

CITY OF BERKLEY PUBLIC NOTICE
REGULAR CITY COUNCIL MEETING
Monday, December 5, 2022
7:00 P.M. – City Hall
248-658-3300

CALL 39th COUNCIL TO ORDER
APPROVAL OF AGENDA
MAYOR LED MOMENT OF REFLECTION
PLEDGE OF ALLEGIANCE
PUBLIC COMMENT
ORDER OF BUSINESS

Consent Agenda

1. **APPROVAL OF THE MINUTES:** Matter of [approving the minutes](#) of the 39th Regular City Council meeting on Monday, November 21, 2022.
2. **ORDINANCE NO. O-06-22:** Matter of [considering the Second Reading](#) and Adoption of an Ordinance to amend Section 94-5, Exempt Signs (signs permitting in nonresidential districts), in Chapter 94 Signs of the City of Berkley Code of Ordinances and Sections 138-32, 138-143, 138-222, 138-526, 138-527, 138-679 and 138-680 of Chapter 138 Zoning to implement the Downtown Design Guidelines.
3. **ORDINANCE NO. O-07-22:** Matter of [considering the Second Reading](#) and Adoption of an Ordinance to amend Article VII, Residential Grading & Drainage Standards, to Chapter 26, Buildings and Building Regulations of the City of Berkley Code of Ordinances to modify standards for residential grading and drainage and to prescribe a penalty for violations.
4. **ORDINANCE NO. O-08-22:** Matter of [considering the Second Reading](#) and Adoption of an Ordinance to amend Section 30-187, General Provisions and Section 30-188, Registration of Rental Properties in Chapter 30, Businesses of the City of Berkley Code of Ordinances to require registration and inspection of short-term rentals of an entire structure.

Regular Agenda

1. **RECOGNITIONS/PRESENTATIONS:** Matter of any recognitions or presentations from the Consent Agenda.
2. **PRESENTATION:** Matter of [receiving a presentation](#) from the Tree Board.
3. **PRESENTATION:** Matter of [receiving candidate presentations](#) for the City Council vacancy.
4. **MOTION NO. M-107-22:** Matter of [approving the partnership](#) with DG Energy Company LLC, 42690 Woodward Ave Suite 360, Bloomfield Hills, MI 48304 to provide and install two(2) Level 2 EV chargers at the Public Library at a cost not to exceed \$49,169.00. In addition, allocate \$5,000 for contingencies. Funds for this expenditure will come from account 101-265-974-000.
5. **PUBLIC HEARING:** Matter of [holding a Public Hearing](#) regarding the Community Development Block Grant Program Year 2023 application in the approximate amount of \$35,012.
6. **RESOLUTION NO. R-26-22:** Matter of [adopting the Resolution](#) for the Community Development Block Grant Program Year 2023 application in the approximate amount of \$35,012 and requesting the Mayor and City Manager to sign the application and submit it to the Oakland County CDBG Division.
7. **MOTION NO. M-108-22:** Matter of [considering an update](#) to the City of Berkley's Fund Balance Policy.
8. **RESOLUTION NO. R-27-22:** Matter of [considering a resolution](#) for temporary outdoor dining/seating and outdoor sales and service areas and to allow temporary enclosures in the outdoor areas.

9. **MOTION NO. M-109-22**: Matter of [authorizing the Mayor and City Manager](#) to Enter into an Updated Interlocal Agreement for Oakland County Designated Assessor.

COMMUNICATIONS

ADJOURN

Note: The City of Berkley will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting upon four working days' notice to the City. Individuals with disabilities requiring auxiliary aids or services should contact the City by writing or calling: Victoria Mitchell, ADA Contact, Berkley City Hall, 3338 Coolidge Highway, Berkley, MI 48072 (1-248-658-3310).

Note: Official minutes of City Council Meetings and supporting documents for Council packets are available for public review in the City Clerk's Office during normal working hours. Anyone wishing to submit correspondence for the meeting may send an email to clerk@berkleymich.net or call 248-658-3310 by 5 p.m. on the day of the meeting.

**THE REGULAR MEETING OF THE THIRTY-NINTH COUNCIL OF THE CITY OF BERKLEY, MICHIGAN
WAS CALLED TO ORDER AT 7:00 PM ON MONDAY, NOVEMBER 21, 2022 BY MAYOR TERBRACK**

ROLL CALL:

Councilmember Steve Baker
Councilmember Ross Gavin
Councilmember Natalie Price
Mayor Daniel Terbrack

Mayor Pro-Tem Bridget Dean
Councilmember Dennis Hennen
Councilmember Jessica Vilani

OTHER STAFF PRESENT:

City Manager Matthew Baumgarten
City Clerk Victoria Mitchell
City Attorney John Staran
Parks and Recreation Director Theresa McArleton
DDA Executive Director Michael McGuinness

APPROVAL OF AGENDA:

Councilmember Hennen moved to approve the Agenda
Seconded by Councilmember Vilani
Ayes: Dean, Gavin, Hennen, Price, Vilani, Baker, and Terbrack
Nays: None
Motion Approved.

Mayor Terbrack took a moment to provide remarks and to lead a moment of silence for the passing of District Court Judge Jamie Wittenberg.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT:

There was no one present wishing to speak.

City Clerk Mitchell read the following email into the record:

Paul Jordan, Berkley, please remove the invocation from council meetings. It's divisive.

CONSENT AGENDA:

Councilmember Baker moved to approve the following Consent Agenda
Seconded by Councilmember Gavin:

APPROVAL OF THE MINUTES: Matter of approving the minutes of the 39th Regular City Council meeting on Monday, October 17, 2022.

WARRANT: Matter of approving Warrant No.1380.

Ayes: Gavin, Hennen, Price, Vilani, Baker, Dean, and Terbrack
Nays: None
Motion Approved.

REGULAR AGENDA:

RECOGNITIONS/PRESENTATIONS: Matter of any recognitions or presentations from the Consent Agenda.

Mayor Terbrack stated there were none.

MOTION NO. M-102-22: Matter of authorizing the City Manager to execute two contracts for Senior Home Chore Snow Removal Service with Tinsley Landscape and Hardscape LLC, 30728 Osmun Street, Madison Heights, MI 48071. One contract will be for remaining CDBG funds of \$2,604 and one will be pending for release of CDBG funds of \$3,887.

Mayor Pro-Tem Dean moved to approve Motion No. M-102-22
Seconded by Councilmember Vilani
Ayes: Hennen, Price, Vilani, Baker, Dean, Gavin, and Terbrack
Nays: None
Motion Approved.

RESOLUTION NO. R-23-22: Matter of a resolution of authorization and support for a SPARK grant application from the DNR in the amount of \$300,000 with a \$100,000 match for Jaycee Park improvements. Funds for this expenditure will come from account 614-950-974-000.

Mayor Pro Tem Dean moved to approve Resolution No. R-23-22
Seconded by Councilmember Price
Ayes: Price, Vilani, Baker, Dean, Gavin, Hennen, and Terbrack
Nays: None
Motion Approved.

MOTION NO. M-103-22: Matter of authorizing the City Manager to approve the proposal from Hubbell, Roth & Clark, Inc. (HRC) to provide professional engineering services at a cost not to exceed \$31,727.82 for Jaycee Park grant work for the Building and Utility Improvement Project. Funds for this expenditure will come from account 614-950-974-000.

Mayor Pro-Tem Dean moved to approve Motion No. M-103-22
Seconded by Councilmember Hennen
Ayes: Vilani, Baker, Dean, Gavin, Hennen, Price, and Terbrack
Nays: None
Motion Approved.

MOTION NO. M-104-22: Matter of authorizing the City Manager to approve the proposal from Hubbell, Roth & Clark, Inc. (HRC) to provide professional engineering services at a cost not to exceed \$14,512.65 for Jaycee Park walkway work. Funds for this expenditure will come from account 614-950-821-000.

Mayor Pro-Tem Dean moved to approve Motion No. M-104-22
Seconded by Councilmember Baker
Ayes: Baker, Dean, Gavin, Hennen, Price, Vilani, and Terbrack
Nays: None
Motion Approved.

MOTION NO. M-105-22: Matter of considering the recommendations of the Coolidge Task Force regarding the Complete Streets Pilot Project.

Councilmember Gavin moved to approve Motion No. M-105-22
Seconded by Councilmember Vilani

RECESS WAS CALLED AT 7:35 P.M. TO ACCOUNT FOR TECHNICAL DIFFICULTIES. THE MEETING WAS CALLED BACK TO ORDER AT 7:41 P.M.

PUBLIC COMMENT FOR MOTION M-105-22:

Jonas Rhymer, Berkley resident, recommends that the bike lanes be protected. He believes that with protection you could get more people on the bike lanes. He believes the parking should be removed. He would like to see bus stops improved by adding shelters along Coolidge. He said he would like to preface that it should be safer over all for pedestrians and cyclists. He would like to see improvements on Coolidge similar to the way Kercheval Road was done in Detroit.

Charles Tyrell, Berkley resident, said the jewel of the left turn lane for using it for emergency vehicles has been tarnished by the crosswalks. He said an emergency vehicle cannot get through now in the center lane as intended. He said things were supposed to go unchanged during the evaluation process but he has noticed changes to signs and light timing. He said cross walks are going across seven lanes not two or three. He wants them to be precise with the language. He attended the first task force meeting. He said that Coolidge is not safe and that the pilot program has shown that it is not workable and recommends the City put Coolidge back to how it was.

Kurt Hite, Berkley resident, stated he was part of the Task Force. He is happy to see some of input that went into the final document. He said he wanted to make it clear that originally parameters were not set before any of this happened. For example, setting what would be measured and how it would be measured and the meaning of the measurements. He said that should have been determined beforehand. He thought the multi-disciplinary board would decide what and how measurements would take place. He said the last meeting we had, they were not presented with the crash data. He said in all cases, there weren't serious injuries involved. He said we could have had the final document first to use as a guideline. He said he sees some traffic numbers. He said he recently heard that traffic just now returned to pre-pandemic rates. He said there was never really a study done that talked about traffic patterns and showing where people are traveling and turning. He said that would show things like are people turning off on side streets to bypass Coolidge. He said there needed to be discussions on what to count and where to count. He said he is proud with his involvement, and likes the document. He does not feel the task force fulfilled the job they were called to do with consistent involvement.

City Manager Baumgartner addressed the reasons behind a lot of the changing faced throughout the project due to the pandemic and numerous other agencies with personnel changes over the years.

Mayor Terbrack stated the pandemic did have a major impact on the project.

Councilmember Price asked if feedback was collected before or after the feedback from public safety for the crosswalks that are up now. City Manager Baumgartner said they are designed to be removed in the center turn lane. Public Safety said the center lane is to be used for emergency vehicles.

Councilmember Hennen stated that with or without the road diet Coolidge sucks. He said he does think we could have done a better job at collecting data, but he believes the road diet is the best choice. He stated the benefits and shares the sentiment with protecting the bike lanes.

Councilmember Vilani said Public Safety stated the school district should provide input. City Manager Baumgartner stated that Andy Meloche from the School District did review the draft and provided notes and said he agreed with the recommendations.

Councilmember Baker thanked the City Manager for his excellent synopsis. He said as a liaison to the DDA, the Board has spoken about this often. He said as a step back for us to take this more active, formal step, he is happy to see these steps toward formalizing safety first. There may be some deficiencies but he likes the movement forward instead of moving back.

Councilmember Hennen echoed the statements and said there are deficiencies for sure and it is a longer-term view. It was done as a low-cost project to being with and a longer-term commitment to further enhancements will make the changes that have been more appreciated as we start to get improvements to be more like a 12 mile.

PUBLIC COMMENT FOR MOTION M-105-22 (CONTINUED):

Mayor Terbrack said to somewhat echo what Hennen said, is it perfect, no. Will it ever be perfect, no. Is it better, it appears to be and it is safer and has slowed traffic to see some of the businesses there. He said there is still work to do. He said moving backwards doesn't seem to be the most prudent decision right now. He has received quite a few comments about Coolidge and knows it will continue to be a topic of conversation. Moving forward with a plan towards infrastructure to make it what we want is important and he knows that perfect would never be an option in the municipal world.

Ayes: Dean, Gavin, Hennen, Price, Vilani, Baker, and Terbrack

Nays: None

Motion Approved.

RESOLUTION NO. R-24-22: Matter of adopting the Berkley Downtown Design Guidelines.

Councilmember Baker moved to approve Resolution No. R-24-22

Seconded by Councilmember Gavin

PUBLIC COMMENT FOR RESOLUTION R-24-22:

Charles Tyrell, Berkley resident, said his viewpoint has not changed. He stated that by codifying, they are no longer guidelines, they are mandates and the document is poorly written for that reason. He said there are too many "shoulds" in the document. He said it leaves too much up to interpretation. He gave an example of how you measure the character of the proposed building. He said the guidelines are full of non-measurable guidelines which makes them not guidelines. He said if you can't measure it, you can't build to it. He said it's fine to have guidelines, but then it shouldn't be codified. He said it must be stopped.

Jonas Rhymer, Berkley resident, stated that when it comes to downtown Berkley, there should be as much opportunity for mixed-use as possible. He said there should be more housing downtown. He said there is too much R-1 zoning. He discussed the benefits of mixed-use. He also said bike lanes are good for the downtown. He said he would like to see more development outside of 12 Mile and outside of the downtown as on the zoning map. He said he would like the revitalization of properties and vacant parcels. He asked about walls. He said his interpretation of adding walls is to densify downtown and make it more pleasant to stay so it isn't a passthrough. He would like the downtown to reflect more of a community center. He would like to see and make it feel more of an experience and safer.

Kurt Hite, Berkley resident, stated that with the DDA guidelines, he was a part of the get-together to get input from the community. He said he thought that was very well done. He said originally the guidelines were to reduce the requirements for parking, he was talking about lot size and protecting neighborhoods. He said he supports leaving the parking so people don't park on the side streets. He discussed there might be more problems if it isn't enforceable. He said it should be set in stone what is allowed and not allowed instead of leaving it ambiguous. He said he believes there is a lot of support for mixed-use on 12 Mile. He said there was an issue with another property and stated you couldn't single out and talk about one specific property.

Councilmember Hennen said the guidelines are not enforceable as they are overarching goals. He said next up is an ordinance which is a subset of the enforceable guidelines. He said the touchy-feely matters didn't make it into the ordinance. He said he is comfortable with both as separate documents. He mentioned the parking is outdated and they are talking about a new parking study. He said mentions to Hartfield were removed and removed such language targeting a specific parcel.

Councilmember Baker said to take a step back more broadly, he gave thanks to all of those that were a part of the process from the DDA, Planning, and community. He wants to see the downtown grow and become more welcoming and inviting. He said this is another tool in our toolbox to help growth in our downtown.

Mayor Terbrack said maybe the document isn't perfect, but we are looking for ways to support the downtown to be as inviting and vibrant as it can be, and having these guidelines in place is going to help us in the future.

Ayes: Gavin, Hennen, Price, Vilani, Baker, Dean, and Terbrack
Nays: None
Motion Approved.

ORDINANCE NO. O-06-22: Matter of considering the First Reading of an Ordinance to amend Section 94-5, Exempt Signs (signs permitting in nonresidential districts), in Chapter 94 Signs of the City of Berkley Code of Ordinances and Sections 138-32, 138-143, 138-222, 138-526, 138-527, 138-679 and 138-680 of Chapter 138 Zoning to implement the Downtown Design Guidelines.
Councilmember Baker moved to approve Ordinance No. O-06-22
Seconded by Councilmember Hennen
Ayes: Hennen, Price, Vilani, Baker, Dean, Gavin, and Terbrack
Nays: None
Motion Approved.

ORDINANCE NO. O-07-22: Matter of considering the First Reading of an Ordinance to amend Article XII, Residential Grading & Drainage Standards, to Chapter 26, Buildings and Building Regulations of the City of Berkley Code of Ordinances to modify standards for residential grading and drainage and to prescribe a penalty for violations.
Councilmember Hennen moved to approve Ordinance No. O-07-22
Seconded by Councilmember Price

PUBLIC COMMENT FOR ORDINANCE O-07-22:

Kurt Hite, Berkley resident, said he was absent during a lot of the discussions. The first thing that stands out to him is that 50 percent is a substantial increase. He said you will have a big difference in the runoff of water. He said the requirements should be more stringent with all of the new, larger homes being built. He discussed sewers, sewer linings, and water runoff. He provided suggestions for what could be done. He discussed why to come up with a plan first to address the water runoff. He said that would save a lot of the heartache. He said there should have been a plan a while ago to deal with the water runoff and grading issues with these large homes. He said there is nothing in place for recourse. He said there should be something in place that addresses this beforehand.

Mayor Terbrack clarified there are grading plans in place and topographical studies in certain cases. He said anything over 50 percent is qualified as a new build.

Councilmember Hennen said this is our third stab at this and he discussed the moratorium stating that they kept it for new builds and we found it successful. It has resulted in cases where water remediation from new builds is helping drainage. He said there are still standards in place and he is very comfortable with this.

Ayes: Price, Vilani, Baker, Dean, Gavin, Hennen, and Terbrack
Nays: None
Motion Approved.

ORDINANCE NO. O-08-22: Matter of considering the First Reading of an Ordinance to amend Section 30-187, General Provisions and Section 30-188, Registration of Rental Properties in Chapter 30, Businesses of the City of Berkley Code of Ordinances to require registration and inspection of short-term rentals of an entire structure.
Mayor Pro-Tem Dean moved to approve Ordinance No. O-08-22
Seconded by Councilmember Vilani
Ayes: Vilani, Baker, Dean, Gavin, Hennen, Price, and Terbrack
Nays: None
Motion Approved.

MOTION NO. M-106-22: Matter of considering the formation of an Ad Hoc Committee to fill a City Council vacancy.

Councilmember Gavin moved to approve Motion No. M-106-22
Seconded by Mayor Pro Tem Dean
Ayes: Baker, Dean, Gavin, Hennen, Price, Vilani, and Terbrack
Nays: None
Motion Approved.

RESOLUTION NO. R-25-22: Matter of designating the time and place of City Council Meetings and approving its Rules and Order of Procedure.

Councilmember Price moved to approve Resolution No. R-25-22
Seconded by Councilmember Vilani
Ayes: Dean, Gavin, Hennen, Price, Vilani, Baker, and Terbrack
Nays: None
Motion Approved.

COMMUNICATIONS:

CITY MANAGER BAUMGARTEN:

- Holiday Lights Parade on Saturday, December 3rd – will be carriage rides, smore stands, petting zoo, meet Santa, and the city tree lighting, etc.
- Thursday and Friday, December 1st and 2nd – Santa will drive through the City so all of the residents can see him. They will start at 6:30 p.m. – 9 p.m. More details to come and follow Santa Tracker which will provide live updates. Fun filled week is coming up.

MAYOR TERBRACK:

- No communications from Council as we are honoring our friend Jamie Wittenberg. Nothing can be said that can alleviate the pain and sadness his family and friends are feeling right now. Everybody will tell you he was truly one of the best and in everything that he did. His legacy is not only in our community and in our city, but will live on forever in the hearts of everyone that knew him. He requested that they yield all of their time out of respect to Jaime this evening. Rest in peace your honor.

ADJOURNMENT:

Mayor Pro-Tem Dean moved to adjourn the Regular Meeting at 9:02 p.m.
Seconded by Councilmember Baker
Ayes: Hennen, Price, Vilani, Baker, Dean, Gavin, and Terbrack
Nays: None
Motion Approved.

ATTEST:

Victoria Mitchell, City Clerk

AN ORDINANCE

of the City Council of the City of Berkley, Michigan to Amend Section 94-5, Exempt Signs (signs permitted in nonresidential districts), in Chapter 94, Signs, of the City of Berkley Code of Ordinances and Sections 138-143, Sec. 138-222, Sec. 138-526, Sec. 138-527, Sec. 138-679, and Sec. 138-680 of Chapter 138 – Zoning to implement the Downtown Design Guidelines adopted by the City.

**THE CITY OF BERKLEY
ORDAINS:**

SECTION 1: Section 94-5 of Chapter 94 of the Berkley City Code shall be amended, as follows:

Sec. 94-5. - Exempt signs (signs permitted in nonresidential districts).

The following signs are permitted in the Office, Downtown, Local Business, Eleven Mile, Twelve Mile, Coolidge, Gateway, Woodward, Industrial, Parking, and Cemetery districts and are generally exempt from the regulations of the ordinance from which this chapter was derived, except section 94-11 ~~must~~^{shall} apply.

- (1) Banners, not exceeding six square feet, one per location
- (2) Barber poles, not exceeding 12 inches in diameter and eight feet in height.
- (3) Fuel pumps.
- (4) Time/temperature signs, not exceeding 20 square feet, one per location.
- (5) Vehicle signs.
- (6) Window signs, not exceeding ~~50~~²⁵ percent of glass.

SECTION 2: Section 138-32 of Chapter 138 of the Berkley City Code shall be amended, as follows:

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

[Unchanged.]

Accessory buildings – Building, main or principal: [Unchanged.]

[Build-to-line: The build-to-line is the maximum distance which any building front shall be located from a street right-of-way.](#)

Canopy structure – Zoning map: [Unchanged.]

SECTION 3: Section 138-143 of Chapter 138 of the Berkley City Code shall be amended, as follows:

Sec. 138-143. - Requirements.

(a) [Unchanged.]

(b) *Nonresidential districts.*

- (1) Any light fixture ~~must~~shall be placed in such a manner that no light source is visible from any residential area or public/private roadway, walkway, trail or other public way when viewed at eye level.
- (2) The level of lighting ~~must~~shall not exceed ~~0.5~~ 0.0 footcandles at any residential property line or 1.0 footcandles at any nonresidential property line.
- (3) Any canopy structure used at a business location ~~must~~shall have recessed lights with diffusers that do not extend below the surface of the canopy.
- (4) Any luminaire on a pole, stand or mounted on a building ~~must~~shall have a shield, an adjustable reflector and non-protruding diffuser.
- (5) General parking and pedestrian areas must maintain a minimum of 1.0 fc for all hours of operation outside of daytime hours.
- (6) All outdoor lighting fixtures, existing or hereafter installed and maintained upon private property, must be turned off or reduced to no more than 0.5 footcandles in lighting intensity between 11:00 p.m. and sunrise. The following exceptions may be approved by the Planning Commission as part of site plan review:
 - a. Where greater lighting levels are necessary for security or safety purposes; or
 - b. Where permissible commercial or industrial uses, including sales, assembly and repair operate after 11:00 p.m., in which case the lighting levels must be turned off or reduced to 1.0 footcandles or below after the use ceases for that day.

SECTION 4: Section 138-222 of Chapter 138 of the Berkley City Code shall be amended to add sub-section e, as follows:

Sec. 138-222. - Parking lot location, design, and construction.

(e) Pedestrian Connections. Plans for parking lots must include pedestrian circulation improvements incorporating striping, calming devices, hardscaping, pedestrian lighting, connections to buildings, and landscaping that ensures the visibility and separation of pedestrians from the street and pedestrian safety within parking lots to the front building entrance. Plans must allow pedestrians to walk parallel to moving vehicles and

[minimize crossing parking aisles unless the design is determined not to be feasible by the planning commission.](#)

SECTION 5: Section 138-526 of Chapter 138 of the Berkley City Code shall be amended, as follows:

Sec. 138-526. - Schedule of regulations.

