.

### ZONING CATEGORIES

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

○ 1,000-Foot Buffer

0 250 500 1,000  
Feet



**AN  
ORDINANCE**

**of the City Council of the City of Berkley, Michigan to Amend Sec. 138-32, Section 138-387, Sec. 138-394, Sec. 138-419, Sec. 138-427, Sec. 138-457, Sec. 138-487, and Sec. 138-529 of Chapter 138 – Zoning. The City of Berkley finds it necessary to regulate tobacco and vape shops as a matter to preserve the public health, safety and welfare of the community. The City has enacted this ordinance in order to limit the concentration of tobacco and vape shops resulting in undesirable impacts to the community. Among these impacts are increased potential for tobacco sales to minors, greater opportunity for the sale of illegal drug paraphernalia that is marketed as tobacco paraphernalia, and heightened risk of negative aesthetic impacts, blight, and loss of property values of residential neighborhoods and businesses in close proximity to such uses. This ordinance contains amendments consistent with zoning and planning practices to address such negative impacts of tobacco and vape shops while providing a reasonable number of locations and zonings for such uses to locate within the City of Berkley.**

**THE CITY OF BERKLEY  
ORDAINS:**

**SECTION 1:** Section 138-32 of Chapter 138 of the Berkley City Code must be amended, as follows:

*Tobacco and vape shop.* ~~Any establishment having more than 30 percent of shelf space devoted to selling of tobacco, cigarette, cigars, or smoking paraphernalia.~~ Any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, alternative nicotine products, nicotine products, vapor products, vapor devices or tobacco paraphernalia with the prohibition of onsite smoking and/or lounge. Any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes, vapor products or tobacco as an ancillary sale shall not be defined as a “tobacco store and vape shop.” The following definitions are provided:

- (1) *Alternative nicotine product:* A noncombustible product containing nicotine that is intended for human consumption whether chewed, absorbed, dissolved, inhaled or ingested by any other means.
- (2) *E-liquid:* A liquid that is converted into an aerosol by an e-cigarette or vapor device. It is typically a mixture of water, food grade flavoring, a range of nicotine levels, cannabis, propylene glycol (PG) or vegetable glycerin (VG)
- (3) *Nicotine product:* A product that does not contain tobacco, but delivers nicotine, including vapor products, and other nicotine delivery methods and devices.
- (4) *Tobacco product:* A product that contains tobacco and is intended for human consumption including, but not limited to, cigarettes, cigars, non-cigarette smoking tobacco, chewing tobacco, tobacco snuff or smokeless tobacco as those terms are defined in Section 2 of the Tobacco Products Tax Act, 1993 PA 327, MCL 205.422.

- (5) Vapor device: A device that employs a heating element, power source, electronic circuit, or other electric, chemical, or mechanical means regardless of shape or size that can be used to produce vapor from substances, including nicotine, cannabidiol and synthetic cannabinoids, in a solution or other form. Vapor devices include, but are not limited to a disposable electronic cigarette (E cigarette), an e-cigarette with a prefilled or refillable cartridge, a modifiable device allowing the user to customize the substances uses (mod), a prefilled or refillable pod cartridge with a modifiable system (pod-mod), an electronic pipe, an electronic hookah, a vaporizer, or similar product or device
- (6) Vapor product: A noncombustible product containing nicotine, cannabidiol and synthetic cannabinoids, in a solution or other form. Vapor products include, but are not limited to e-liquid, nicotine salt, a prefilled or refillable vapor cartridge, sub-ohm tanks, or other container of nicotine in a solution or other form that is intended to be used with or in a vapor device.
- (7) Vaporizer. An inhalation device used to release the active substances of organic or inorganic materials in the form of an aerosol through the application of non-combusting heat.

**SECTION 2:** Section 138-387 of Chapter 138 of the Berkley City Code must be amended, as follows:

**Sec. 138-387. – Principal Uses permitted.**

Principal uses permitted in the LB district are as follows:

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

- (6) Business establishments which perform services on the premises such as, but not limited to, banks, credit unions, savings and loan associations, loan companies, insurance offices, travel services, and real estate offices. Bank, savings and loan associations and credit unions may include drive-up facilities only as an accessory use subject to the required provisions for stacking or waiting space, apart from required off street parking areas, at the rate of 4 car spaces for each service window or pedestal, in addition to providing a full car length space at the window or pedestal.
- (7) Offices for any of the following occupations: executive, administrative, manufacturer representatives, building/construction company or contract sales headquarters, professional, accounting, writing, clerical, stenographic, drafting and real estate sales, subject to the limitations contained in section 138-390.
- (8) Professional offices for medical (doctors, osteopaths, chiropractors, psychologists, and psychiatrists) dental and optical, including clinics (outpatient service only); and other similar or allied professions subject to the limitations contained in section 138-390.
- (9) Professional offices for lawyers, architects, landscape architects, urban planners, engineers and other similar or allied professions, subject to the limitations contained in section 138-390.
- (10) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
- (11) Places of worship.
- (12) Commercial recreational uses such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks, indoor tennis courts, athletic or health clubs, schools of dance, schools of martial arts, or similar forms of indoor commercial recreation.
- (13) Restaurants, bars, lounges or other places serving food or beverage within enclosed buildings, not including drive-in, drive-through or outdoor service-eating establishments.
- (14) Single-family, two-family and multiple-family dwellings when located on the second floor or above a first floor permitted or special use. Single-family detached dwellings and first floor dwelling units are prohibited.
- (15) Accessory structures and uses customarily incidental to the above permitted uses.
- (16) Marihuana retailers and medical marihuana provisioning centers.
- (17) [Tobacco and vape shops.](#)

