CALL 38th COUNCIL TO ORDER
APPROVAL OF AGENDA
INVOCATION – REVEREND TAL SULLIVAN
PLEDGE OF ALLEGIANCE
PUBLIC COMMENT — ITEMS ON THE AGENDA
ORDER OF BUSINESS

Consent Agenda

1. **APPROVAL OF THE MINUTES**: Matter of approving the minutes of the 38th City Council meeting on Monday, April 20, 2020.

2. **MOTION NO. M-22-20**: Matter of approving the 2020 Summer Maintenance Agreement between the Road Commission for Oakland County and the City of Berkley. The City will be reimbursed a total of $1,680.00 which will be paid in two installments, $1,092.00 due in September 2020 and $588.00 due upon completion of last maintenance activity.

3. **PROCLAMATION NO. P-06-20**: Matter of proclaiming May 2020 as Berkley History Month.

4. **PROCLAMATION NO. P-07-20**: Matter of proclaiming May 2020 as Mental Health Awareness Month.

5. **PROCLAMATION NO. P-08-20**: Matter of proclaiming May 2020 as Motorcycle Awareness Month.


Regular Agenda

1. **RESOLUTION NO. R-09-20**: Matter of authorizing publication of a notice of public hearing to be held on May 18, 2020 regarding reprogramming 2019 Community Development Block Grant Funds.

2. **ORDINANCE NO. O-08-20**: Matter of considering the first reading of an ordinance of the City Council of the City of Berkley, Michigan Repealing Section 138-603 of Article VI, Division 4 of Chapter 138, Zoning, of the City of Berkley Code of Ordinances.

3. **ORDINANCE NO. O-09-20**: Matter of considering the first reading of an ordinance of the City Council of the City of Berkley, Michigan to Repeal and Replace Article II of Chapter 50, Fire Prevention Code, of the City of Berkley Code of Ordinances to Adopt the 2015 International Fire Code, and to Prescribe Penalties for Violations.

4. **ORDINANCE NO. O-10-20**: Matter of considering the first reading of an ordinance of the City Council of the City of Berkley, Michigan to amend Section 30-186 of Article V, Division 1 of Chapter 30, Businesses to Update the Citation to the Property Maintenance Code, and to Prescribe a Penalty for Violations.

5. **ORDINANCE NO. O-11-20**: Matter of considering the first reading of an ordinance of the City Council of the City of Berkley, Michigan to Amend Section 18-63 of Chapter 18 Amusements and Entertainments, to Update the Citation to the City’s Adopted Building Codes, and to Prescribe a Penalty for Violations.

6. **ORDINANCE NO. O-12-20**: Matter of considering the first reading of an ordinance of the City Council of the City of Berkley, Michigan Amending Chapter 26, Building & Building Regulations, of the City of Berkley Code of Ordinances to Adopt the State Construction Code, as Updated and Amended; to Adopt the 2015 International Property Maintenance Code as the City’s Property Maintenance Code; to Adopt the Michigan Rehabilitation Code as the City’s Rehabilitation Code for Existing Buildings; and to Provide Penalties for Violations.
PUBLIC COMMENT — ITEMS NOT ON THE AGENDA

COMMUNICATIONS

ADJOURN


The City of Berkley is hosting electronic meetings in cooperation with Gubernatorial Executive Order 2020-48. The City of Berkley will provide necessary reasonable auxiliary aids and services 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: Victoria Mitchell, ADA Contact, Berkley City Hall, 3338 Coolidge Highway, Berkley, MI 48072 (1-248-658-3310).
THE ELECTRONIC REGULAR MEETING OF THE THIRTY-EIGHTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, APRIL 20, 2020 BY MAYOR TERBRACK

PRESENT: Steve Baker  Jack Blanchard  
        Dennis Hennen  Bridget Dean  
        Natalie Price  Ross Gavin  
        Daniel Terbrack

APPROVAL OF AGENDA
Mayor Pro Tem Dean moved to approve the Agenda
Seconded by Councilmember Gavin
Ayes: Blanchard, Dean, Gavin, Hennen, Price, Baker, and Terbrack
Nays: None
Motion Approved.

INVOCATION: Pastor Adam Groh

PUBLIC COMMENT – ITEMS ON THE AGENDA
No one wished to speak.

Consent Agenda
Councilmember Blanchard moved to approve the following Consent Agenda, seconded by Councilmember Hennen:

APPROVAL OF THE MINUTES: Matter of approving the minutes of the 38th City Council meeting on Tuesday, April 6, 2020.

WARRANT: Matter of approving Warrant No. 1349.
Ayes: Dean, Gavin, Hennen, Price, Baker, Blanchard, and Terbrack
Nays: None
Motion Approved.

Regular Agenda

MOTION NO. M-17-20: Matter of approving a motion to allow the City Manager to execute an agreement with Carlisle/Wortman Associates, Inc. to perform the Five-Year Recreation Master Plan at a cost not to exceed $17,050. Funds for this expenditure will come from account 614-105-818-000.
Mayor Pro Tem Dean moved to approve Motion No. M-17-20
Seconded by Councilmember Gavin
Ayes: Gavin, Hennen, Price, Baker, Blanchard, Dean, and Terbrack
Nays: None
Motion Approved.
MOTION NO. M-18-20: Matter of approving the Cost Participation Agreement between the Board of Oakland County Road Commissioners and the City of Berkley for the 12 Mile Road Rehabilitation Project between Greenfield and Coolidge. The estimated total project cost is $2,792,894 with Berkley responsible for $180,212 from account 202-464-975-100.
Councilmember Blanchard moved to approve Motion No. M-18-20
Seconded by Councilmember Gavin
Ayes: Hennen, Price, Baker, Blanchard, Dean, Gavin, and Terbrack
Nays: None
Motion Approved.

MOTION NO. M-19-20: Matter of awarding the contract for the 2020-2021 City-Wide Road Improvement Program to the lowest qualified bidder, Italia Construction, Inc. of Washington, Michigan, in an amount of $1,594,607.10. In addition, allocate $138,041.16 for construction engineering services to Hubbell, Roth & Clark and $159,460.71 for construction contingencies.
Councilmember Hennen moved to approve Motion No. M-19-20
Seconded by Councilmember Blanchard
Ayes: Price, Baker, Blanchard, Dean, Gavin, Hennen, and Terbrack
Nays: None
Motion Approved.

MOTION NO. M-20-20: Matter of declaring intention to vacate portion of public alley and scheduling a public hearing relative to portion of alley located west of Woodward Ave. and north of Eaton Road.
Councilmember Gavin moved to approve Motion No. M-20-20
Seconded by Councilmember Price
Ayes: Baker, Blanchard, Dean, Gavin, Hennen, Price, and Terbrack
Nays: None
Motion Approved.

MOTION NO. M-21-20: Matter of approving a modification to the Master Plan Steering Committee roster to add Sue McAlpine and Joseph Bartus.
Mayor Pro Tem Dean moved to approve Motion No. M-21-20
Seconded by Councilmember Gavin
Ayes: Blanchard, Dean, Gavin, Hennen, Price, Baker, and Terbrack
Nays: None
Motion Approved.

RESOLUTION NO. R-07-20: Matter of authorizing publication of a notice of public hearing to be held on May 18, 2020 regarding the proposed operating budget for the City of Berkley, Michigan for fiscal year 2020/21.
Councilmember Baker moved to approve Resolution No. R-07-20
Seconded by Councilmember Blanchard
Ayes: Dean, Gavin, Hennen, Price, Baker, Blanchard, and Terbrack
Nays: None
Motion Approved.

PUBLIC COMMENT – ITEMS NOT ON THE AGENDA
No one wished to speak.

COMMUNICATIONS:
COUNCILMEMBER GAVIN: stated the Master Plan Steering Committee will be virtually meeting 7 p.m. April 21st. He stated the Planning Commission will be virtually meeting 7 p.m. April 28th. He said the links to join both Zoom meetings are available on the City’s website. Councilmember Gavin stated he, along with a couple of other councilmembers, virtually attended Michigan Municipal League training on advanced budgeting. He stated he learned quite a bit of good information that will be forthcoming at a later date. Councilmember Gavin urged everyone to stay safe, listen to the experts and take care of themselves.

