

CITY OF CHARLEVOIX
REGULAR CITY COUNCIL MEETING MINUTES
Monday, June 1, 2020 – 6:00 p.m.
Virtual Meeting Held via Zoom

The meeting was called to order at 6:00 p.m. by Mayor Kurtz.

1. Pledge of Allegiance

The Mayor requested a moment of silence for former Council member Leon Perron.

2. Roll Call

Mayor: Luther Kurtz
Members Present: Greg Bryan, Shane Cole, Aaron Hagen, Janet Kalbfell, Tom Oleksy, Brian Slater
Members Absent: None
City Manager: Mark L. Heydlauff
City Clerk: Joyce Golding

3. Presentations

Recreation Director Knorr presented Council with an update for 2020 activities.

4. Inquiry Regarding Conflicts of Interest

Kalbfell recused herself from Item 7.A. The Mayor recused himself from Item 7.C. Hagen recused himself from Item 7.D.

5. Consent Agenda

All items listed under Consent Agenda are considered routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion of an item is required, it will be removed from the Consent Agenda and considered separately.

- A. City Council Meeting Minutes – May 18, 2020
- B. Accounts Payable and Payroll Check Registers
 - a. Special Accounts Payable Check Register – May 20, 2020
 - b. Regular Accounts Payable Check Register – June 2, 2020
 - c. ACH Payments – May 18, 2020 to May 29, 2020
 - d. Payroll Check Register – May 29, 2020
 - e. Payroll Transmittal – May 29, 2020
 - f. Tax Disbursement – June 2, 2020
- C. Building Authority Commission Reappointment – Treasurer McGinn, term expiring June 2023
- D. PA 95 Opt In/Out – Opt out of PA 95 Energy Assistance Programs
- E. Marina Seasonal Slip Holders Account Credit – grant a prorated credit to Marina seasonal slip holders towards the 2021 season
- F. Water Plant Pump #1 Service - Northern Pump and Well for \$26,770

Motion by Kalbfell, second by Oleksy to approve the Consent Agenda.

Yeas: Bryan, Oleksy, Cole, Kalbfell, Hagen, Slater

Nays: None

6. Public Hearings & Actions Requiring Public Hearings

- A. Public Hearing: Ordinance 818 Right-of-Way Construction Activities

The Mayor opened the public hearings at 6:21 p.m. City Manager Heydlauff stated Council requested review of rules for dumpsters in the street, private construction across sidewalks and other related rules. The draft ordinance makes several amendments to the City Code related to private construction activities involving public spaces.

Mayor Kurtz opened the item to public comment and none was heard.

Motion by Slater, second by Oleksy to approve Right-of-Way Construction Activities Ordinance 818 of 2020.

CITY OF CHARLEVOIX
ORDINANCE NO. 818 of 2020

AN ORDINANCE OF THE CITY OF CHARLEVOIX REGULATING PLACEMENT OF CONSTRUCTION WASTE, CONSTRUCTION WITHIN
THE PUBLIC RIGHT-OF-WAY, AND CONSTRUCTION PARKING AND TRAFFIC

THE CITY OF CHARLEVOIX ORDAINS:

SECTION 1. Title V, Chapter 51.06 of the City Code shall be amended by adding a section (E), subpart 3 to read as follows:

Containers shall not be placed in the public right-of-way or street except when a permit is obtained from the City Manager pursuant to §151.22. No permit shall be allowed when the container could reasonably be placed on private property.

SECTION 2. Title VI, Chapter 70.04 of the City Code, section 2.30, subpart 3 shall be amended so that it reads:

A special request to hood or cover a meter or meters shall be allowed upon approval of the chief of police and on advance payment of a fee as the City Council may from time to time set by resolution. Such approval shall be considered for the purpose of construction, refurbishment or maintenance for an adjacent building or property. Special consideration, at no charge, for the purpose of funerals or other requests deemed proper by the chief of police.

SECTION 3. Title XV, Chapter 151.02 of the City Code shall be struck and replaced as follows:

No person shall move, transport or convey any building or other similar bulky or heavy object, including machinery, trucks and trailers, larger in width than eight feet eight inches or higher than 13 feet six inches above the surface of the roadway, into, across or along any street, alley or other public place in the city without first obtaining a house moving permit from the Manager. Such permit shall specify the route to be used in such movement and no person shall engage in such movement along a route other than that specified in the permit. No house moving permit shall be granted until the applicant shall pay for a permit and comply with insurance and performance bond requirements found in a cash deposit in § 151.22 of this chapter; additionally, all costs associated for city services associated for with such action as contemplated in this section shall be assigned to the owner and reimbursed to the City or paid as a deposit in advance of the activity. Such costs shall include but not be limited to utility moving or replacement, traffic control, and damage to infrastructure or property. The Manager shall have the power to regulate the time and date of house moving requests to account for traffic and special event demands of the community.

This chapter shall not be construed as to limit the transportation of wide or oversized loads on the state or federal highway which may be lawfully permitted nor shall this chapter limit the transportation of boats or marine vessels along routes of the City which the Police Chief shall from time to time publish in consultation with other City staff.

SECTION 4. Title XV, Chapter 151.22 of the City Code shall be struck and replaced as follows:

(A) Where permits are required, they shall be obtained from the City Manager or his or her designee and shall contain the information necessary for consideration by the City in a manner as the Manager may require. Such permit(s) shall be revocable by the Manager for failure to comply with this code, rules and regulations adopted hereto, and the lawful orders of the Manager. The permit(s) shall only be valid for the period the Manager may designate. Application for a permit under this chapter shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent regulations of the city in connection with therewith, repair all damages done to the street surface, subsurface, and related structures, over or within such street, including trees, and protect and save harmless the city from all damages or actions at law that may arise or may be brought on account of injury to person or property resulting from the work done under the permit(s) or in connection therewith.

(B) Fees for such permits shall be set from time to time by resolution of Council. Council may vary the fees depending on the season and the times which are or are not preferable for the general benefit of the community to contend with construction in the public streets and rights of way. Such limitations shall not constrain public infrastructure projects which the City or the state of Michigan may from time to time undertake.

