

**CITY OF CLAWSON
OAKLAND COUNTY, MICHIGAN
ORDINANCE NO. _____**

**AN ORDINANCE TO AMEND CHAPTER 34 OF THE LAND
DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES,
TO CREATE A NEW ZONING DISTRICT TO BE INCLUDED UNDER
DIVISION 26. BUSINESS RENEWAL DISTRICT-1**

THE CITY OF CLAWSON HEREBY ORDAINS:

Chapter 34 shall be amended to include a new Division 26 as follows:

PART I: Sec. 34-xxxx. Scope of division; statement of intent.

Statement of Intent. The Business Renewal District-1 district (hereinafter referred to as BRD-1) is intended as a gateway into the City of Clawson from south. The intent of the district is to allow for uses and provide site design guidelines that will enable optimal use of the existing parcels. Most parcels located within this district boundary are small; do not have a functional layout, have improper access and have little to no landscaping. The uses currently allowed within the district do not enable their use to create a vibrant entrance to the City's downtown. The district is intended to provide opportunities to a variety of office and commercial uses serving the needs of the community.

The intent of the District is to allow for smaller scale commercial and office based uses that will serve the needs of the residential neighborhoods in the adjoining area. The site design guidelines are intended to project high quality development, while not detracting from the residential neighborhoods surrounding it. The district also has a significant pedestrian orientation providing sidewalks and lighting and to encourage residents to walk to the downtown. Quality of life issues inherent in the intent of this Ordinance shall be addressed and demonstrated in development proposals. Quality of life issues may include, but are not limited to, land use adjacency, traffic flow and access management, building mass, building placement, siting and compatibility, architectural features, landscape design, lighting, pedestrian and bike accessible routes. The Planning Commission shall determine that a development plan creates a harmonious environment that adequately considers those impacted by the development, i.e., residents, customers, tenants, landowners and meets the general requirements of this section.

The BRD-1 is being adopted to implement the intent of the Master Plan, strengthen, clarify and revise current Ordinances in order to support the vision for the future of the City set forth in the Master Plan.

Sec. 34-xxxx. Permitted principal uses, uses permitted after administrative approval, uses permitted after special approval and prohibited uses.

- (a) The following uses shall be permitted by right in the BRD-1, subject to review and approval by the Planning Commission:
- (1)
 - (i) Retail businesses which supply commodities (for consumption) for persons residing in the area, such as: groceries, meats, dairy products, alcoholic beverages (limited to beer and wine sales only), baked goods or other foods, ice cream, drugs, dry goods, and tobacco products.
 - (ii) Retail establishments which offer comparison goods (for personal use) for residents, such as: bicycle sales, jewelry stores, hobby shops, music stores, clothing and shoe stores, sporting goods stores, office supply stores, notions, books, stationary and school supplies, flowers, periodicals, small household articles, and other specialty retail stores similar to the above, as determined by the Planning Commission.
 - (2) Antique retail sales establishments.
 - (3) Retail establishments which offer comparison goods (for the home) for sale with a floor area not to exceed 5,000 square feet: such as furniture stores, carpet stores, hardware stores, household appliance stores, paint and wallpaper stores, and other specialty retail stores catering to home improvement, customary and usual residential needs.
 - (4) Artisan uses such as sculpting, metal works, painting, and other similar studios, including retail sales component or open to the public for classes, lessons and similar instructional activities.
 - (5) Carry-out food establishments, without drive-through facilities.
 - (6) Deli or café type establishment in conjunction with a retail store, with seating (indoor or outdoor) for no more than 10 persons.
 - (7) Establishments which perform services such as: beauty shops and barber shops, watch, radio, television, clothing and shoe repair, locksmiths, photo processing outlets, photocopying establishments, and similar establishments (maximum floor area not to exceed 5,000 square feet).
 - (8) Establishments which perform services such as photo processing outlets and photocopying establishments (maximum floor area not to exceed 5,000 square feet).
 - (9) Office uses, including offices for administrative services, accounting, financial and investment, clerical, education, executive, insurance, professional, real estate, research, sales agent, stock broker, and other similar office uses.