COUNCILMEMBER HENNEN: stated there is no meeting scheduled for the Tree Board. He said the proposed tree inventory the Tree Board members were working on has been halted for the year. He stated the primary reason is safety, but also budget uncertainty. Councilmember Hennen said the Zoning Board of Appeals will meet 7 p.m. May 11th online. He stated there will be at least one case up for review and possibly more. Councilmember Hennen thanked all of Berkley, including residents and businesses, for stepping up, doing the right thing and selflessly helping others during their times of need.

MAYOR PRO TEM DEAN: stated during her last communication she talked about the community recognizing first responders and their families. She stated since that time, she read an op-ed in the “Free Press” by Oakland County Treasurer Andy Meisner regarding adding supportive substance to well-wishes. She discussed a Healthcare Provider Support Hotline, 1-888-910-1636, which is a free, mental-health service that is just for first responders and is anonymous. She stated the Michigan Department of Health and Human Services also opened a “warmline” for Michigan residents who have mental health conditions. The number is 888-PEER-753. Mayor Pro Tem Dean said it’s beautiful to see the community come together and provided an update on the City Wellness Checks program. She explained city staff members, along with herself and Councilmember Gavin, have been making wellness checks. The phone numbers if you would like to be added to the calling list are 248-930-0544 or 248-672-0295. She said this too shall pass and we are Berkley strong.

COUNCILMEMBER BAKER: stated the Technology Advisory Committee and the Historical Committee have not yet met. He stated the Downtown Development Authority met online and was able to conduct its business including approving its budget. Councilmember Baker stated he too would like to extended gratitude to the Department of Public Works and City Hall staff who are working hard to keep everything going; Public Safety, EMT, first responders for working so hard to keep us safe; and healthcare workers and those on the frontline who put themselves in harm’s way to help all of us in our times of need. Councilmember Baker recited a quote by Laurell Hamilton, “Confidence is a fine trait, overconfidence is not.” He discussed the weather is warming up and those at home are surely eager to get out, but he has noticed very few people are wearing face masks. He stated to be clear it is not mandatory to wear a face mask, but our state medical officials strongly suggest wearing them. He said to be confident, but not over confident and it’s important to set a positive example if you are in a leadership position. Councilmember Baker said the job of staying home and wearing masks is part of our response to squash the curve. He reminded everyone you are not stuck at home, you are safe at home.

COUNCILMEMBER PRICE: stated the boards she sits on have not yet met. She thanked Berkley Public Library Director Matt Church for keeping her updated with the resources available through the library. She stated free Wi-Fi is available in the library parking lot. She said residents can drive and park in the lot and utilize this free offering from the library. She also stated the library has been offering virtual story times, craft ideas and its Share Your Talent initiative via Facebook. She stated the library is working on a digital book club with books offered through its digital collection. She stated offerings are available to anyone with a Berkley library card. She stated anyone needing a card or having issues with their card can call the library and leave a message or send an email to mchurch@berkleymich.net. She thanked Mr. Church and the staff. Councilmember Price recited a quote by Dr. Atul Gawande, “You may not control life circumstances, but getting to be the author of your life means getting to control what you do with them.” She stated this is a commentary on end of life. Councilmember Price stated that during this time, what people are not considering is end of life decisions that need to be made if you have been exposed to the Coronavirus. She said in addition to staying home, people need to have intervention conversations. She said it is important
that your loved ones know what you would like to happen if you are hospitalized as a result of COVID-19. She continued to discuss the importance of this subject matter. She stated we may not be able to control how sick we become due to the Coronavirus, but we can control the state we are in at that time and the legacy we leave behind.

**COUNCILMEMBER BLANCHARD:** stated the Berkley Area Chamber of Commerce announced that the Art Bash is canceled. He stated the Chamber is making offers to those involved to participate in the street art festival in July. Councilmember Blanchard thanked the Public Safety Department. He stated how organized the department is and the initiatives in place like minimizing exposure and temperature checking when staff comes into the building. He stated they are doing a wonderful job. Councilmember Blanchard thanked the residents for supporting local restaurants. He stated as of today, Berkley has 58 confirmed cases of COVID-19 and five related deaths. Councilmember Blanchard stated his thoughts and prayers go out to the families. He urges everyone to be safe. Councilmember Blanchard stated he, along with city administrators, is working on the grant program to make sure the City receives any available funds as reimbursement to COVID-19-related expenses.

**CITY MANAGER BAUMGARTEN:** said he is appreciative to hear Council recognizes the hard work of staff. He stated we have a talented group of public servants. He stated staff members have done their best to provide every needed service considering the circumstances. City Manager Baumgarten said the community is stepping up in a big way and it’s wonderful to see people supporting their neighbors, healthcare workers and frontline workers in so many fantastic ways. He stated local businesses are struggling, but many have created ways to change gears and support Berkley residents. He hopes residents will support the businesses as well in any way that they can.

**CITY ATTORNEY STARAN:** stated he continues to assist the City in any way he can in the seemingly daily new and unique issues that come up with legal questions and nuances related to the current health crisis. He stated he hopes we only have a couple more weeks left of having to field these kinds of questions, but he said realistically it’s probably going to be a long time before we get back to what we used to think was normal. City Attorney Staran stated he is happy to see everything is under control and hopes everyone stays well.

**MAYOR TERBRACK:** echoed the thoughts that were previously stated including thanking the residents and City Staff for all of their efforts to not only stop the spread, but also to support those in need. He echoed the sentiment that the business community continues to be very creative with ideas to make sure they can still serve the residents and that residents are doing their best to patronize our businesses in return. Mayor Terbrack stated while we are starting to see some positive impacts from social distancing, it doesn’t mean that we are done. He stated we need to all do our part in continuing to be as safe as we possibly can. Mayor Terbrack gave a shout out to all of our public safety officers, but not just for their work as first responders. He stated they continue to take care of their own station. He stated officers, staff and contractors have done an incredible job renovating our dispatch department ahead of schedule and under budget. He stated it truly took a village, but he knows Lt. Kobernick lead the charge and was a large part of the reason for the project’s success. He stated the project began before the virus hit, but there was little that could be deemed more essential than our dispatch department. Mayor Terbrack stated that with the current reality meeting digitally is our primary means to communicate with residents. He stated this issue has come up a few times during the meeting and he realized it has been awhile since he addressed decorum. He stated in order to complete the master plan process, unfortunately Facebook is being used to communicate with residents because it probably is the most efficient way to meet people where they are right now. He stated he has no problem with that, but where he does have a problem is when folks decide it is time to personally attack the person that disagrees with them. He stated he wants to be clear if that happens, your comments will be removed and you will be muted moving forward. He said it doesn’t matter who you are. He said we don’t have time for this while we are dealing with a global pandemic. He said that group is being moderated and please be civil. He stated we need to have as many opinions as possible as we go through the master plan process.
ADJOURNMENT
Mayor Pro Tem Dean moved to adjourn the Regular Meeting at 9:04 p.m.
Seconded by Councilmember Price
Ayes: Hennen, Price, Baker, Blanchard, Dean, Gavin, and Terbrack
Nays: None
Motion Approved.
Moved by Councilmember ________________________ and seconded by Councilmember ________________________ to approve the 2020 Summer Maintenance Agreement between the Road Commission for Oakland County and the City of Berkley. The City will be reimbursed a total of $1,680.00 which will be paid in two installments, $1,092.00 due in September 2020 and $588.00 due upon completion of last maintenance activity.

Ayes:

Nays:

Motion:
Transmittal Memo

To: Matthew Baumgarten, City Manager
From: Derrick Schueller, DPW Director
Date: April 27, 2020
Subject: 2020 Summer Maintenance Agreement between the Road Commission for Oakland County (RCOC) and the City of Berkley

The City of Berkley has partnered with RCOC to provide summer maintenance activities (street sweeping) on 12 Mile Road between Greenfield and Woodward for several consecutive years. While Oakland County has jurisdiction over this roadway, the City is able to provide a higher level of service including several sweepings per year.

The full agreement is attached and RCOC reimburses the City based upon current bids and the following formula:

$175.00 per curb mile X 3.2 curb miles X 3 sweepings (maximum) = $1,880.00

Please note the unit pricing for 2020 is about 12% higher than 2019 due to current bids.

The reimbursement will be made in two installments, 65% ($1,092.00) in September 2020 and 35% ($588.00) upon completion of the last maintenance activity.

RCOC currently has active proof of liability insurance for Berkley personnel and equipment. Updated policies will be forwarded to the County as they are issued.

Feel free to call with any questions.