(C) Where liability insurance or bonds are required, the City Treasurer shall regularly obtain recommendations from the City's insurance carrier or other valid sources and share the same with City Council in order that it may adopt a resolution specifying minimum insurance coverages, standards, and bonds for work associated with the permits contemplated in this chapter. Similarly, Council may adopt the minimum for performance bonds and the City Manager or his or her designee may set the actual amount required in the bond subject to the minimum set by Council.

SECTION 5. Severability.

No other portion, paragraph or phase of the Code of the City of Charlevoix, Michigan shall be affected by this Ordinance except as to the above sections, and in the event any portion, section or subsection of this Ordinance shall be held invalid for any reason, such invalidation shall not be construed to affect the validity of any other part or portion of this Ordinance or of the Code of the City of Charlevoix, Michigan.

SECTION 6. Effective Date.

This Ordinance shall become effective thirty (30) days after its enactment pursuant to the City Charter

Ordinance No. 818 was adopted on the 1st day of June, 2020 A.D., by the Charlevoix City Council as follows:

Motion by: Slater
Seconded by: Oleksy
Yeas: Bryan, Oleksy, Cole, Kalbfell, Hagen, Slater
Nays: None
Absent: None

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City of Charlevoix

B. Public Hearing: Ordinance 819 Fireworks

Chief Doan stated that the proposed ordinance would be consistent with the current Michigan Fireworks Safety Act of 2011 (Public Act 256). The proposed ordinance outlines days and times fireworks may be used within the City and also includes rules and regulations adopted by the State.

Mayor Kurtz opened the item to public comment and one was heard.

Motion by Oleksy, second by Hagen to approve Fireworks Ordinance 819 of 2020.

**CITY OF CHARLEVOIX
ORDINANCE NO. 819 of 2020**

AN ORDINANCE TO AMEND TITLE IX, CHAPTER 94, SECTION 94.22 FIREWORKS OF THE CHARLEVOIX CITY CODE

THE CITY OF CHARLEVOIX ORDAINS:

SECTION 1. Title IX, Chapter 94, Section 94.22 of the City of Charlevoix Code is hereby repealed in its entirety and replaced with the following:

- (A) *Purpose. The purpose of this ordinance is to regulate the ignition, discharge, and use of consumer fireworks within the city boundaries in accordance with the Michigan Fireworks Safety Act, Public Act No. 256 of 2011, as amended.*

Chapter 94, Parks and Recreation, is hereby amended to modify Section 94.22 to read as follows:

- (B) *Definitions and adoption by reference. As used in this section, the following words and phrases have the meanings indicated:*

Act means the Michigan Fireworks Safety Act, Public Act No. 256 of 2011, MCL 28.451 to 28.471, as amended, which is hereby adopted by reference as a part of this ordinance.

Articles pyrotechnic, as defined in the Act, means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction.

Consumer fireworks, as defined in the Act, means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and that are in compliance with the construction, chemical composition, labeling and other requirements in the Act. Novelties and low-impact fireworks as defined in the Act are not consumer fireworks.

Display fireworks, as defined in the Act, means large firework devices that are explosive materials intended for use in fireworks, displays and designed to produce visible or audible effects by combustion, deflagration, or detonation.

Fireworks, as defined in the Act, means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation, and consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

Low-impact fireworks, as defined in the Act, means ground and handheld sparkling devices.

Minor is an individual who is less than 18 years of age.

Novelties, as defined in the Act, means all of the following:

- (a) *Toy plastic or paper caps for toy pistols in sheets, strips, roll, or individual caps containing no more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.*
- (b) *Toy pistols, toy canons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (i) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.*
- (c) *Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.*
- (d) *Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.*

Special effects, as defined in the Act, means a combination of chemical elements or chemical compounds capable of burning, independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

- (C) *Prohibited ignition, discharge, and use. Consumer fireworks shall not be ignited, discharged or used in the city except in the following situations:*

(1) *Consumer fireworks may be ignited, discharged or used on the following dates and times:*

- (a) *December 31 until 1 a.m. on January 1.*
- (b) *The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.*
- (c) *June 29 to July 4 until 11:45 p.m. on each of those days.*
- (d) *July 5, if that date is a Friday or Saturday, until 11:45 p.m.*
- (e) *The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.*

- (2) *The penalty for a violation under subsection (1) shall be a civil fine of \$1,000.00 for each violation of the ordinance. A minimum of \$500.00 of the fine collected under subsection (1) shall be remitted to the City of Charlevoix.*
- (3) *Consumer fireworks shall not be ignited, discharged, or used on public, school, church, or private property of another person without the express written permission from the person or entity legally in possession and control of that property.*
- (D) *Minors. A minor shall not possess, use, discharge, or ignite any consumer fireworks at any time unless supervised by a parent or legal guardian.*
- (E) *Under the Influence. An individual shall not discharge, ignite, or use consumer fireworks or low impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and controlled substance.*
- (F) *Unmanned free-floating devices. Any unmanned free-floating device (sky lanterns) which requires fire underneath to propel it and is not moored to the ground while aloft, have an uncontrolled and unpredictable flight path and descent area so as to pose a potential fire risk and are therefore prohibited.*
- (G) *Novelties; inapplicability of ordinance. This ordinance does not apply to novelties. Nothing in this ordinance regulates the sale, storage, display for sale, transportation, use, or distribution of novelties.*
- (H) *Zoning Ordinances. Any person selling, distributing or transporting fireworks shall otherwise comply with the Act, and is required to comply with the zoning ordinances of the city, including obtaining necessary approvals hereunder. Failure to obtain necessary zoning approvals is subject to penalty as provided in the zoning ordinances of the city.*
- (I) *Imminent dangers. Notwithstanding the Act, no person shall use, discharge, or ignite fireworks thereby creating or causing an imminent danger or threat to the public health, safety, or welfare, and such fireworks being used, ignited or discharged may be immediately seized.*
- (J) *Seizure. All fireworks possessed, used, discharged, and/or ignited in violation of the Act and/or this section are subject to seizure. Any costs incurred by the city to seize and store the fireworks shall be paid by the responsible party.*

The sanction/penalty for a violation of Section 94.22 is deemed a municipal civil infraction, punishable by a civil fine of not more than \$1,000.00 for subsection (1), and \$500.00 for all other sections in this ordinance, plus costs, damages, and expenses and any other relief allowed under law.