Districts	Minimum Size of Lot per Unit		Maximum Height of Buildings In Feet	Front	Minimum Yard Setback			Maximum Percentage of Lot Coverage (Area of All Structures)	Minimum Floor Area Per Unit	
	Area in Square Feet (a)	Width in Feet			At Least 1 Side Yard	Total of 2 Side Yards	Rear		With Base-ment	Without Base-ment
R-1A	12,000	100	40	25(b)	5(c, d)	15	20	35(e)	1,800	2,000
R-1B	8,800	80	30	25(b)	5(c, d)	15	20	35(e)	1,500	1,700
R-1C	6,600	50	30	25(b)	5(c, d)	15	20	35(e)	1,300	1,500
R-1D	4,400	40	30	25(b)	5(c, d)	15	35	35(e)	1,300	1,500
R-2	4,000	40	30	25(b)	5(c, d)	15	35	35	1,100	1,300
R-M	(e)	(e)	30	25(b)	10(g)	20(f)	35	35	(h)	(h)
R-M-H	(See article V, division 5, High-Rise Multiple-Family Residential District)									
Greenfield	(See article V, division 7, Greenfield District)									
Community centerpiece	(See article V, division 8, Community Centerpiece District)									
Office	—	—	30	10(j, k)	(m)	(m)	10	—	—	—
Downtown	—	—	—	(n)	(n)	(n)	10	—	—	—
Local business	—	—	40	10(j, k)	(m)	(m)	10	—	—	—
Twelve mile	—	—	40	(n)	(n)	(n)	10	—	—	—
Coolidge	—	—	40	10(j , k)	(m)	(m)	10	—	—	—
Gateway	—	—	40	10(j , k)	(m)	(m)	10	—	—	—
Woodward	—	—	50	10(j, k)	(m)	(m)	10	—	—	—
Eleven mile	—	—	40	10(j, k)	(m)	(m)	10	—	—	—
Industrial	—	—	40	10(j, k)	(m)	(m)	10	—	—	—
Parking	—	—	15		(See sections 138-496—138-503)					
Cemetery	(See article V, division 16, Cemetery District)									

SECTION 6: Footnote j and n of Section 138-57 of Chapter 138 of the Berkley City Code shall be amended, as follows, and footnote o shall be added:

Text proposed for insertion: [Example](#)
Text proposed for deletion: ~~Example~~

Sec. 138-527. - Notes to schedule of regulations.

~~(j) Parking shall be permitted in the front yard after approval of the parking plan layout and points of access by the planning commission. The setback shall be measured from the nearest side of existing and/or proposed right-of-way lines. Parking must be located in a side or rear yard; when located in a side yard and abutting the required build-to-line adjacent the primary building, parking must be screened with a minimum 30-inch masonry wall on the required build-to-line, or within 5 feet of the required build-to-line, provided that a landscape treatment is added between the wall and the required build-to-line.~~

(n) No setback ~~is shall be~~ permitted, unless the planning commission finds that the proposed setback ~~will shall~~ be developed as a defined plaza, outside eating area, or other pedestrian space. When a first-floor residential use is allowed, a setback of up to ten (10) feet may be allowed, as a defined plaza, outside patio or other landscaped pedestrian space.

(o) Buildings must meet a required front build-to-line of ten (10) feet, or the line formed by connecting the front building lines of the adjacent buildings, whichever is less. In cases where the adjacent buildings have different front build-to-lines, the adjacent building closest to the street right-of-way shall be used. 75% of the building façade must meet the required build-to-line, while up to 25% of the façade can be set back to allow for architectural consideration. The Planning Commission may adjust the required build-to-line up to a maximum of 30 feet beyond the property line for projects incorporating a permanent space for an outdoor seating area, or public space. Outdoor seating or public spaces must be developed as part of the primary building.

SECTION 7: Section 138-679 of Chapter 138 of the Berkley City Code shall be amended, as follows:

Sec. 138-679. - Standards.

The site plan ~~must shall~~ be reviewed and approved by the planning commission ~~upon finding that~~ based on the following standards:

(a) General Standards

- (1) The site meets the requirements of this Code.
- (2) The proposed development does not create adverse effects on public utilities, roads, or sidewalks.
- (3) Pedestrian and vehicular areas are designed for safety, convenience, and compliment adjacent site design.

- (4) Site design, architecture, signs, orientation, and materials are consistent with the city's master plan objectives and the design of the neighboring sites and buildings.
 - (5) Landscaping, lighting, dumpster enclosures, and other site amenities are provided where appropriate and in a complementary fashion.
 - (6) Site engineering has been provided to ensure that existing utilities will not be adversely affected.
- (b) Development must be compatible with existing commercial districts and include a transition between land uses through application of the following requirements:
- (1) Building design must improve the character of the surrounding area in relation to building placement, landscape and streetscape features, and architectural design.
 - (2) Street fronts must provide a variety of architectural expression in order to provide visual interest.
 - (3) Building façade and massing must achieve a compatible transition between adjacent properties with different height, massing, scale, and architectural style.
 - (4) For proposals in along Coolidge Highway from Twelve Mile Road to Eleven Mile Road or Twelve Mile Road from Coolidge Highway to Greenfield Road, the applicant must explain, and the Planning Commission must consider how the proposal implements the site design elements in Chapter II and character areas in Chapter V of the Berkley Downtown Design Guidelines adopted by the City Council on XXXX. The Planning Commission may require changes to the site plan based on the Berkley Downtown Design Guidelines.
- (c) Development must incorporate the following recognized best architectural building design practices:
- (1) High quality design, and construction,
 - (2) Provide high quality, durable materials, such as but not limited to stone, brick, and glass. Metal, E.I.F.S., or material equivalent shall only be used as an accent material.
 - (3) Buildings that includes balanced compositions and forms.
 - (4) Roofs that are compatible with the architectural style of the building and contextual to the surrounding area.
 - (5) For commercial buildings, incorporate clearly defined, highly visible functional customer entrances that face the street, using features such as canopies, porticos, arcades, arches, wing walls, ground plane elements, and/or landscape planters.

- (6) New development or site redevelopment must incorporate community amenities that add value to the development such as patio/ seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches or other features located in areas accessible to the public. Such improvements shall be proportionate to the proposed scope of site work.
- (7) For proposals along Coolidge Highway from Twelve Mile Road to Eleven Mile Road or Twelve Mile Road from Coolidge Highway to Greenfield Road, the applicant must explain, and the Planning Commission must consider how the proposal implements the character areas in Chapter V of the Berkley Downtown Design Guidelines adopted by the City Council on XXXX and the provisions of the following:
 - 1. Chapter III of the Berkley Downtown Design Guidelines for new construction; or
 - 2. Chapter IV of the Berkley Downtown Design Guidelines for renovations or façade alterations.
- (8) The Planning Commission may require changes to the site plan based on the Berkley Downtown Design Guidelines adopted by the City Council on XXXX.
- (d) Development must enhance the character, environment, safety, and access for motorized and non-motorized transportation through the following requirements:
 - (1) Provide elements that distinguish the street and the pedestrian realm (area from the back of the street curb to the building front).
 - (2) Create a non-motorized pedestrian connection between the public right of way and ground floor activities.
 - (3) Create a safe environment by employing design features to reduce vehicular and pedestrian conflicts, while not sacrificing design excellence.
 - (4) Frame the sidewalk area with trees, awnings and other features.
 - (5) Promote safety and access for pedestrians through site design elements and lighting.
 - (6) For proposals along Coolidge Highway from Twelve Mile Road to Eleven Mile Road or Twelve Mile Road from Coolidge Highway to Greenfield Road, the applicant must explain, and the Planning Commission must consider how the proposal implements the site design elements in Chapter II and character areas in Chapter V of the Berkley Downtown Design Guidelines adopted by the City Council on XXXX. The Planning Commission may require changes to the site plan based on the Berkley Downtown Design Guidelines.

SECTION 8: Section 138-680 of Chapter 138 of the Berkley City Code shall be amended, as follows:

Sec. 138-680. – Required information.

The following information ~~must~~^{shall} be included on the site plan for final review, unless waived by the planning commission. The site plan shall be to a reasonable scale and indicate:

- (1) Seal of architect and/or engineer who prepared plans.
- (2) An appropriate descriptive legend, including north arrow, scale, legal description and the names and addresses of the architect or engineer responsible for the preparation of the site plan.
- (3) The existing (and proposed) zoning.
- (4) Location and size of all structures (including location of entrances and loading points).
- (5) All outside dimensions of each structure, its distance from the property lines, its area and its height.
- (6) With multiple-family residential proposals, the number and location of one-bedroom units, two-bedroom units, etc., and include typical floor plans with square feet of floor areas.
- (7) Recorded and measured dimensions of all lot lines and location and design of all lots.
- (8) Adjacent property's structures, uses, zoning and other significant features of the community, where appropriate (using a location sketch).
- (9) Location of all existing and proposed drives and parking areas including types of surfacing, parking layout and dimensions.
- (10) Dimensions of road widths and rights-of way.
- (11) All existing easements and vacated easements and rights-of way.
- (12) All required minimum setbacks (from the existing or proposed right-of-way from adjacent properties).
- (13) Locations of lawns and landscaped areas, types and number of species, and how the landscaping is to be accomplished.
- (14) Locations, sizes, and types of existing trees over four inches in diameter (before and after proposed development).
- (15) Location and type of outside lighting, include site and fixture photometrics.
- (16) All proposed screen and freestanding architectural walls, including typical cross-sections and the heights above ground on both sides of walls.
- (17) Elevation drawings of all existing and proposed buildings on the site drawn to a scale of one inch equals four feet, or to another scale adequate to determine compliance with this chapter and to provide any other information needed to evaluate the overall site design on the basis of the criteria set forth in this section.
- (18) Color and type of façade materials. Samples representing color and materials shall be presented to the planning commission.
- (19) Stormwater engineering including: existing and proposed grading of the site, location of existing and proposed utilities, stormwater calculations for a 100-year storm, the drainage area on site that will detain the [volume required by the Oakland](#)

[County Water Resources Commission](#) ~~10-year storm~~, and a profile of the sanitary sewer.

SECTION 9: 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 10: Penalty

All violations of this ordinance shall be municipal civil infractions and upon 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 11: Effective Date

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

SECTION 12: 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, November 21, 2022.

Adopted on the Second Reading at the Regular City Council Meeting on Monday, December 5, 2022.

Daniel J. Terbrack, Mayor

Attest:

Victoria Mitchell, City Clerk



CITY OF BERKLEY COMMUNITY DEVELOPMENT

3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

MEMORANDUM

To: City Council

From: Kristen Kapelanski, Community Development Director

Subject: Proposed Amendments to Implement the Downtown Design Guidelines

Date: November 30, 2022

Proposed are amendments to the City Code to implement the Downtown Design Guidelines. The Planning Commission has been working on this text in earnest in conjunction with the City's planning consultant, Carlisle Wortman, off and on for just less than a year.

The ordinance makes a number of quantitative and qualitative changes that in limited cases, implement specific dimensional recommendations in the guidelines but more commonly, provide the context to allow the Planning Commission to require applicants to design their sites with the intent and general guidance of the guidelines in mind.

The Planning Commission held the required public hearing and has recommended approval.

City Council approved the first reading of the ordinance with no noted changes on November 21, 2022.

City Council is asked to approve the second reading of the ordinance amendment.

AN ORDINANCE
of the City Council of the City of Berkley, Michigan to Amend Article VII, Residential Grading & Drainage Standards, to Chapter 26, Buildings and Building Regulations, of the City of Berkley Code of Ordinances to Modify Standards for Residential Grading and Drainage and to Prescribe a Penalty for Violations.

THE CITY OF BERKLEY ORDAINS:

SECTION 1: Article VII Article of Chapter 26 of the Berkley City Code shall be amended, as follows: ARTICLE VII. – RESIDENTIAL GRADING & DRAINAGE STANDARDS

Sec. 26-334. Purpose.

The purpose of this article is to establish standards for residential grading and drainage.

Sec. 26-335. Residential Grading & Drainage

In accordance with *Michigan Residential Code* standards, grading, as it relates to residential structures, shall be so developed as to drain storm and surface water away from residential dwellings to an approved place of discharge. New grades shall not be established that would permit an increase in the runoff of surface water onto adjacent properties. The existing or natural drainage of lands shall not be altered so as to obstruct, impede, accelerate, channel or concentrate the flow of storm or surface water onto or from the lands of another so as to cause damage thereto or create a nuisance thereon.

Sec. 26-336. Grading Plan.

(a) *Required.* Prior to issuance of a building permit for any new residential principal building or for an addition to a residential principal building that increases the footprint of the principal residential building by more than 50% or accessory structures, and prior to any grading or other land improvement that may alter or increase drainage or contribute to soil erosion or sedimentation, the owner, building contractor or landscape contractor must submit a grading plan to the Community Development Department. A grading plan is not required other than for remodeling, work within an existing structure that does not affecting the land or drainage outside of the structure, or unless otherwise exempted herein, and prior to any grading or other land improvement which might or will alter or change drainage or result in or contribute to soil erosion or sedimentation, the owner, building contractor and/or landscape contractor must ~~shall~~ submit a grading plan to the Community Development ~~Building~~ Department.

The grading plan ~~must~~ shall be signed and sealed by a licensed engineer, surveyor, or architect and shall be reviewed by the Building Official and/or City Engineer to ~~ensure that determine whether~~ the proposed structure and any proposed grading changes ~~will~~ shall not negatively impact adjacent property owners.

(b) *Contents.* The grading plan ~~must~~ shall depict one half foot contours of the area, ~~must~~ shall be on a scale of at least one-inch equals 10 feet and ~~must~~ shall show all property and structures

within 25 feet of the property for which the permit is being sought. Specifically, the plan ~~must~~ include the following:

1. Existing grades and elevations at each lot corner and grade change points;
2. Finish grade and finish floor elevations for the first floor, garage and basement. Provide the finish grade elevation of adjacent houses. ~~The~~ Grading plan must also indicate if the adjacent lot is ~~vacant~~ unimproved;
3. The location and elevations of all utilities, including manholes on or within 25 feet of the property;
4. Drainage arrow of the subject property showing the flow of stormwater runoff to be directed to approved discharge areas, including, but not limited to, the location of pop-ups, French drain(s), a sump pump, or connection to the existing storm/sewer system. Connections to the existing storm/sewer system will require additional review by the Department of Public Works;
5. Location of existing and proposed sidewalk and driveway, including the slope of the driveway to the street. All sidewalks and driveways shall be compliant with ~~the Americans With Disabilities Act~~ federal, state, and local laws, ordinances, and requirements;
6. Provide temporary and permanent soil erosion and sedimentation control, including, but not limited to, silt fencing, catch basin inserts in the street adjacent to the subject property, etc.;
7. Roof downspouts are not permitted to discharge directly into the combined storm sewer system and must be directed onto grass, landscape, or other green space area to prevent ponding of water on the property or from being directed towards adjacent properties;
8. Existing sewer lead shall be properly abandoned and the proposed sewer lead must include a new connection, as approved by the Department of Public Works;
9. Location of existing trees within the right-of-way; ~~and~~;
10. Confirmation that a Design MISS DIG ticket has been requested and processed by noting the ticket number of the plan.

(c) *As Builts*. "As Built" drawings, signed and sealed by a licensed engineer, surveyor or architect must be submitted to the Community Development ~~Building~~ Department at the completion of construction, prior to landscaping. A final certificate of occupancy shall not be issued until the "As Builts" have been reviewed and approved by the Building Official and/or City Engineer. A temporary certificate of occupancy may be issued, if determined appropriate, by the Building Official upon the posting by the permit holder or his authorized agent, of a cash bond in the sum of \$1,000.00, said to be released upon approval of "As Built" drawings and issuance of final certificate of occupancy.

Text proposed for insertion: Example

Text proposed for deletion: ~~Example~~

Temporary certificates of occupancy ~~shall~~will expire 6 months after issuance.

~~(d) Accessory Structures.~~

- ~~1. Attached structures, including additions, that do not exceed 300 sq. ft. will not require a grading plan, provided that:~~
- ~~2. The elevation of the proposed structure shall match the elevation of the existing structure;~~
 - ~~a. There shall be no change in grade;~~
 - ~~b. The property owner must provide a signed agreement, provided by the Building Department that the proposed attached structure shall not alter the existing grade nor will cause stormwater runoff to adjacent properties~~

~~2. Detached Structures.~~

- ~~a. Detached structures that will replace existing structures and/or additions to detached structures that will not increase existing footprint by more than 50 percent will not require a grading plan, provided that:~~

~~i. The elevation of the proposed detached structure shall match the elevation of the existing structure;~~

~~ii. There shall be no change in grade;~~

~~iii. The property owner must provide a signed agreement, provided by the Building Department that the proposed detached structure shall not alter the existing grade nor will cause stormwater runoff to the adjacent properties.~~

- ~~b. Detached structures that will replace existing structures that will alter the final grade and increase elevation of the structure will not require a grading plan, subject to the following conditions:~~

~~i. The property owner shall demonstrate that the change in grade and elevation will alleviate an existing flooding or drainage problem on site;~~

~~ii. The property owner must sign agreement, provided by the Building Department, that alternate grade and/or elevation will not negatively impact the adjacent property owners nor will the alternate grade and/or elevation contribute to or increase stormwater runoff;~~

~~iii. The property owner must install stormwater management relief, such as French drain, pop-up, or~~

~~other devices that will address and remedy the existing flooding or drainage issue on site. Stormwater management must be noted on the site plan and will be inspected by the Building Inspector and Department of Public Works.~~

~~If the above conditions are not met or provided by applicant, a grading plan conforming to requirements specified in subsection (a) and (b) above shall be required.~~

- ~~e. Construction for new detached structures of those proposed to exceed the footprint of the existing structure by more than 50 percent will require a grading plan to conform to requirements specified in subsection (a) and (b) above, as applicable. The grading plans shall be reviewed by Building Official and/or Community Development Director. Additional reviews may be required by City Engineer~~

~~(e) *Swimming Pools.*~~

~~In ground swimming pools and permanent above ground pools that will alter the grade of the property must submit a grading plan with the building permit and must adhere to all grading and stormwater management requirements, as noted in subsection (a) and (b) above.~~

~~Temporary, seasonal above ground swimming pools shall not be required to submit a grading plan, provided that the property owner provide a signed agreement, provided by the Building Department, that the proposed temporary, seasonal above ground swimming pool shall not alter the existing grade nor will cause stormwater runoff to adjacent properties.~~

- ~~(f) *Exceptions.* No grading plan shall be required for landscaping, farming, gardening, or other similar land improvements of a minor nature, measured less than 1 foot in height from grade, that do not materially affect, alter or disrupt drainage, or cause soil erosion or sedimentation, in violation of this Article. Any landscaping, farming, gardening or other similar land improvements that exceed 1 foot in height from grade may be reviewed by the Building Official to determine if a formal review is required.~~

Sec. 26-337. Topographic Survey

- (a) *Required.* Prior to issuance of a permit for any addition to a residential principal building exceeding 300 sq. ft. or any addition to an attached or detached structure accessory to a residential principal building that exceeds 300 sq. ft. or increases the existing footprint of an accessory structure by more than 50%, the owner and/or building contractor must submit a topographic survey to the Community Development Department to establish existing grades. New attached or detached accessory structures 300 sq. ft. or less or that do not increase the existing footprint of an accessory structure by more than 50% are not required to submit a topographic survey. Additions to a residential principal building less than 300 sq. ft. are not required to submit a topographic survey. The topographic survey must be signed and sealed by a licensed engineer, surveyor, or architect.

The existing drainage of a property cannot not be altered so as to obstruct, impede,

accelerate, channel or concentrate the flow of storm or surface water onto an adjacent property.

(b) Contents. The topographic survey must depict one half foot contours of the area, shall be on a scale of at least one-inch equals 10 feet and shall show all property and structures within 25 feet of the property for which the permit is being sought. Specifically, the survey must include the following:

1. Existing grades and elevations at each lot corner and grade change points;
2. Confirmation that a Design MISS DIG ticket has been requested and processed by noting the ticket number of the plan.

Sec. 26-338. Swimming Pools

In ground pools and permanent above ground pools must not increase the runoff of surface water onto adjacent properties. A topographic survey per Section 26-337 is required for the addition of all in-ground pools.

Sec. 26-339. Violations

Violations of this article shall be municipal civil infractions and will also be considered to be a Nuisance that the City may abate in accordance with the abatement procedures in Chapter 78 Nuisances.

SECTION 2: Article VII Article of Chapter 26 of the Berkley City Code shall be amended, as

follows: ARTICLE VII. – VIOLATIONS

ARTICLE VII. Violations [Unchanged.]

SECTION 3: 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 4: Penalty

All violations of this ordinance shall be municipal civil infractions and upon 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 5: Effective Date

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

SECTION 6: 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.

Text proposed for insertion: [Example](#)

Text proposed for deletion: ~~Example~~

Introduced on the First Reading at the Regular City Council Meeting on Monday, November 21, 2022.

Adopted on the Second Reading at the Regular City Council Meeting on Monday, December 5, 2022.

Daniel J. Terbrack, Mayor

Attest:

Victoria E. Mitchell, City Clerk

DRAFT



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

MEMORANDUM

To: City Council
From: Kristen Kapelanski, Community Development Director
Subject: Ordinance Amendments to Address Residential Grading Impacts
Date: November 30, 2022

Attached are ordinance amendments to the existing Residential Grading Ordinance. These are in response to issues that arose as a result of the implementation of the previous iterations of the ordinance leading to the current moratorium for residential redevelopment grading plan requirements outside of completely new construction. The attached amendments strike a balance between protecting neighboring properties from grading changes affecting drainage and limiting excess plan costs for residential additions and accessory structures.

Grading plans would continue to be required for all new single-family residential principal buildings and would also be required for any additions that increase the footprint of the principal building by more than 50%. The requirement for larger additions would be a new part of this ordinance. The cost of a basic grading plan ranges from \$3,000 - \$5,000. More complicated properties could exceed \$5,000.

A new section requiring topographic surveys would be added to the ordinance. A topographic survey would establish the existing grades of the property. This would be required for any addition to a residential principal building exceeding 300 sq. ft. or to a detached or attached accessory structure greater than 300 sq. ft. or an addition to any attached or detached accessory structure that increases the footprint by more than 50%. For reference, an average two car garage is about 400 sq. ft. A property owner could not alter existing grades on the property as part of the construction. In short, your water is your water to deal with and you cannot alter grades to discharge or reroute onto an adjacent property. By establishing existing grades, the City would be able to confirm grades have not been changed if we received any complaints from neighbors after construction. The cost of a topographic survey ranges from \$1,500 - \$3,000.

Additionally, in ground swimming pools would also require a topographic survey but above ground swimming pools would not. The former *Exceptions* section regulating landscaping, farming and gardening has been removed as it has been difficult to near impossible to enforce.

City Council approved the first reading of the ordinance amendment on November 30, 2022. Minor section numbering corrections were made for the second reading.

City Council is asked to approve the second reading.

AN ORDINANCE
of the City Council of the City of Berkley, Michigan to Amend Section 30-187, General provisions and Section 30-188, Registration of rental properties, in Chapter 30, Businesses, of the City of Berkley Code of Ordinances to require registration and inspection of short-term rentals of an entire structure.

THE CITY OF BERKLEY ORDAINS:

SECTION 1: Section 30-187 of Chapter 30 of the Berkley City Code shall be amended, as follows:

Sec. 30-186. Definitions [Unchanged.]

Sec. 30-187. General provisions.

No person shall rent, lease or let any real property for any amount of time within the city unless the rental property is registered with the city manager and unless the city has issued a certificate of compliance pursuant to this article. This article does not apply to single-room rentals in single or multiple family units or to single family dwellings and commercial buildings that are occupied exclusively by the owner thereof.

SECTION 2: Section 30-188 of Chapter 30 of the Berkley City Code shall be amended, as follows:

Sec. 30-188 Registration of rental properties

The owner of any premises or structure, ~~except an owner-occupied single family dwelling or an owner-occupied commercial building,~~ shall register with the city their name, place of residence or usual place of business, and the location of each premises regulated by this article. At the time of registration, the owner shall pay a biennial registration fee which shall be established by resolution of the city council. If the premises are managed or operated by an agent of the owner, then the owner shall furnish the agent's name and address at the time of each annual registration. The owner shall also furnish the agent's name and address at the time of each annual registration. The owner shall also furnish any other information required by the city. Failure of any owner to comply with the provisions of this section deprives the owner of the right to receive a certificate of compliance for each premises or structure which is not registered.

Sec. 30-189 – Sec. 30-215 [Unchanged.]

SECTION 3: 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 4: Penalty

All violations of this ordinance shall be municipal civil infractions and upon 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 5: Effective Date

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

SECTION 6: 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, November 21, 2022.