Attachments
DLS
J:\RCOC\Summer Maintenance\2020\Council\Memo RCOC 2020 Summer Maintenance Agreement 4-27-20.doc
March 4, 2020

Mr. Derrick L. Schueller
Director of Public Works
City of Berkley
3338 Coolidge Highway
Berkley MI 48072

RE: 2020 Summer Maintenance Agreement

Dear Mr. Schueller:

Attached are two copies of a Summer Maintenance Agreement between the Road Commission for Oakland County and the City of Berkley for sweeping on Twelve Mile Road from Greenfield Road to Woodward Avenue. The frequency of the sweeping activity for this year remains at 3 sweepings.

Please note: We are requesting that the City invoice the Road Commission for 65% of the total contract amount on September 15, 2020, and invoice for the remaining 35% upon completion of the last maintenance activity.

If the agreement is satisfactory, please attach certified copies of the resolution of approval by your City Council, and return the two signed copies to this office for approval by the Board of Road Commissioners. One fully signed copy will be returned to you.

Please submit your proof of liability insurance that covers this agreement and particularly covers your personnel and equipment working on county roads under the jurisdiction of the Board of Road Commissioners. As your current Certificate of Membership in the Michigan Municipal Workers Compensation Fund will expire in June, I would appreciate it if you would forward a new certificate at that time. If there are any changes in the coverage during the term of this agreement, we must be notified of these changes.

The Board of County Road Commissioners and I extend our appreciation to you, the City Council and your road employees, for the fine work that has been done in connection with past agreements, and we want to continue to cooperate with you in any way that we can.

Also, please note that the prices in Exhibit A are reflective of our current bids. If you have any questions, please call.

Sincerely,

[Signature]

Darryl M. Heid, P.E.
Director of Highway Maintenance

DMH/gg
attachment
2020 SUMMER MAINTENANCE AGREEMENT
CITY OF BERKLEY

Under 1951 PA 51, As Amended

This Summer Maintenance Agreement ("Agreement") is made this ___ day of ____, 2020, between the Board of County Road Commissioners of the County of Oakland, State of Michigan, a public body corporate, (hereinafter variously referred to as the "Board and as the "Road Commission for Oakland County") and the City of Berkley, Oakland County Michigan, a Michigan municipal corporation hereinafter referred to as the "City."

WHEREAS, certain county primary and local roads more specifically set forth in Exhibit A, attached hereto, are under the jurisdiction and control of the Board and are located within or adjacent to the City; and

WHEREAS, The City desires to be responsible for certain maintenance of said roads under the terms of this Agreement and the Board is willing to participate in the cost thereof as provided in Section III of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein as provided, it is hereby agreed as follows:

I

The City hereby agrees to be responsible for performing Summer Maintenance of certain roads under the terms of this Agreement, and the Board agrees to participate in the cost thereof as provided in Section III of this Agreement. "Summer Maintenance," herein required to be performed by City, shall mean the work and services specified in Exhibit B hereto and this Agreement. All maintenance work and services performed by the City shall be in accordance with the Board’s minimum maintenance standards and this Agreement.

II

The Board has determined and specified the equipment and personnel necessary to provide the Summer Maintenance and the City has acquired the necessary equipment and personnel so specified. The City shall keep accurate and uniform records of all Summer Maintenance work performed pursuant to this Agreement. The Board shall have the right to audit City accounts and records insofar as such documents concern this Agreement and the work and services performed and to be performed hereunder.

III

In consideration of the Summer Maintenance by the City, the Board hereby agrees to pay to the City the sum of $1,680.00 as set forth in Exhibit A, attached hereto and made a part hereof. Such amounts are to be used by the City for Summer Maintenance. Payments are to be made by the Board to the City as follows:

65% on September 15, 2020
35% upon completion of the last Summer Maintenance activity

The making of said payments shall constitute the Board’s entire obligation in reference to Summer Maintenance.

IV

It is specifically understood and agreed by the City and the Board that by undertaking to perform Summer Maintenance of certain county primary roads, the City does not assume the Board’s legal duty to
keep said roads in such condition as to be in accordance with MCLA 224.21, reasonably safe and convenient for public travel, other than as may relate to the work and service to be performed as listed in Section I above, and the City hereby agrees to hold harmless, represent, defend with counsel acceptable to the Board, and indemnify the Board; the County of Oakland; the Office of the Oakland County Water Resources Commissioner and any and all applicable drainage districts(s); the Michigan State Department of Transportation and the Transportation Commission; any and all local units(s) of government within which the roads subject to this Agreement are located, and the respective officers, agents and employees of all of the foregoing, against any and all claims, charges, complaints, damages, or causes of action for (a) public or private property damage, (b) injuries to persons, or (c) other claims, charges, complaints, damages or causes of action arising out of the performance or non-performance of the activities which are the subject matter of this Agreement, both known and unknown, whether during the progress or after the completion thereof. However, this hold harmless provision does not apply in so far as any claim or suit is alleged to be, or demonstrated to be, the result of a defect in highway design or condition and not related to the Summer Maintenance activities set out in Section I. Further, since the Board has the statutory responsibility for maintenance of the roads under this Agreement, it is the intent of the parties that the delegation by this Agreement of those maintenance responsibilities to the City provide immunity to the City as an agent of the County. Therefore, the City falls within the governmental immunity protection of the County.

During that part of the year that the City is providing Summer Maintenance under Section I, the City agrees to notify the Board within 30 days, should it become aware of defects or maintenance requirements in the roads set forth in Exhibit A, if said defects or maintenance requirements are not Summer Maintenance subject to this Agreement.

V

The City shall acquire and maintain, during the term of the Agreement, statutory worker’s compensation, employer’s liability, automobile and comprehensive general liability insurance coverages, and such other insurance coverages, as described in Exhibit C attached hereto, covering the Board’s liability for any and all claims arising out of the City’s performance or non-performance of the activities which are the subject matter of this Agreement, and these coverages shall be obtained and maintained in accordance with the requirements set forth in Exhibit C attached hereto and made a part hereof and shall be primary and non-contributory.

VI

The City further agrees to comply with all applicable laws and regulations, including laws and regulations of the State of Michigan for safeguarding the air and waters of the State. In particular, City facilities and operations must meet the provisions of Part 5 (Spillage of Oil and Polluting Materials) rules promulgated pursuant to Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. (Rules R324.2001 through R324.2009 address release prevention planning, secondary containment, surveillance, and release reporting requirements).

VII

In accordance with Michigan 1976 PA 453, as amended, and 1976 PA 220, as amended, the City covenants not to discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status or because of a disability that is unrelated to the individual’s ability to perform the duties of the particular job or position, and to require a similar covenant on the part of any subcontractor employed in the performance of the Agreement. A breach of this covenant may be regarded as a material breach of this Agreement.
The City shall utilize the provisions of the Federal E-Verify Program to verify the work authorization status of all newly hired employees; and the Road Commission for Oakland County may terminate the contract for failure of City to so comply with the Federal E-Verify Program.

IX

It is the intention of the parties hereto that this Agreement is not made for the benefit of any third party.

It is anticipated that subsequent agreements regarding Summer Maintenance activities will be executed annually by the parties hereto.

The terms and conditions of this Agreement shall become effective as of April 1, 2020, and shall continue in full force and effect until a subsequent Summer Maintenance agreement has been executed by the parties hereto or until this Agreement is terminated, as set forth below.

In the event that a subsequent Summer Maintenance agreement has not been executed by the parties hereto on or before October 1, 2020, either party may terminate this Agreement by providing the other party hereto with written notice of intent to terminate, at least thirty (30) days prior to the date of termination.

This Agreement is executed by the Board at its meeting of ______________________, and by the City by authority of a resolution of its governing body, adopted ______________________, (copy attached as Exhibit D).