SECTION 2. Severability.

No other portion, paragraph or phrase of the Code of the City of Charlevoix, Michigan shall be affected by this Ordinance except as to the above section, and in the event any portion, section or subsection of this Ordinance shall be held invalid for any reason, such invalidation shall not be construed to affect the validity of any other part or portion of this Ordinance or of the Code of the City of Charlevoix, Michigan.

SECTION 3. Effective Date.

This Ordinance shall become effective thirty (30) days after its enactment pursuant to the City Charter

Ordinance No. 819 was adopted on the 1st day of June, 2020 A.D., by the Charlevoix City Council as follows:

*Motion by: Oleksy
Seconded by: Hagen
Yeas: Bryan, Oleksy, Cole, Kalbfell, Hagen, Slater
Nays: None
Absent: None*

*State of Michigan } §
City of Charlevoix*

C. Public Hearing: Ordinance 820 Small Wireless and Pole Attachment

Electric Superintendent Swern stated that the proposed ordinance regulates the installation of small cell wireless communication facilities and closely matches the state law. It covers cases where the equipment is placed on existing poles as well as placement of new poles. He stated that the proposed ordinance does not cover the fiber or other communication lines between antennas.

Mayor Kurtz opened the item to public comment and none was heard.

Motion by Kalbfell, second by Cole to approve the Pole Attachment Ordinance 820 of 2020.

CITY OF CHARLEVOIX ORDINANCE NO. 820 of 2020

AN ORDINANCE TO AMEND TITLE XV, CHAPTER 153 OF THE CHARLEVOIX CITY CODE TO ADD SECTION 153.125(F) TO REGULATE

SMALL WIRELESS COMMUNICATIONS FACILITIES DEPLOYMENT; TO PROVIDE FOR SEVERABILITY; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND TO PROVIDE AN EFFECTIVE DATE

THE CITY OF CHARLEVOIX ORDAINS:

SECTION 1. Title XV, Chapter 153, Section 153.125(F) of the City of Charlevoix Code is hereby added to read as follows:

- (1) This ordinance shall be known and may be cited as the "small wireless communications facilities deployment ordinance."
- (2) Definitions. For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ACT means the small wireless communications facilities deployment act, 2018 PA 365, MCL 460.1301, et seq., as the same may be amended from time to time.

ANTENNA means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

APPLICANT means a wireless provider or wireless infrastructure provider that submits an application described in this ordinance.

AUTHORITY, unless the context implies otherwise, means the City of Charlevoix, to the extent authorized by law to make legislative, quasi-judicial, or administrative decisions concerning an application described in this ordinance. Authority does not include any of the following:

- (i) A municipally owned electric utility.
- (ii) An investor-owned utility whose rates are regulated by the Michigan Public Service Commission.
- (iii) A state court having jurisdiction over an authority.

AUTHORITY POLE means a utility pole owned or operated by an authority and located in the ROW.

COLOCATE OR COLLOCATION means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. "Collocation" has a corresponding meaning. Colocate does not include make-ready work or the installation of a new utility pole or new wireless support structure.

FEE means an authority one-time per small cell site charge for application processing.

HISTORIC DISTRICT means an officially designated historic district.

MAKE-READY WORK means work necessary to enable an authority pole or utility pole to support collocation, which may include modification or replacement of utility poles or modification of lines.

MICRO WIRELESS FACILITY means a small cell wireless facility that is not more than 24 inches in length, 15 inches in width, and 12 inches in height and that does not have an exterior antenna more than 11 inches in length.

PUBLIC RIGHT-OF-WAY OR ROW means the area on, below, or above a public roadway, highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses. Public right-of-way does not include any of the following:

- (i) A private right-of-way.
- (ii) A limited access highway.
- (iii) Land owned or controlled by a railroad as defined in section 109 of the railroad code of 1993, 1993 PA 354, MCL 462.109.
- (iv) Railroad infrastructure.

RATE means an authority annual charge per site.

SMALL CELL WIRELESS FACILITY means a wireless facility that meets both of the following requirements:

- (i) Each antenna is located inside an enclosure of not more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than 6 cubic feet.
- (ii) All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

UTILITY POLE means a pole or similar structure that is or may be used to support small cell wireless facilities. Utility pole does not include a sign pole less than 15 feet in height above ground.

WIRELESS FACILITY means wireless equipment at a fixed location that enables the provision of wireless services between user equipment and a communications network, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes a small cell wireless facility. Wireless facility does not include any of the following:

- (i) The structure or improvements on, under, or within which the equipment is colocated.
- (ii) A wireline backhaul facility.

- (iii) Coaxial or fiber-optic cable between utility poles or wireless support structures or that otherwise is not immediately adjacent to or directly associated with a particular antenna.

WIRELESS PROVIDER is a regulated provider of telecommunications services and a **WIRELESS INFRASTRUCTURE PROVIDER** is an installer of wireless equipment at small cell sites and, both terms are interchangeable terms for purposes of this ordinance. Wireless provider does not include an investor-owned utility whose rates are regulated by the MPSC.

WIRELESS SERVICES means any services, provided using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

WIRELESS SUPPORT STRUCTURE means a freestanding structure designed to support or capable of supporting small cell wireless facilities. Wireless support structure does not include a utility pole.

WIRELINE BACKHAUL FACILITY means a facility used to transport services by wire or fiber-optic cable from a wireless facility to a network.

(3) Scope of authority.