Adopted on the Second Reading at the Regular City Council Meeting on Monday, December 5, 2022.

Daniel J. Terbrack, Mayor

Attest:

Victoria Mitchell, City Clerk



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

MEMORANDUM

To: City Council

From: Kristen Kapelanski, Community Development Director

Subject: Amendments to Rental Licensing and Inspection

Date: November 30, 2022

Attached are amendments codifying the City's current policies for short term rental properties. Per the amendments, short term rentals (rented for any length of time in the course of a year) would be treated and held to the same standards as long term rentals, requiring licensing, inspections, etc. through the City. This would not apply to single room rentals.

City Council approved the first reading on November 21, 2022. Following that meeting, staff was made aware that these provisions may be applied to situations where property sellers "rent" a month or two of additional moving time from property buyers. Rental provisions are not intended to be applied in those circumstances and language has been added to exempt that situation.

City Council is asked to approve the second reading.



City of Berkley Urban Tree Canopy (UTC) Study

Prepared by the City of Berkley Tree Board
November 2022



Urban Tree Canopy Study

- 🌿 An Urban Tree Canopy (UTC) assesses how much of a defined geographic area is covered by trees' crowns
- 🌿 The objective of a UTC assessment is to help decision makers understand their urban forest resources to establish canopy goals and to strategically focus tree planting efforts and resources
- 🌿 The UTC Study utilizing satellite data assesses the entire urban forest within a geographic area and includes all private and public trees

City of Berkley Urban Tree Canopy Study

- ❧ Considering the cost and benefits, the Tree Board recommended that the City contract for this type of study. The cost was estimated to be about \$15,000-\$20,000.
- ❧ The City approved adding \$10,000 to the 2022-23 Budget, with the assumption that the City receives matching funds from the State of Michigan Community Forest Grant.
- ❧ Then this summer, the Tree Board became aware of no cost tools (The Tree Equity and i-Tree Landscape) publicly available to assess Berkley's tree canopy. Therefore, this study was completed by Tree Board volunteers and without cost to the City.
 - ❧ The Tree Equity provides the basis for assessing the canopy cover
 - ❧ i-Tree Landscape provides additional detail to support tree benefits

City of Berkeley Urban Tree Canopy Study

- ✿ This study was completed by the City of Berkeley Tree Board in September 2022 canopy data using data from Tree Equity Score .
- ✿ American Forests launched The Tree Equity Score in 2021. Tree Equity Score is a metric to help cities assess how well they are delivering equitable tree canopy to cover all residents.
- ✿ Tree Equity Score synthesizes data to calculate a score to measure how much tree canopy and surface temperature align with income, employment, race, and health factors in the U.S. for 150,000 neighborhoods and 486 municipalities.
- ✿ American Forests has developed the Tree Equity Score Analyzer (TESA) for cities and states that want to dive deep into decision-making around Tree Equity Scores.
- ✿ It is free and available to the public to use. <https://treeequityscore.org/>

American Forests



What We Do Our Approach Resources for You Get Involved About Us



Our Vision

We envision a world in which the significant environmental, societal and economic benefits of forests are fully realized and equitably available to all people.

We use cookies to optimize your experience.

Cookie Policy

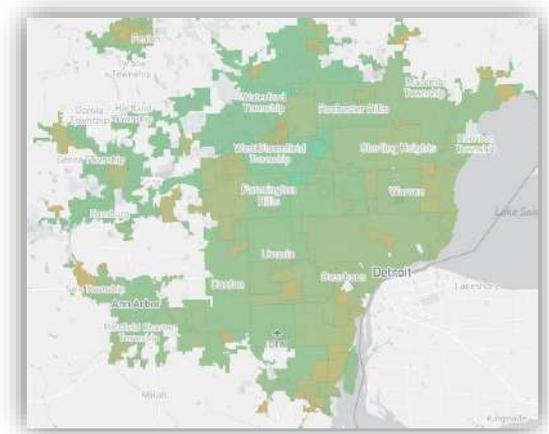
<http://www.americanforests.org/about-us/>

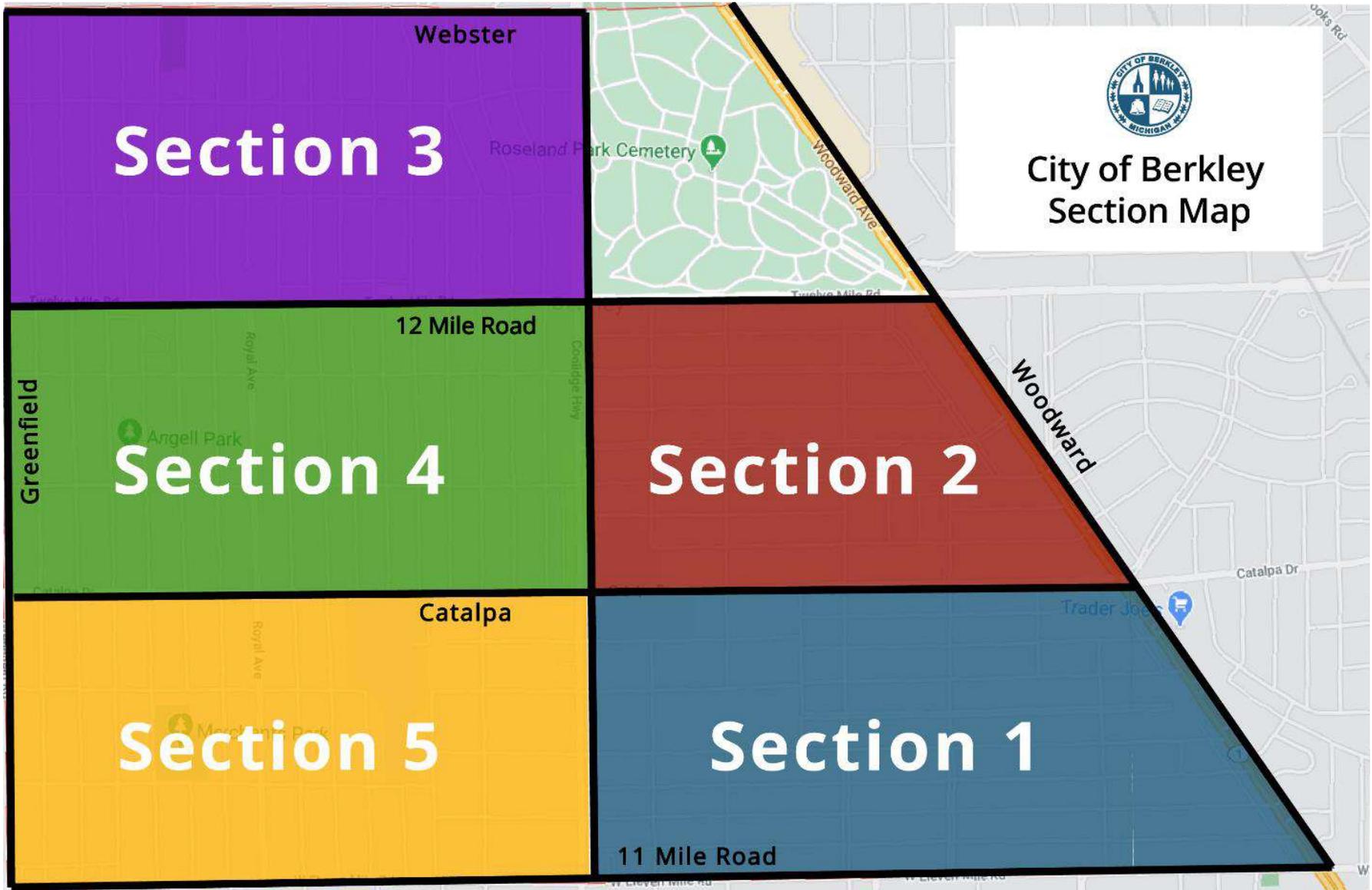
City of Berkley Urban Tree Canopy Study

- 🌿 This Study also utilized i-Tree Landscape.
- 🌿 i-Tree Landscape did not have as high of resolution capability as The Tree Equity Score so the canopy itself was later determined to be underreported by this tool.
- 🌿 However, i-Tree Landscape provided useful information on the benefits derived from Berkley's existing canopy.
- 🌿 i-Tree Landscape provided the following tree benefits:
 - 🌿 Carbon – the amount of carbon and carbon dioxide equivalent that is sequestered and stored by tree in each selected region and its associated economic value.
 - 🌿 Air Pollution – the amount and economic value of the air pollution that is removed by the trees in each selected region.
 - 🌿 Hydrology – includes transpiration, rainfall interception, and avoided runoff estimates provided by the trees in each selected region.
- 🌿 So the benefits reported by i-Tree Landscape are included in this study, even though the canopy and benefits are likely understated.
- 🌿 This link was provided by the Michigan DNR. It is free and available to the public to use. <https://landscape.itreetools.org/maps/>

City of Berkley Urban Tree Canopy Study

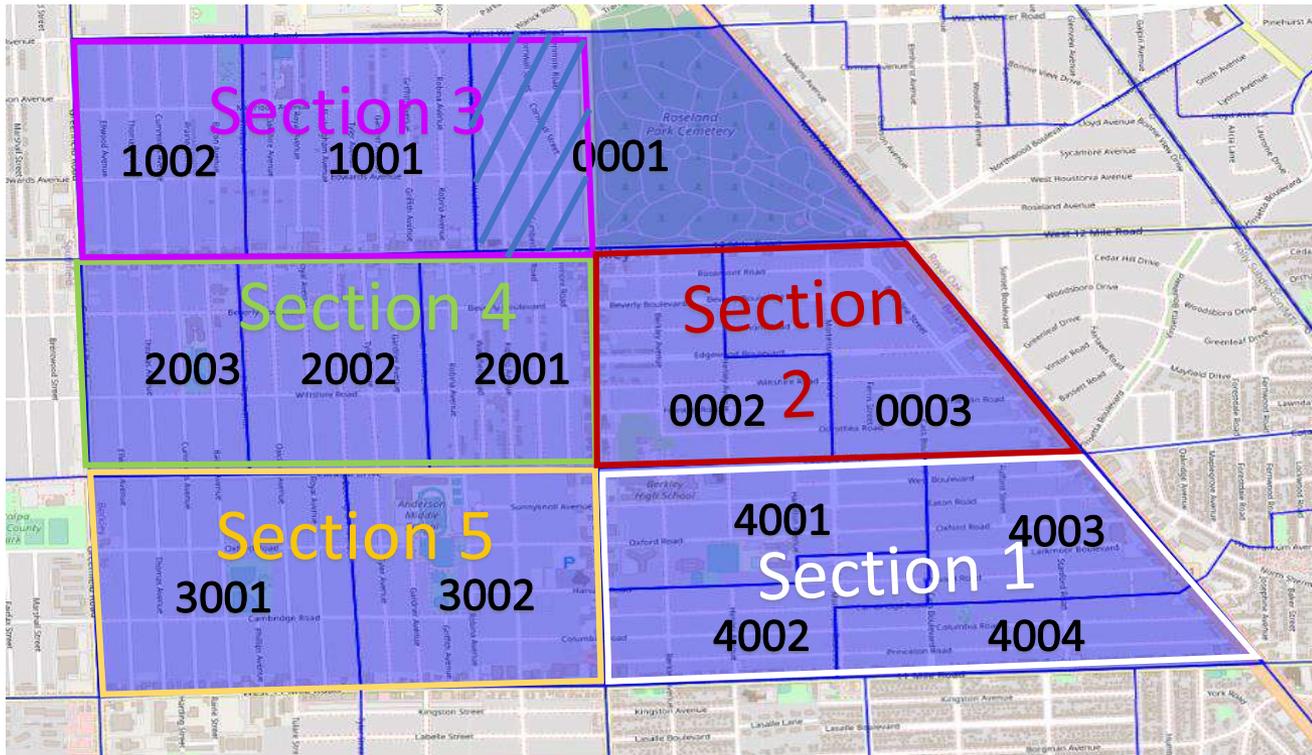
- ❖ Greater Detroit including the City of Berkley is a “Featured Place” in The Tree Equity Score.
- ❖ The Greater Detroit Tree Canopy data was provided to The Tree Equity by the University of Vermont Spatial Analysis Lab utilizing 2016 data. This data is provided with 1 foot resolution, allowing individual trees to be mapped.
- ❖ The UVM Spatial Analysis Lab is currently working with American Forests to update their study utilizing 2022 data.





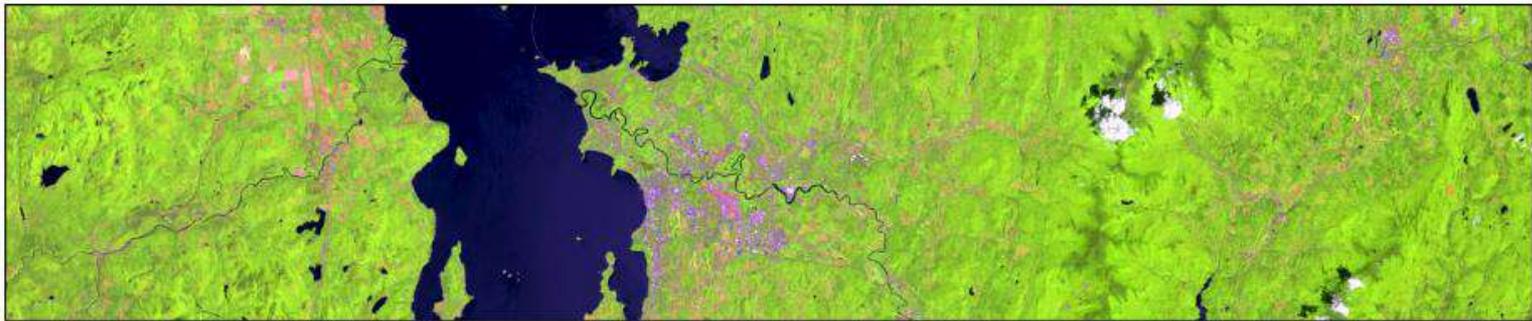
Census Blocks for City of Berkley

- Both The Tree Equity and i-Tree Landscape used Census Blocks to define the neighborhoods of Berkley
- These Census blocks can be aligned with the City's Section designation except for Section 3, where St. Johns Woods is combines with Roseland Park Cemetery in Census Block "0001"





UVM SPATIAL Analysis Lab supplied the tree canopy data used by The Tree Equity for the Greater Detroit Area.



The Spatial Analysis Laboratory (SAL) is a cutting-edge Geographic Information System (GIS) research facility in the Rubenstein School of Environment & Natural Resources at the University of Vermont (UVM). As the pioneer of GIS technology in Vermont, the SAL operates as a non-profit in partnership primarily with private industry, government organizations, and other non-profits, applying innovative techniques in GIS, remote sensing, and spatial statistics to solve the unique problems brought to us by these organizations. The scope of our work includes ecosystem assessments, biodiversity analysis, land-cover mapping, conserved lands planning, scenario modeling, LIDAR processing, web-based mapping, and even transportation analysis.

The SAL has also developed a national reputation for its expertise in employing UAS technology for disaster response, agricultural assessment, archeological site mapping, aquatic resource mapping, transportation decision support, and urban planning. Notable projects have included more than 75 tree-canopy assessments in the United States and Canada, high-resolution land-cover mapping at state and regional scales, automated mapping of wetlands and other ecological features, and UAS missions for flooding events, stream-channel mapping, train derailments, and road-construction monitoring.

Throughout all of our work, we aim to train some of the most knowledgeable and technologically-adept spatial analysts in the country by providing hands-on work opportunities on real-life projects. Our students have gone on to work at global tech companies including Google, senseFly, and Uber, as well as non-profits including the Chesapeake Conservancy, and Research Institutes like Duke University Marine Lab. Many of our former student UAS pilots have established careers in the commercial drone industry throughout the United States.

City of Berkley Canopy Study

Prioritization Based on Canopy %

Source: The Tree Equity

Block #	Canopy %	Prioritization
2612151701002	33	!!
2612151701001	30	!!!
2612151700001	37	!!
2612151702003	38	!!
2612151702002	33	!!
2612151702001	30	!!!
2612151700002	40	!
2612151700003	41	!
2612151703001	35	!!
2612151703002	27	!!!
2612151704001	30	!!!
2612151704002	36	!!
2612151704003	26	!!!
2612151704004	30	!!!

Priority Legend*

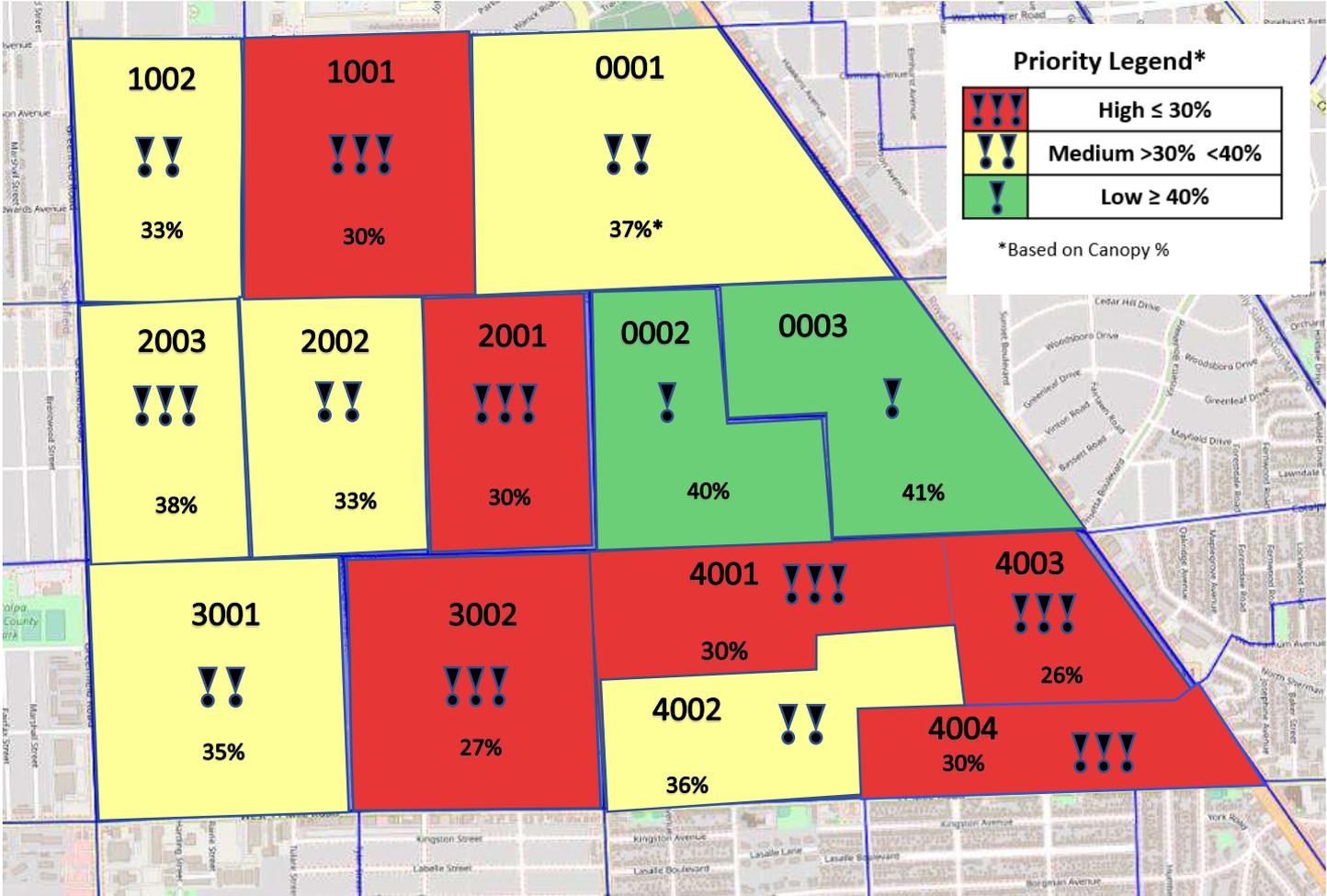
!!!	High $\leq 30\%$
!!	Medium $>30\% <40\%$
!	Low $\geq 40\%$

*Based on Canopy %

Red = Highest Priority Green = Lowest Priority

City of Berkeley Urban Tree Canopy Study

Priority by Canopy % Only



- *Census Block 0001 includes Roseland Park Cemetery*

Tree Equity Scores



What do the Scores mean?

Each score indicates whether there are enough trees in a neighborhood for everyone to experience the health, economic and climate benefits that trees provide. Scores are based on tree canopy, surface temperature, income, employment, race, age and health factors. A 0-to-100-point system makes it easy to understand how a community fares.



City Planning

Urban land-use planners and others can use the scores to decide where and how to invest in forestry and infrastructure. The Tucson City Council and Mayor Regina Romero agreed in April 2021 to adopt the Tucson Tree Equity Score as the primary tool to prioritize investments for the city's urban forestry initiative and infrastructure projects.



