

CITY OF CLAWSON
OAKLAND COUNTY, MICHIGAN
ORDINANCE NO. 738

AN ORDINANCE TO AMEND THE CITY OF CLAWSON CODE OF ORDINANCES CHAPTER 34, ARTICLE 11, DIVISION 1, SECTION 34-481 TO UPDATE AND CLARIFY DEFINITIONS, AND AMEND DIVISION 21, SECTIONS 34-1102, 34-1103, and DIVISION 19, SECTION 34-1055

NOW THEREFORE, THE CITY OF CLAWSON ORDAINS:

PART 1. Amend Division 1, Section 34-481. Amend the definition of “Building” to read as follows:

Building means any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, or property or materials of any kind. A building shall include tents, awnings, and carports; and also semitrailers, vehicles, mobile homes, or premanufactured or precut structures, erected on-site, above or below ground, designed primarily for shelter rather than as a means of conveyance. A building shall not include such structures as signs, fences or smokestacks, but shall include structures such as storage tanks, grain elevators, coal bunkers, oil cracking towers, or similar structures. Building includes any part of a building.

PART 2. Amend Division 1, Section 34-481. Amend the definition of “Structure” to read as follows:

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having location on the ground. Structures include, but are not limited to, principal and accessory buildings, towers, decks, fences, privacy screens, walls, antennae, satellite dish antennae, swimming pools, and signs. Structure includes any part of a structure.

PART 3. Amend Division 1, Section 34-481. Amend the definition of “Building, detached” to read as follows:

Building, detached, means a building surrounded by open space and not structurally adjoined to any other building.

PART 4. Amend Division 1, Section 34-481. Delete the term and definition “Cellular phone towers.”

PART 5. Amend Division 1, Section 34-481. Amend the definition of “Church and synagogue” to read as follows:

Place of worship means any structure wherein persons regularly assemble for religious activity, and the accessory structures and uses customary thereto. Customary accessory uses and structures shall not be construed to include day care centers or schools, which shall be considered separate uses.

PART 6. Amend Division 1, Section 34-481. Amend the definition of “Dwelling” to read as follows:

Dwelling unit means a building or its portion, containing sleeping, kitchen, and bathroom facilities designed for and occupied by one family, excluding hotels, motels, and tourist homes. In no case shall a travel trailer, motor home, automobile, tent or other portable building defined as a recreational vehicle be considered a dwelling. In the case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of this article.

PART 7. Amend Division 1, Section 34-481. Delete the term and existing definition “Dwelling unit.”

PART 8. Amend Division 1, Section 34-481. Amend the definition of “Dwelling, one-family or single-family, detached” to read as follows:

Dwelling, one-family or single-family, detached, means a detached building containing not more than one dwelling unit designed for residential use.

PART 9. Amend Division 1, Section 34-481. Amend the definition of “Home Occupation” to read as follows:

Home occupation means any occupation conducted within a dwelling unit and carried on by the inhabitants, not involving employees other than members of the immediate family residing on the premises, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, does not change its character, and which does not endanger the health, safety, and welfare of any other persons residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such occupation, professions or hobby.

PART 10. Amend Division 1, Section 34-481. Amend the definition of “Occupancy, change of” to read as follows:

Occupancy, change of, means a discontinuance of an existing use and the substitution of a use of a different kind or class.

PART 11. Amend Division 1, Section 34-481. Amend the definition of “Open Air Business” to read as follows:

Open air business means any business that is conducted primarily out-of-doors. Unless otherwise specified in this section, an open air business shall include:

- (1) Retail sales of garden supplies and equipment including, but not limited to, trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture.
- (2) Roadside stands for the sale of agricultural products, including fruits, vegetables, and Christmas trees.
- (3) Various outdoor recreation uses including, but not limited to, tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, and amusement parks.
- (4) Outdoor display and sale of model garages, swimming pools, playground equipment, and similar uses.
- (5) The term “open air business” shall not include automobile repair or service stations.

PART 12. Amend Division 1, Section 34-481. Delete the term and existing definition “Use, conditional.”

PART 13. Amend Division 1, Section 34-481. Amend the definition of “Condominium” to read as follows and add the following sub-definitions:

Condominium means a system of separate ownership of individual units and/or multiunit projects according to Public Act 59 of 1978, as amended. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners.

- (1) *Condominium development* means a plan or development consisting of two or more condominium units.
- (2) *Condominium unit* means that portion of the condominium development designed and intended for separate ownership and use as described in a master deed.
- (3) *Condominium subdivision plan* means the drawings and information prepared pursuant to the Condominium Act, being Michigan Public Act 59 of 1978, as amended.
- (4) *Master deed* means the document recording the condominium development to which attached as exhibits and incorporated by reference the bylaws for the development and the condominium subdivision plan.
- (5) *Site condominium* means a condominium development designed to function in a similar manner or as an alternative to a platted subdivision. Condominium units in a site condominium are typically detached single-family dwellings with a front, side and rear yard associated with that particular unit which are not intended to be shared among the other condominium unit owners in the condominium development as common space.
- (6) *Condominium lot* means that portion of a site condominium development designed and intended to function similar to a platted subdivision lot for purposes of determining minimum yard setback requirements and other requirements set forth for the zoning district in which the site condominium development is located.
- (7) *Common element* means that portion of a condominium development other than a condominium unit or condominium lot.

