

AN ORDINANCE

Of the Council of the City of Berkley, Michigan
Adding Division 1.5 of Article III, General Provisions of Chapter 138, Zoning,
Of the City of Berkley Code of Ordinances
To Define and Regulate Exterior Appliances
And Provide Penalties for Violations

THE CITY OF BERKLEY ORDAINS:

SECTION 1: Add new Division 1.5, Exterior Appliances, to Article III, General Provisions, in Chapter 138 of the Berkley Code of Ordinances, as follows:

Division 1.5. Exterior Appliances

Sec. 138-71. Purpose

The purpose of this division is to promote the public health, safety and welfare by regulating the manner and location of exterior appliances on residential and commercial properties in the city. For purposes of this division, the following definitions shall apply.

Sec. 138-72. - Definitions

Air Conditioning Unit: The central air conditioning system located on the exterior of a building including a compressor, fan, condenser coil, evaporator coil and a refrigerant.

Power Generator: A stationary device, such as a reciprocating internal combustion engine or turbine that serves solely as a secondary source of mechanical or electrical power whenever the primary energy supply is disrupted or discontinued during power outages or natural disasters. A power generator may operate during power interruptions or during regularly scheduled testing.

Exterior Appliance: Mechanical equipment located on the exterior of a residential or commercial building. Such types of equipment shall include air conditioning condenser unit, power generators, and any noise producing mechanical system components located at the exterior of a building. Exterior appliances specific to swimming pools are subject to the regulations in Section 138-59.

Sec. 138-73. - Location

Exterior appliances are prohibited from being located in the front yard or within a recorded easement or right-of-way that would prohibit, hinder or disrupt utilities, drainage, access, etc.

(a) Residential.

1. Power Generators and other exterior appliances shall be located in the rear yard at least six (6) feet from side property line.
2. Air Conditioning Units may be permitted in the side yard under the following conditions:
 - a. The unit must be at least 18 inches from side property line;
 - b. The unit must be at least 12 feet from adjacent dwelling;
 - c. The unit must be screened on at least three (3) sides by opaque fencing or landscaping, measuring at least four (4) feet in height from grade.
 1. The principal structure may be considered one side of screening.
 2. Screening must be provided from street view and facing the closest adjacent property.
 3. Chain link fencing is not permissible as a screening material for exterior appliances.

(b) Nonresidential.

1. *At Grade.*
 - a. Exterior appliances shall be at least five (5) feet from a property line.
 - b. Power Generators shall be enclosed in a sound-attenuating enclosure, if located adjacent to residential property.
 - c. Exterior appliances shall be screened on at least three (3) sides with opaque fencing or landscaping, measured at least four (4) feet in height from grade.
 1. The principal structure may be considered one side of screening.
 2. Screening must be provided from street view and facing the closest adjacent property.
 3. Chain link fencing is not permissible as a screening material for exterior appliances.
2. *Rooftop.*
 - a. Exterior appliances located on the rooftop of commercial buildings shall be screened so as to not be visible from street level. Screening materials shall be consistent with the color, materials, design and aesthetic of the building.

3. The Planning Commission may modify location of the exterior appliances on non-residential properties during site plan review, if the applicant can demonstrate an alternative location does not negatively impact adjacent properties, pedestrian or vehicular traffic.

Sec. 138-74. – Restrictions.

Generator testing shall be permitted Monday – Friday, 9:00am – 6:00pm.

Sec. 138-75. – Non-Conforming Exterior Appliances.

Non-conforming exterior appliances include appliances that were lawfully installed but are no longer in compliance with the provisions of this chapter.

Non-conforming exterior appliances may be continued, maintained and replaced provided there is no increase or enlargement of the area occupied or devoted to such use.

If the structure that is served by a non-conforming exterior appliance is damaged or partially destroyed by less than 50 percent of its market value, the exterior appliance may be restored and its previous use continued. If the structure that is served by a non-conforming exterior appliance is damaged or partially destroyed by 50 percent or more than 50 percent of its market value, then any restoration or new construction must comply with all current building and zoning codes.

Sec. 138-76. – Permits required.

Permits are required for the installation of exterior appliances.

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 a 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 1992, 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 1, 2021.

Passed on the Second Reading at the Regular City Council Meeting on Monday, March 1, 2021.

Daniel J. Terbrack
Mayor

Attest:

Victoria Mitchell
City Clerk