- (10) Financial institutions, including banks, credit unions, and savings and loan associations, without drive-through facilities.
 - (11) Health and physical fitness centers including exercise gyms, workout centers, dance and gymnastic studios, yoga, martial arts and other forms of exercise and physical conditioning (maximum floor area not to exceed 5,000 square feet).
- (b) The following uses shall be permitted in the BRD-1, subject to Administrative review and approval, with final approval by the Building Official as listed in Section 34-611 (a):
- (1) Accessory uses incidental to a conforming existing use where said use does not require any variance, further site modifications, special use approval and is not located on a non-conforming lot or structure;
 - (2) The conversion of an existing building from one permitted use to another permitted use within the same use group in the district provided the subject site is in conformance to the current ordinance standards, *and* has received site plan approval from the Planning Commission within the past 24 months of the date of the application.
 - (3) Provision for additional loading/unloading spaces, parking and landscape improvements as required by this article.
 - (4) Changes in use in a planned shopping center within the same use group, where off-street parking is not affected and a site plan has been approved within the past five (5) years based on the current ordinance standards.
 - (5) Minor structural alterations to building intended to bring the building into compliance with the Americans with Disabilities Act requirements.
- (c) The following additional uses may be permitted in the BRD-1, subject to the conditions specified for each use, review and approval of the Planning Commission, and the requirements set forth in Sec. 34-520. Uses permitted after Special Approval:
- (1) Private service clubs, fraternal organizations, banquet halls and meeting halls.
 - (2) Veterinary hospitals and clinics, subject to the following standards:
 - a. All activities shall be conducted within a fully enclosed main building.
 - b. All buildings shall be setback a minimum 100 feet from any abutting residential district boundary.
 - (3) Child care centers, subject to the following conditions:
 - a. Such uses shall be duly licensed by the State of Michigan.

- b. Required indoor and outdoor play area per child as established in the State Department of Consumer and Industry Services guidelines shall be provided. Indoor play areas shall be exclusive of hallways, bathrooms, stairways, storage areas, closets, reception and office areas and kitchens. Basements may be included only if fully finished with a dual means of egress, areas devoted exclusively for play and sleep and bathroom facilities. Outdoor play area shall be fenced. Fencing shall be ornamental and/or decorative and is subject to Planning Commission approval.
 - c. Landscape screening shall be provided for fenced in play areas from abutting properties and public rights-of-way.
- (4) Public/semi-public uses such as municipal, state or county service buildings with no outdoor storage.
 - (5) Drive-up/drive-in uses such as fast food restaurants shall be subject to the following conditions:
 - a. No more than 20 vehicles shall be served at any one time.
 - b. Vehicles shall be served at designated parking spots.
 - c. Service shall be provided at a drive-up station only and not via a drive-through window.
 - d. Order station speakers shall be subject to noise levels in Section 34-1113.
 - e. Photometric plans shall be required for outdoor illumination on the site.
 - f. Planning Commission may impose additional conditions to safeguard the interest of the adjoining residential properties.
- (d) Prohibited Uses. The following uses shall be prohibited the BRD-1:
 - (1) Uses such as pawn shops, sexually oriented businesses and others similar uses as determined by the Planning Commission.
 - (2) Any retail or service based use requiring a drive-through.
 - (3) Large chain retail stores.
 - (4) Restaurants, taverns, bars or similar establishments serving more than 10 persons.
 - (5) Automotive based uses (car washes, repair garages, service stations, gas stations, sales and rental and other similar uses).

Sec. 34-xxxx. Development Standards.