- (a) Except as provided in this ordinance or the Act, the Authority shall not prohibit, regulate, or charge for the collocation of small cell wireless facilities.
- (b) The approval of a small cell wireless facility under this ordinance authorizes only the collocation of a small cell wireless facility and does not authorize either of the following:
1. The provision of any services.
 2. The installation, placement, modification, maintenance, or operation of a wireline in the ROW.
- (c) The terms of this section do not permit the wireless provider to operate a cable system or to provide cable service, as those terms are defined by Section 602 of the Cable Communications Policy Act of 1984, as amended (47 U.S.C. Section 522), or install any wires or facilities that are required to be permitted under the METRO Act, Public Act 48 of 2002, MCL 484.310, including any part of a small cell wireless facility constituting wireline telecommunication facilities.

(4) Small Cell Row Access; Permitted Use; Height; Underground, Downtown, Residential and Historic Districts.

- (a) This subsection applies only to activities of a wireless provider within the public right-of-way for the deployment of small cell wireless facilities and associated new or modified utility poles.
- (b) The Authority shall not enter into an exclusive arrangement with any person for use of the ROW for the construction, operation, or maintenance of utility poles or the collocation of small cell wireless facilities.
- (c) The Authority shall not charge a wireless provider an annual rate more than:
1. \$20.00 annually, unless subdivision 2 applies.
 2. \$125.00 annually, if a new utility pole or wireless support structure was erected at a new site by or on behalf of the wireless provider on or after the effective date of this act. This subdivision does not apply to the replacement of an existing utility pole that was not designed to support small cell wireless facilities.

Every 5 years after the effective date of the Act, the maximum rates are increased by 10% and rounded to the nearest dollar.

- (d) All greater rates and fees in current agreements shall be modified within 90 days of application receipt, so as not to exceed the fees provided here, except for new small cell dedicated utility poles installed and operational in the ROW before the effective date of this ordinance or related agreements, which shall remain in effect for the duration of the ordinance or agreement.
- (e) Except as set forth in § 153.125(F)(5) or (6), and as limited by this subsection, a wireless provider may colocate small cell wireless facilities and construct, maintain, modify, operate, or replace utility poles in, along, across, upon, and under the ROW as a permitted use not subject to zoning regulation if it complies with all other sections of this ordinance and if:
1. A utility pole in the ROW installed or modified on or after the effective date of this ordinance shall not exceed 40 feet above ground level, unless a taller height is agreed to by the Authority.
 2. A small cell wireless facility in the ROW installed or modified after the effective date of this ordinance shall not extend more than 5 feet above a utility pole or wireless support structure on which the small cell wireless facility is colocated.

Such structures and facilities shall be constructed and maintained so as not to obstruct or hinder the usual travel or public safety on the ROW or obstruct the legal use of the Authority's ROW or uses of the ROW by other utilities and communications service providers.

- (f) A proposed utility pole or other support structure that exceeds the height limits under § 153.125(F)(4)(e), is subject to zoning review.
- (g) Undergrounding: A wireless provider shall comply with reasonable and nondiscriminatory requirements including concealment measures that prohibit communications service providers from installing structures on or above ground in the ROW in an area designated solely for underground or buried cable and utility facilities, if:
1. The Authority has required all cable and utility facilities, other than authority poles, along with any attachments, or poles used for street lights, traffic signals, or other attachments necessary for public safety, to be placed underground by a date that is not less than 90 days before the submission of the application; and
 2. The Authority does not prohibit replacement of authority poles by a wireless provider in the designated area.
 3. A wireless provider may apply for a waiver of the undergrounding requirements.

- (h) *Historic, Downtown and Residential Districts: A wireless provider shall comply with written, objective requirements for reasonable, technically feasible, nondiscriminatory, and technologically neutral designs or concealment measures in a historic district, downtown district, or residential zoning district. Such requirement shall not have the effect of prohibiting any wireless provider's technology. Any such design or concealment measures are not included in size restrictions in the definition of small wireless facility in this section.*
- (a) *Aesthetic requirements: Wireless Providers shall install, modify, collocate or otherwise provide all wireless facilities, equipment, poles, support structures and all other related wireless objects in a manner, size and appearance that is consistent and in conformity with the existing requirements and existing practices in fact, pertaining to such districts as defined by the applicable ordinances, rules and codes of this community and the applicable rules and laws of this State, in such fashion as to create the least negative impact on the district as possible. Such accommodations may include use of similar height, materials, color, design, number and appearance of other similar structures utilized by other occupiers of the ROW and public spaces.*
 - 1. *Collocation including replacement of existing poles or support structures is strongly encouraged over the installation of additional new poles or support structures in the ROW.*
 - 2. *Placement of all equipment inside the pole or support structure is favored over placement outside the pole, including ground mountings.*
 - 3. *Smallest equipment, antennas and poles and support structures feasible is preferred.*
 - 4. *Camouflaging, stealth or concealment elements are preferred.*
 - 5. *Installations generally are favored in the following zoning districts, in the following order of preference:*
 - i. *1st Preference: Industrial*
 - ii. *2nd Preference: Commercial*
 - iii. *3rd Preference: Residential*
 - iv. *4th Preference: Historic*
 - v. *5th Preference: Environmentally sensitive areas including nature and wetland preservation sites*
 - 6. *Disagreements between the provider and Authority on specific aesthetics issues shall be addressed by the City Council upon timely written request of the provider. Staff and City Council may consider incentives favoring installations in preferred districts.*
- (b) *All wireless providers shall repair all damage to the ROW caused by the activities of the wireless provider while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing small cell wireless facilities, utility poles, or wireless support structures in the ROW and, to return the ROW to its original condition. Following 60 days' written notice, the Authority may make those repairs and charge the wireless provider the cost of the repairs.*
- (5) *Provider and Authority Responsibilities; Application Information; Shot Clocks; Tolling; Deemed Approved; Basis for Denial; Resubmittal; Batch Applications; Application Fees; Micro Wireless Facility Exemption; Alternative Siting; Decommissioning Sites:*
 - (a) *This subsection applies to activities of a wireless provider within the public right-of-way.*
 - (b) *Except as otherwise provided in this subsection or the Act, a wireless provider shall seek an Authority ROW access permit to collocate a small cell wireless facility or install, modify, or replace a utility pole on which a small cell wireless facility will be colocated as required of all ROW users. The processing of an application for an Authority ROW access permit is subject to all of the following:*
 - 1. *Unless physically or technically infeasible, all small wireless facilities shall be constructed to accommodate two or more users. Any wireless provider must openly allow another provider to collocate upon its wireless facility under rates and conditions that are acceptable within the industry to promote collocation. Collocation of small cell wireless facilities is strongly encouraged.*
 - 2. *In-kind contributions to the Authority are not permitted in lieu of rates and fees described above unless all parties voluntarily agree in furtherance of the interests of both.*
 - 3. *The Applicant shall provide all the information and documentation required by the Authority to enable the Authority to make an informed decision with regard to its criteria for authorizing ROW access including the following:*
 - i. *A certificate of compliance with FCC rules related to radio frequency emissions from a small cell wireless facility;*
 - ii. *Proof of notification to every other affected authority and all necessary permits, permit applications, or easements to ensure all necessary permissions for the proposed activity are obtained;*
 - iii. *An attestation that the small cell wireless facilities will be operational for use by a wireless services provider within 1 year after the permit issuance date. Failure to abide by this term shall result in termination of any permit issued in reliance on such attestation.*
 - 4. *Within 25 days after receiving an initial application, the Authority shall notify the Applicant in writing whether the application is complete. If incomplete, the notice will delineate all missing documents or information. The notice tolls the running of the time for approving or denying an application under § 153.125(F)(5)(b)6.*
 - 5. *If the Applicant makes a supplemental submission in response to the Authority's notice of incompleteness, the Authority will so notify the Applicant in writing within 10 days, delineating the previously requested and missing documents or information. The time period for approval or denial is tolled in the case of second or subsequent notices under the*