Witnesses:

CITY OF BERKLEY
A Municipal Corporation

By: ______________________

Its: ______________________

By: ______________________

Its: ______________________

Witnesses:

BOARD OF COUNTY ROAD COMMISSIONERS
OF THE COUNTY OF OAKLAND,
A Public Body Corporate

By: ______________________

Its: ______________________

By: ______________________

Its: ______________________
EXHIBIT A
2020 SUMMER MAINTENANCE AGREEMENT
CITY OF BERKLEY

PRIMARY ROAD(S) TO BE MAINTAINED:

Twelve Mile Road, Greenfield Road to Woodward Avenue  3.2 Curb Miles

3.2 Curb Miles x $175.00/Curb Mile = $560.00 x 3 Sweepings = $1,680.00
EXHIBIT B

2020 SUMMER MAINTENANCE AGREEMENT

CITY OF BERKLEY

WORK TO BE PERFORMED:

Sweep all roads listed in Exhibit A, in both directions of travel and around islands, as provided in this Agreement, three (3) times (once between April 15th and May 15th; once between July 15th and August 15th and once between September 15th and October 15th). The City may at its own expense sweep more frequently, subject to the other terms and conditions of this Agreement, including, without limitation, the indemnification and insurance provisions.
EXHIBIT C

2020 SUMMER MAINTENANCE AGREEMENT

CITY OF BERKELEY

SPECIAL PROVISION
FOR
INDEMNIFICATION, DAMAGE LIABILITY AND INSURANCE

Indemnification and Damage Liability
See provisions of the maintenance agreement to which this Exhibit C is attached.

Insurance Coverage:
The City, prior to execution of the maintenance agreement, shall file with the Board of County Road Commissioners of the County of Oakland (“Board”), copies of completed certificates of insurance as evidence that it carries adequate insurance satisfactory to the Board; and, without the prior written consent of the Board, the City shall not cancel, reduce, or fail to renew the insurance coverage required by this Agreement. The City shall immediately notify the Board and cease operations upon the occurrence of any cancellation, reduction, modification or termination of insurance required hereunder, and shall not resume operations under this Agreement until all insurance as required by this Agreement is in full force and effect. The City shall provide in a form and substance acceptable to the Board an underwriter’s endorsement to its comprehensive general liability insurance and auto liability insurance, including any excess umbrella insurance, in the amounts set forth on Exhibit C, naming the Board and the Office of the Oakland County Water Resources Commissioner as an additional named insureds. The City shall obtain and deliver to the Board a notices of cancellation and non-renewal endorsement, acceptable to the Board, for the general liability, auto liability, and worker’s compensation and employer’s liability policies. Prior to commencing the work, the City shall provide to the Board evidence satisfactory to the Board of payment of the current premium for the required insurance and endorsements and shall also obtain certificates of insurance for each policy, providing for thirty (30) days actual (not “endeavor to”) prior, written notice to the Board by the insurance carrier of any cancellation, termination reduction or material change of the policy. The City shall make sure that each of its subcontractors, if any, providing any of the work and services under this contract, shall obtain and maintain insurance as set forth in this Agreement.

The City shall provide the following insurance coverages which shall be primary and non-contributory:

a. Workmen’s Compensation Insurance: The insurance shall provide protection for the City’s employees, to the statutory limits of the State of Michigan and $500,000 employer’s liability. The indemnification obligation under this section shall not be limited in any ways by any limitation on the amount or type of damages, compensation or benefits payable by or for the City under worker’s disability compensation coverage established by law.

b. Bodily Injury and Property Damage Other than Automobile: The insurance shall provide protection against all claims for damages to public or private property, and injuries to persons arising out of and during the progress and to the completion of the work, and with respect to product and completed operations for one year after completion of the work.
<table>
<thead>
<tr>
<th>Bodily Injury Liability</th>
<th>Or: Single Limit: Bodily injury and Property Damage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Each Person:</td>
<td>Each Occurrence: $1,000,000</td>
</tr>
<tr>
<td>$1,000,000</td>
<td>Aggregate:</td>
</tr>
<tr>
<td>Each Occurrence:</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>$1,000,000</td>
<td>-and-</td>
</tr>
<tr>
<td>Aggregate:</td>
<td>Property Damage Liability:</td>
</tr>
<tr>
<td>$2,000,000</td>
<td>Each Occurrence: $250,000</td>
</tr>
<tr>
<td></td>
<td>Aggregate:</td>
</tr>
<tr>
<td></td>
<td>$250,000</td>
</tr>
</tbody>
</table>

Such insurance shall include: 1) explosion, collapse, and underground damage hazards (x,c,u), which shall include, but not be limited to coverage for (a) underground damage to facilities due to drilling and excavating with mechanical equipment; and (b) collapse or structural injury to structures due to blasting or explosion, excavation, tunneling, pile driving, cofferdam work, or building moving or demolition; (2) products and completed operations; (3) contractual liability; and (4) independent contractors’ coverages.

c. Bodily Injury Liability and Property Damage Liability - Automobiles (Comprehensive Auto Liability)

<table>
<thead>
<tr>
<th>Bodily Injury Liability</th>
<th>Or: Single Limit: Bodily Injury and Property Damage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Each Person:</td>
<td>Each Occurrence: $2,000,000</td>
</tr>
<tr>
<td>$500,000</td>
<td></td>
</tr>
<tr>
<td>Each Occurrence:</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>$1,000,000</td>
<td>-and-</td>
</tr>
<tr>
<td>and-</td>
<td>Property Damage Liability:</td>
</tr>
<tr>
<td>Each Occurrence:</td>
<td>$1,000,000</td>
</tr>
</tbody>
</table>

Such insurance shall include coverage for all owned, hired, and non-owned vehicles.

d. Excess and Umbrellas Insurance – The City may substitute corresponding excess and/or umbrella liability insurance for a portion of the above listed requirements in order to meet the specified minimum limits of liability.

e. The City shall provide for and in behalf of the Board and all agencies specified by the Board, as their interest may appear, Owner’s Protective Public Liability Insurance. Such insurance shall provide coverage and limits the same as the City’s Public Liability Insurance.

Reports – The City or his insurance carrier shall immediately report all claims received which relate to the Contract, and shall also report claims investigations made, and disposition of claims to the County Highway Engineer.

See provisions of the maintenance agreement to which this Exhibit C is attached.
A PROCLAMATION
of the Council of the City of Berkley, Michigan
Proclaiming May 2020 as Berkley History Month

WHEREAS, In 1819, the first settlers arrived in what is now Oakland County, and in 1825, a four-day steamboat service between Detroit and Buffalo, enabled many settlers to shorten their journey west as they made their way from New York and New Jersey. Travelers were greeted at Red Tavern owned by Mother Handsome at Woodward and Columbia Road. John Benjamin made his journey from New York and purchased 80 acres of land and built a barn on the site where Roseland Cemetery now sits; and

WHEREAS, The settlers continued arriving, building their farms and raising their families. The first school was built in what is now Berkley in the late 1830s. The first phone line was strung for 10 homes along 11 Mile Road between Berkley and Royal Oak. In 1919, a town pump was built and electric lighting arrived. In 1923, Berkley became a Village and in 1926 the first Berkley Days was held; and

WHEREAS, On May 23, 1932, during the Great Depression, and with just under 6,000 residents, the Village of Berkley became a City with a Mayor, six Commissioners, a City Clerk, Treasurer, Assessor, Judge and Constable; and

WHEREAS, Since its early days, Berkley has flourished into a city of approximately 15,000 residents, 6 incredible schools, 9 parks, a public library designated as “Hip” by the Detroit Free Press, over 6,000 homes, and a unique downtown district; and

WHEREAS, City of Berkley was named the #1 Suburb in Michigan by GoBankingRates in 2019, ranked #6 for the National Council for Home Safety and Security Safest Cities in Michigan for 2020, named the #1 Best Place to Live by Areavibes in 2020, ranked #2 for the Best Suburb to Buy a House in Michigan by Niche in 2020, and ranked #25 for the Best Suburb to Buy a House in the United States by Niche in 2020; and

WHEREAS, The Berkley Historical Committee works tirelessly to compile information and artifacts from around the city in order to preserve our community’s history, and to allow for it to be treasured by all for years to come.

NOW, THEREFORE, THE CITY OF BERKLEY HEREBY PROCLAIMS

SECTION 1: That the month of May 2020 is hereby proclaimed as Berkley History Month and City Council encourages every citizen to become acquainted with the City’s rich and interesting history.

SECTION 2: The City Council urges those familiar with stories or legends of early days in Berkley to share their accounts and photos with the membership of the Historical Committee so they may be retained for the pleasure of others.

Proclaimed this 4th day of May, 2020 at a Regular Meeting of the Berkley City Council.