- (a) ***Area, height, bulk and placement requirements.*** Buildings and uses in the BRD-1 are subject to the following:

- (1) Front yards. All buildings shall be located at a minimum setback of 10 feet from the front property line, abutting a public right-of-way. This area shall be maintained as a landscape greenbelt. The following deviations may be permitted by the Planning Commission:
 - a. Belt courses, sills, lintels, and cornices may project up to eighteen (18) inches into the greenbelt area for buildings constructed at the 10 foot setback line.
 - b. Canopies and awnings associated with a ground floor use may encroach into the greenbelt area if the Planning Commission makes a determination that it will not negatively impact landscape plantings. Awnings over sidewalk areas shall have a minimum clearance of 10 feet with no additional ground supports.
 - c. Display, show or bay windows may project up to eighteen (18) inches into the greenbelt area.
 - (2) Rear and side yards. Required rear yard building setback shall be 25 feet. There is no side yard setback requirement, unless specifically required per building codes. The site must also be designed for adequate access and circulation around the building.
 - (3) Height. No building or structure shall exceed two (2) stories or thirty (30) feet.
 - (4) Floor area. There is a maximum floor area limit for specific uses in the district as established in sub-sections a, b and c, above. The intent in limiting the floor area is to allow for structures that will fit on the small sized parcels within the area and still provide for adequate parking, circulation and landscaping.
- (b) **Access.** All buildings and uses located in the district shall be subject to the following:
- (1) All buildings and uses located in the district shall be provided access from a paved public street.
 - (2) Pedestrian access. All frontages onto a public street shall be provided with a five foot wide concrete sidewalk built in accordance with the City's standards. Parking lot area shall be provided with safe pedestrian means of access in the form of crosswalk area designed with colored stamped concrete, decorative pavers or other similar materials. Sidewalk connections from sidewalks along the public street right-of-way to sidewalks on-site shall be required where feasible.

- (3) Driveways. Driveways shall be consolidated to minimize congestion and potential conflicts on the adjacent public roads. Access management is a very important tool for a better designed community; therefore, individual driveways for a specific building or use shall not be permitted unless no other means of access is available or feasible. Property owners shall be required to allow for shared and cross-access agreements to reduce curb cuts onto adjacent roadways.

(c) ***Design Specifications and design guidelines.*** It is the intent of the district as set forth in Section 34-xxxx to provide an environment of high quality building architecture and site design which is complimentary and fits in with the adjoining residential neighborhoods. Special emphasis shall be placed upon methods that encourage tasteful, imaginative design for individual buildings, and to create a welcome entrance into the City's downtown.

(1) Miscellaneous design criteria.

- a. Building entries shall be readily identifiable and accessible from a public sidewalk or from a sidewalk connector.
- b. Architecture will be evaluated based upon its compatibility to buildings and uses in the general area.
- c. Architectural plans shall confirm that materials are appropriate for the location on the building. In the event that it is determined by the Building Official that the building materials are inappropriate they shall be replaced at the owner's expense.
- d. Use of environmentally friendly building materials and design is strongly encouraged.

(2) Building massing and form.

- a. All facades of a building visible from a public right-of-way shall be provided with design elements such as clear glazed windows, spandrel windows, faux window openings, brick trim detailing, awnings etc. to provide additional visual interest.
- b. Primary building entrances shall be clearly defined and recessed or framed by a sheltering element such as an awning, portico or other architectural feature.
- c. Proposed building architecture shall be subject to review and approval by the Planning Commission. Planning Commission shall have the discretion to require additional architectural improvements in the interest of meeting the intent of the district.

(3) Materials.

- a. One dominant material shall be selected, with a preference towards masonry and stone. Products such as dryvit and EFIS are prohibited to a height of 10 feet from finished grade, except that such materials may be used as an accent detail such as a cornice or similar feature. Exterior construction materials shall be consistent with the City's design standards.
- b. Materials shall blend with those existing on adjacent properties, to the extent feasible.
- c. Consideration shall be given to incorporating durable building materials. If any material is deemed not acceptable by the Building Official for maintenance purposes, such material shall be replaced at the owner's expense.
- d. To the extent feasible all facades of the building shall be constructed of the same materials. However, the Planning Commission may allow the use of a different material on the side and rear facades which are not visible from public rights-of-way or which do not adversely affect the appearance of the building as a whole.

(4) Building roofs.