Priority Indicators

- Health Index
- Temperature
- People in Poverty %
- Seniors (65+) %
- Children (0-17) %
- People of color %
- Unemployment %

Municipality Tree Equity Score Map



100

75

94

96

89

83

99

86

88

51

69

63

91

80

Berkley

Edwards Ave

Roberts Ave

ly Blvd

Dorches Rd

Cata

Princeton Rd

Bacon Ave

Oakeshire Ave

Buckin

Kipling Ave

Ave

Greenwood Ave

William Rd

Fried

City of Berkeley Canopy Study

Prioritization Based on The Tree Equity (TTE) Score

Block #	Canopy %	TTE Score	TTE Prioritization
2612151701002	33	100	! (Green)
2612151701001	30	75	!!! (Red)
2612151700001	37	94	! (Green)
2612151702003	38	96	! (Green)
2612151702002	33	89	!! (Yellow)
2612151702001	30	83	!! (Yellow)
2612151700002	40	99	! (Green)
2612151700003	41	86	!! (Yellow)
2612151703001	35	88	!! (Yellow)
2612151703002	27	51	!!! (Red)
2612151704001	30	69	!!! (Red)
2612151704002	36	91	! (Green)
2612151704003	26	63	!!! (Red)
2612151704004	30	80	!! (Yellow)

TTE Priority Legend

!!! (Red)	High ≤ 79
!! (Yellow)	Medium $\geq 80 < 90$
! (Green)	Low $\geq 90\%$

Red = Highest Priority Green = Lowest Priority

City of Berkley Tree Equity Score Prioritization

- ✿ Besides the Priority Indicators used to develop the Tree Equity Scores for each Census Block neighborhood, Canopy Targets also affected the results.
- ✿ Based on the Census Data, the Tree Equity Score develops canopy targets based on population density. The intent is to make for more achievable targets, while recognizing plantable areas suitable for tree canopy.
- ✿ In Berkley, this resulted in three different Canopy Targets: 32%; 40%; 48%

Population Density (ppl/km2)	Target Canopy Adjustment factor		
Very low (<2k)	1.2	X 40% = 48%	1 neighborhood
Low (2k-4k)	1	X 40% = 40%	10 neighborhoods
Moderate (4k-8k)	0.8	X 40% = 32%	3 neighborhoods
High (>8k)	0.5	(n.a. for Berkley)	

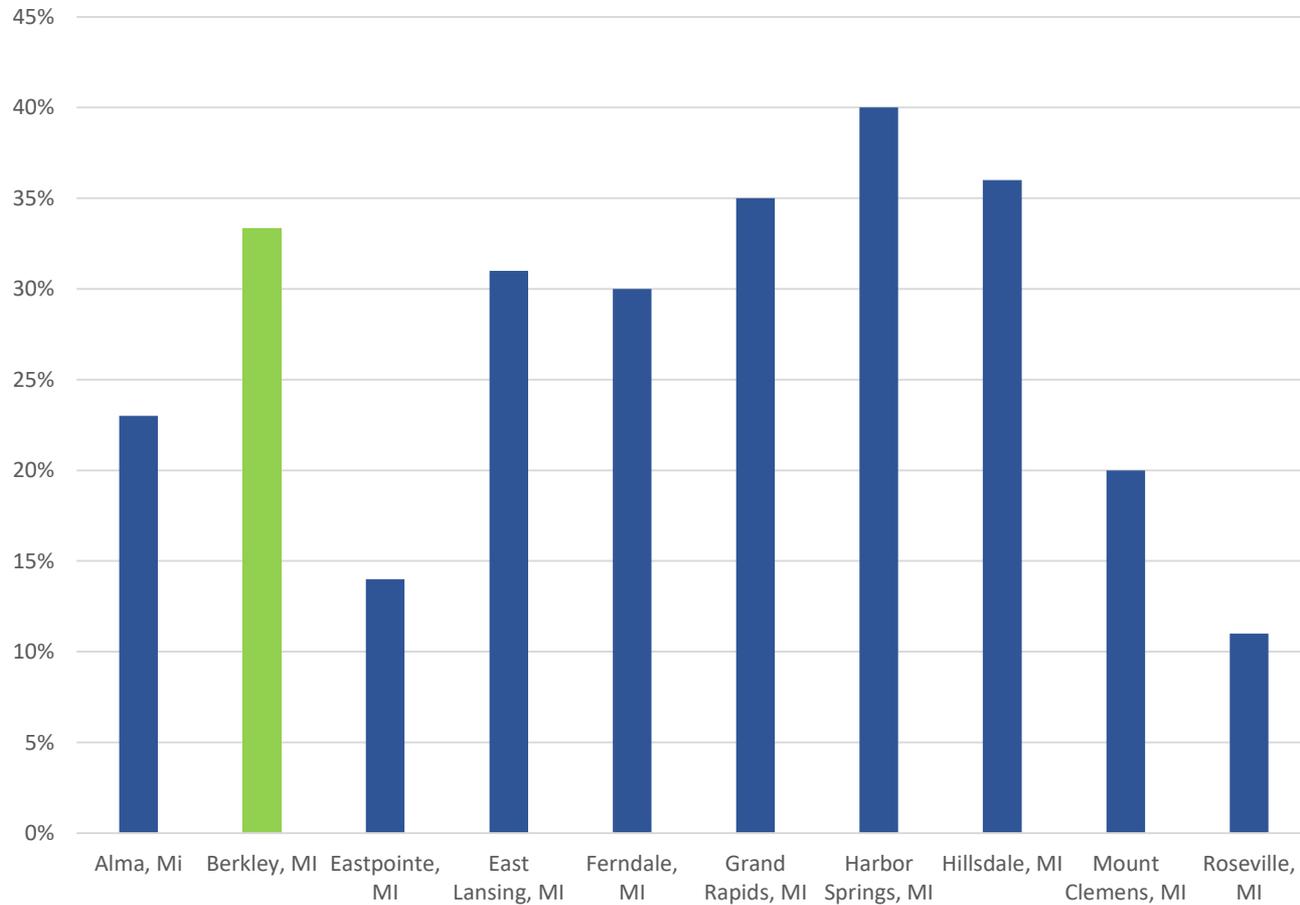
City of Berkley Tree Equity Score Prioritization

- ❖ These various canopy targets seem to distort the scores for the City of Berkley
- ❖ For example, the only Census Block to achieve a The Tree Equity Score of 100 was Census Block 1002. While Canopy % was in the middle of the pack, and the priority factors suggest perhaps a lower score, apparently this neighborhood is more dense, and thus has a lower Canopy Target of only 32% .
- ❖ At the other end, Census Block 0002 while having the highest Canopy % in the Berkley of 41%, has TTE Score of only 86 due to this neighborhood having the higher Canopy Target of 48%.
- ❖ Census Block 3002 has the lowest TTE Score of 51 for Berkley. This area also has one of the lowest Canopy % but this score is also negatively affected by this neighborhood having the higher Canopy Target of 48%.
- ❖ Therefore, it is recommended to set priority based on Canopy % and not by The Tree Equity Scores

Census Block	TTE Score	Canopy Target	Canopy %
1002	100	32%	33%
0001	94	48%	37%
0002	86	48%	41%
3002	51	48%	27%
The Rest	63-96	40%	26%-38%

Comparison of UTC to Other Michigan Cities

Comparison of UTC% Across Various Michigan Cities



Sources: Davey Resource Group Tree Canopy Assessment for City of East Lansing (June 2017), the City of Ferndale website (Urban Forestry Program) and this study for Berkley

Tree Benefits i-Tree Landscape

City of Berkeley Urban Tree Canopy Study

i-Tree Landscape

- Using the i-Tree Landscape Tool – appropriate US Census Blocks were selected to select analyze data within the city's boundaries.



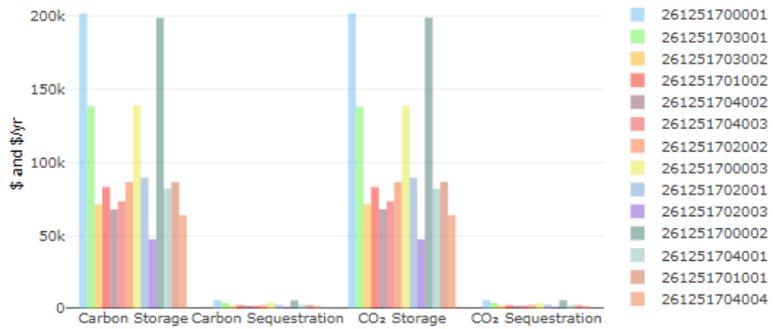
Hint: Need to click on the “eye” icon  next to US Census Blocks to show the census blocks on the map and then need to click on the Select button  for each block to include in the study

Tree Benefits

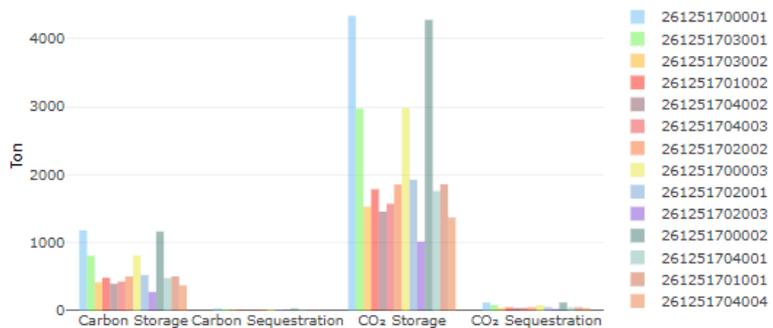
Carbon and CO₂

Data Tools Carbon Air Pollution Removal Hydrology

Monetary Benefits



Physical Benefits



Tree Benefits

Carbon and CO₂ (High Resolution UTC)

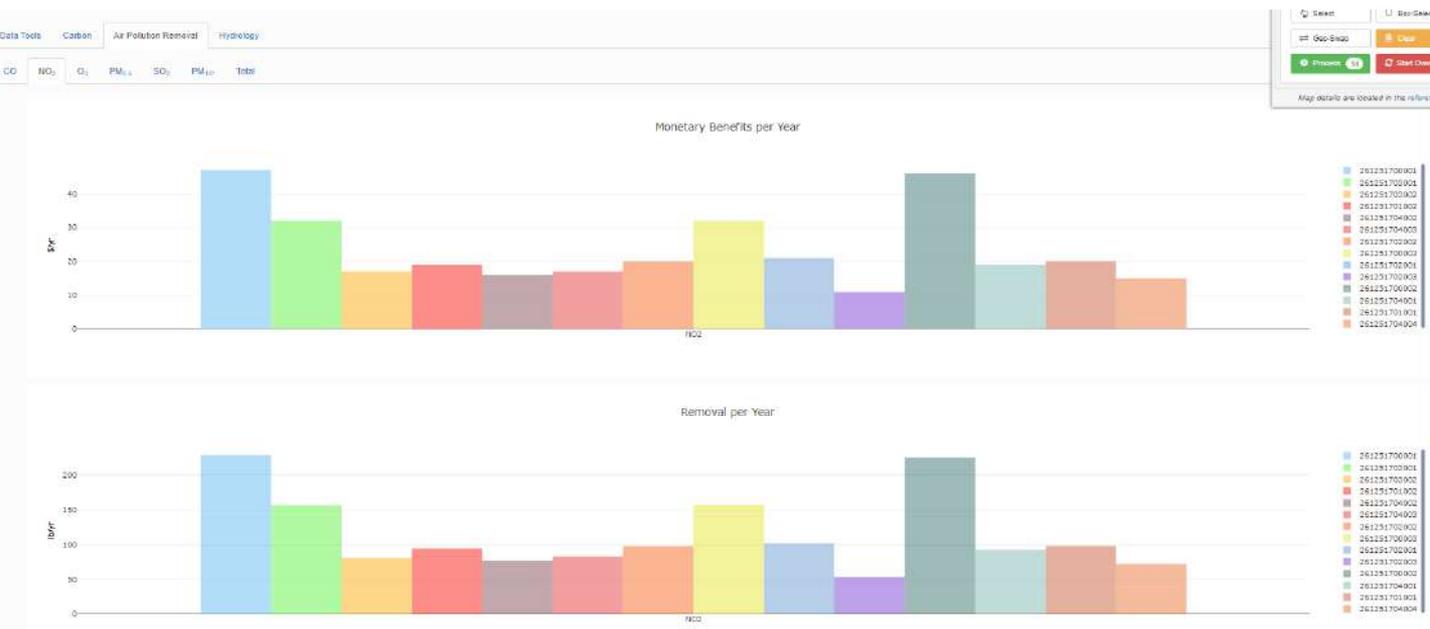
Dataset	Type	Name	ID	Carbon Storage		Carbon Sequestration		CO ₂ Equivalent Storage		CO ₂ Equivalent Sequestration	
				\$	Short Ton	\$/yr	t/yr	\$	Short Ton	\$/yr	t/yr
NLCD 2011	Block Group	N/A	261251700001	201,796	1,183.2	5,773	33.8	201,796	4,338.4	5,773	124.1
NLCD 2011	Block Group	N/A	261251701002	83,113	487.3	2,378	13.9	83,113	1,786.8	2,378	51.1
NLCD 2011	Block Group	N/A	261251701001	86,603	507.8	2,477	14.6	86,603	1,861.9	2,477	53.2
NLCD 2011	Block Group	N/A	261251702001	89,630	525.6	2,564	15.0	89,630	1,927.0	2,564	55.1
NLCD 2011	Block Group	N/A	261251702002	86,467	507.0	2,474	14.6	86,467	1,858.9	2,474	53.1
NLCD 2011	Block Group	N/A	261251702003	47,398	277.9	1,356	7.9	47,398	1,019.0	1,356	29.1
NLCD 2011	Block Group	N/A	261251700003	138,658	813.0	3,967	23.3	138,658	2,981.0	3,967	85.3
NLCD 2011	Block Group	N/A	261251700002	198,959	1,166.6	5,692	33.4	198,959	4,277.4	5,692	122.4
NLCD 2011	Block Group	N/A	261251703001	138,303	811.0	3,957	23.1	138,303	2,973.4	3,957	85.1
NLCD 2011	Block Group	N/A	261251703002	71,272	417.9	2,039	11.9	71,272	1,532.3	2,039	43.9
NLCD 2011	Block Group	N/A	261251704001	81,962	480.6	2,345	13.8	81,962	1,762.2	2,345	50.4
NLCD 2011	Block Group	N/A	261251704002	67,851	397.8	1,941	11.4	67,851	1,458.7	1,941	41.8
NLCD 2011	Block Group	N/A	261251704003	73,270	429.6	2,096	12.2	73,270	1,575.2	2,096	45.1
NLCD 2011	Block Group	N/A	261251704004	63,818	374.2	1,826	10.7	63,818	1,372.0	1,826	39.2
Selection Total:				1,429,100	8,379.3	40,883	239.8	1,429,100	30,724.2	40,883	879.0

\$1,429,100 – 30,724.2 short ton

The Carbon and CO₂ benefits from trees are calculated only using the MRLC NLCD 2011 and 2001 data. The system cannot currently account for the HiRes data.

Tree Benefits

Total Air Pollution Removal



Total Air Pollution Removal (High Resolution UTC)

Dataset	Type	Name	ID	\$/yr	lb/yr
NLCD 2011	Block Group	N/A	261251700001	6,931	2,817.7
NLCD 2011	Block Group	N/A	261251701002	2,854	1,160.3
NLCD 2011	Block Group	N/A	261251701001	2,974	1,209.0
NLCD 2011	Block Group	N/A	261251702001	3,079	1,251.6
NLCD 2011	Block Group	N/A	261251702002	2,969	1,207.2
NLCD 2011	Block Group	N/A	261251702003	1,628	661.8
NLCD 2011	Block Group	N/A	261251700003	4,762	1,936.1
NLCD 2011	Block Group	N/A	261251700002	6,833	2,777.8
NLCD 2011	Block Group	N/A	261251703001	4,749	1,931.0
NLCD 2011	Block Group	N/A	261251703002	2,447	995.2
NLCD 2011	Block Group	N/A	261251704001	2,814	1,144.4
NLCD 2011	Block Group	N/A	261251704002	2,330	947.1
NLCD 2011	Block Group	N/A	261251704003	2,516	1,022.7
NLCD 2011	Block Group	N/A	261251704004	2,193	891.1
Selection Total:				49,079	19,953.1

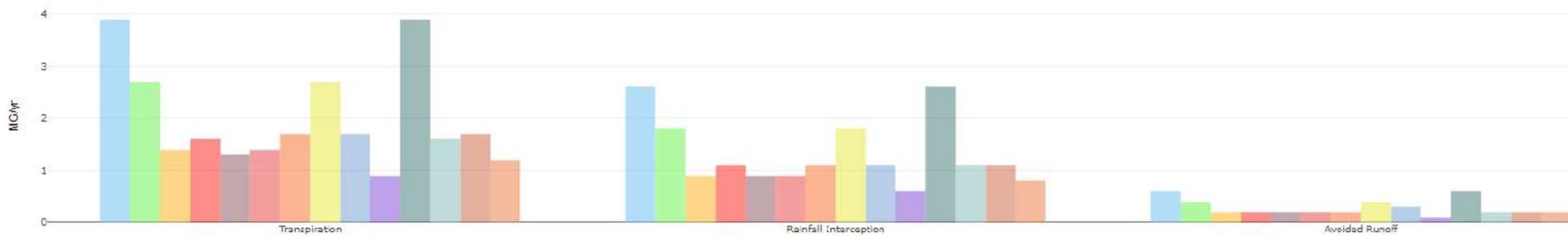
\$49,070 / yr – 19,953.1 lb/yr

Tree Benefits Hydrology

Data Tools Carbon Air Pollution Removal Hydrology

Quantity

Hydrology Quantity



Hydrology Quantity (High Resolution UTC)

Dataset	Type	Name	ID	Transpiration (MG/yr)	Rainfall Interception (MG/yr)	Avoided Runoff (MG/yr)	Avoided Runoff (\$/yr)
NLCD 2011	Block Group	N/A	261251700001	3.9	2.6	0.6	5,055
NLCD 2011	Block Group	N/A	261251701002	1.6	1.1	0.2	2,082
NLCD 2011	Block Group	N/A	261251701001	1.7	1.1	0.2	2,169
NLCD 2011	Block Group	N/A	261251702001	1.7	1.1	0.3	2,245
NLCD 2011	Block Group	N/A	261251702002	1.7	1.1	0.2	2,166
NLCD 2011	Block Group	N/A	261251702003	0.9	0.6	0.1	1,187
NLCD 2011	Block Group	N/A	261251700003	2.7	1.8	0.4	3,473
NLCD 2011	Block Group	N/A	261251700002	3.9	2.6	0.6	4,984
NLCD 2011	Block Group	N/A	261251703001	2.7	1.8	0.4	3,464
NLCD 2011	Block Group	N/A	261251703002	1.4	0.9	0.2	1,785
NLCD 2011	Block Group	N/A	261251704001	1.6	1.1	0.2	2,053
NLCD 2011	Block Group	N/A	261251704002	1.3	0.9	0.2	1,700
NLCD 2011	Block Group	N/A	261251704003	1.4	0.9	0.2	1,835
NLCD 2011	Block Group	N/A	261251704004	1.2	0.8	0.2	1,599
Selection Total:				27.9	18.3	4.0	35,797

Data details are located in the references

Transpiration: 27.9 MG/yr
 Rainfall Interception: 18.3 MG/yr
 Avoided Runoff: 4.0 MG/yr - \$35,797

MG/yr=Million Gallons per year

City of Berkley Urban Tree Canopy (UTC) Study

Tree Benefits



Reduce Carbon and CO₂

Trees reduce atmospheric carbon two ways:

- By storing CO₂ in their leaves and stems
- By reducing demand for heating and cooling thus reducing emissions associated with power production

The UTC in Berkley stores 30,724 tons of carbon – valued at \$1,429,100!



Improve Air Quality

- Absorb gaseous pollutants
- Intercept particulate matter (such as dust, ash pollen and smoke)
- Release oxygen as a product of photosynthesis – two healthy trees produce enough oxygen for one person for one year

Value of UTC Pollution Removal in Berkley:
\$49,070 / yr – 19,953.1 lb/yr



Reduce Stormwater Runoff*

- Trees draw moisture from the soil, thereby increasing soil water storage (evapotranspiration)
- Trees store water within the structure of the tree itself
- Root growth and decomposition increase the capacity and rate of soil infiltration from rainfall
- Tree canopies diminish the impact of raindrops on barren surfaces

One typical medium size tree can intercept as much as 2,380 gallons of rainfall per year!



Reduce Energy Cost

- Shading provided by trees reduces the amount of heat absorbed and stored
- Greenspace provided by trees can lower air temperatures by 5 degrees F
- Evapotranspiration converts liquid water to water vapor and cools the air



Improve Property Value & Beautify Community

- One US study determined that large street trees were the single most important indicator of attractiveness in a community (Coder, 1996).
- Having large trees in yards along streets increases a home's value from 3 percent to 15 percent. **

* US Forest Service Fact Sheet #4-

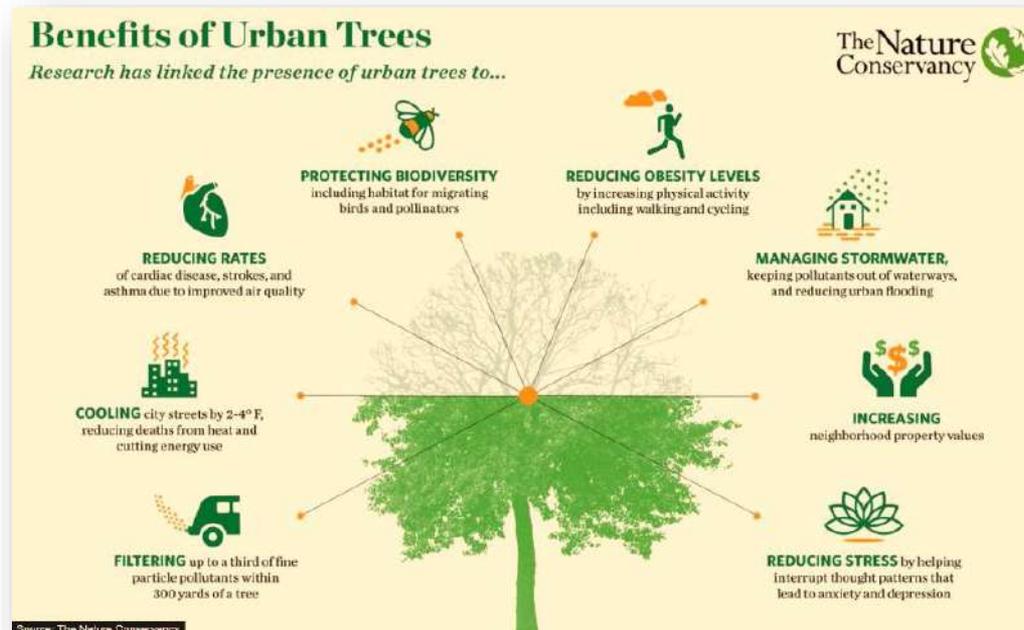
https://www.fs.fed.us/psw/topics/urban_forestry/products/CUFR_182_UFfactsheet4.pdf

** Wolf, Kathleen L, PhD, University of Washington (2007) City Trees and Property Values. Arborist News. 16, 4:34-36. <https://www.arborday.org/trees/benefits.cfm>

Recommendation

City of Berkeley Urban Tree Canopy (UTC) Study Recommendation

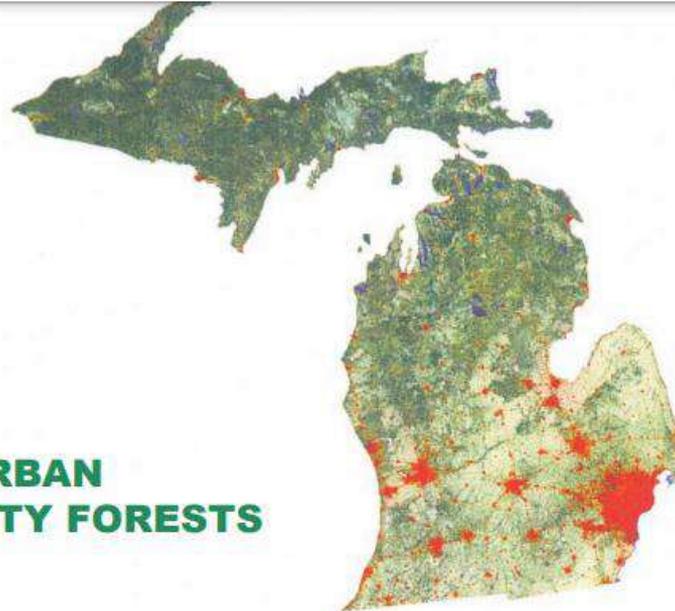
- ❖ Recommend that a minimum 40% Tree Canopy Target be established for the City of Berkeley and all its neighborhoods
- ❖ The Urban Tree Canopy % can be used as a guide to focus tree planting efforts and resources
- ❖ Efforts should be made to communicate to our community the benefits of trees and achieving a greater urban tree canopy



Additional Information -

State of Michigan Canopy Study Summary

MICHIGAN'S URBAN AND COMMUNITY FORESTS



Statewide Summary

Urban or community land in Michigan comprises about 7.3 percent of the state land area in 2000, an increase from 6.5 percent in 1990. Statewide tree canopy cover averages 42.9 percent and tree cover in urban or community areas is about 21.0 percent, with 24.2 percent impervious surface cover and 27.8 percent of the total green space covered by tree canopy cover. Statewide, urban or community land in Michigan has an estimated 107.8 million trees, which store about 20.6 million metric tons of carbon (\$469.7 million), and annually remove about 678,000 metric tons of carbon (\$15.5 million) and 14,820 metric tons of air pollution (\$121.7 million) (Table MI-1).

Tables MI-2 through MI-17 are not printed in this report but are available on the CD located on the inside back cover and at <http://nrs.fs.fed.us/data/urban>.

State of Michigan Impervious Surface Cover

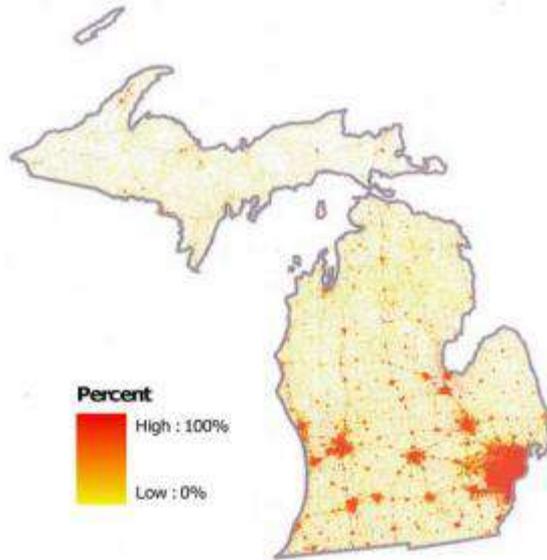


Figure MI-7.—Percentage impervious surface cover.