**SECTION 3:** Section 138-394 of Chapter 138 of the Berkley City Code must be amended, as follows:

**Sec. 138-394. – Principal uses permitted.**

Principal uses permitted in the Greenfield district are as follows:

- (1) Single family homes, townhouses, and apartments.

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

**SECTION 4:** Section 138-419 of Chapter 138 of the Berkley City Code must be amended, as follows:

**Sec. 138-419. Prohibited uses.**

The following uses shall be prohibited within the downtown district:

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

**SECTION 5:** Section 138-427 of Chapter 138 of the Berkley City Code must be amended, as follows:

**Sec. 138-427. Principal uses permitted.**

Principal uses permitted in the Gateway district are as follows:

- (1) Any generally recognized retail business whose principal activity is the sale of commodities on the premises, in a completely enclosed building including, but not limited to, the sale of groceries, meats, dairy products, baked goods and other food items dispensed for

- consumption off the site, drugs, pharmaceutical, apothecary items, flowers, dry goods, furnishings, jewelry, clothing millinery, shoes, books and periodicals, stationery and office supplies and hardware.
- (2) Specialty shops such as, but not limited to, antique shops, craft shops and shops for the sale of gifts and notions.
  - (3) Personal service establishments which perform services on the premises directly for the consumer such as, but not limited to, repair shops (shoes, watches, jewelry, radios, televisions, small appliances, vacuum and sewing machines, etc.), beauty salons, hair salons, barber shops, manicuring studios, tanning salons, massage facilities, spa service facilities, self-service laundries, reproduction/copy centers, printing, mailing/shipping centers, while prohibiting service facilities of package shipping providers, but which may require a retail adjunct.
  - (4) Any service establishments including a showroom or workshop of an electrician, decorator, caterer, baker, painter, upholsterer, tailor, seamstress/dressmaker, photography studios and similar service establishments that require a retail adjunct.
  - (5) Dry cleaning establishments of a retail nature. Strictly wholesale dry cleaning establishments must be prohibited.
  - (6) Business establishments which perform services on the premises such as, but not limited to, banks, credit unions, savings and loan associations, loan companies, insurance offices, travel services, and real estate offices. Bank, savings and loan associations and credit unions may include drive-up facilities only as an accessory use subject to the required provisions for stacking or waiting space, apart from required off street parking areas, at the rate of 4 car spaces for each service window or pedestal, in addition to providing a full car length space at the window or pedestal.
  - (7) Offices for any of the following occupations: executive, administrative, manufacturer representatives, building/construction company or contract sales headquarters, professional, accounting, writing, clerical, stenographic, drafting and real estate sales, subject to the limitations contained in section 138-410.
  - (8) Professional offices for medical (doctors, osteopaths, chiropractors, psychologists, and psychiatrists) dental and optical, including clinics (outpatient service only); and other similar or allied professions subject to the limitations contained in section 138-410.
  - (9) Professional offices for lawyers, architects, landscape architects, urban planners, engineers and other similar or allied professions, subject to the limitations contained in section 138-410.
  - (10) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
  - (11) Places of worship.
  - (12) Commercial recreational uses such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks, indoor tennis courts, athletic or health clubs, schools of dance, schools of martial arts, or similar forms of indoor commercial recreation.
  - (13) Restaurants, bars, lounges or other places serving food or beverage within enclosed buildings, not including drive-in, drive-through or outdoor service-eating establishments.

- (14) Single-family, two-family and multiple-family dwellings when located on the second floor or above a first floor permitted or special use. Single-family detached dwellings and first floor dwelling units are prohibited.
- (15) Accessory structures and uses customarily incidental to the above permitted uses.
- (16) Marihuana retailers and medical marihuana provisioning centers.
- (17) [Tobacco and vape shops.](#)

**SECTION 6:** Section 138-457 of Chapter 138 of the Berkley City Code must be amended, as follows:

**Sec. 138-457. Principal uses permitted.**

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

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



- (11) Commercial recreational uses such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks, indoor tennis courts, athletic or health clubs, schools of dance, schools of martial arts, or similar forms of indoor commercial recreation.
- (12) Restaurants, bars, lounges or other places serving food or beverage within enclosed buildings, not including drive-in, drive-through or outdoor service eating establishments.
- (13) Apartments or townhouses,
- (14) Dwellings above a business use.
- (15) Accessory structures and uses customarily incidental to the above permitted uses.
- (16) Marihuana retailers and medical marihuana provisioning centers.
- (17) [Tobacco and vape shops.](#)