procedures identified in § 153.125(F)(5)(b)4.

6. *The Authority shall approve or deny the application and notify the Applicant in writing within the following period of time after the application is received:*
 - i. *Collocation Shot Clock: For an application for the collocation of small cell wireless facilities on a utility pole, 60 days, subject to the following adjustments:*
 - a. *Add 15 days if an application from another wireless provider was received within 1 week of the application in question.*
 - b. *Add 15 days if the Authority notifies the Applicant in writing that an extension is needed and the reasons for the extension before the otherwise applicable 60-day or 75-day time period under this subsection elapses.*
 - ii. *New or Replacement 40' Pole and Limited Equipment: For an application for a new or replacement utility pole that meets the height requirements of § 153.125(F)(4)(e) and associated small cell facility, 90 days, subject to the following adjustments:*
 - a. *Add 15 days if an application from another wireless provider was received within 1 week of the application in question.*
 - b. *Add 15 days if, a timely extension is requested.*
 - c. *Deemed Approved: A completed application is considered to be approved if not timely acted upon by the Authority and, subject to the condition that the Applicant provide the Authority not less than 7 days' advance written notice that the Applicant will be proceeding with the work pursuant to this automatic approval.*
7. *Basis for Denial: The Authority may deny a completed application for a proposed collocation of a small cell wireless facility or installation, modification, or replacement of a utility pole that meets the height requirements in § 153.125(F)(4)(e) if the proposed activity would do any of the following:*
 - i. *Materially interfere with the safe operation of traffic control equipment;*
 - ii. *Materially interfere with sight lines or clear zones for transportation or pedestrians;*
 - iii. *Materially interfere with compliance with the Americans with Disabilities Act of 1990, Public Law 101- 336, or similar federal, state, or local standards regarding pedestrian access or movement.*
 - iv. *Materially interfere with maintenance or full unobstructed use of public utility infrastructure under the jurisdiction of an authority.*
 - v. *With respect to drainage infrastructure under the jurisdiction of an authority, either of the following:*
 - a. *Materially interfere with maintenance or full unobstructed use of the drainage infrastructure as it was originally designed.*
 - b. *Not be located a reasonable distance from the drainage infrastructure to ensure maintenance under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, and access to the drainage infrastructure.*
 - vi. *Fail to comply with reasonable, nondiscriminatory, written spacing requirements of general applicability adopted by ordinance or otherwise that apply to the location of ground-mounted equipment and new utility poles and that do not prevent a wireless provider from serving any location.*
 - vii. *Fail to comply with all other applicable codes.*
 - viii. *Fail to comply with sections § 153.125(F)(4)(g) or (h) relating to Undergrounding and Historic, Downtown, and Residential districts.*
 - ix. *Fail to meet reasonable, objective, written stealth or concealment criteria for small cell wireless facilities applicable in a historic district or other designated area, as specified in an ordinance or otherwise and non-discriminatorily applied to all other occupants of the ROW, including electric utilities, incumbent or competitive local exchange carriers, fiber providers, cable television operators, and the Authority.*
8. *Reasons for Denial; Resubmission and 30 Day Shot Clock: If the completed application is denied, the notice shall explain the reasons for the denial and, if applicable, cite the specific provisions of applicable codes on which the denial is based. The Applicant may cure the deficiencies identified by the Authority and resubmit the application within 30 days after the denial without paying an additional application fee. The Authority shall approve or deny the revised application within 30 days. The Authority shall limit its review of the revised application to the deficiencies cited in the denial.*
9. *Batch Applications: An applicant may file an application and receive a single permit for the collocation of up to 20 substantially similar small cell wireless installations. The Authority may approve or deny 1 or more small cell wireless facilities included in such consolidated application.*
10. *Approval of an application authorizes the wireless provider to undertake the installation, collocation and maintenance of such facilities.*

11. *The Authority shall not institute a moratorium on filing, receiving, or processing applications or issuing permits for the collocation of small cell wireless facilities or the installation, modification, or replacement of utility poles on which small cell wireless facilities will be colocated.*
12. *The Authority and an applicant may extend a time period under this subsection by mutual agreement.*
- (c) *Application Fee for a permit under § 153.125(F)(5)(b) shall not exceed the lesser of the following:*
 1. *\$200.00 for each small cell wireless facility alone.*
 2. *\$300.00 for each small cell wireless facility and a new utility pole to which it will be attached.*

Every 5 years after the effective date of the Act, the maximum fees are increased by 10% and rounded to the nearest dollar.