________________________________________
Daniel J. Terbrack, Mayor

Attest:

________________________________________
Victoria Mitchell, City Clerk
WHEREAS, Mental health is important for our individual well-being and vitality, as well as that of our families, communities, and businesses; and

WHEREAS, One in five Americans experiences a mental health disorder that requires treatment at some point in their lives; and

WHEREAS, One in ten children has a serious emotion disturbance, that if left untreated, can lead to failure in school, physical illness, substance use and abuse, entrance into the criminal justice system, and even suicide; and

WHEREAS, May 7th has been designated the National Children’s Mental Health Awareness Day 2020; and

WHEREAS, Stigma and stereotypes associated with mental illnesses often keep people from seeking treatment that could improve their quality of life and potentially save their own life; and

WHEREAS, Mental health disorders are biologically based brain disorders that cannot be overcome through “will power” and is not related to a defect in a person’s “character” or intelligence; and,

WHEREAS, Mental health recovery is a journey of healing and transformation, enabling people with a mental illness to live within a community of their choice while striving to achieve their full potential; and

WHEREAS, Mental health recovery not only benefits individuals with mental health disorders by focusing on their abilities to live, work, learn, and fully participate in our society, but also enriches the culture of our community life; and

WHEREAS, The Oakland Community Health Network (OCHN), and its service provider agencies are committed to inspiring hope, empowering people, and strengthening communities.

NOW, THEREFORE, THE CITY OF BERKLEY HEREBY PROCLAIMS
That the month of May 2020 is hereby proclaimed as Mental Health Awareness Month in the City of Berkley. The City of Berkley also calls upon the citizens, government agencies, public and private institutions, businesses, and schools in the City of Berkley to recommit our community to increasing awareness and understanding of mental health disorders, and the need for appropriate and accessible services for all people with mental disorders to promote their recovery and healing.

Proclaimed this 4th day of May, 2020 at a Regular Meeting of the Berkley City Council.

Daniel J. Terbrack, Mayor

Attest:

Victoria Mitchell, City Clerk
WHEREAS, The City of Berkley has many citizens who actively enjoy motorcycles for daily transportation, touring, and recreation; and

WHEREAS, The month of May is recognized nationally as the month that motorcycles become more prevalent on our streets, and the need to be more aware of their presence is of the utmost urgency; and

WHEREAS, Due to Michigan being a destination hot spot for travelers during the summer months, there will likely be an influx of motorcycle enthusiasts; and

WHEREAS, The current “Stay Home, Stay Safe” orders from the State of Michigan in response to COVID-19 allow for recreation activities and may result in an increase in local motorcycle riders as people look for activities to fill their day; and

WHEREAS, An overwhelming number of accidents involving automobiles and motorcycles could be avoided with due regard, respect, and awareness of motorcycles on the streets and in intersections; and

WHEREAS, It is in the interest of our community and the citizens of the City of Berkley to note the increase in the volume of motorcycle traffic as we enter the warm months, to enable the reduction of accidents and injuries involving motorcyclists.

NOW, THEREFORE, THE CITY OF BERKLEY HEREBY PROCLAIMS
That the month of May 2020 is hereby proclaimed as Motorcycle Awareness Month in the City of Berkley. The City of Berkley also calls upon the citizens, government agencies, public and private institutions, businesses and schools in the City of Berkley to recommit our community to increasing awareness and ensuring that we are all respectfully sharing our roadways with motorcyclists.

Proclaimed this 4th day of May, 2020 at a Regular Meeting of the Berkley City Council.

Attest:

Daniel J. Terbrack, Mayor

Victoria Mitchell, City Clerk
A PROCLAMATION

of the Council of the City of Berkley, Michigan

Declaring May 20, 2020 as Master Plan Day

WHEREAS, The City of Berkley has been actively engaged in the process of working with Carlisle Wortman Associates, a professional planning consultant, to update the City’s Master Plan; and

WHEREAS, A community Master Plan is a road map for land use, development, reinvestment, transportation, and housing to guide the City from a known present to an unknown future; and

WHEREAS, One of the many tools being used in the Master Planning process is a community-wide survey for residents, business owners, and those with connections to the City of Berkley to share their feedback and goals for a new community Master Plan; and

WHEREAS, A higher level of participation from the public in the Master Plan survey will result in more accurate results that better reflect the desires of the community at-large.

NOW, THEREFORE, THE CITY OF BERKLEY HEREBY PROCLAIMS

SECTION 1: That May 20, 2020 is hereby proclaimed as Master Plan Day in the City of Berkley.

SECTION 2: The City of Berkley calls upon the citizens, business owners, and those representing all facets of the Berkley community, to participate in the Master Planning process by completing the Master Plan survey.

SECTION 3: The City of Berkley further encourages all members of the community to remain constructively engaged with future Master Plan activities and discussions, as higher levels of community participation will ensure the City’s next Master Plan is inclusive of everyone’s vision and goals for the City.

Proclaimed this 4th day of May, 2020 at a Regular Meeting of the Berkley City Council.

Daniel J. Terbrack, Mayor

Attest:

Victoria Mitchell, City Clerk
A RESOLUTION OF THE CITY OF BERKLEY, MICHIGAN
AUTHORIZING PUBLICATION OF A NOTICE OF PUBLIC HEARING REGARDING THE
REPROGRAMMING OF FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

Whereas, under the Housing and Urban - Rural Recovery Act of 1983, as amended, the City of Berkley is eligible to receive Federal Community Block Grant funds for certain expenditures in cooperation with the United States Department of Housing and Urban Development, through the County of Oakland; and

Whereas, it is the intent of the Berkley City Council to establish the date, time and location of the public hearing on the reprogramming of federal Community Development Block Grant funds and to authorize publication of a notice of the public hearing in a newspaper of general circulation within the municipality.

NOW THEREFORE THE CITY OF BERKLEY RESOLVES,

SECTION 1: That the Berkley City Council will hold a public hearing on the reprogramming of federal Community Development Block Grant funds during the course of its regular city council meeting to be held on May 18, 2020; and

SECTION 2: That the Finance Director is hereby directed to cause a notice, to publish one time in a newspaper of general circulation, announcing a Public Hearing on Monday May 18, 2020 at 7:00 pm at a regular city council meeting as follows:

NOTICE OF PUBLIC HEARING
BERKLEY CITY COUNCIL

Notice is hereby given that in accordance with Community Development Block Grant (CDBG) requirements a Public Hearing will be held by the City of Berkley City Council on Monday, May 18, 2020 at 7:00 p.m. at City Hall, 3338 Coolidge Highway. Residents will be allowed to present written and/or verbal comment regarding the reprogramming of federal CDBG funds before or during the public hearing. The program year and activity description are presented below. The new proposed project activity is proposed to be changed as follows.

Existing - 2019 Program Year
Activity Number 731619
Activity Description Remove Architectural Barriers
Location Various Non-ADA Compliant sidewalk intersections in Berkley

Proposed - 2019 Program Year
Activity Number 731619
Activity Description Remove Architectural Barriers
Location Berkley Public Safety Building public lobby entrance

The City of Berkley will make reasonable arrangements to accommodate special needs upon receiving 72-hour advance notice. Contact Victoria Mitchell, City Clerk at (248) 658-3319 at Berkley City Hall for special services.

______________________________
Attest: Daniel J. Terbrack, Mayor

______________________________
Victoria Mitchell, City Clerk
AN ORDINANCE

of the City Council of the City of Berkley, Michigan

Repealing Section 138-603 of Article VI, Division 4 of Chapter 138, Zoning,

of the City of Berkley Code of Ordinances.

THE CITY OF BERKLEY ORDAINS:

SECTION 1: Section 138-603 of Article VI, Division 4 of Chapter 138 of the City of Berkley Code of Ordinances is hereby repealed in its entirety.

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: Effective Date

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

SECTION 4: Publication

The City Council directs the City Clerk to publish a summary of this ordinance in compliance with Public Act 182 of 1991, as amended, and Section 6.5 of the Berkley City Charter.

Introduced on the First Reading at the Regular City Council Meeting on Monday, May 4, 2020.

________________________________
Daniel J. Terbrack
Mayor

Attest:

________________________
Victoria Mitchell
City Clerk
Sec. 138-603. - Administrative review.

Administrative review for dimensional variances shall be conducted by the building department in cases where:

1. The use of the building or land is conforming.

2. No more than two variances have been granted to the property within the last 5 years.

3. The request does not exceed existing building setbacks.

During administrative review, the building official and city planner shall act as the ZBA in determining whether or not a practical difficulty exists and placing reasonable conditions upon any requests. If the building official and city planner agree, the variance shall be granted. Otherwise the variance shall be denied. If the property owner is not satisfied with the administrative review, the property owner may appeal the matter to the zoning board of appeals.