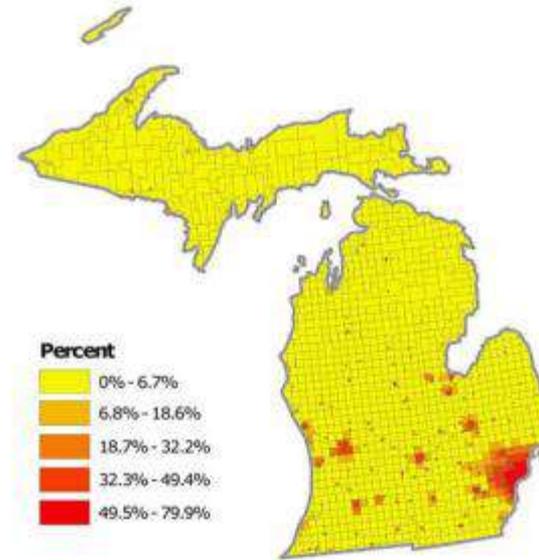


Figure MI-8.—Percentage impervious surface cover within county subdivisions.

Impervious Surface Cover Characteristics

Average impervious surface cover in Michigan is 2.7 percent of the land area (Fig. MI-7), with 400.2 m² of impervious surface cover per capita. Average impervious surface cover in urban areas was 27.7 percent, with 320.9 m² of impervious surface cover per capita. Within community lands in Michigan, average impervious surface cover was 28.4 percent with 331.6 m² of impervious surface cover per capita (Table MI-1). Impervious surface cover varied across the state (Fig. MI-8; Tables MI-5 through 7).



Get all block groups to a Tree Equity Score of 75

3 of 14 have a Tree Equity Score below 75.



Drag to adjust target score

1,612 trees will be needed to get all block groups to a score of **75**. See the significant benefits to the community this will create.

Sources: i-Tree Landscape, American Forests. For more details, review our [methodology](#).

Total Canopy Added

1.3 %

Annual Ecosystem Service Value

\$11,442

Jobs Supported

12.0

Annual Service Benefits

Carbon Sequestered

19.8 tons

Carbon Monoxide

0.0 tons

Nitrogen Dioxide

0.1 tons

Sulfur Dioxide

0.1 tons

PM10* Pollution

0.2 tons

PM2.5 Pollution

0.0 tons

Ozone

0.5 tons

Runoff Avoided

1,380 m³

Rain Interception

6,314 m³

City of Berkley Canopy Study

i-Tree Landscape

- 🌿 This study is based on 2016 datasets as provided by the U.S. Forest Service (USFS) Geospatial Technology and Applications Center.

What is Percent Tree Canopy Cover?

Tree canopy cover (TCC) is the layer of tree leaves, needles, branches, and stems that provide tree coverage of the ground, viewed from an aerial perspective. The TCC maps represent canopy cover values, ranging from 0 to 100, for a 30 meter cell.

EXAMPLE

TCC Value = 65% of 30 meter pixel or cell



Tree Equity Score

A map of tree cover in any city in the United States is too often a map of race and income. This is unacceptable. Trees are critical infrastructure that every person in every neighborhood deserves. Trees can help address damaging environmental inequities like air pollution.

The score evaluates data from each neighborhood's:

 Existing tree canopy	 Population density	 Income	 Employment
 Surface temperature	 Race	 Age	 Health

These metrics are combined into a single score between 0 and 100. A score of 100 means that a neighborhood has achieved Tree Equity. To learn more, visit our [methodology page](#).



Tree Equity Score Methodology

Tree Equity Score Methodology

Step 1: A Neighborhood Goal



Baseline canopy target for our region is 40%.



The target is then adjusted based on population density to estimate a neighborhood goal by utilizing Census data from each census block.

Population Density (ppl/km2)	Target Canopy Adjustment factor
Very low (<2k)	1.2 X 40% = 48%
Low (2k-4k)	1 X 40% = 40%
Moderate (4k-8k)	0.8 X 40% = 32%
High (>8k)	0.5 (n.a. for Berkley)

Step 2: The Canopy Gap



The neighborhood canopy GAP is calculated by subtracting the existing neighborhood canopy from the neighborhood goal.



The canopy GAP is then normalized to a score from 0-100.

$GAP_{Score} = 100 * GAP / GAP_{max}$, where:

- GAP_{max} is the maximum GAP value citywide for that indicator; and

Notes: If the GAP is negative (i.e. Existing canopy is greater than the neighborhood goal), it is adjusted to 0 before normalizing to create the gap score.

Step 3: The Priority Index



The Priority Index is developed to help prioritize the need for planting to achieve Tree Equity. The priority index includes the following equally-weighted characteristics:

- **Income:** Percentage of population below 200% of poverty
- **Employment:** Unemployment rate
- **Race:** Percentage of people who are not white non-Hispanic
- **Age:** Ratio of seniors and children to working-age adults
- **Climate:** Urban Heat Island severity
- **Health:** Prevalence of poor mental, physical, respiratory, and cardiac health (composite index)

These measures are normalized and combined to create a simple priority index from 0 to 1, where 1 indicates a greater amount of inequity. The indices, N_i , are calculated as follows:

$N_i = (X_i - X_{i,min}) / (X_{i,max} - X_{i,min})$, where, for each indicator, N_i

- X_i is the value for that neighborhood for that indicator, i ;
- $X_{i,max}$ is the maximum value citywide for that indicator, i ; and
- $X_{i,min}$ is the minimum value citywide for that indicator, i .

The Priority index, E , is then calculated as follows: $E = (N_1 + N_2 + N_3 + N_4 + N_5 + N_6) / 6$, where N_i refers to each indicator value (income, employment, race, age, or climate)

Tree Equity Score Methodology

Tree Equity Score Methodology (cont.)

Step 4: Tree Equity Score



Tree Equity Score, TES, is calculated by multiplying the Baseline Gap Score by the Priority Index.



A lower Tree Equity Score indicates a greater priority for closing the tree canopy gap.

$$TES = 100 (1 - GAP_{Score} E)$$

City of Berkley Tree Equity Score

Data Sources

INDICATOR	SOURCE	DATASET
Tree Canopy Cover	USFS, University of Vermont Spatial Analysis Lab	Detroit 7-class Landcover, 2016 Resolution: 1 foot
Percent in Poverty (pop with income less than 200% federal poverty level)	U.S. Census Bureau American Community Survey 2014-2018	Block Group Table C17002
Percent of People of Color (all people who are not white non-Hispanic)	U.S. Census Bureau American Community Survey 2014-2018	Block Group Table B03002
Unemployment Rate	U.S. Census Bureau American Community Survey 2014-2018	Block Group Table B23025
Seniors (Age 65+)	U.S. Census Bureau American Community Survey 2014-2018	Block Group Table B01001
Children (Age 0-17)	U.S. Census Bureau American Community Survey 2014-2018	Block Group Table B01001
Urban heat island and surface temperature	USGS Earth Explorer	USGS Landsat 8 imagery, thermal bands
Health Index: self-reported poor mental health, poor physical health, asthma, and coronary heart disease	Center for Disease Control CDC PLACES	Census Tract Estimates

Feedback from UVM Spatial Analysis Lab:



Sean MacFaden

to Jarlath, me, tricia, Dennis, Shawn ▾

Wed, Sep 7, 1:43 PM (1 day ago)



Hi Kathy,

Thanks very much for your inquiry. I did not contribute to the land-cover project for Detroit but I can tell you that most of our mapping efforts rely on a combination of high-resolution LiDAR and multispectral imagery, providing the ability to map tree canopy at the scale of individual trees. As you suggest, the level of detail available in such products greatly exceeds that of NLCD and other moderate- to coarse-scale datasets, often resulting in very different summary statistics. Without knowing the full details of the UVM-produced Detroit map, I assume that its high resolution (1 ft) facilitated capture of trees that were not mapped by other projects, hence the higher proportion of tree canopy overall.

My colleague Jarlath O'Neil-Dunne (CCed here) coordinated the Detroit project and, if you have any further questions, will be better able to contextualize its methods and results relative to other products. Thanks again for contacting me, and good luck with your tree planting efforts!

Regards,

Sean

Note: Sean's Title at UVM is Senior Geospacial Analyst



Jarlath Patrick O'Neil-Dunne

to me, Sean, tricia, Dennis, Shawn ▾

Sep 7, 2022, 8:39 PM (18 hours ago)



Hi Kathy,

I am pleased to report that we are working with American Forests to update our 2016 work. We hope to use the newly acquired 2022 imagery if it is available in time. We anticipate the results to be ready in early 2023.

Best,
Jarlath

--

Jarlath O'Neil-Dunne

Director, Spatial Analysis Laboratory

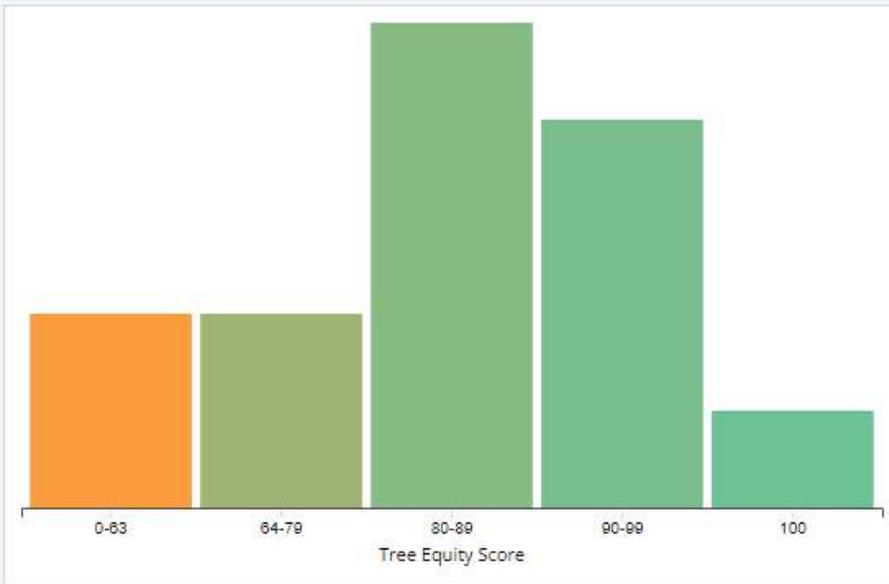
University of Vermont | USDA Forest Service R&D

Tree Equity Score: 83

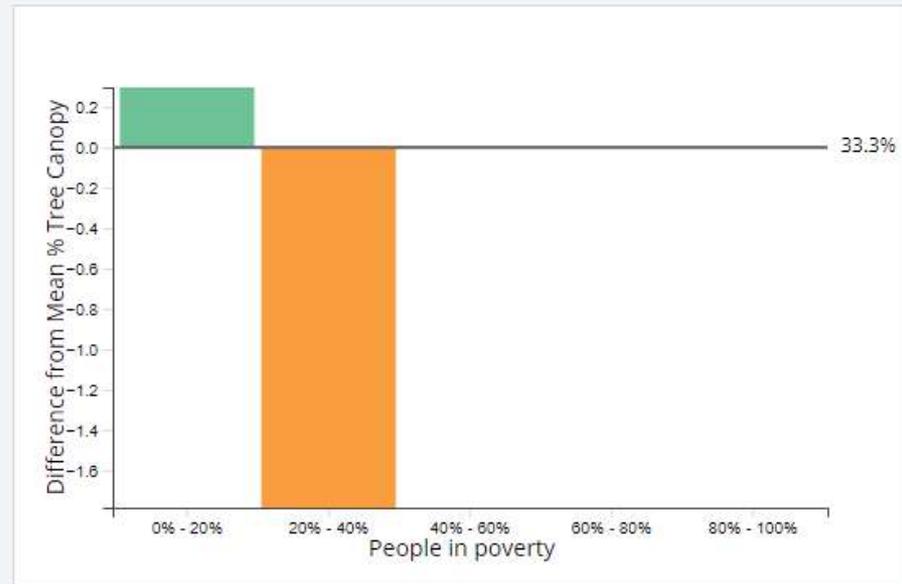
Urbanized Area Summary

Urbanized area population	15,360	Seniors	12%
People of color	12%	Children	21%
People in poverty	13%	Unemployment rate	2%

Distribution of Tree Equity Scores



% Tree Canopy vs. % People in Poverty

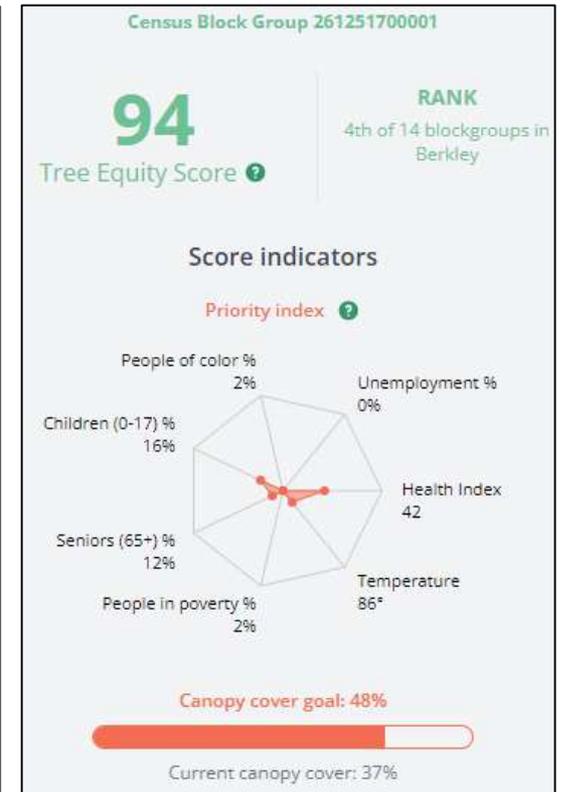
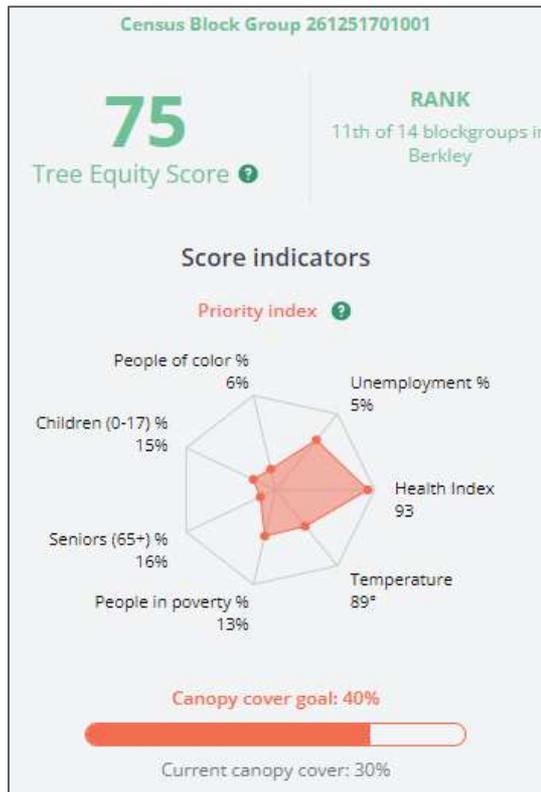
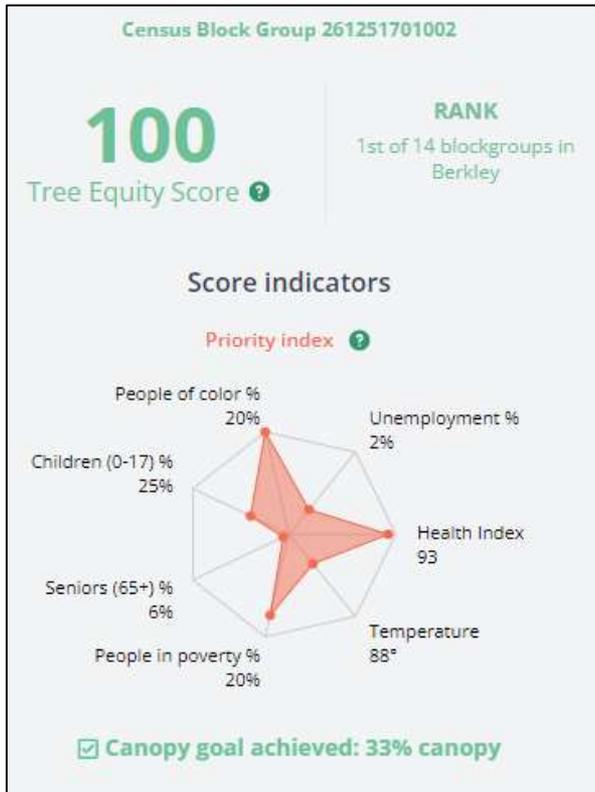


Each bar represents the mean tree canopy % for block groups within the specified range of people in poverty. The amount above or below the thick horizontal line indicates the difference from the area-wide mean canopy %.

The Tree Equity Score Detail for each Census Block

City of Berkeley Tree Equity Score Indicators

Census Blocks: '1002; '1001; '0001

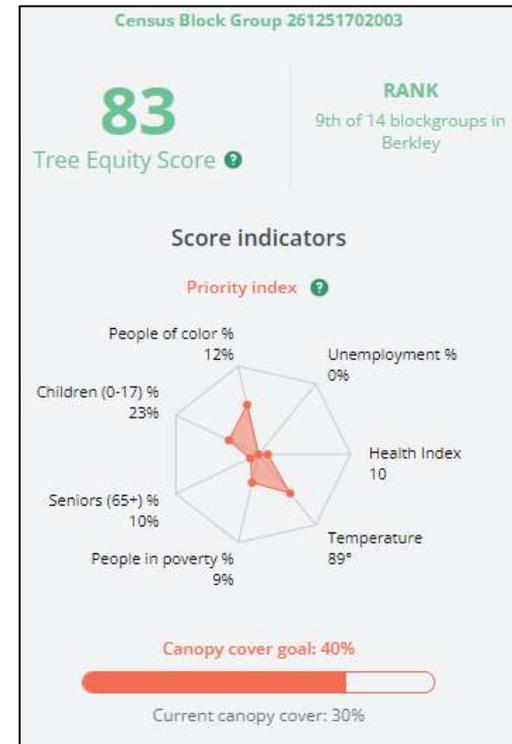
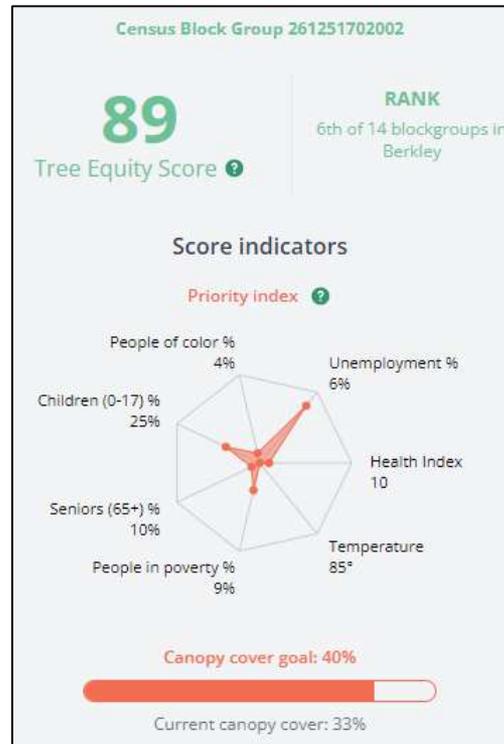
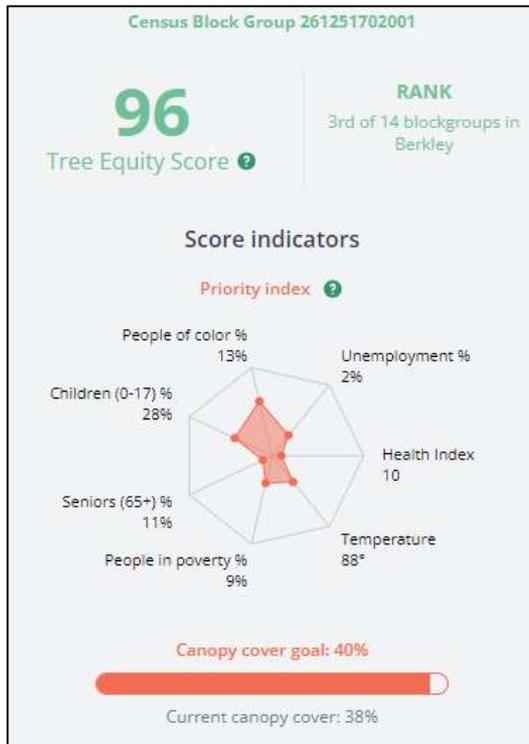


Note: Census Block "1002" is the only neighborhood with Canopy Goal <40%, which means this neighborhood is more dense but may not have less plantable space

Note: Census Block "0001" is one of only 3 neighborhoods with Canopy Goal of 48%

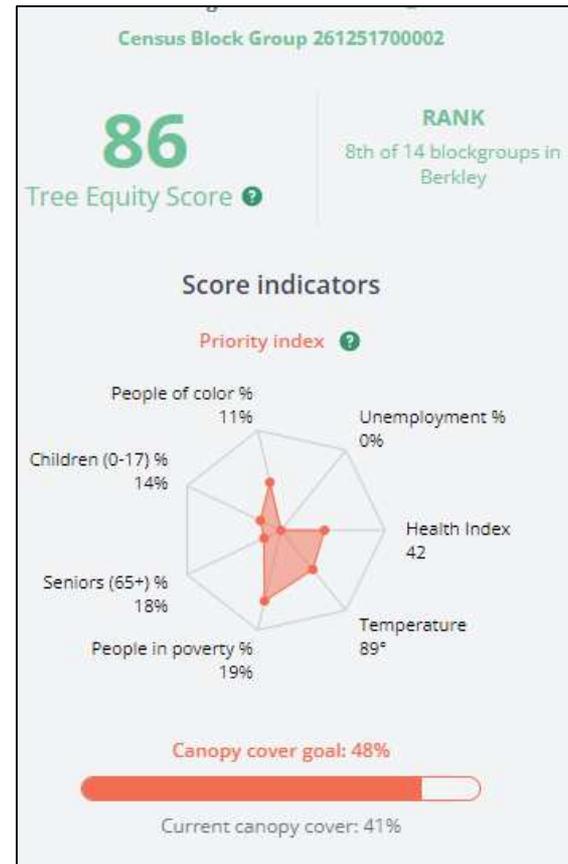
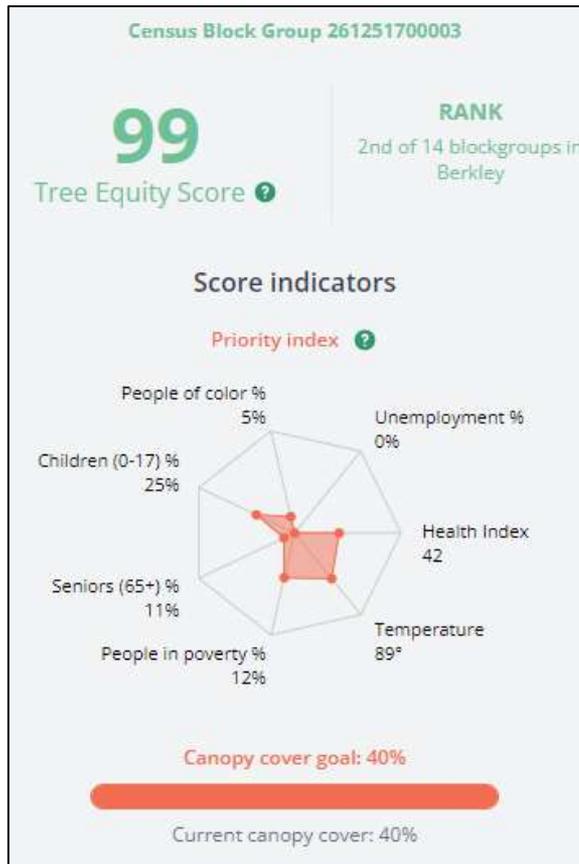
City of Berkeley Tree Equity Score Indicators