**SECTION 7:** Section 138-487 of Chapter 138 of the Berkley City Code must be amended, as follows:

**Sec. 138-487. Principal uses permitted.**

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

- (1) Warehousing and wholesale establishments, and storage (other than accessory to a permitted retail use).
- (2) Communications and information businesses.
- (3) The design, manufacture, and testing of such technology as electronics, robotics, medical devices and instruments.
- (4) Establishments involved in chemistry, biotechnology and nanotechnology.
- (5) The design, manufacture, and testing of alternative energy and power generation.
- (6) The compounding, processing, packaging or treatment of such products as: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery; tool, die, gauge and machine shops from the following previously prepared materials: canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, leather, paper, plastics, precious or semiprecious metals or stones, shell, textiles, tobacco, wax, wire, wood and yarns.
- (7) Welding or metal fabrication.
- (8) The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
- (9) Manufacture of musical instruments, toys, novelties and metal or rubber stamps, or other small molded rubber products.
- (10) Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs (excluding large stampings).
- (11) Laboratories, experimental, film or testing.

- (12) Manufacture and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
- (13) Building material sales.
- (14) Warehouse, storage and transfer and electric and gas service buildings and yards, heating and electric power generating plants and all necessary uses, coal, coke and fuel yards, water supply and sewage disposal plants, water and gas tanks and holders.
- (15) Automobile service or repair establishments.
- (16) Carwashes.
- (17) Artist studios or florists, where retail sales are accessory to the primary use.
- (18) Reserved.
- (19) Professional offices for lawyers, architects, landscape architects, urban planners, engineers or other similar or allied professions.
- (20) Accessory uses.
- (21) Other uses of a similar and no more objectionable character.
- (22) Marihuana retailers and medical marihuana provisioning centers.
- (23) [Tobacco and vape shops.](#)

**SECTION 8:** Section 138-529 must be added to Division 6 of Chapter 138 of the Berkley City Code, as follows:

**[Sec. 138-529. - Vape and tobacco shop regulations.](#)**

[The property where a vape or tobacco shop will be located must not be within 1,000 feet of another vape or tobacco shop within the boundaries of the City of Berkley.](#)



**CITY OF BERKLEY**  
**COMMUNITY DEVELOPMENT**  
3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

**MEMORANDUM**

**To:** Planning Commission  
**From:** Kristen Kapelanski, Community Development Director  
**Subject:** **Child Care Centers in the Twelve Mile District**  
**Date:** November 17, 2022

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City staff was recently approached by an area business owner who is interested in expanding their child care business to a location in the Twelve Mile District. Child care centers are not currently permitted in the Twelve Mile District. However, instructional centers for recreation uses, such as martial arts, dance, etc., are permitted. Staff does not feel that the impacts of a child care center would be any greater than the impacts currently associated with the uses permitted in the district and recommends the Planning Commission move forward with the amendment.

Below is the text permitting child care centers in the Local Business District. This was recently reviewed and added to Local Business District by the Planning Commission and staff would recommend the same text be added to the Twelve Mile District. This use is currently permitted in the Local Business District as a special land use. The Planning Commission could choose to permit this as a principal permitted use or special land use in the Twelve Mile District. If the Planning Commission is amenable to such an amendment, staff could set the public hearing for the January Planning Commission meeting.

Nursery schools, day nurseries and child care centers, provided:

1. Applicants are licensed through the Michigan Department of Licensing and Regulatory Affairs (LARA). Proof of licensing shall be provided to the city when submitting an application for a business license.
  2. Facilities meet the minimum requirements established by the Michigan Department of Licensing and Regulatory Affairs (LARA) and meet the minimum standards of [section 138-391](#) Area and bulk requirements and [section 138-392](#) Building design requirements.
  3. Facilities meet screening requirements as deemed reasonable by the planning commission, including masonry walls up to six feet in height, decorative fencing or landscaping.
  4. Applicants, staff, and facilities meet the minimum standards established by the Michigan Child Care Organizations, MCL 722.111 et seq., as amended.
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**CITY OF BERKLEY**  
**COMMUNITY DEVELOPMENT**  
3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

**MEMORANDUM**

**To:** Berkley Planning Commission  
**From:** Kristen Kapelanski, Community Development Director  
**Subject:** **PC Meeting Dates – 2023 Calendar Year**  
**Date:** December 14, 2022

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The Berkley Planning Commission is scheduled to meet on the fourth Tuesday of the month. The following schedule for the 2023 Planning Commission meetings is submitted below for your consideration.

Tuesday, January 24, 2023

Tuesday, February 28, 2023

Tuesday, March 20, 2023 (third Tuesday due to school spring break)

Tuesday, April 25, 2023

Tuesday, May 23, 2023

Tuesday, June 27, 2023

Tuesday, July 25, 2023

Tuesday, August 22, 2023

Tuesday, September 26, 2023

Tuesday, October 24, 2023

Tuesday, November 28, 2023

Tuesday, December 19, 2023 (third Tuesday due to holidays)

The Planning Commission is asked to approve the proposed 2023 calendar, as presented.

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