- a. In instances where roof vents, roof-mounted mechanical equipment, pipes, etc., can be viewed from above or below, they shall be grouped together, painted to match roof color to reduce their appearance, and screened from view.
- b. A parapet of at least forty-two (42) inches high shall screen the mechanical equipment on a flat roof.
- c. Mansard roofs are not permitted. Roof design shall be designed to compliment and blend in with the residential neighborhoods in the adjoin areas.

(5) Color and texture.

- a. Colors shall be subdued in tone, of a low reflectance and of neutral or earth tone colors. Simple and uniform texture patterns are encouraged.
- b. Variations in color shall be kept to a minimum.
- c. Use of building materials and colors, purely to reflect corporate identity or business theme is discouraged.
- d. The color of all awnings or canopies shall complement the building colors.

- e. Applicant shall present a colored rendering *and* color material samples to the Planning Commission for approval.
- (d) ***Off-street parking.*** Buildings and uses in the BRD-1 shall be subject to the parking requirements of Division 20.
- (1) The use of shared parking between two or more buildings and/or uses shall be allowed by the Planning Commission upon demonstration by the applicant that the individual uses do not have overlapping hours of operation, and the sharing of parking will not result in the creation of a parking nuisance on the site or abutting roadways and properties.
 - (2) Off-street parking shall be located in the front, rear or side yards, and shall be screened from any public rights-of-way by a 10 foot greenbelt. Upon recommendation from City Planner and/or Building Official, the Planning Commission shall have the discretion to modify the width and design of the greenbelt upon making a determination that the reduced greenbelt width is necessary to accommodate required parking and provide optimal circulation. In no instance shall the greenbelt requirement be completely waived. The plantings in any reduced width greenbelt shall exceed the minimum standards established in the Ordinance and shall include a combination of landscape and hardscape elements.
- (e) ***Off-street loading.*** Loading/unloading activity shall take place in the rear yard only. Where rear yard loading is not feasible, the Planning Commission has the flexibility to allow for loading/unloading activity to be established in a side yard. In no case shall such activity be permitted within the front yard area. Also, no overhead doors shall be located facing the front yard.
- (f) ***Screening.*** A decorative masonry wall with a height of 6 feet shall be provided between a parcel in the BRD-1 and any abutting residential district. The wall shall be provided with a cap detail and shall have a finished appearance on both sides. Wall design shall be complimentary to the building architecture. Upon recommendation from the City Planner and/or Building Official, the Planning Commission has the discretion to modify the screen wall design or allow for an alternate type of screening upon making a determination that the proposed screening will adequately safeguard the abutting residential district from any possible adverse effects of the BRD-1 use.
- (g) ***Signage.*** All signs permitted within the BRD-1 shall be subject to the requirements of Division 21 of this Article as follows:
- (1) One wall sign shall be permitted per business subject to area limitations noted in Section 34-1109. An awning sign no larger than 8 square feet shall be permitted; however the total area of the wall and awning signs shall not exceed the area allowed by Section 34-1109.