- (d) *The Authority may revoke a permit, upon 30 days' notice and an opportunity to cure, if the permitted small cell wireless facilities and any associated utility pole fail to meet the requirements of § 153.125(F)(5)(b)7.*
 - (e) *Micro Wireless Facility Exempt: The Authority shall not require a permit or any other approval or require fees or rates for ordinance compliant replacement, maintenance or operation of a small cell wireless facility or ordinance compliant installation, replacement, maintenance or operation of a micro wireless facility that is suspended on cables strung between utility poles or wireless support structures in compliance with applicable codes.*
 - (f) *Alternate Siting: Upon receipt of an application to place a new utility pole, the Authority may propose an alternate location within the ROW or on property or structures owned or controlled by the Authority within 75 feet of the proposed location to either place the new utility pole or colocate on an existing structure. The Applicant shall use the alternate location if, as determined by the Applicant, the Applicant has the right to do so on reasonable terms and conditions and the alternate location does not impose unreasonable technical limits or significant additional costs.*
 - (g) *Decommissioning Sites: A wireless provider shall notify the Authority in writing before discontinuing use of a small cell wireless facility, utility pole, or wireless support structure. The notice shall specify when and how the wireless provider intends to remove the small cell wireless facility, utility pole, or wireless support structure. The wireless provider shall return the property to its pre-installation condition. If the wireless provider does not complete the removal within 45 days after the discontinuance of use, the Authority may complete the removal and assess the costs of removal against the wireless provider. A permit under this subsection for a small cell wireless facility expires upon removal of the small cell wireless facility.*
 - (h) *A wireless provider shall obtain a permit for any work that will affect traffic patterns or obstruct vehicular or pedestrian traffic in the ROW.*
- (6) *Zoning Review for Non-Permitted Uses.*
- (a) *This subsection applies to zoning reviews for the following activities that are subject to zoning review and approval, that are not a permitted use under § 153.125(F)(4)(e), and that take place within or outside the public right-of-way:*
 1. *The modification of existing or installation of new small cell wireless facilities.*
 2. *The modification of existing or installation of new wireless support structures used for such small cell wireless facilities.*
 - (b) *The processing of an application for a zoning approval is subject to all of the following requirements:*
 1. *Within 30 days after receiving an application under this section, the Authority shall notify the Applicant in writing whether the application is complete. If the application is incomplete, the notice shall clearly and specifically delineate all missing documents or information. The notice tolls the running of the 30-day period.*
 2. *The running of the time period tolled under § 153.125(F)(6)(b)1 resumes when the Applicant makes a supplemental submission in response to the Authority's notice of incompleteness. If the Applicant makes a supplemental submission in response to the Authority's notice of incompleteness, the Authority will so notify the Applicant in writing within 10 days, delineating the previously requested and missing documents or information. The time period may be tolled in the case of second or subsequent notices under the procedures identified in subdivision § 153.125(F)(6)(b)1. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.*
 3. *Modification of Support Structure or Collocation or Installation of Wireless Facilities Shot Clock 90 Days – New Support Structure Shot Clock 150 Days; Modification by Agreement; Deemed Approved: The Authority shall approve or deny the application and notify the Applicant in writing within 90 days after an application for a modification of a wireless support structure or installation of a small cell wireless facility is received or 150 days after an application for a new wireless support structure is received.*
 - i. *The time period for approval may be extended by mutual agreement between the Applicant and Authority.*
 - ii. *If the Authority fails to comply with this subdivision, the application is considered to be approved subject to the condition that the Applicant provide the Authority not less than 15 days' advance written notice that the applicant will be proceeding with the work pursuant to this automatic approval.*
 4. *The Authority may deny an application if all of the following apply:*
 - i. *The denial is supported by substantial evidence contained in a written record that is publicly released contemporaneously.*

- ii. *There is a reasonable basis for the denial.*
 - iii. *The denial would not discriminate against the Applicant with respect to the placement of the facilities of other wireless providers.*
 - (c) *The Authority's review of an application for a zoning approval is subject to all of the following requirements:*
 - 1. *Applicant Presumed Reasonable: An applicant's business decision on the type and location of small cell wireless facilities, wireless support structures, or technology to be used is presumed to be reasonable. This presumption does not apply with respect to the height of wireless facilities or wireless support structures. The Authority may consider the height of such structures in its zoning review, but shall not discriminate between the Applicant and other communications service providers.*
 - 2. *The Authority shall not evaluate or require an applicant to submit information about an applicant's business decisions with respect to any of the following:*
 - i. *The need for a wireless support structure or small cell wireless facilities.*
 - ii. *The Applicant's service, customer demand for the service, or the quality of service.*
 - 3. *Any requirements regarding the appearance of facilities, including those relating to materials used or arranging, screening, or landscaping, shall be reasonable.*
 - 4. *Any spacing, setback, or fall zone requirement shall be substantially similar to a spacing, setback, or fall zone requirement imposed on other types of commercial structures of a similar height.*
 - (d) *Application Fees:*
 - 1. *\$1,000.00 for a new wireless support structure or modification of an existing wireless support structure.*
 - 2. *\$500.00 for a new small cell wireless facility or modification of an existing small cell wireless facility*
 - (e) *All zoning approval is void if the wireless provider fails to commence construction within 1 year of the grant of same, unless the Authority and the Applicant agree to extend this period or the delay is caused by a lack of commercial power or communications facilities at the site. The wireless provider may reapply for a zoning approval.*
 - (f) *A wireless provider may voluntarily request that a zoning approval be terminated.*
 - (g) *The Authority shall not institute a moratorium on either of the following:*
 - 1. *Filing, receiving, or processing applications for zoning approval.*
 - 2. *Issuing approvals for installations that are not a permitted use.*
 - (h) *The Authority may revoke a zoning approval, upon 30 days' notice and an opportunity to cure, if the permitted small cell wireless facilities and any associated wireless support structure fail to meet the requirements of the approval, applicable codes, or applicable zoning requirements.*
- (7) *Authority owned Poles; Rates; Terms*
- (a) *The Authority shall not enter into an exclusive arrangement with any person for the right to attach to authority poles. A person who purchases, controls, or otherwise acquires an authority pole is subject to the requirements of this subsection.*
 - (b) *Rate: The rate for the collocation of small cell wireless facilities on authority poles shall be nondiscriminatory regardless of the services provided by the collocating person. The rate shall not exceed \$30.00 per year per authority pole. Every 5 years after the effective date of the Act, the maximum rate then authorized under this subsection is increased by 10% and rounded to the nearest dollar. This rate for the collocation of small cell wireless facilities on authority poles is in addition to any rate charged for the use of the ROW under § 153.125(F)(4).*
 - (c) *All greater rates and fees in current agreements shall be modified within 90 days of application receipt, so as not to exceed the fees provided here, except with respect to wireless facilities on authority poles installed and operational before the effective date of this ordinance or any related agreement, which shall remain in effect for the duration of the ordinance or agreement.*
 - (d) *Within 90 days after receiving the first request to collocate a small cell wireless facility on an authority pole, the Authority shall make available, through ordinance or otherwise, the rates, fees, and terms for the collocation of small cell wireless facilities on the authority poles. The rates, fees, and terms shall comply with all of the following:*
 - 1. *The rates, fees, and terms shall be nondiscriminatory, competitively neutral, and commercially reasonable and shall comply with the Act.*
 - 2. *The Authority shall provide a good-faith estimate for any make-ready work within 60 days after receipt of a complete application. Make-ready work shall be completed within 60 days of written acceptance of the good-faith estimate by the Applicant.*
 - 3. *The person owning or controlling the authority pole shall not require more make-ready work than required to comply with law or industry standards.*
 - 4. *Fees for make-ready work shall not do any of the following:*
 - i. *Include costs related to preexisting or prior damage or noncompliance unless the damage or noncompliance was caused by the Applicant.*