PART 14. Amend Division 21 to add Section 34-1102 to read as follows:

Section 34-1102 Standards for Detached Single-Family Dwelling Units

All single-family detached dwelling units shall meet the following standards:

- (1) The dwelling unit shall comply with the minimum square footage requirements of this article for the zone in which it is located.
- (2) The dwelling unit shall have a minimum width 24 feet across each of the front, side and rear elevations and complies in all respects with the city building code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the state construction code, then such federal or state standard or regulation shall apply. The provisions of this section shall not have the effect of making one-family dwellings, which exist as of the effective date of Ordinance No. 408, nonconforming.
- (3) The dwelling unit shall be firmly attached to a permanent foundation constructed on the site in accordance with the state construction code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for one-family dwellings. If the dwelling is a mobile home, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required.
- (4) If a dwelling is a mobile home, each mobile home shall be installed with the wheels and towing mechanism removed. Additionally, no dwelling shall have any exposed undercarriage or chassis.
- (5) The dwelling unit shall contain a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction of equal or better quality than the principal dwelling, which storage area shall be equal to ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
- (6) The dwelling unit shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains steps connected to such exterior door areas or to porches connected to such door areas where a difference in elevation requires the same. The compatibility of design and appearance shall be determined in the first instance by the building official upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the zoning board of appeals within a period of 30 days from the receipt of notice of such building official's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of single-family "dwelling" as well as the character, design and appearance of one or more residential dwellings to the extent of less than 20 percent of the lots situated within such area; or, where such area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the city.
- (7) No greater than twenty-five (25) percent of the front façade of the dwelling unit shall be comprised of the entrance to a garage. Garages shall be recessed a minimum of 5 feet from the primary front façade of a dwelling unit.
- (8) The dwelling unit shall contain no additions or rooms or other areas which are not constructed with a quality of workmanship of equal or better quality than the original structure, including permanent attachments to the principal structure and construction of foundations as required in this definition.
- (9) The dwelling unit shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to such mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards," as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- (10) The standard stated in subsection (9) of this section shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinance of the city pertaining to such parks.
- (11) All construction required in this definition shall be commenced only after a building permit has been obtained in accordance with the applicable building code provisions and requirements.

PART 15. Amend Division 21 to add Section 34-1103 to read as follows:

Section 34-1103 Home Occupations

All home occupations shall meet the following standards:

- (1) No article or service shall be sold or offered for sale on the premises except such articles or services as are produced by that permitted home occupation.
- (2) No home occupation shall be conducted in any accessory building.
- (3) Such occupation shall not require internal or external alterations or construction features, equipment, machinery, outdoor storage, or signs not customarily in residential areas.
- (4) No home occupation shall generate other than normal residential traffic either in amount or type.
- (5) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- (6) Day care centers, tea rooms, veterinarian's office, tourist homes, animal hospitals, kennels, millinery shops, barbershops and beauty shops, among others, shall not be deemed to be home occupations.

PART 16. Amend Division 19, Section 34-1055. Amend item (a) to read as follows:

- (a) For purposes of this section, terms related to condominiums shall be defined as in Section 34-481.

PART 17. SAVINGS CLAUSE.

The amendments referenced herein do not affect or impair any act done, offense committed, or right accruing or acquired, or liability, penalty or forfeiture or punishment pending or incurred prior to the effective date of this amendment.

PART 18. SEVERABILITY.

This Ordinance and its various parts, sentences, paragraph, sections, clauses and rules promulgated hereunder are hereby declared to be severable. If any part, sentence, paragraph, section, clause, or rule promulgated hereunder is adjudged to be unconstitutional or invalid for any reason, such holdings shall not affect the remaining portions of this Ordinance.

PART 19. REPEALER.


All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

PART 20. EFFECTIVE DATE; PUBLICATION.

This Ordinance shall become effective after publication of a brief notice in the newspaper circulated in the City, stating the date of the enactment and the effective date of the Ordinance, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk, and such other facts as the City Clerk shall deem pertinent.

STATE OF MICHIGAN)
)
COUNTY OF OAKLAND)

I, the undersigned, the duly qualified and active City Clerk of the City of Clawson, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete copy of an ordinance made, passed, and adopted by the Council of said City at a regular meeting via video and phone conference on August 5, 2020 at 7:30 p.m., further this Ordinance was duly published in the Daily Tribune, August 19, 2020 edition of the Daily Tribune, a newspaper of general circulation in the City of Clawson.



Reese Scripture, Mayor



G. Machele Kukuk, Interim City Clerk

Dated: August 29, 2020

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