Census Blocks: '2001; '2002; '2003



City of Berkeley Tree Equity Score Indicators

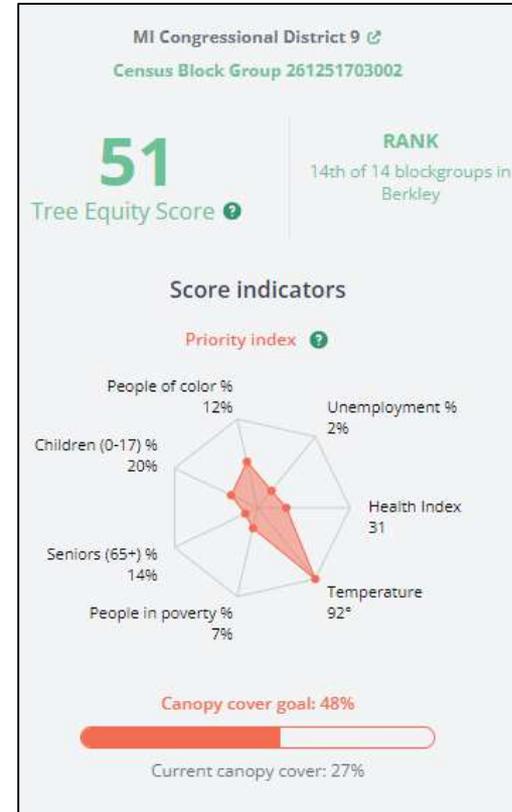
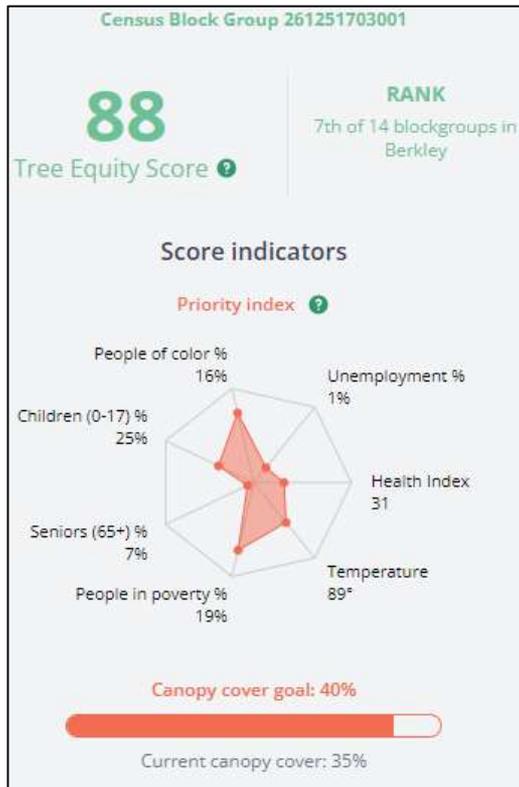
Census Blocks: '0003; '0002



Note: Census Block "0002" is one of only 3 neighborhoods with Canopy Goal of 48%

City of Berkeley Tree Equity Score Indicators

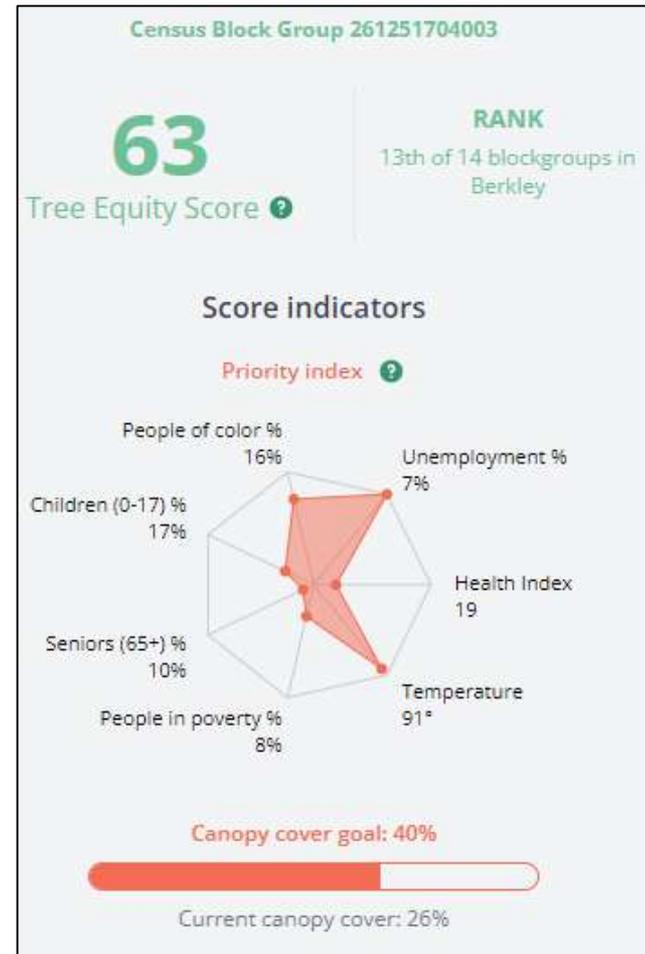
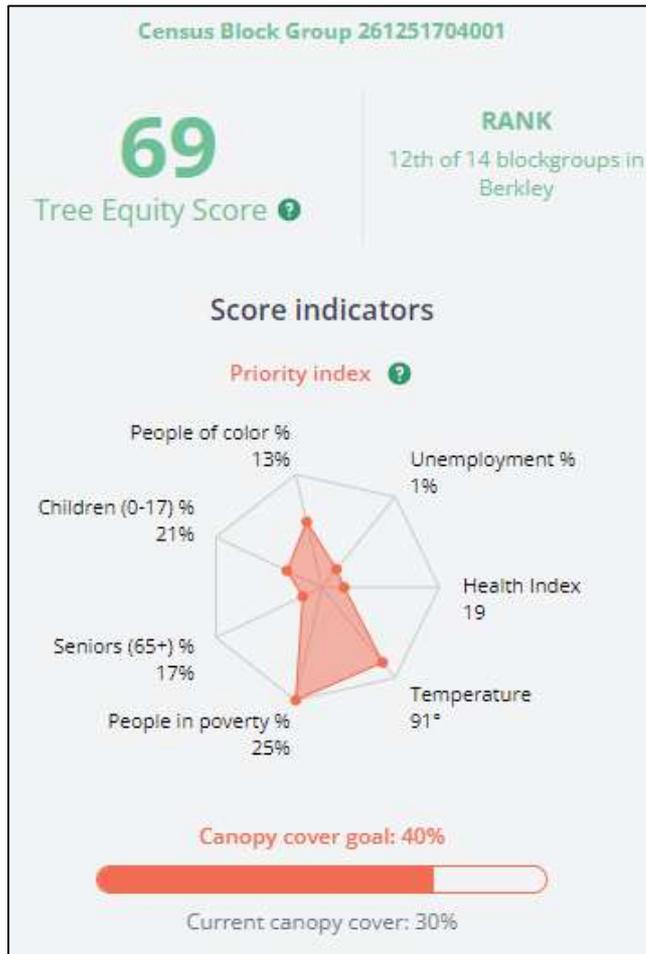
Census Blocks: '3001; '3002



Note: Census Block "3002" is one of only 3 neighborhoods with Canopy Goal of 48%

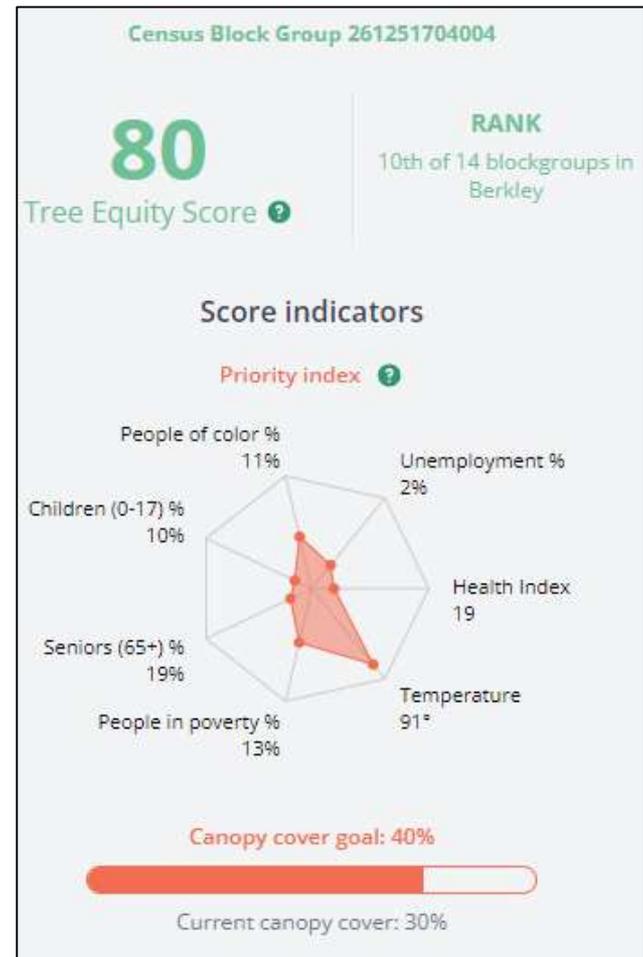
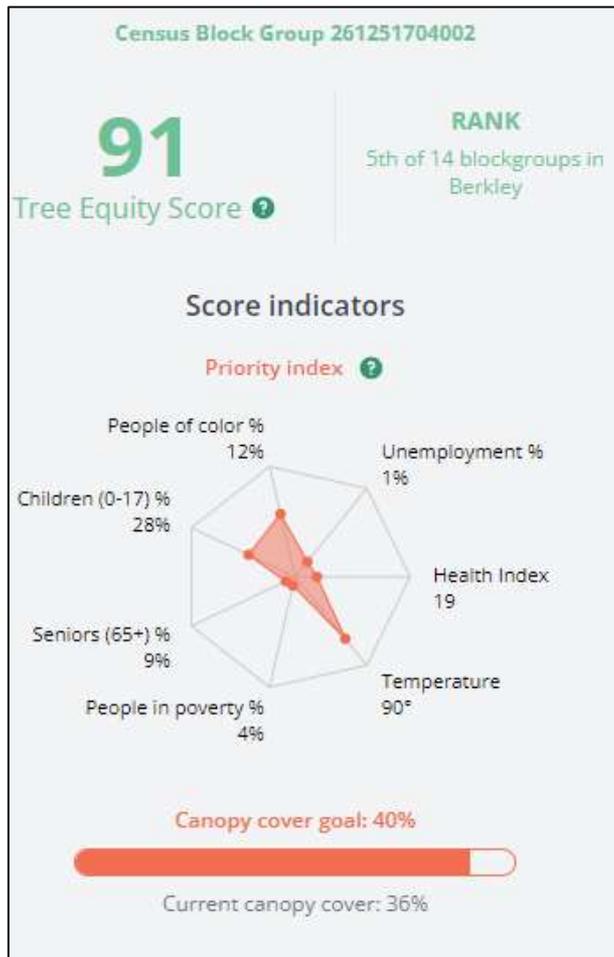
City of Berkeley Tree Equity Score Indicators

Census Blocks: '4001; '4003



City of Berkeley Tree Equity Score Indicators

Census Blocks: '4002; '4004





Memo

To: Mayor Terbrack and City Council
 From: Matthew Baumgarten, City Manager
 Date: December 5, 2022
 Subject: Subcommittee Recommendation- City Council Vacancy

Mayor and Members of City Council,

The City Council Subcommittee tasked with reviewing applications for the City Council vacancy met at 1:30 pm on December 1, 2022 in a public meeting in the Council Chambers. The subcommittee members, Mayor Pro Tem Dean and Councilmembers Baker and Vilani, reviewed each application based upon the following criteria: 1) Community/Municipal Engagement, 2) Professional Experience, and 3) Background and Diversity. Each of subcommittee members reviewed the applications individually and scored them numerically on a 1 through 3 scale.

Rank	Name	Community and Municipal Involvement				Professional Experience				Background and Diversity				Aggregate Score
		A	B	C	Comp	A	B	C	Comp	A	B	C	Comp	
1	Clarence Black	2	2	2	2	3	3	2	2.667	3	3	3	3	7.6667
2	Maria Ward	3	2	3	2.667	3	2	1	2	2	2	3	2.333	7.0000
3	Michael Dooley	3	3	3	3	3	1	1	1.667	2	1	1	1.333	6.0000
	Erick McDonald	3	2	2	2.333	3	2	2	2.333	2	1	1	1.333	6.0000
5	Jacob Robinson	2	2	2	2	1	2	2	1.667	2	2	2	2	5.6667
	Stacey Stevens	1	1	2	1.333	2	2	2	2	2	2	3	2.333	5.6667
7	Cameron Rye	2	2	2	2	2	1	2	1.667	1	1	1	1	4.6667
	Charles Tyrrell	3	3	2	2.667	1	1	1	1	1	1	1	1	4.6667
9	Amna Rizvi-Toner	1	1	1	1	2	1	1	1.333	2	1	3	2	4.3333
10	Joel Ulferts	2	1	1	1.333	2	1	2	1.667	1	1	1	1	4.0000
11	Josh Stapp	1	1	1	1	2	2	1	1.667	1	1	1	1	3.6667
12	Kenneth Rosol	1	1	1	1	1	1	2	1.333	1	1	1	1	3.3333

Based upon the evaluations of the three subcommittee members, Clarence Black, Maria Ward, Michael Dooley, Erick McDonald, Jacob Robinson, and Stacey Stevens have been invited to make a speech during the December 5, 2022 regular meeting. The subcommittees recommendations are just that and a City Council member can request that any additional candidates be invited to the meeting as well to offer a speech before the City Council makes its appointment.

Thank you for your consideration on this item,

Matthew Baumgarten
 City Manager



Michael Smith <mdsmith@berkleymich.net>

Re: Berkley Boards and Commissions Application - CLARENCE BLACK

'CLARENCE BLACK' via Boards and Commissions <boards@berkleymich.net>

Sun, Nov 27, 2022 at 6:23 PM

Reply-To: CBLACK2176@yahoo.com

To: boards@berkleymich.net

Berkley Boards and Commissions Application

Full Name	CLARENCE BLACK
Current Address	Street Address: OAKSHIRE AVE
Email Address	
Cell Phone Number	
How many years have you lived in Berkley?	14
Indicate which Board/Commission committee this application is for:	City Council
If you selected more than one Board/Commission committee, please indicate which is your top choice down to your last choice.	N/A
Current Employer:	UNITED STATES ARMY
Current Occupation:	SOLDIER
Upload Resume	Clarence Black Resume Updated.doc
Please outline your specific qualifications for this appointment:	<p>12 years of operational and garrison military leadership experience to include two garrison commands and one operational (deployment) command. Trained, mentored and led over 500+ military personnel and supervised over \$22.5M of Department of Defense equipment.</p> <p>Experienced working with state, national and international government, law enforcement, humanitarian aid and human rights organizations. I currently sit on the boards for Emmanuel House Veteran Housing and Recovery Center and the James E. Hunter Foundation. I am an active contributor to former Detroit Tigers Manager Sparky Anderson's C.A.T.C.H charity for children and former Detroit Tigers pitcher Justin Verlander's "Wins for Warriors" charity.</p> <p>I am a 14-year resident of Berkley. My wife Lorrena (a 25-year Army veteran) and I currently have three daughters attending Berkley High School, and we are proud members of the Berkley African American Parent Network. Our family also served as volunteers during the</p>

11/28/22, 7:39 AM

City of Berkley Mail - Re: Berkley Boards and Commissions Application - CLARENCE BLACK

2022 Berkley Pride Block Party, and Lorrena and I recently served as guest speakers at the Veteran's Day program at Anderson Middle School.

MARIA F. WARD
Rosemont Road
Berkley, MI 48072

Linkedin.com/in/mariafward
Facebook.com/MariaFWard
Twitter.com/@MariaFWard

November 29, 2022

Honorable Mayor and Council
City of Berkley
3338 Coolidge Highway
Berkley, MI 48072

Dear Sirs and Mesdames:

I wish to apply and be considered for the Council vacancy, fulfilling Natalie Price's term through 2023. I have been a Berkley resident for more that 65 years and am delighted to live in a safe, clean and ever-growing community.

I have had the privilege of serving the City of Berkley over several years in a number of ways. I was appointed to and served on the Bicentennial Commission, which later transitioned to the Historical Commission. Later, I served on the Local Officers Compensation Commission. In the 1980's, when Council decided to establish a Board of Appeals, I was appointed to the initial board. I left the board due to work commitments, but always hoped to return. Recently, I was fortunate to be reappointed by your honorable body. I have enjoyed my time on the Board and feel that I am giving back to the community, which gives so much to me.

If you will notice from my resume, I worked for the City of Southfield for 16 years. Afterwards, I worked for Consolidated Rail Corporation (Conrail) for nine years interacting with over 600 communities resolving community issues and concerns with the railroad company. Later, during my time with General Motors Corporation, I served as the liason between GM Powertrain and the City of Pontiac. And while with the University of Detroit Mercy, I worked with the office of the Detroit Mayor to resolve an issue.

As you can see, I have extensive experience working for and with municipal governments and understand how important it is to serve the community and its residents. My strengths include consensus building, communications and a willingness to think outside-the-box. I believe that I can bring these skills to the Berkley City Council and be a contributing member to the Council. I am happy to answer any questions you may have regarding my experience. In advance, thank you for your consideration.

Sincerely,

Maria F. Ward

Maria F. Ward



Michael Smith <mdsmith@berkleymich.net>

Re: Berkley Boards and Commissions Application - Michael Dooley

'Michael Dooley' via Boards and Commissions <boards@berkleymich.net>

Tue, Nov 29, 2022 at 8:41 AM

Reply-To: mtdooley@comcast.net

To: boards@berkleymich.net

Berkley Boards and Commissions Application

Full Name	Michael Dooley
Current Address	Street Address: Harvard , Berkley 48072
Email Address	
Cell Phone Number	
How many years have you lived in Berkley?	33 years
Indicate which Board/Commission committee this application is for:	City Council
If you selected more than one Board/Commission committee, please indicate which is your top choice down to your last choice.	City council
Current Employer:	Parkrite wayne
Current Occupation:	Operation manager
Please outline your specific qualifications for this appointment:	I have had the pleasure of serving the families of our city for 22 years. Past president and current board member of berkley dads club Currently on the parks and rec board for a second time.



Michael Smith <mdsmith@berkleymich.net>

Re: Berkley Boards and Commissions Application - Erick McDonald

'Erick McDonald' via Boards and Commissions <boards@berkleymich.net>

Tue, Nov 29, 2022 at 11:34 AM

Reply-To: ramble0715@yahoo.com

To: boards@berkleymich.net

Berkley Boards and Commissions Application

Full Name	Erick McDonald
Current Address	Street Address: Beverly Blvd., Berkley MI 48072
Email Address	
Cell Phone Number	
How many years have you lived in Berkley?	Ten years
Indicate which Board/Commission committee this application is for:	City Council
If you selected more than one Board/Commission committee, please indicate which is your top choice down to your last choice.	N/A
Current Employer:	Retired/Self Employed
Current Occupation:	Retired Police Lt. / Licensed Builder
Upload Resume	Erick Mcdonald.docx
Please outline your specific qualifications for this appointment:	<p>As a retired Police Lt. of the largest County Sheriff's Office in Michigan, I have worked with various municipalities as well as the state of Michigan. This included management duties of large municipal operations with many employees. After recently retiring, I am operating my own business in Berkley.</p> <p>As a Berkley resident, currently serving on the Berkley Zoning Board of Appeals, and with its continuing education process, has given me insight to the inner-workings of the City of Berkley.</p> <p>I feel I am qualified to fill this vacancy for the remainder of the term, due to my long history in public service and continued dedication to this community.</p>



Michael Smith <mdsmith@berkleymich.net>

Re: Berkley Boards and Commissions Application - Jacob Robinson

'Jacob Robinson' via Boards and Commissions <boards@berkleymich.net>

Mon, Nov 28, 2022 at 10:39 PM

Reply-To: jacob.robinson412@gmail.com

To: boards@berkleymich.net

Berkley Boards and Commissions Application

Full Name	Jacob Robinson
Current Address	Street Address: Cummings Avenue
Email Address	
Cell Phone Number	
How many years have you lived in Berkley?	3-4
Indicate which Board/Commission committee this application is for:	City Council
If you selected more than one Board/Commission committee, please indicate which is your top choice down to your last choice.	N/A
Current Employer:	Teach For America Detroit
Current Occupation:	Managing Director, Strategic Initiatives and Network Strength
Upload Resume	Jacob Robinson Resume 2022 PDF.pdf
Please outline your specific qualifications for this appointment:	<p>Since moving to Michigan in 2014 to teach in Detroit, I have strived to build an inclusive, kind community in all aspects of my life; through my job and in the community I live. This has led my husband and I to Berkley about four years ago in our first home. In those four years, I have joined the Citizens Engagement Advisory Committee, volunteered for Berkley Pride, became the lead planner for our annual block party, and became elected as an Oakland County Democratic Delegate. Berkley's "neighbor-ly" culture has been an immense factor as to why we have fallen in love with this city. All of these things have positioned me to be able to leverage my community outreach muscle for this appointment.</p> <p>In my day job as a Managing Director of Strategic Initiatives and Network Strength, I engage regularly with the type of responsibilities a council member must engage with, such as budgeting, contracts, day to day operations, detailed memos, and agreements while also weighing public will, liability, and legal responsibility.</p>

Additionally, my experience as a teacher union chair and lead negotiator for our contract has afforded me extensive experience and knowledge with labor law. My job also allows me the flexibility to be fully engaged if I was selected for this appointment and encourages it. My service to this city, identity as a LGBTQIA+ person, and professional background and experience provide a unique perspective that I think is needed for our city council. I look forward to engaging more in this process and to building stronger relationships with current council members and city officials.



Michael Smith <mdsmith@berkleymich.net>

Re: Berkley Boards and Commissions Application - Stacey Stevens

'Stacey Stevens' via Boards and Commissions <boards@berkleymich.net>
Reply-To: slsteven@umich.edu
To: boards@berkleymich.net

Mon, Nov 28, 2022 at 9:40 PM

Berkley Boards and Commissions Application

Full Name	Stacey Stevens
Current Address	Street Address: Royal Ave
Email Address	
Cell Phone Number	
How many years have you lived in Berkley?	Since 2008
Indicate which Board/Commission committee this application is for:	City Council
If you selected more than one Board/Commission committee, please indicate which is your top choice down to your last choice.	N/A
Current Employer:	Michigan Roundtable for Diversity and Inclusion
Current Occupation:	Director of Programs
Upload Resume	StaceyStevensResume2022.pdf
Please outline your specific qualifications for this appointment:	<p>I have been engaged in civic participation and community organizing for over 20 years. Since I moved to Berkley, and began working with the Roundtable, I have been supporting community organizing work across the region. In addition, I participated in a citizen planning committee for the City of Berkley. In December 2021 I graduated from University of Michigan School of Social Work with a MSW degree in community change. This experience has given me theoretical and practical perspective into community development.</p> <p>I believe in civic participation as a form of building and maintaining free and democratic societies where all people have a right to live to their fullest potential. I have lived in Berkley for almost 15 years and love that I am living in a community that overwhelmingly supports these ideals.</p>

December 5, 2022 City Council Meeting

Moved by Councilmember _____ and seconded by Councilmember _____ to approve the partnership with DG Energy Company LLC, 42690 Woodward Ave Suite 360, Bloomfield Hills, MI 48304 to provide and install two(2) Level 2 EV chargers at the Public Library at a cost not to exceed \$49,169.00. In addition, allocate \$5,000 for contingencies. Funds for this expenditure will come from account 101-265-974-000.

Ayes:

Nays:

Motion:

Transmittal Memo

To: Matthew Baumgarten, City Manager (via email)

cc: Mark Pollock, Finance Director (via email)

From: Alex Brown, Facilities Manager

Date: November 30, 2022

Subject: Approval of partnership with DG Energy Company LLC to install EV charging stations.