(Ord. No. O-10-08, § 1, 12-15-2008)
O-09-20

AN ORDINANCE

of the City Council of the City of Berkley, Michigan to Repeal and Replace Article II of Chapter 50, Fire Prevention Code, of the City of Berkley Code of Ordinances to Adopt the 2015 International Fire Code, and to Prescribe Penalties for Violations.

THE CITY OF BERKLEY ORDAINS:

SECTION 1: Article II of Chapter 50 of the Berkley Code of Ordinances shall be repealed in its entirety and replaced with the following new Article II, as follows:

ARTICLE II. - FIRE PREVENTION CODE

Sec. 50-31. - Adoption of the 2015 International Fire Code.

The city hereby adopts by reference the 2015 International Fire Code, including Appendices B, C, D, E, F, G, H and I for the purpose of regulating the safe guarding of life and property from fire and explosion hazards arising from the storage, handling, and use of hazardous substances, materials, and devices.

Sec. 50-32. - Code on file.

Copies of the International Fire Code are on file and available for public inspection at the building department and the library.

Sec. 50-33. - Building code board of appeals.

The building code board of appeals is hereby constituted as the fire code board of appeals.

Sec. 50-34. - Blanks in code to be filled in.

The following blanks in the 2015 International Fire Code shall be filled in as follows:

(1) The words “the City of Berkley, Michigan” shall be inserted into Section 101.1.

(2) The words “municipal civil infraction 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” shall be inserted into Section 109.4.

(3) The words “zero” and “$500” shall be inserted into Section 111.4.

Sec. 50-35. - Geographic limits.

The geographic limits referred to in certain sections of the 2015 International Fire Code are hereby established as follows:

(1) The words “The storage of Class I and Class II liquids in above ground tanks outside of buildings is prohibited except in the Eleven Mile District and shall not
be closer than 200 feet to a residential district” shall be inserted into Section 5704.2.9.6.1.

(2) The words “The storage of Class I and Class II liquids in above-ground tanks is prohibited except in the Eleven Mile District and shall not be closer than 200 feet to a residential district” shall be inserted into Section 5706.2.4.4.

(3) The words “The storage of flammable cryogenic fluids in stationary containers is prohibited except in the Eleven Mile District and shall not be closer than 200 feet to a residential district” shall be inserted into Section 5806.2.

(4) The words “The storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas to the Eleven Mile District and shall not be closer than 200 feet to a residential district” shall be inserted into Section 6104.2.

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 1991, as amended, and Section 6.5 of the Berkley City Charter.

Introduced on the First Reading at the Regular City Council Meeting on Monday, May 4, 2020.

________________________________
Daniel J. Terbrack
Mayor

Attest:

____________________________
Victoria Mitchell
City Clerk
MEMORANDUM

To: Mr. Mayor and Berkley City Council  
From: Erin Schlutow, Community Development Director  
Subject: Ordinance Repeal and Replacement of the Fire Prevention Code and Adoption of 2015 International Fire Code  
Date: April 29, 2020

In coordination and consultation with Public Safety, we submit the attached proposed repeal and replacement of Article II of Chapter 50, Fire Prevention Code of the City Berkley Code of Ordinances and to adopt the 2015 International Fire Code.

The replacement of Chapter 50 will remove the BOCA National Fire Prevention Code, 1996 edition, which is outdated and no longer used by Public Safety or the Fire Inspector.

The International Fire Code is updated every three (3) years. Berkley Public Safety has optioned to adopt the 2015 edition, in order to be consistent with the State of Michigan. It is anticipated that the State will adopt the next update in 2021, and Public Safety intends to adopt the newer version, to be consistent with the State.

Public Safety has reviewed and approved the proposed changes.
AN ORDINANCE

of the City Council of the City of Berkley, Michigan to Amend Section 30-186
of Article V, Division 1 of Chapter 30, Businesses to Update the Citation to the Property
Maintenance Code, and to Prescribe a Penalty for Violations.

THE CITY OF BERKLEY ORDAINS:

SECTION 1: Section 30-186 of Article V, Division 1 of Chapter 30 of the Berkley Code of
Ordinances shall be amended, as follows:

Sec. 30-186. - Definitions.

The following words, terms and phrases, when used in this article, shall have the
meanings ascribed to them in this section, except where the context clearly indicates a different
meaning:

All terms used in this article shall be defined in accordance with the housing law of
Michigan, viz., Public Act No. 167 of 1917 (MCL 125.401 et seq.).

Owner, operator, person, premises, occupant and structure: As found in accordance with
the 2015 International Property Maintenance Code section PM-201.0 of the BOCA National

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

Introduced on the First Reading at the Regular City Council Meeting on Monday, May 4, 2020.

Daniel J. Terbrack
Mayor

Attest:

Victoria Mitchell
City Clerk
MEMORANDUM

To: Mr. Mayor and Berkley City Council

From: Erin Schlutow, Community Development Director

Subject: Ordinance Amendment to Update Citation to the Property Maintenance Code and to Prescribe Penalty for Violations

Date: April 30, 2020

The proposed amendment to Section 30-186 of Chapter 30 Businesses, is intended to be consistent with the removal of all references to BOCA from the Berkley Code of Ordinances, as previously discussed, and to update with the 2015 International Property Maintenance Code.
AN ORDINANCE
of the City Council of the City of Berkley, Michigan to Amend Section 18-63
of Chapter 18 Amusements and Entertainments, to Update the Citation to the City’s
Adopted Building Codes, and to Prescribe a Penalty for Violations.

THE CITY OF BERKLEY ORDAINS:

SECTION 1: Section 18-63 of Chapter 18 of the Berkley Code of Ordinances shall be amended, as follows:

Sec. 18-63. - Compliance with zoning and building codes.

No license under this article shall be issued until the building inspector has certified that the location at which such license will be established complies in every respect with this Code of Ordinances including, but not limited to, chapter 138, the zoning ordinance; chapter 26, the general building regulations; and all BOCA Michigan building, plumbing, electrical, mechanical, and fire codes adopted by the city.

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 1991, as amended, and Section 6.5 of the Berkley City Charter.

Introduced on the First Reading at the Regular City Council Meeting on Monday, May 4, 2020.

____________________________
Daniel J. Terbrack
Mayor

Attest:

____________________________
Victoria Mitchell
City Clerk
MEMORANDUM

To: Mr. Mayor and Berkley City Council

From: Erin Schlutow, Community Development Director

Subject: Ordinance Amendment to Update Citation to the City’s Adopted Building Codes, and to Prescribe Penalty for Violations

Date: April 30, 2020

The proposed amendment to Section 18-63 of Chapter 18 Amusements and Entertainments, is intended to be consistent with the removal of all references to BOCA from the Berkley Code of Ordinances, as previously discussed, and to include the mechanical code book as adopted by the city.
AN ORDINANCE
of the City Council of the City of Berkley, Michigan
Amending Chapter 26, Building & Building Regulations,
of the City of Berkley Code of Ordinances to
Adopt the State Construction Code, as Updated and Amended; to Adopt the 2015
International Property Maintenance Code as the City's Property Maintenance Code; to
Adopt the Michigan Rehabilitation Code as the City’s Rehabilitation Code for Existing
Buildings; and to Provide Penalties for Violations.

THE CITY OF BERKLEY ORDAINS:

SECTION 1: Chapter 26 of the Berkley Code of Ordinances shall be amended, as follows:

Chapter 26 – BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. – IN GENERAL

Sec. 26-1. - Failure to correct violations Adoption of State Construction Code.

The City of Berkley may refuse to issue new permits to a licensed contractor who has
failed to correct violations or to any licensed contractor representing a firm which has failed to
correct violations. Violations shall include outstanding invoices to the city.

(a) The State Construction Code is adopted and in effect in the City consisting of the following
codes promulgated by the State Construction Code Commission pursuant to Public Act 230
of 1972 (MCL 125.1501 et seq), and as amended and updated by the Commission and filed
in accordance with the Act:.

(1) Michigan Building Code.
(3) Michigan Mechanical Code.
(4) Michigan Electrical Code.
(5) Michigan Residential Code

(b) Sections 10 – 13 of Public Act 230 of 1972 (MCL 125.1501, et seq), as amended, which
makes provisions for building permits, application forms, fees, contents, filing, additional
permits, ordinary repairs, examination and approval of applications, issuance, changes in
plans, commencement of construction, compliance with applications, suspensions,
revocations, cancellations, inspections, time, notice of violations, stop orders, injunctions,
certificates, and notices are adopted and incorporated by reference as if fully set forth
herein and shall be applicable and enforceable in the City.