- ii. Include any unreasonable consultant fees or expenses.
 - iii. Exceed actual costs imposed on a nondiscriminatory basis.
- (e) This section does not require the Authority to install or maintain any specific authority pole or to continue to install or maintain authority poles in any location if the Authority makes a nondiscriminatory decision to eliminate aboveground poles of a particular type generally, such as electric utility poles, in a designated area of its geographic jurisdiction. For authority poles with colocated small cell wireless facilities in place when an authority makes a decision to eliminate aboveground poles of a particular type, the Authority shall do 1 of the following:
 - 1. Continue to maintain the authority pole.
 - 2. Install and maintain a reasonable alternative pole or wireless support structure for the collocation of the small cell wireless facility.
 - 3. Offer to sell the pole to the wireless provider at a reasonable cost.
 - 4. Allow the wireless provider to install its own utility pole so it can maintain service from that location.
 - 5. Proceed as provided by an agreement between the Authority and the wireless provider.
- (8) No Provider Requirement of Service. This ordinance does not require wireless facility deployment or regulate wireless services.
- (9) Appeals: The Applicant may appeal any Authority determinations related to this ordinance to the highest elected body of the Authority or, the Charlevoix County Circuit Court.
- (10) Defense, Indemnity and Insurance: All applicant wireless providers shall:
 - (a) Defend, indemnify, and hold harmless the Authority and its officers, agents, and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees resulting from the installation, construction, repair, replacement, operation, or maintenance of any wireless facilities, wireless support structures, or utility poles to the extent caused by the Applicant, its contractors, its subcontractors, and the officers, employees, or agents of any of these.
 - (b) Obtain insurance naming the Authority and its officers, agents, and employees as additional insureds against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees. A wireless provider may meet all or a portion of the authority's insurance coverage and limit requirements by self-insurance. To the extent a wireless provider elects to self-insure, the wireless provider shall provide to the Authority evidence demonstrating, to the Authority's satisfaction, the wireless provider's financial ability to meet the authority's insurance coverage and limit requirements.
- (11) Bonding:
 - (a) As a condition of a permit described in this act, the wireless provider shall provide a \$1,000 bond per small cell wireless facility, for the purpose of providing for the removal of abandoned or improperly maintained small cell wireless facilities, including those that an authority determines should be removed to protect public health, safety, or welfare, to repair the ROW as provided under section § 153.125(F)(4)(b) and, to recoup rates or fees that have not been paid by a wireless provider in more than 12 months, if the wireless provider has received 60-day advance notice from the authority of the noncompliance.
 - (b) The Authority shall not require a cash bond, unless the wireless provider has failed to obtain or maintain a bond required under this section or the surety has defaulted or failed to perform on a bond given to the Authority on behalf of a wireless provider.
- (12) Labelling: A small cell wireless facility for which a permit is issued shall be labeled with the name of the wireless provider, emergency contact telephone number, and information that identifies the small cell wireless facility and its location.
- (13) Electric Costs: A wireless provider is responsible for arranging and paying for the electricity used to operate a small cell wireless facility.
- (14) Investor Owned Utilities.
 - (a) This Ordinance does not add to, replace, or supersede any law regarding poles or conduits, similar structures, or equipment of any type owned or controlled by an investor-owned utility whose rates are regulated by the MPSC, an affiliated transmission company, or an independent transmission company.
 - (b) This ordinance does not impose or otherwise affect any rights, controls, or contractual obligations of an investor-owned utility whose rates are regulated by the MPSC, an affiliated transmission company, or an independent transmission company with respect to its poles or conduits, similar structures, or equipment of any type.
 - (c) Except for purposes of a wireless provider obtaining a permit to occupy a right-of-way, this ordinance does not affect an investor-owned utility whose rates are regulated by the MPSC. Notwithstanding any other provision of this ordinance, pursuant to and consistent with section 6g of 1980 PA 470, MCL 460.6g, the MPSC has sole jurisdiction over attachment of wireless facilities on the poles, conduits, and similar structures or equipment of any type or kind owned or controlled by an investor-owned utility whose rates are regulated by the MPSC.