I am very excited to announce our partnership with DG Energy to furnish and install two (2) EV charging stations at the Berkley Library.

This partnership will allow the City of Berkley to fulfill a major objective set forth in the 2019 Energy Plan.

I am recommending the approval of the proposal from DG Energy Company, LLC at a cost not to exceed \$ 49,169.00. Also, I am recommending \$5000 in contingencies. These funds were allocated in the FY 2022-2023 budget and will be coming from account 101-265-974-000. As part of the DTE EV charging program, the city will be eligible for a \$8000 rebate.

As always, do not hesitate to contact me with any questions regarding this matter.

ELECTRIC VEHICLE MARKET UPDATE – DTE Charging Forward Annual Status Report

Industry Updates Despite supply chain issues, specifically around semiconductor chips, vehicle sales within the overall automotive market finished up 3% last year. The EV market outperformed the overall market significantly, with plug-in hybrids (PHEVs) up almost 150% and battery electric vehicles (BEVs) up over 80%. Two recent trends point to even more optimism for the EV market. First, the last four months of available data (November 2021 – February 2022) are the four highest months for EV share of U.S. vehicle sales in history, reaching over 6%. Second, even after massive year over year increases in 2021, the first two months of EV sales in 2022 are up a combined 63% over those months in 2021.

A big reason the EV market is performing so strongly is the increased availability of models from which consumers can choose. In Q1 of 2021, there were about 20 EV models available for purchase; in just one year, that number increased to over 50. Including the much anticipated launch of the Ford F-150 Lightning on April 26th, the number of available models is expected to be 70 by the end of 2022, giving consumers even more options of EVs that fit their daily needs.

Although impacts from COVID-19 and supply chain disruption slowed the decline of battery prices in 2021, the cost for lithium-ion battery packs still achieved a 6% reduction from \$140/kWh in 2020 to \$132/kWh in 2021. While continued battery price improvements may not materialize as quickly as once believed, Bloomberg New Energy Finance still expects price parity for small to mid-sized EVs and their combustion engine counterparts to happen sometime between 2024 and 2026.

In addition to exciting new model launches and continued battery improvements, there are two legislative bills that could accelerate the EV market even faster: the **Bipartisan Infrastructure Law** (BIL, signed into law Nov 2021) and the Build Back Better Act (not yet passed). First, through the **National Electric Vehicle Infrastructure** (NEVI) portion of the BIL, a minimum of \$7.5 billion will be deployed over the next five years to fund a direct current fast charging (DCFC) network, an unprecedented amount of funding for EV charging. While the future of the Build Back Better Act uncertain, the potential of extending and/or increasing the federal tax incentive for EVs would undoubtedly further spur the market.

Michigan Trends

In Michigan, 2021 EV sales more than tripled those from 2020. In Southeast Michigan (DTE Electric's service territory), that trend held, and sales also finished 11% higher than EV sales from the previous three years combined. An interesting shift toward PHEVs happened across the state: the portion of EV sales that were PHEVs rose from 18% in 2020 to 38% in 2021. Over half of PHEV sales came from the newly-released Jeep Wrangler 4xe – another indication that as EV models enter larger vehicle segments, EV adoption will continue to grow. Michigan now has ~31,500 EVs in the state, with ~21,200 (67%) of them in DTE Electric's service territory.

Although the rate of adoption varies significantly across forecasts, both near- and long-term forecasts for EV sales in Michigan show increasing levels of adoption. DTE is projecting that EVs will be 10% of vehicles on the road and 22% of new sales in Michigan by 2030 (up from 4%-8% and 9%-14%, respectively, in the 2021 Annual Status Report). This new adoption curve would increase EVs in Michigan from ~31,500 on the road today to nearly 700,000 in 2030.

Similar to national policy impacts, Michigan policy could also accelerate the EV market. At least \$110 million of the NEVI funds will be dedicated to high-powered, corridor DCFC infrastructure in the state, helping to address the barrier of range anxiety. Governor Whitmer has also proposed state rebates up to \$2,500 for EVs and home chargers, which would help address the barrier of upfront price premium if passed.



D G Energy Company LLC
 42690 Woodward, Suite 360
 Bloomfield Hills Mi 48304
www.dgenergy.net
 O.248.454.1025

Date	Est #
11/29/22	CoB-001

P.O. #	Project	Terms
	1	

Item	Description	Qty	Rate	Total
EVCS MidCour EV Charge	EVCS Chargers, Installation, Energize, Program & Clean up			
	MC-AX 48A LAN, 4G, RFID Cards, OCPP Support, Level -Dual Pedestal Base Level 2 EV Charging Stations -5m cable with management	2	\$7,158	\$14,316
	-Network Services-L2-(3) years.... Per port	4	\$875	\$3,500
	-One time activation fee...Per port	4	\$60	\$240
	Public Library EV Charging Stations Installation			
	Labor, materials including a new additional 400A panel, the required 40A breakers, all the pipe and wire, (2) elevated cement pads, and the permits necessary for (2) dual-port EV charging stations Labor costs associated with above listed project - (2) 150' runs of conduit with 5 runs of wire - (1) 400A panel with breakers included - (2) cement bases - permit - Post Guard / Bollards - BDB 4-42 bolt-down bollard, schedule 40 steel, 4" x 42", powder coat yellow, anchors and lag bolts	1	\$27,613	\$27,613
	City Plan Review	1	\$3,500	\$3,500

Subtotal-Gross		\$49,169.00
"This invoice / contract serves as a Notice of Commencement and a Lien of Furnishings." Subject to manufacturer's published terms and conditions of sale, and Warranties Apply unless otherwise noted. Prices are for material provided in estimate; also, all taxes unless otherwise noted. Pricing is based on an order for the complete bill of material. A 1-1/2% Service Charge 18% per annum fee if a account becomes more than 15 days past due. All claims and returned goods MUST be accompanied by estimate # CoB-001		Potential Rebate
		\$8,000
		Total-Net Rebate
		\$41,189.00
		Shipping
		TBD
		Sales Tax
		TBD
*MidCour requires 50% deposit upon order with balance due upon shipping		*Deposit (EVCS ONLY)
		50% Upon Order (\$9,028)

Five ways retail stores can boost sales with EV charging



What can make or break a customer's decision to choose one retail store over another? The ease of parking is often a factor. But as the electric vehicle (EV) market continues to grow — according to a 2021 BloombergNEF report, globally there are now more than 12 million passenger EVs on the road — drivers' decisions about where to shop will start to be based on whether a store offers EV charging. Because EV drivers tend to have higher [incomes](#) on average and are often loyal to places where they can charge, they can become a brand's most valuable customers. With 74% of global new car sales predicted to be electric by 2040, it's time for retail stores to get ready to accommodate EVs.

Here are five ways EV charging can help retailers boost sales.

1. Attract EV drivers

So what does [EV charging do for retail stores](#) besides let people plug in? Many people drive and park for their retail shopping trips — so many that the number of cars in lots is being used [to predict market performance](#) for retail companies. EV drivers obviously need to park, too, and they prefer to do it where they can charge. As EV market share keeps growing, EV charging will become a key investment for retailers that want to attract EV drivers.

2. Increase customer spend

Charging not only attracts customers but can also increase the amount of time and money they spend in a store. One major retailer found that shoppers spent about a dollar for every minute they were in the store. By adding EV charging, the retailer tripled customers' time in their store and, at the same time, tripled customer spend. Now that's a good deal.

3. Put your store on the map

EV charging also puts stores on the map — literally. EV drivers rely on [EV charging apps](#) to quickly find places where they can charge, including retail stores that offer charging. Because EV drivers tend to charge their cars while they shop, having charging available can convince drivers to choose a store over a competitor's location.

4. Create customer connections

With [smart EV charging](#) that lets drivers interact with stations online or in a mobile app, retailers can create virtual "Connections" to drivers who use their stations. This just requires drivers to submit a simple connection request in the app and allows retail organizations to learn more about who's using their stations and when, giving them new insight into their customers.

5. Offer special deals to EV drivers

Retailers can build on these customer connections by developing loyalty programs that cater to EV drivers. Giving EV drivers special deals can bring them back to charge (and shop) even more often. Some sample offers that companies have created include free charging, free stays at hotels and even free wine tastings.

What [types of EV charging](#) work best for retail? ChargePoint customers have found that a mix of Level 2 and DC fast charging can be appropriate for many retail locations, especially malls with many different types of stores. Level 2 charging is a good choice for retail locations that offer multiple options, including dining, theatres and multiple types of stores. DC fast charging helps bring in customers who make a few purchases while they get a quick charge. Both types of charging can play an important role in better serving retail customers.

City of Berkley-Finance Department

Memorandum

From: Mark Pollock, Finance Director
Date: November 29, 2022
Subject: CDBG Public Hearing and Application for Program Year 2023

The City of Berkley will participate with the Community Development Block Grant funding program as outlined by the Federal Government and administered by Oakland County. Our projected allotment of CDBG program funds for 2023 is \$35,012.

The City of Berkley receives its Community Development Block Grant (CDBG) funds as a sub-recipient of Oakland County, provided by the U.S. Department of Housing and Urban Development (HUD) to keep communities sound, attractive, and economically viable. Oakland County puts additional requirements on its sub recipient communities to ensure that the funds are programmed for eligible activities that best meet community needs.

For example, only four (4) projects may be programmed per year, and no more than 30% of the total yearly allocation can fund public service projects (services to households or individuals rather than brick and mortar improvements). There is also a minimum threshold a community can allocate per project; \$3,500. This minimum threshold increased a few years ago, as the previous minimum was \$3,000.

Oakland County requires all participating communities to attend a yearly CDBG workshop. This year, the CDBG workshop was held on October 19, 2022.

After reviewing the programmed projects over the past several years and in consultation with City Directors and the City Manager, we recommend the following projects and funding levels for Program Year 2023.

Remove Architectural Barriers (Sidewalk Replacement) \$24,509

Parks and Recreation would benefit from this project. In PY2021, we re-programmed funds to replace the sidewalks in the Tot Lot Playground and completed those sidewalks in 2022. We have identified other sidewalks in City parks that need to be removed, replaced, and brought into compliance with the Americans with Disabilities Act.

Public Services (Yard Services) \$3,503

This project will fund the snow shoveling maintenance for income-qualified senior residents in Berkley and is facilitated through the Parks and Recreation Department.

Public Services (Disabled Services) \$3,500.

This project will fund the purchase of large print books for the City Library. Over the past year, the Berkley Library purchased 140 large print books and circulated about 1,550 large print books. .

Public Services (Battered and Abused Spouses) \$3,500.

This project will fund a contribution to HAVEN and its programs for Berkley residents. HAVEN provides shelter, counseling, advocacy and educational programming for victims of domestic violence and sexual assault. HAVEN services nearly 30,000 people each year.

A public hearing has been advertised and scheduled for the December 5, 2022 City Council meeting.

If you have any questions, I am happy to discuss the proposed funding allocations and project descriptions prior to the meeting date.

A RESOLUTION
Of the Council of the City of Berkley, Michigan
Adopting the Community Development Block Grant
Program Application for the 2023 – 2024 Fiscal Year

WHEREAS, under the Housing and Urban – Rural Recover 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, the Berkley City Council has determined to establish a one-year plan of activities based upon the City's demonstrated needs and desires of the Community; and

WHEREAS, the City of Berkley has demonstrated its intent to minimize displacement, affirmatively further fair housing and provide for citizen opportunity in the development of the 2023 – 2024 CBDG Grant proposal through the public hearing process; and

WHEREAS, the City of Berkley herein recommends the following activities that have been proven to enhance the living environment of low and moderate income families, senior citizens and handicapped populations, as well as the entire community pursuant to the Statutory Objectives in the Housing and Community Development Act of 1974 (Pub. L. 93-383), by the Housing and Community Development Act of 1980 (Pub. L 96-399), and the Housing and Community Development Amendments of 1981 (Pub. L 97-355); and

WHEREAS, the County of Oakland has estimated that the City of Berkley will receive \$35,012 in CDBG funding for the 2023-2024 federal fiscal year; and

WHEREAS, it is the intent of this Council to submit a proposal of program priorities for the use of these proposed federal CDBG funds for the 2023 – 2024 federal fiscal year;

Activity Number	Activity Description	Amount
172170-731619	Remove Architectural Barriers	\$24,509
172160-732170	Public Services (Yard Services)	\$3,503
172160-730535	Public Services (Disabled Services)	\$3,500
172160-730137-40620	Public Services (Battered and Abused Spouses)	\$3,500
TOTAL		\$35,012

NOW, THEREFORE, THE CITY OF BERKLEY RESOLVES:

SECTION 1: That the following proposal of program priorities and corresponding funding levels be submitted the City of Berkley 2023 – 2024 CDBG Fiscal Year Application;

SECTION 2: That the City Manager be authorized and directed to prepare and submit the 2023 – 2024 Community Development Block Grant Program Application to the County of Oakland for the City of Berkley.

Introduced and Passed at a Regular Meeting of the Berkley City Council on Monday, December 5, 2022.

Daniel J. Terbrack, Mayor

Attest:

Victoria Mitchell, City Clerk

December 5, 2022 City Council Meeting

Moved by Councilmember _____ and seconded by Councilmember
_____ to consider an update to the City of Berkley's Fund Balance Policy.

Ayes:

Nays:

Motion:



CITY OF BERKLEY

3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

Fund Balance Policy

Draft Presented to City Council on December 5, 2022

Purpose

The purpose of this policy is to specify the size and composition of the City's desired fund balance and to identify certain requirements for classifying fund balance in accordance with the Governmental Accounting Standards Board (GASB) Statement No. 54. It is essential that the City maintain adequate levels of unassigned fund balance to mitigate risk that can occur from unforeseen revenue fluctuations. The fund balance also provides cash flow liquidity for the City's general operations and working capital.

Definitions

Fund balance is created from excess revenues over expenditures. There are five components of fund balance, namely:

1. **Non-spendable Fund Balance:** Assets that are not available in a spendable form such as inventory, prepaid expenditures, and long-term receivables not expected to be converted to cash in the near term. It also includes funds that are legally or contractually required to be maintained intact such as the corpus of a permanent fund or foundation.
2. **Restricted Fund Balance:** Amounts that are required by external parties to be used for a specific purpose. Constraints are externally imposed by creditors, grantors, contributors or laws, regulations or enabling legislation.
3. **Committed Fund Balance:** Amounts constrained on the use imposed by formal action of the City Council.
4. **Assigned Fund Balance:** Amounts intended to be used for specific purposes as determined by the City Council or a delegated committee and/or municipal official.
5. **Unassigned Fund Balance:** All other resources; the remaining fund balance after non-spendable, restrictions, commitments, and assignments. This class only occurs in the General Fund, except for cases of negative fund balances. Negative fund balances are always reported as unassigned, no matter which fund the deficit occurs in. Only the General Fund can report a surplus, an *Unassigned Fund Balance*.

Funds Maintained by the City of Berkley

The City of Berkley maintains fourteen separate funds as part of the overall budget of the city. Funds are divided for reasons on such as overall purpose, revenue source, and to meet applicable accounting standard. Each fund is numbered according to GAAP Standards. These funds include:

101	General	470	Sidewalk
202	Major Street	592	Water & Sewer
203	Local Street	614	Recreation Revolving
226	Solid Waste	615	Senior Activities
266	45A District Court	690	Benefits
275	CDBG	732	PSO Pension
313	Road Millage	814	DDA

Because various funds serve different purposes, a single fund balance policy cannot be applied to all City funds. As such, the City of Berkley's policy applies specific standards to different fund types separately.

General Fund Policy

Given the revenue sources and the broad purpose served by the City's General Fund, this section of the policy is most extensive. This fund balance policy is focused on the appropriate level of General Fund Unassigned Fund Balance, Non-spendable and Restricted fund balances are not available for spending due to external enforceable conditions.

Utilization of Unassigned Fund Balance

The City Manager and Finance Director make recommendations to the City Council on use of the Unassigned Funds both as an element of the annual budget submission and from time to time throughout the year as needs may arise. Recommendations will note any state or federal legislation that is applicable in how the unassigned fund balance can be utilized. Except in extraordinary circumstances, Unassigned Fund Balance should not be used to fund any portion of the ongoing and routine year-to-year operating expenditures of the City. It should be used to respond to unforeseen emergencies, to provide cash flow, and to provide overall financial stability.

Minimum Fund Balance: 20%

Fund Balance will be a minimum year end Unassigned Fund Balance of at least 20% of the average of the past three fiscal year general fund expenses. The calculation of expenditures will include recurring transfers but should exclude large, one-time transfers. Maintaining at least two months or 16% of Unassigned Fund Balance is generally considered by the Governmental Finance Officers' Association (GFOA) to be a best practice. Twenty percent or below will indicate an emergency or financial distress which shall be reported to the City Council with a corrective action plan. A super majority vote of the Council will be required to budget or expend the Unassigned Fund Balance, if it will result in it going below the minimum fund balance threshold.

When fund balance approaches its minimum threshold the following measures, in priority order, shall be used to build up fund balance:

1. Amend budget to cut or delay pay-as-you-go capital improvements from the Capital Improvement Program (CIP).
2. Amend budget to cut general operating expenses.
3. Approve a transfer of funds that have previously been moved from General Fund to other funds back to the General Fund.

Replenishment: If the City goes below the Minimum Fund Balance, the City will fully replenish the Unassigned Fund Balance to the minimum threshold within two years as part of the multi-year budget proposal.

Target Fund Balance: 25-35%

For the General Fund, the budget shall be prepared and activities managed to result in a year end Unassigned Fund Balance of between 25% - 35% of the average of the past three fiscal year general fund expenses. The calculation of expenditures will include recurring transfers but should exclude large, one-time transfers.

Maximum Fund Balance: 40%

In the event that year end Unassigned Fund Balance exceeds the maximum of 40% of the average of the past three (3) fiscal year general fund expenditures. The calculation of expenditures will include recurring transfers but should exclude large, one-time transfers.

When fund balance approaches its maximum threshold the following measures, in priority order, shall be used to reduce fund balance. These options are shown in order of priority, however, the City Council may choose to provide additional monies to any combination of these options.

1. Contribute additional funds to MERS Employee Defined Benefit pension.
2. Contribute additional funds to remaining Other Post Employment Benefit liabilities.
3. Pre-fund or accelerate capital improvements in the CIP by transferring funds to the Capital Improvement budgets.
4. Move up the debt schedule for existing bond payments to lower the City's debt burden.
5. Reduce the millage rate.

Major and Local Road Fund Policy

The revenues for both of these accounts some from State allocations. Public Act 51 revenues from gas taxes provide the major source of revenue in each of these funds. These are accounted for as standalone funds because the Michigan Department of Transportation does restrict the use of these funds for specific transportation purposes.

Both the Major and Local Street Funds are project-oriented based on their nature of operations. As such, the City adopts a targeted range without an overall minimum and maximum. The strategy of the Major and Local Street Funds are to accumulate reserves over a number of years to help fund a larger project for transportation purposes. Although there may be several years of minor projects in the budget for the street funds, saving for a future larger project may cause fund balance reserves to exceed between 200% and 350% of annual expenditures to complete, or contribute toward that larger planned project.

Target Fund Balance: 50-75%

For Unassigned funds, those not being accumulated for a specific project, a fund balance reserve range between 50% and 75% of average annual expenditures is adopted in this policy. Under normal operating circumstances for standard maintenance of transportation assets, a 50%-75% fund balance target reserve policy would allow sufficient reserve to protect from an unplanned project or an emergency repair.

When fund balance approaches 75%, the following measures, in priority order, shall be used to reduce fund balance. These options are shown in order of priority, however, the City Council may choose to provide additional monies to any combination of these options.

1. Administration should prepare a budget amendment to incorporate the excess Major and Local Street Fund reserve for an existing, largescale road project.
2. Allocate additional resources to pavement replacement project.
3. Fund a non-motorized transportation project in conjunction with Capital Improvement Plan and state statutes.

Solid Waste Disposal Fund Policy

The Solid Waste Disposal Fund received revenue from both taxes and fees levied for the specific purpose of rubbish, recycling, and yard waste collection. Currently, the City contracts indirectly for most of these services as a member of a multi-community entity called the Southeast Oakland County Resource Recovery Authority (SOCRRA).

Target Fund Balance: 20-40%

In the Solid Waste Disposal Fund a target fund balance reserve of between 20% and 40% is sufficient for unplanned expenses, or a clean-up caused by a weather-related emergency resulting in property damage leading to excess rubbish removal. The range can be lower than

other funds as membership in SOCRRA with other member communities protects us from most large unforeseen events which might cause an unplanned spike in expenses from our rubbish haulers.

Water & Sewer Fund Policy

Water and Sewer is an Enterprise Fund, we collect most of our revenue from rates charges to users of the water and sewer system. Rates evaluated and adjusted annually through the City's regular budgeting process and approved by the City Council. It is important to note that the majority of the revenues collected within this fund are pass-through costs from third-party providers of our water and sewer distribution and treatment. Specifically, the City purchases the water it provides to its residents from a multi-community entity called the Southeast Oakland County Water Authority (SOCWA) and pays the cost of treating the City's sewage and stormwater to the Oakland County Water Resource Commissioner's Office.

As an Enterprise Fund, the fund balance reserve in Water & Sewer is referred to as Retained Earnings. Since most of the Fund Balance (Retained Earnings) in Water & Sewer are actually infrastructure assets that are located in the ground in the way of water distribution lines and sewer disposal and treatment lines, this is not a good measurement of spendable reserves.

Targeted Working Capital Range: \$2 and \$3 Million

In 2017, the City developed a five-year water rate study via Plante Moran that provided a target reserve for a dollar figure known as "Working Capital." In that study, Plante Moran suggested that Berkley maintains a reserve for Working Capital of between \$2 and \$3 million on an annual basis as opposed to a percentage of operating costs.

Since the Water & Sewer Fund is an Enterprise Fund setting a Retained Earnings Policy Reserve is not feasible. However, continuing to maintain a Working Capital balance between \$2 and \$3 million is a good policy to adhere to. Since City Council approved that study back in 2017, the City has maintained the recommended reserve in Working Capital and will continue to do so as a matter of sound budget practice.

Policy Regarding Other Funds

If a Fund is not specifically mention in the policy above, no minimum, maximum, or targeted range has been applied. For all other funds maintained by the City, no policy is needed as it is not feasible to implement. In most cases, the function served by the fund does not require reserve or contingency resources. Specific to the City's Parks and Recreation Revolving Fund, the fund is currently reliant on General Fund Transfers-In to maintain solvency when large scale park or facility improvements are planned in the budget and Capital Improvement Plan. Outside of capital projects, the Parks and Recreation Department generally has programs that are fully self-sustaining, but far many more services/events which are funded through General Fund transfers.

Compliance with Policy

The Finance Director shall annually submit a report to the City Council outlining the status of the City's various components of the fund balance. This report shall be submitted as part of the budget process and updated after within 30 days of the annual financial audit. Administration will also note the expected effect of requested budget amendments to the General Fund's unassigned fund balance as they are presented to the City Council over the course of the fiscal year.

RESOLUTION

TEMPORARY OUTDOOR DINING/SEATING AND OUTDOOR SALES AND SERVICE AREAS TO ALLOW TEMPORARY ENCLOSURES IN THE OUTDOOR AREAS

At a regular meeting of the City Council of the City of Berkley, Oakland County, Michigan (the “City”), held on Monday, December 5, 2022.

PRESENT:

ABSENT:

The following resolution was offered by _____ and seconded by _____.