(c) Complete printed copies of the Michigan Building Code, Michigan Plumbing Code,
Michigan Mechanical Code, and Michigan Electrical Code shall be available for public
examination at the City’s Community Development Department.
Sec. 26-2. – Administration and Enforcement.

(a) Responsibility Assumed. The City assumes responsibility for the administration and enforcement of the State Construction Code, adopted in this Article, in the City.

(b) Enforcing Agency. The City’s Community Development Department and Building Official (a/k/a Code Official) are designated as the enforcing agency to discharge the responsibilities of the City under the State Construction Code.

(c) The Community Development Department Director and the Building Official, and their authorized representatives, including, but not by way of limitation, the City’s code inspectors and ordinance enforcement officers, are authorized to enforce this Article and to issue municipal civil infraction violation notices and citations for violations.

(d) The City may decline to issue new permits to any licensed contractor or representative of a contractor who has failed to correct violations in connection with any outstanding permit(s) or who is in default to the City regarding any outstanding invoice or account.

ARTICLE II. – BUILDING CODE


Any person affected by a decision of the code official or a notice or order issued under this building code shall have the right to appeal to the building code board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

Sec. 26-67. - Power to interpret code.

The building code board of appeals shall have the power to interpret the provisions of this code upon application in writing by the owner or lessee or their duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, so that the spirit of the code shall be observed, public health, safety and welfare secured and substantial justice done. The particulars of such interpretation when granted or allowed and any decision of the building code board of appeals shall be entered upon the records and a signed copy be furnished to the applicant.

Sec. 26-68. - Membership; terms; qualifications.

(a) The building code board of appeals shall consist of five members appointed by the mayor, with advice and consent of council, as follows: one for five years, one for four years, one for three years, one for two years and one for one year. Thereafter, each new member shall serve for five years or until a successor has been appointed.

(b) The building code board of appeals shall consist of five individuals, one from each of the following professions or disciplines:
(1)  A registered design professional who is a registered architect; or a builder or superintendent of building construction with at least ten years experience, five of which shall have been in responsible charge of work.

(2)  A registered design professional with structural engineering or architectural experience.

(3)  A registered design professional with mechanical or plumbing engineering experience; or a mechanical or plumbing contractor with at least ten years experience, five of which shall have been in responsible charge of work.

(4)  A registered design professional with electrical engineering experience; or an electrical contractor with at least ten years experience, five of which shall have been in responsible charge of work.

(5)  A registered design professional with fire protection engineering experience; or a fire protection contractor with at least ten years experience, five of which shall have been in responsible charge of work.

Sec. 26-69. - Alternates; officers; disqualifications; compensation.

(a)  The mayor, with the advice and consent of the council, shall appoint two alternate members who shall be called by the building code board of appeals chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the same qualifications required for building code board of appeals membership, by any one of the above and shall be appointed for five years or until a successor has been appointed.

(b)  The building code board of appeals shall annually select one of its members to serve as chairman.

(c)  A member shall not hear an appeal in which that member has any personal, professional or financial interest.

(d)  A qualified person shall be designated to serve as secretary to the building code board of appeals. The secretary shall file a detailed record of all proceedings in the office of the city manager.

(e)  Compensation of members shall be determined by a resolution of the council in conformity with state law.

Sec. 26-70. - Meetings and hearings.

(a)  Notice of meeting. The building code board of appeals shall meet upon notice from the chairman, within ten days of the filing of an appeal, or at stated periodic meetings.

(b)  Open hearing meeting. All meetings and hearings before the building code board of appeals shall be open to the public. The appellant, the appellant's representative, the code official, and any person whose interests are affected shall be given an opportunity to be heard.
(1) **Procedure.** The building code board of appeals shall adopt and make available to the public through the secretary, procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence but shall mandate that only relevant information be received.

(2) **Postponed hearing.** When five members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

(3) **Board decision.** The building code board of appeals shall modify or reverse the decision of the code official by a concurring vote of three members.

(4) **Resolution.** The decision of the building code board of appeals shall be by resolution. Certified copies shall be furnished to the appellant and to the code official.

(5) **Administration.** The code official shall take immediate action in accordance with the decision of the building code board of appeals.

(c) **Court review.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

**ARTICLE IV. - ELECTRICAL CODE**


The city hereby adopts by reference the [2012]2015 International Property Maintenance Code for the control of buildings and structures as provided in this article.

**Sec. 26-277.** - Code on file.

Copies of the International Property Maintenance Code are on file and available for public inspection at the building department.

**Sec. 26-278.** - Building code board of appeals.

The building code board of appeals is hereby constituted as the property maintenance board of appeals.

**Sec. 26-279.** - Blanks in code to be filled in.

The following blanks in the [2012]2015 International Property Maintenance Code shall be filled in as follows:

(1) The words “the City of Berkley, Michigan” shall be inserted into Section 101.1.

(2) The words “the City of Berkley's Fee Schedule” shall be inserted into Section 103.5.

(3) The words “0” and “500” shall be inserted into Section 112.4.
(4) The words “8 inches” shall be inserted into Section 302.4.

(5) The dates of “April 1 to December 1” shall be inserted in Section 304.14 of such code.

(6) The dates of “October 1 to May 15” shall be inserted in Section 602.3 of such code.

(7) The dates of “October 1 to May 15” shall be inserted in Section 602.4 of such code.

ARTICLE IV. – MICHIGAN REHABILITATION CODE

Sec. 26-290. - Adoption of Michigan Rehabilitation Code

The International Existing Building Code, 2015 edition, including appendix A and resource A, hereinafter referred to as “the code” is adopted by reference, as provided in MCL 24.232, as the “Michigan rehabilitation code for existing buildings” with the exceptions of sections 104.8, 108.2 to 108.6, 114.3, 705.1.1 to 705.2, 806.2, and Appendix A.

Sec. 26-291. – Code on file.

Complete printed copies of the Michigan Rehabilitation Code are on file in the building department.

Sec. 26-292. – Building Code board of appeals.

The building code board of appeals is hereby constituted as the rehabilitation code board of appeals.

ARTICLE XV. - FLOOD PLAIN MANAGEMENT

Sec. 26-311. - Adoption of National Flood Insurance Program.

Pursuant to the provisions of section 1361 of the National Flood Insurance Act of 1968, as amended, the city shall adopt management criteria for areas not designated as special flood hazard areas.

Sec. 26-312. - Permits required.

The city shall require permits for all proposed construction or other development in the city, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood prone areas.

Sec. 26-313. - Other approvals required.

Proposed development shall be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

Sec. 26-314. - Review of permit applications.
The city shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements shall be:

1. Designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. Constructed with materials resistant to flood damage;
3. Constructed by methods and practices that minimize flood damages; and
4. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Sec. 26-315. - Review of subdivision proposals.

Review subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal shall be reviewed to assure that:

1. All such proposals are consistent with the need to minimize flood damage within the flood prone area;
2. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
3. Adequate drainage is provided to reduce exposure to flood hazards.

Sec. 26-316. - Utility design.

Require within flood prone areas new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and require onsite waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

ARTICLE XI. - VACANT AND NEGLECTED PROPERTIES

Sec. 26-321. - Purpose.

The purpose of this article is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and ensuring safe and sanitary maintenance of dwellings, commercial and industrial buildings. Due to economic conditions, mortgage fraud, and increased bankruptcies, many homes and buildings have become vacant and unsupervised. This has caused properties to become attractive nuisances for minors and criminal activity. Vacant properties have a negative impact on surrounding properties and neighborhoods. Potential buyers are deterred by the presence of nearby vacant abandoned buildings. There is an increased instance of unsecured
or open doors and windows, broken water pipes, theft of metals and other materials, overgrowth of grass, weeds, shrubs, and bushes, illegal dumping, and rat and vermin activity at vacant structures. Such neglect devalues properties and causes deterioration in neighborhoods and commercial areas. The city also needs to be able to contact owners for fire safety and police reasons.

Sec. 26-322. - Scope.

The provisions of this article shall apply to all existing residential, commercial and industrial structures and all vacant land.

Sec. 26-323. - Definition of vacant property.