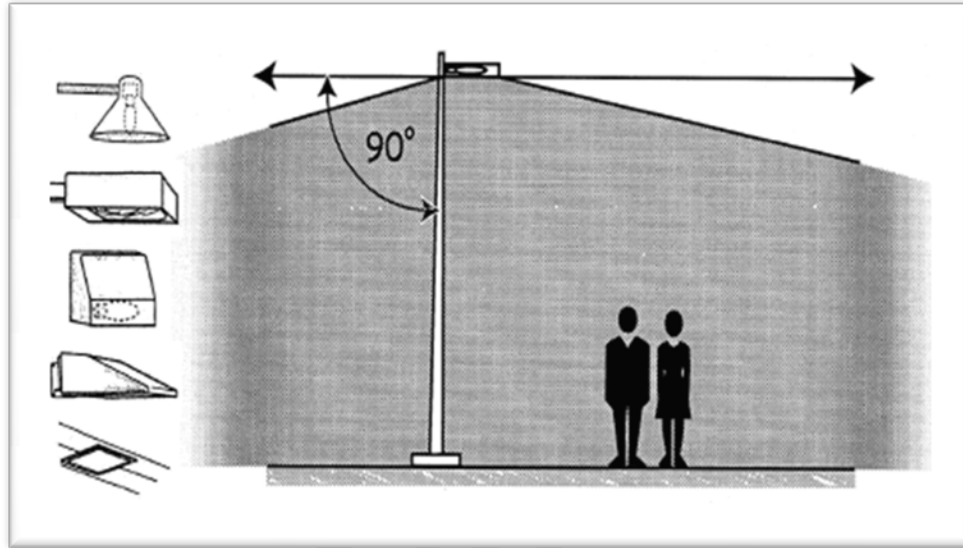
- (2) One ground/monument sign no larger than 32 square feet and no more than 8 feet above grade shall be permitted for each developed site (irrespective of the site containing one or multiple buildings).
 - (3) All signs shall be placed outside the clear vision triangle as defined by Section 34-1036.
 - (4) All signs shall be constructed in conformance to legibility and design standards noted in section 34-1114.
 - (5) Sites may be allowed additional signage upon meeting the criteria noted in Section 34-1110 Sign Bonuses.
 - (6) Signs shall be consistent unless otherwise expressed in this Ordinance with the illumination requirements in Sec. 34-1035 of the Land Development Code.
 - (7) Conceptual sign designs shall be submitted with the site plan and the Planning Commission shall review these conceptual plans together with the site plan.
 - (8) All walls signs, if illuminated, shall be illuminated in a manner that is not intermittent, nor causing a hazard to others.
 - (10) Two (2) window signs are permitted per window surface provided there is no obstruction of the interior. Signs shall not exceed 25% of the total surface area of the window to which the sign is affixed. .
- (h) **Landscaping.** All developments shall submit a detailed landscape plan in conjunction with site plan review. The following standards shall be applicable:
- (1) A 10 foot wide landscape greenbelt shall be provided along a public street frontage.
 - (2) Where parking is located along a rear or side yard facing a public right-of-way, a 10 foot greenbelt shall be provided. The width of the greenbelt is subject to Planning Commission discretion as noted in sub-section 34-xxxx (d) (2).
 - (3) The greenbelt shall be planted to the standards noted in Section 34-1034. If any parking is located within the front yard, the greenbelt plantings shall exceed the minimum standards and include a combination of landscape and hardscape elements as noted in Section 34-1223 (d)(3).
 - (4) Parking lot area shall be provided with landscape islands to define circulation paths. The shape and size of the landscape islands shall be designed to provide adequate area for survival of plantings and safe on-site circulation.

The City planner/Building Official shall determine the adequacy of the landscape area proposed.

- (5) No more than 20 parking spaces shall be located in a single uninterrupted row. Rows of parking spaces shall be separated by landscape islands.
 - (6) Landscape areas perpendicular to rows of parking spaces shall have a minimum width of five feet. Where parking spaces abutting such landscape areas have a reduced depth of 18 feet, the landscape area width shall correspondingly be increased by 2 feet to account for vehicles overhang.
 - (7) Landscape areas shall be planted with trees and/or shrubs and ground cover. In no instance shall landscape areas be filled with stones, gravel or similar material, unless determination is made by the City Planner and/or Building Official that said landscape area is not conducive to traffic safety.
 - (8) Landscape areas and greenbelts abutting public right-of-way shall be planted with salt tolerant species to ensure survival of the plantings.
 - (9) All landscape areas shall be provided with automatic irrigation, to the extent feasible.
 - (10) The applicant shall provide a long term maintenance agreement and weekly plan for all landscaping on the site. The required agreement and plan shall be noted on the site plan and shall acknowledge compliance with Section 34-1034 (g).
- (i) **Lighting.** All lighting shall conform to the requirements of Sec. 34-1035 in order to maintain vehicle and pedestrian safety, site security, and accentuate architectural details. The following conditions shall be applicable:
- (1) Architectural building lighting, when used for other than security purposes, may articulate the particular building design, as well as provide the required functional lighting for safety of pedestrian movement.
 - (2) Pedestrian walk lighting shall clearly identify the pedestrian walkway and illuminate any posted direction of travel.
 - (3) All lighting shall be shielded such that the source of illumination (bulb or direct lamp image) is not visible from the property line thereby reducing glare and interference with public rights-of-way and adjacent properties.
 - (4) Additional lighting in the form of spot lights may be provided for landscape enhancement or signage; however, in no instance shall such lighting comprise of floodlights.
 - (5) Roof mounted lighting shall be prohibited.