WHEREAS, The City of Berkley first explored the temporary relaxation and suspension of strict enforcement of certain City ordinances and regulations concerning outdoor dining and seating and other outdoor sales and services as a response to adverse impacts of COVID-19 to facilitate and promote restoration of economic activity and to assist local businesses; and

WHEREAS, the City of Berkley has had the opportunity to study the both the positive and negative aspects of outdoor dining and seating and other outdoor sales and services since initially adopting Resolution R-20-20 in June 15, 2020 and found there to be reason to continue the measure following the end of the pandemic; and

WHEREAS, These measures proved popular with those visiting, shopping, and dining in our downtown and provided a sense of vibrancy in our central business district which helped business owners utilize more of their space as well as make improvements to publicly owned assets of the City; and

WHEREAS, extending the temporary relaxation of ordinances and regulations concerning outdoor dining and seating and other outdoor sales and service areas will allow the City of Berkley to continue to explore permanent ordinance changes and/or development of public gathering spaces and the allowance of outdoor dining as a primary use; and

THEREFORE, the Berkley City Council resolves that effective immediately, and continuing through April 30, 2023 (unless sooner modified or terminated by further City Council resolution), all food and drink establishments and commercial retail sales or services businesses lawfully in existence in the City will be temporarily permitted to have and to operate outdoor dining/seating areas and outdoor sales and services areas in accordance with requirements, criteria, limits, standards, and conditions to be established by the City Administration, and further subject to the following:

1. Food and drink establishments and commercial retail sales or services businesses may temporarily add or expand an outdoor dining/seating area or commercial retail sales or services area into their associated private off-street parking areas by up to

50% of their current lawful useable floor area or by 30% of the existing parking area, whichever is less, and only as space and configuration permits;

2. Temporarily added or expanded outdoor dining/seating or sales and services area must not encroach into or obstruct fire lanes, fire hydrants, and connections; handicap parking spaces; public rights-of-way and alleys (except as closed by the City); pedestrian and bicycle paths and sidewalks, or barrier-free access and ramps;
3. Appropriate noise, odor, lighting, and other nuisance control measures must be implemented to prevent the outdoor dining/seating area or outdoor sales or service area from becoming a nuisance to nearby residents and businesses;
4. Temporary outdoor dining/seating or sales and services areas may include temporary structures, enclosures, or covers with or without lighting or heating elements to protect patrons and staff from cold or inclement weather. Such temporary structures and any lighting or heating elements will require permits and inspections to ensure safety.
5. Any establishment or business seeking to temporarily add or expand outdoor dining/seating areas or outdoor sales or services area pursuant to this Council Resolution must electronically submit a Temporary Outdoor Dining, Sales and Service Area application to the City's Community Development Department, and include a plan for the proposed outdoor dining/seating area or outdoor sales or services area depicting the location of the outdoor dining/seating or sales and services area and all tables, chairs, fixtures, and furnishings with dimensions and distances clearly marked for pedestrian paths and between tables and seating.
6. Temporary new or expanded outdoor dining/seating areas and outdoor sales or services areas shall include: (i) Hand sanitizing station(s) adjacent to the outdoor dining area; and (ii) Trash receptacle(s) and disinfecting wipes or other supplies for the cleaning of tables and chairs and high-touch points in the outdoor dining/seating and sales or services areas.

IT IS FURTHER RESOLVED that the City may authorize temporary use of municipal parking lots and certain public rights-of-way for use for outdoor dining/seating and outdoor sales or services, subject to:

1. A business interested in utilizing a municipal parking lot for the outdoor area for an adjacent business may submit an application and plot plan. Up to 25% of the municipal parking area may be made available for use for such outdoor area.
2. For businesses that do not have a private parking area available or a municipal parking lot adjacent to them, the City may close and allow the use of adjacent public rights-of-way for outdoor dining/seating or outdoor sales or service areas.

IT IS FURTHER RESOLVED that residential sides streets may be temporarily closed to provide large shared spaces for multiple businesses to use for outdoor dining/seating and outdoor sales or services. Major thoroughfares cannot be closed under this resolution.

December 5, 2022 City Council Meeting

Moved by Councilmember _____ and seconded by Councilmember _____ to authorize the Mayor and City Manager to Enter into an Updated Interlocal Agreement for Oakland County Designated Assessor.

Ayes:

Nays:

Motion:

**INTERLOCAL AGREEMENT FOR OAKLAND COUNTY TO APPROVE
THE DESIGNATED ASSESSOR FOR THE PERIOD January 1, 2023
THROUGH December 31, 2027**

Public Act 660 of 2018 requires a county to have a Designated Assessor on file with the State Tax Commission as of December 31, 2020. On December 29, 2020, Oakland County met this requirement, having a majority of the Assessing Districts in favor of the Equalization Officer serving as its Designated Assessor. On August 4, 2022, Oakland County Commissioners voted to retain Micheal R Lohmeier, MMAO as its new Equalization Officer for its Equalization Division, and as a result, the interlocal agreements were required to be revised. A majority of the Assessing Districts are in favor of the Equalization Officer serving as its Designated Assessor.

The following interlocal agreement (hereinafter “Agreement”) has been executed by the Board of Commissioners for Oakland County, a majority of the Assessing Districts in Oakland County, and the individual put forth as the proposed Designated Assessor. Oakland County and the Assessing Districts are collectively referred to throughout this Agreement as the “Parties.”

RECITALS

WHEREAS, The Assessing Districts are Municipal Corporations (cities and townships) located within the County of Oakland, in the State of Michigan;

WHEREAS, The Michigan Constitution of 1963, Article 7, Section 28 permits a political subdivision to exercise jointly with any other political subdivision any power, privilege or authority which such political subdivisions share in common with each other and which each might exercise separately;

WHEREAS, The Urban Cooperation Act of 1967, being MCL 124.505 *et seq*, and the Intergovernmental Transfer of Functions and Responsibilities Act, give effect to the Constitutional provision by providing that public agencies may enter into interlocal agreements to carry out their respective functions, powers and authority;

WHEREAS, P.A. 660 of 2018 requires each County to enter into an Agreement that designates the individual who will serve as the County’s Designated Assessor. That interlocal agreement must be approved by the County Board of Commissioners and a majority of the Assessing Districts in the County.

WHEREAS, P.A. 660 of 2018 mandates that the Designated Assessor shall be an advanced assessing officer or a master assessing officer.

NOW, THEREFORE, based on the foregoing Recitals, and in consideration of the terms of this Agreement, the Parties agree as follows:

BACKGROUND INFORMATION

Oakland County names **MICHEAL R. LOHMEIER (R-6101)**, in his official capacity as the Equalization Officer for Oakland County, as the Designated Assessor for all of the Assessing Districts within Oakland County¹. Included as an addendum to this Agreement are the Oakland County SEV totals by class, including special act values, those properties deemed unique or complex by a local Assessing District, and a listing of the total number of parcels, by classification, including special act rolls, within each Assessing District.

If the State Tax Commission (STC) invokes the Designated Assessor process for any Assessing District in Oakland County, the Parties agree that the Designated Assessor will perform the duties associated with being the Assessor of Record for an Assessing District at the Oakland County Equalization Division offices in the City of Pontiac, County of Oakland, State of Michigan, unless the duties of the Designated Assessor require on-site visits to the Assessing District's location.

QUALIFICATIONS OF DESIGNATED ASSESSOR

Micheal R. Lohmeier has been certified as a Michigan Master Assessing Officer since 2012. In his capacity as the Oakland County Equalization Officer, he is responsible for managing the Oakland County Equalization Division. Along with its statutory duties, the Equalization Division currently acts as the contracted Assessor of Record for thirty of the fifty-two Assessing Districts in Oakland County.

Micheal R. Lohmeier has disclosed any conflicts of interest involving the proposed Designated Assessor, the County, or any Assessing District, if applicable: **[NONE]**.

It is understood that Micheal R. Lohmeier will, during the length of this agreement, maintain his assessor certification in good standing with the State Tax Commission and if required to serve as the Designated Assessor for an Assessing District in Oakland County shall act as the Assessor of Record for that Assessing District. When acting as the Assessor of Record for an Assessing District, the Designated Assessor shall meet all the requirements as set forth by the State Tax Commission's *Supervising Preparation of the Assessment Roll* approved by the State Tax Commission August 21, 2018.

Any additional requirements that are agreed to by the Designated Assessor, the County and the Assessing Districts may not conflict with the State Tax Commission's *Supervising Preparation of the Rolls*.

¹ Oakland County contains 52 Assessing Districts (cities and townships), two of which (City of Fenton and City of Northville) are not considered to be "in" Oakland County for purposes of MCL 211.10g as the largest share of their state equalized value is located in another county.

A list of the remaining 50 Assessing Districts can be found here:
<https://www.oakgov.com/mgtbud/equal/Pages/assessing-offices.aspx>

1.0 DUTIES AND RESPONSIBILITIES OF DESIGNATED ASSESSOR

- 1.1 The Designated Assessor, while serving as the Assessor of Record for an Assessing District within Oakland County, shall satisfy all requirements contained State Tax Commission's *Supervising Preparation of the Assessment Roll* approved by the State Tax Commission August 21, 2018.
- 1.2 Within 30 (thirty) days of being appointed as the Assessor of Record for the Assessing District by the STC or the voluntary election by the Assessing District to utilize the Designated Assessor, the Designated Assessor shall prepare and transmit to the Assessing District's supervisor, manager, or chief executive a detailed proposal, including a schedule for delivery of documents, to correct deficiencies identified by the STC's audit.
- 1.3 The Parties agree that the Designated Assessor, while serving as the Assessor of Record for an Assessing District, shall do the following things, as applicable to bring the Assessing District into compliance with the Audit of Minimum Assessing Requirements:
 - 1.3.1 Make assessments of real and personal property within the Assessing District;
 - 1.3.2 Appraise all property, process all real and personal property description changes, and prepare the assessment roll for real and personal property in the Assessing District;
 - 1.3.3 Attend (or have a designee attend) all March, July, and December Board of Review meetings;
 - 1.3.4 Be available for consultation on all Michigan Tax Tribunal real and personal property and special assessment appeals, and assist the Assessing District in the preparation of both the oral and written defense of appeals;
 - 1.3.5 Prepare all necessary reports for review by the supervisor, manager, chief executive, board, or council of the Assessing District, as applicable;
 - 1.3.6 Performs any other duties required under PA 660 of 2018.
- 1.4 For an Assessing District employing assessing staff other than the Assessor of Record, assessing staff will conduct their duties as under the direction and supervision of the Designated Assessor, subject to any limitations as may be agreed by the applicable Assessing District and the Designated Assessor. However, no members of said assessing staff will become employees or independent contractors of Oakland County.
- 1.5 While not acting in the capacity as the Designated Assessor for an Assessing District, the Designated Assessor will have the following duties and responsibilities for Oakland County and the Assessing Districts within Oakland County: Equalization Officer.
- 1.6 The parties understand and agree that the duties outlined in this Agreement only apply if and when the Designated Assessor is required, or the Assessing District chooses to request the Designated Assessor, to take over the assessing duties for an Assessing District

pursuant to the terms of PA 660 of 2018. This Agreement will have no effect on any pre-existing agreements that the parties may have, under which Oakland County performs contracted assessing services for the Assessing District.

2.0 DUTIES AND RESPONSIBILITIES OF ASSESSING DISTRICTS

2.1 Any Assessing District in Oakland County that is required to utilize the services of the Designated Assessor will, during the period the Assessing District is required to or chooses to utilize the services of the Designated Assessor, do the following:

2.1.1 Provide the Designated Assessor with reasonable access to records, documents, databases and information in order to allow the Designated Assessor to serve as the Assessor of Record for the Assessing District and satisfy all requirements *Supervising Preparation of the Assessment Roll* approved by the State Tax Commission August 21, 2018.

2.1.2 Furnish the Designated Assessor with any applicable policies and procedures that the Designated Assessor may be subject to during the period of time the Designated Assessor serves as the Assessing District's Assessor of Record.

2.1.3 Provide, while the Designated Assessor or his designee is physically working on behalf of the Assessing District and within the geographical boundaries of the Assessing District, any technology, equipment, and workspace necessary for the Designated Assessor or his designee to carry out their requirements under this Agreement.

2.2 The Assessing District shall, at all times and under all circumstances, remain solely liable for any and all costs, legal obligations, and/or civil liabilities associated with or in any way related to any Assessing District tax appraisal or assessment functions or any other Assessing District legal obligation under any applicable State Property Tax Laws. The Assessing District shall employ and retain its own legal representation, as necessary, to defend any such claim or challenge before the State Tax Tribunal or any other court or review body.

2.3 Except for those express statutory and/or regulatory obligations incumbent only upon licensed Equalization Division Personnel (i.e., State Licensed and Certified Real and/or Personal Property Tax Assessors) to defend property tax appraisals and assessments that they either performed, or were otherwise performed under their supervision, before the Michigan Tax Tribunal, the Parties agree that no other County employees, including any County attorneys shall be authorized, required and/or otherwise obligated under this Agreement or pursuant to any other agreement between the Parties to provide any legal representation to or for the Assessing District and/or otherwise defend, challenge, contest, appeal, or argue on behalf of the Assessing District before the Michigan Tax Tribunal or any other review body or court except to the extent the matters have been traditionally and previously handled by assessing staff, such as, but not limited to, Michigan Tax Tribunal small claims division hearings and matters before the State Tax Commission.

2.4 The Assessing District shall, at all times and under all circumstances, remain solely liable for any and all costs, legal obligations, and/or civil liabilities associated with or in any way related to any tax appraisal or assessment functions or any other legal obligation. The Assessing District agrees that under no circumstances shall the County or the Designated Assessor be responsible for any costs, obligations, and/or civil liabilities or any responsibility under any State Property Tax Law.

3.0 DESIGNATED ASSESSOR COMPENSATION

3.1 The Designated Assessor may charge an Assessing District that is required to contract with the Designated Assessor and that Assessing District shall pay for the reasonable costs incurred by the Designated Assessor in serving as the Assessing District's Assessor of Record, including, but not limited to, the costs of overseeing and administering the annual assessment, preparing and defending the assessment roll, and operating the assessing office.

3.2 If the Designated Assessor is required to serve as the Assessor of Record for an Assessing District within Oakland County, the parties understand and agree that he will be serving in his official capacity as the Oakland County Equalization Officer. Therefore, an Assessing District will not make any direct payments to the Designated Assessor. Instead, the Assessing District will be responsible for paying a fee to Oakland County which fee is intended to compensate Oakland County for the reasonable costs incurred by the Designated Assessor and his staff. Oakland County will charge the Assessing District a fee equal to the average rate per parcel that it charges those districts for whom it already performs contracted assessing services, as of the date the Designated Assessor is required to serve as the Assessor of Record. The parties agree that should the standard fee not reasonably reflect the actual cost of the provision of the services required that the standard fee will be modified to a higher or lower fee, and so the fee is reasonable. The modification of the standard fee will be dependent upon the complexity of the work to be performed by the Designated Assessor, the number of staff needed to assist in completing the work and whether the Assessing District provides its own staff to assist the Designated Assessor. The Assessing District is not required to pay a retainer fee. In the event that the Designated Assessor is acting on behalf of an Assessing District for which Oakland County Equalization Department is currently contracted with to provide assessing services, the Designated Assessor will provide its Designated Assessor services at no additional cost to said Assessing District.

3.3 If the Assessing District fails, for any reason, to pay the County any monies when and as due under this Contract, the Assessing District agrees that unless expressly prohibited by law, the County or the County Treasurer, at their sole option, shall be entitled to a setoff from any other Assessing District funds that are in the County's possession for any reason. Funds include but are not limited to the Delinquent Tax Revolving Fund ("DTRF"). Any

setoff or retention of funds by the County shall be deemed a voluntary assignment of the amount by the Assessing District to the County. The Assessing District waives any claims against the County or its Officials for any acts related specifically to the County's offsetting or retaining such amounts. This paragraph shall not limit the Assessing District's legal right to dispute whether the underlying amount retained by the County was actually due and owing under this Agreement.

- 3.4 If the County chooses not to exercise its right to setoff or if any setoff is insufficient to fully pay the County any amounts due and owing the County under this Contract, the County shall have the right to charge up to the then-maximum legal interest on any unpaid amount. Interest charges shall be in addition to any other amounts due to the County under this Agreement. Interest charges shall be calculated using the daily unpaid balance method and accumulate until all outstanding amounts and accumulated interest are fully paid.
- 3.5 Nothing in this Section shall operate to limit the County's right to pursue or exercise any other legal rights or remedies under this Contract against the Assessing District to secure reimbursement of amounts due the County under this Agreement. The remedies in this Section shall be available to the County on an ongoing and successive basis if Assessing District at any time becomes delinquent in its payment. Notwithstanding any other term and condition in this Contract, if the County pursues any legal action in any court to secure its payment under this Contract, the Assessing District agrees to pay all costs and expenses, including attorney's fees and court costs, incurred by the County in the collection of any amount owed by the Assessing District.

4.0 EFFECTIVE DATE AND TERM OF AGREEMENT

This Agreement shall become effective when it is executed by the Oakland County Board of Commissioners, Micheal R. Lohmeier, and the governing bodies of a majority of the Assessing Districts within Oakland County, and shall expire on December 31, 2027. The terms and conditions in Section 3.0 (Compensation) shall survive and continue in full force beyond the termination of this Agreement if the Assessing District owes money to the County under this Agreement.

5.0 DESIGNATED ASSESSOR EMPLOYMENT STATUS

It is understood by the parties that Micheal R. Lohmeier is appointed as the Designated Assessor based on his employment status as Oakland County Equalization Officer and that if his employment status materially changes, the parties will request that the State Tax Commission designate and approve an interim Designated Assessor until the parties are able to amend this Agreement.

6.0 ENTIRE AGREEMENT

This Agreement sets forth all covenants, promises, agreements, conditions and understandings between the parties and there are no covenants, promises, agreements, conditions, or understandings, either oral or written, between the Parties other than are set forth in this Agreement.

7.0 AMENDMENTS

This Agreement cannot be modified unless reduced to writing and signed by both Parties.

8.0 SEVERABILITY

If a court of competent jurisdiction finds a term or condition of this Agreement to be illegal or invalid, then the term or condition shall be deemed severed from this Agreement. All other terms or conditions shall remain in full force and effect.

9.0 GOVERNING LAW

This Agreement shall be governed, interpreted, and enforced by the laws of the State of Michigan.

10.0 COUNTERPARTS

This Agreement may be executed in one or more counterparts, including facsimile copies, each of which shall be deemed an original, but all of which shall together constitute one instrument.

IN WITNESS WHEREOF, _____ [name and title of assessing district official] hereby acknowledges that he/she has been authorized by a resolution of the _____ [name of assessing district], a certified copy of which is attached, to execute this Agreement on behalf of Public Body and hereby accepts and binds Public Body to the terms and conditions of this Agreement.

[Signatures contained on following page]

EXECUTED: _____
Name and Title:

DATE: _____

WITNESSED: _____
Name and Title:

DATE: _____

IN WITNESS WHEREOF, David Woodward, Chairperson, Oakland County Board of Commissioners, hereby acknowledges that he has been authorized by a resolution of the Oakland County Board of Commissioners to execute this Agreement on behalf of Oakland County, and hereby accepts and binds Oakland County to the terms and conditions of this Agreement.

EXECUTED: _____
David Woodward, Chairperson
Oakland County Board of Commissioners

DATE: _____

WITNESSED: _____
Name and Title:

DATE: _____

MICHEAL R. LOHMEIER, in his official capacity as Equalization Officer for Oakland County, hereby accepts the role of Designated Assessor as outlined in this Agreement.

EXECUTED: _____
Micheal R. Lohmeier
Oakland County Equalization Officer

DATE: _____

ADDENDUM – SEV TOTALS

OAKLAND COUNTY SEV TOTALS BY CLASS

Class	Parcel Counts	State Equalized Values
Agricultural	392	87,150,370
Commercial	20,907	14,614,165,290
Industrial	4,441	2,896,770,040
Residential Personal Property	448,068	68,274,369,769
Special Acts	52,372	3,863,299,665
	650	507,403,698



October 20, 2022

RESOLUTION #2022-2106 _ 22-350

Sponsored By: Gwen Markham

Equalization - Interlocal Agreement Designating Micheal Lohmeier as the Assessor for Oakland County

Chairperson and Members of the Board:

WHEREAS pursuant to Public Act 660 of 2018, each county is required to notify the State Tax Commission, no later than December 31, 2020, of the individual that will serve as the County's Designated Assessor; and

WHEREAS the Designated Assessor is part of a process to ensure that local units of government are in compliance with statutory provisions of the Audit of Minimum Assessing Requirements; and

WHEREAS the Designated Assessor is the individual designated by an Interlocal Agreement executed between the County Board of Commissioners and a majority of the assessing districts (cities and townships) within the county, subject to final approval of the State Tax Commission; and

WHEREAS the Designated Assessor serves as the assessor of record and assumes all duties and responsibilities as the assessor of record for an assessing district that is determined to be non-compliant with an audit; and

WHEREAS each county must also provide the State Tax Commission with the interlocal agreement executed by the County Board of Commissioners, a majority of the assessing districts within the county, and the proposed Designated Assessor for the county; and

WHEREAS the interlocal agreement must provide enough detail regarding the assessment responsibilities for the Designated Assessor including, but not limited to, the following:

1. Information related to the scope of services being provided by the Designated Assessor, including preparation of assessment rolls, timeline for delivery of documents and execution of forms, attendance at Boards of Review meetings, duties and responsibilities related to property tax appeals, both Small Claims and Entire Tribunal, filed with the Michigan Tax Tribunal, responsibility to meet with local unit officials, and obligations of local unit assessing staff members,
2. Duties and responsibilities for each local unit within the county, including providing the Designated Assessor with reasonable access to records, documents and information, and
3. Details relating to cost and compensation for overseeing and administering the annual assessment and operating the assessing office, including payment terms and cost reimbursement; and

WHEREAS an Interlocal Agreement was previously entered into between Oakland County and the participating Assessing Districts under the former Oakland County Equalization Director; and

WHEREAS Oakland County has a new Oakland County Equalization Director, Micheal Lohmeier,

and as a result, a new Interlocal Agreement is required with the Assessing Districts within the County that approve the Agreement; and

WHEREAS Oakland County Corporation Counsel is developing the Designated Assessor Interlocal Agreement to be entered into with any and all Assessing Districts within the County that approve the Agreement.

NOW THEREFORE BE IT RESOLVED that the Oakland County Board of Commissioners approves designating Oakland County Equalization Director Micheal Lohmeier, who is an individual qualified and certified by the State Tax Commission as a Michigan Master Assessing Officer, to be the Designated Assessor for Oakland County.

BE IT FURTHER RESOLVED that the Board of Commissioners approves and authorizes the Chairperson of Board to execute the required Interlocal Agreement on behalf of Oakland County upon final review and approval by Corporation Counsel.

Chairperson, the following Commissioners are sponsoring the foregoing Resolution: **Gwen Markham**.



David Woodward, Commissioner

Date: October 21, 2022



David Coulter, Oakland County Executive

Date: October 21, 2022



Lisa Brown, County Clerk / Register of Deeds

Date: October 26, 2022

COMMITTEE TRACKING

2022-10-12 Finance - Recommend to Board

2022-10-20 Full Board - Adopted

VOTE TRACKING

Motioned by Commissioner Michael Gingell seconded by Commissioner Kristen Nelson to adopt the attached Interlocal Agreement: Designating Micheal Lohmeier as the Assessor for Oakland County.

Yes: David Woodward, Michael Gingell, Michael Spisz, Karen Joliat, Kristen Nelson, Eileen Kowall, Christine Long, Philip Weipert, Gwen Markham, Angela Powell, Thomas Kuhn, Chuck Moss, Marcia Gershenson, William Miller III, Yolanda Smith Charles, Penny Luebs, Janet Jackson, Gary McGillivray, Robert Hoffman, Adam Kochenderfer (20)

No: None (0)

Abstain: None (0)

Absent: (0)

Passed

ATTACHMENTS

1. OC Designated Assessor Interlocal Agreement 9.16.22
-

STATE OF MICHIGAN)
COUNTY OF OAKLAND)

I, Lisa Brown, Clerk of the County of Oakland, do hereby certify that the foregoing resolution is a true and accurate copy of a resolution adopted by the Oakland County Board of Commissioners on October 20, 2022, with the original record thereof now remaining in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the Circuit Court at Pontiac, Michigan on Thursday, October 20, 2022.



Lisa Brown, Oakland County Clerk / Register of Deeds