A vacant property is defined as a building or structure that is not legally or currently occupied. Evidence of vacancy shall include any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to: overgrown and/or dead vegetation; accumulation of newspapers, circulars, flyers and/or mail; past-due utility notices and/or disconnected utilities; accumulation of trash, junk and/or debris; boarded-up windows; abandoned vehicles, auto parts or materials; the absence of window coverings such as curtains, blinds and/or shutters; the absence of furnishings and/or personal items consistent with habitation or occupancy; statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.

Sec. 26-324. - Registry of vacant properties.

There is hereby created in the City of Berkley a registry of vacant properties.

Sec. 26-325. - Vacant properties to be registered.

Owners and/or owners' agents of real property are required to register and obtain an inspection on all vacant properties within 90 days of the vacancy.

Sec. 26-326. - Owner's affidavit.

Owners who are required to register their properties pursuant to this article shall submit a copy of a driver's license and an affidavit containing the following information:

(1) The name of the owner of the property.

(2) A mailing address where mail may be sent that will be acknowledged as received by the owner. If certified mail/return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed," or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.

(3) The name of the individual responsible for the care and control of the property. Such individual may be the owner, if the owner is an individual, or may be someone other than the owner with whom he/she has contracted.

(4) A current address, phone number, fax, and email address (if fax and email addresses are available) where communications may be sent that will be acknowledged as
received by the individual responsible for the care and control of the property. If certified mail/return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed," or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.

Sec. 26-327. - Fee.

At the time of registration, the owner shall pay a registration and inspection fee which shall be established by resolution of the city council. In addition, in the case where the owner has failed to register, there shall be assessed the added costs of the city's expenses in having to determine ownership which may include, but are not limited to, title searches. There shall be an additional fee for the filing of any additional or new owner's affidavit.

Sec. 26-328. - Requirement to keep information current.

If at any time the information contained in the affidavit is no longer valid, the property owner has ten days to file a new affidavit containing current information. There shall be no fee to update the current owner's information.

Sec. 26-329. - Inspections required.

(a) Owners of vacant or unoccupied buildings who are required to file an owner's affidavit under this article shall immediately obtain an inspection of the building and property, obtain any necessary permits, make required repairs, and obtain inspections from the city as prescribed in this article to ensure the building is safe, secured, and well-maintained.

(b) The owner or the owner's agent shall demonstrate that the following are sound, operational or properly disconnected:

(1) All water, sewer, electrical, gas, HVAC, plumbing systems;
(2) Exterior finishes and walls;
(3) Concrete surfaces, including parking areas, driveway aprons, service walks, steps, and sidewalks;
(4) Accessory buildings;
(5) Roofing, gutters, structural systems and foundation;
(6) Drainage systems;
(7) Doors and windows; and
(8) Signage.

(c) Single-family residential properties shall be inspected on a one-time basis. Multiple family and nonresidential properties shall be inspected biennially.

Sec. 26-330. - Maintenance and security requirements.
(a) Properties subject to this section shall be kept free of the following:

(1) Vermin;
(2) Weeds and grass more than eight inches high;
(3) Dry brush and dead vegetation;
(4) Trash, junk, debris, building materials;
(5) Any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law; and
(6) Discarded items including, but not limited to, furniture, clothing, large and small appliances, printed material, signage, containers, equipment, construction materials, or any other items that give the appearance that the property is abandoned.

(b) The property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

(c) All yards shall be landscaped and properly maintained. Landscaping includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark designed and maintained in an appropriate manner. Landscaping does not include weeds, gravel, broken concrete, asphalt, decomposed materials, plastic sheeting, indoor-outdoor carpet or any similar material. Maintenance includes, but is not limited to, regular watering, irrigation, cutting, pruning and mowing of required landscaping and removal of all trimmings.

(d) Pools, spas, and other water features.

(1) Between December 1 and April 1, properties with pools or spas shall comply with the minimum security fencing and barrier requirements of the Michigan building, construction and maintenance codes.

(2) Between April 1 and December 1, properties with pools or spas shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry and free of debris. In either case, properties with pools or spas shall comply with the minimum security fencing and barrier requirements of the Michigan building, construction and maintenance codes.

(e) Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and/or structure(s).

(f) Broken windows shall be repaired or replaced within seven days. Boarding up of open or broken windows is prohibited except as a temporary measure.
If the property is owned by a corporation and/or the beneficiary/trustee/owner is located more than 30 miles away, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met.

The property shall be posted with name and 24-hour contact phone number of the property management company located within 30 miles of the subject property.

1. For single-family residential properties, the posting shall be 8½” x 11” and shall be of a 16-point Arial font and shall contain along with the name and 24-hour contact number, the words “THIS PROPERTY MANAGED BY” and “TO REPORT PROBLEMS OR CONCERNS, CALL.” The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street. The local property management company shall inspect the property at least on a weekly basis to determine if the property is in compliance with the requirements of this chapter.

2. For multiple-family or nonresidential properties, the posting shall be 18” x 24” and shall be of a 72-point Arial font and shall contain along with the name and 24-hour contact number, the words “THIS PROPERTY MANAGED BY” and “TO REPORT PROBLEMS OR CONCERNS, CALL.” The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street or secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street or if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather resistant materials. The local property management company shall inspect the property at least on a weekly basis to determine if the property is in compliance with the requirements of this chapter.

Sec. 26-331. - Fire damaged property.

If a building is fire damaged, the owner has 90 days from the date of the fire to apply for a permit to start construction or demolition. The building official may grant additional 90-day extensions, provided the owner can demonstrate substantial progress toward completing repairs. Failure to do so will result in the property being deemed vacant and subject to the requirements of this article.

Sec. 26-332. - Recovery of fees.

Any fees required by this article that are not paid or are overdue shall constitute a lien against the property deemed vacant, which costs shall be collected as a special assessment under Chapter 102.

Sec. 26-333. - Violations.

(a) Registration of property under this article is in addition to, and not in lieu of, the requirements of MCL 125.539(i), which allows for demolition of vacant structures, or nuisance abatement by the city.
ARTICLE VII – VIOLATIONS
Sec. 26-340, - Municipal Civil Infraction.

Violations of this Chapter shall be municipal civil infractions subject to the civil fine and sanctions assessable under Article IX of Chapter 82 of the City Code.

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

SECTION 4: Publication
The City Council directs the City Clerk to publish a summary of this ordinance in compliance with Public Act 182 of 1991, as amended, and Section 6.5 of the Berkley City Charter.

Introduced on the First Reading at the Regular City Council Meeting on Monday, May 4, 2020.

________________________________
Daniel J. Terbrack
Mayor

Attest: ____________________________
Victoria Mitchell
City Clerk
MEMORANDUM

To: Mr. Mayor and Berkley City Council

From: Erin Schlutow, Community Development Director

Subject: Ordinance Amendments to Adopt the State Construction Code, to Adopt the 1015 International Fire Code, to Adopt the 2015 International Property Maintenance Code, to Adopt the Michigan Rehabilitation Code, and to Provide Penalties for Violations

Date: April 30, 2020

The proposed amendments to Chapter 26 Buildings and Building Regulations, is before your consideration to ensure that the Berkley Code of Ordinances is up to date with the adopted Michigan construction codes, 2015 International Fire Code, 2015 International Property Maintenance Code, and the 2015 Michigan Rehabilitation Code.

The State Construction Code includes the Michigan Building Code, the Michigan Plumbing Code, the Michigan Mechanical Code, the Michigan Electrical Code, and the Michigan Residential Code. They are reviewed and updated every three years and adopted by the State of Michigan.

The 2015 International Fire Code is proposed for adoption, as the Code of Ordinances currently references the 1996 BOCA National Fire Prevention Code. BOCA has been out of use and circulation for several years and should be removed from reference in our Ordinances. The Berkley Department of Public Safety has been using the 2015 International Fire Code and the ordinance amendment is provided to you to be in line with current practice.

The 2015 International Property Maintenance Code is not adopted by the State of Michigan as part of the State Construction Code; therefore, each municipality may determine which edition to adopt into local ordinance. The IPMC is also updated every three years, with 2018 as the most recent edition. In consultation with McKenna Associates, it was determined that the 2015 IPMC edition was sufficient and the updated 2018 IPMC did not provide any substantive changes from 2015. We do anticipate the need to adopt the 2021 IPMC, similar to the 2015 IFC.
The Michigan Rehabilitation Code is also not adopted by the State of Michigan as part of the State Construction Code; therefore, each municipality may determine whether or not to adopt into local ordinance.