- (6) Except as otherwise allowed for herein, all lighting (including, but not limited to street, parking lot, security, walkway and building) shall conform with the Illuminating Engineering Society of North America (IES) criteria for full cut-off fixtures (100% of light output below 90 degrees, and 90 % of light output below 80 degrees from a vertical line through the fixture).

Fig 1: Full cut-off illustration



- (7) All fixtures mounted within 15' of a residential property line or public right-of-way boundary shall be classified as IES Type III or Type F (asymmetric forward throw). These fixtures shall be fitted with a "house side shielding" reflector on the side facing the residential property line or public right-of-way.

Fig 2:



- (8) The use of laser light source, searchlights or any similar high intensity light for outdoor advertisement or entertainment is prohibited. Lighting shall not be of a flashing, moving or intermittent type.
- (8) Parking lot lighting shall be limited to a maximum height of 20 feet above grade. Light poles located within 15 feet of a residential district shall not

exceed 12 feet in height. Light poles located along the front yards and public rights-of-way shall be of an ornamental design.

- (j) ***Dumpsters.*** All buildings and uses shall be required to provide a means of trash removal. Use of shared dumpsters between adjacent or contiguous buildings or uses is encouraged. All dumpsters shall be contained within the building and/or a fully enclosed structure attached to the building. The enclosure shall be constructed of a material complementary to the primary building material and provided with steel reinforced wooden gates as required by the City. A dumpster location not attached to a building may be approved if adequately screened from the public rights-of-way or is one which is required by City Ordinance to serve multiple buildings/uses.
- (k) ***Green Building Strategies.*** In the interest of encouraging environmentally friendly site design and architecture, the City encourages properties to incorporate “greening” strategies into their designs in the form of storm water drainage ideas like rain gardens, porous pavers, innovative landscaping, energy efficient building materials etc. The Planning Commission upon recommendation from the City Planner, has the discretion to modify some site requirements in lieu of incorporation of green elements.
- (l) ***Performance Bond.*** In cases where the applicant seeks immediate occupancy of the site with an existing building or a site that is still in the process of compliance with the approved site plan and is affected due to practical reasons such as weather, the Planning Commission and/or Building Official may require the submission of a performance bond in an amount equal to the cost of completion of all improvements associated with the approved site plan. A Temporary Certificate of Occupancy (TCO) shall be issued for a period not to exceed 90 days, within which the applicant shall be required to complete all of the remaining improvements. Failure to do so may result in revocation of the C of O. The issuance of a TCO creates no vested rights in the applicants, if there is non-compliance with any Ordinance of the City of Clawson.

PART II. Conflicts.

If any provision of the Clawson Land Development Regulations conflicts with this amendment to the regulations, the most restrictive provision shall be applied.

PART III. Severability.

Should any section or part of this ordinance be declared unconstitutional, null or void by a court of competent jurisdiction, such declaration shall not have any effect on the validity of the remaining sections or parts of this ordinance.

PART IV. Adoption.

This ordinance was adopted by the City Council of the City of Clawson by authority of Public Act No. 110 of 2006 further amended as Public Act 12 of 2008, of the Public Acts of Michigan, at a

meeting duly called and held on the _____ day of _____, 2010, and ordered to be published as prescribed by the law.

Penny Leubs, Mayor

G. Machele Kukuk, City Clerk

Dated: _____

Dated: _____

Pub. Hearing