SECTION 2. Severability. No other portion, paragraph or phase of the Code of the City of Charlevoix, Michigan shall be affected by this ordinance except as to the above sections, and in the event any portion, section or subsection of this ordinance shall be held invalid for any reason, such invalidation shall not be construed to affect the validity of any other part or portion of this ordinance or of the Code of the City of Charlevoix, Michigan.

SECTION 3. Effective Date.

This Ordinance shall become effective thirty (30) days after its enactment pursuant to the City Charter

Ordinance No. 820 was adopted on the 1st day of June, 2020 A.D., by the Charlevoix City Council as follows:

Motion by: Kalbfell
Seconded by: Cole
Yeas: Bryan, Oleksy, Cole, Kalbfell, Hagen, Slater
Nays: None
Absent: None

State of Michigan } §
City of Charlevoix }

D. Outdoor Sales and Sidewalk Use

The public hearings were closed at 6:31 p.m. City Manager Heydlauff stated that at the last Council meeting, Council requested more information about expanded outdoor uses and how it might encourage social distancing measures in the community. Zoning Administrator Scheel and Planner Egan discussed options and answered questions from Council. Council agreed to discuss the outdoor merchandise ordinance amendment further at a public hearing.

Mayor Kurtz opened the item to public comment and eight comments were heard.

Motion by Cole, second by Slater to set a public hearing for June 15, 2020 at 6:00 p.m. in Council Chambers.

Yeas: Bryan, Oleksy, Cole, Kalbfell, Hagen, Slater
Nays: None

7. All Other Actions & Requests

A. Lease of Commercial Dock Space

Kalbfell recused herself. Council members Oleksy, Slater, and Cole requested this agenda item regarding a commercial space at the City Marina to be discussed with further action. Oleksy felt that all of Council needed to be present in order to award the lease.

Mayor Kurtz opened the item to public comment and none was heard.

Motion by Oleksy, second by Slater to reconsider the approval of the lease for the commercial dock space made at the previous May 18th Council meeting [Little Traverse Charters LLC].

Yeas: Oleksy, Cole, Hagen, Slater
Nays: Bryan
Abstain: Kalbfell

Motion by Oleksy, second by Slater to rescind the previous approval of the lease of commercial dock space that was made at the May 18th meeting [Little Traverse Charters LLC].

Yeas: Oleksy, Cole, Slater
Nays: Bryan, Hagen
Abstain: Kalbfell

Motion by Hagen, second by Cole to direct Staff to find a way for both businesses [Little Traverse Charters and Whitecaps Charters] to operate until June 13th or the whole summer and have a sealed bid process which will be decided within the week [if there is no long term solution for the season].

Yeas: Oleksy, Cole, Kalbfell, Hagen, Slater
Nays: Bryan
Abstain: Kalbfell

B. Commercial Dock Variance Request

Recreation Director Knorr stated that we can request a variance from the Waterways Commission to allow an extra commercial slip for the upcoming summer. Because we anticipate less transient activity in 2020, he requested a one year variance to allow an extra commercial vendor for 2020.

Mayor Kurtz opened the item to public comment and two were heard.

Motion by Hagen, second by Cole to require the sealed bid price be per foot with a one year term [for the previous motion].

Yeas: Oleksy, Cole, Hagen, Slater
Nays: Bryan
Abstain: Kalbfell

Motion by Hagen, second by Cole to approve the Recreation Department to seek a variance with the Michigan State Waterways Commission to allow a 3rd commercial boat service to be located in the Charlevoix City Marina for the summer of 2020.

Yeas: Bryan, Oleksy, Cole, Hagen, Slater

Nays: None
Abstain: Kalbfell

C. Request from BLOOM & The Cantina to Improve Safety of Van Pelt Alley

Kalbfell returned to the meeting and the Mayor recused himself. DDA Director Dotson stated that the City received a request from two businesses located in Van Pelt Alley to temporarily block off the space between their buildings for pedestrian use only. A complication has arisen with the limited operating capacity that the businesses must adhere to for proper social distancing, which has resulted in more pedestrians populating the alley as they wait for a table or wait to go inside the flower shop. She stated that the Zoning Administrator and Superintendent of Public Works found no issue. On May 26th the Charlevoix Main Street DDA Board reviewed the request and voted to recommend that Council approve.

Deputy Mayor Cole opened the item to public comment and seven comments were heard.

Motion by Hagen, second by Slater to approve temporary closure to vehicular traffic in Van Pelt Alley between 100 and 108 Van Pelt Place with readily movable fixtures to improve the safety of pedestrians while also giving a place to adequately social distance while businesses in this area are operating at a reduced capacity.

Yeas: Bryan, Oleksy, Cole, Kalbfell, Hagen, Slater
Nays: None

D. Bridge Street Tap Room Outdoor Dining

The Mayor returned to the meeting and Hagen recused himself. Zoning Administrator Scheel stated that several years ago, the Bridge Street Tap Room obtained permission from Council by resolution to use space adjacent to their building next to Bridge Park as an outdoor patio service area. They are requesting an enlarged footprint due to operating at reduced capacity. It was noted that the DDA should review any further requests prior to Council's consideration.

Mayor Kurtz opened the item to public comment and six were heard.

Motion by Bryan, second by Slater to approve Bridge Street Tap Room outdoor dining Resolution 2020-06-01.

**CITY OF CHARLEVOIX
RESOLUTION NO. 2020-06-01
APPROVAL OF AN OUTDOOR SEATING AREA TO SERVE FOOD AND ALCOHOLIC BEVERAGES
FOR THE BRIDGE STREET TAP ROOM**

WHEREAS, in accordance with the Cool Cities initiatives, the City of Charlevoix is supportive of outdoor dining experiences, which provides restaurants an incentive to invest in Charlevoix and an enjoyable experience for our residents and visitors; and

WHEREAS, the City permits other restaurants to have outdoor seating on City property where patrons can be served food and alcohol, provided that this use is permitted by the Michigan Liquor Control Commission and the Michigan Department of Transportation; and

WHEREAS, the City finds that the sidewalk area adjacent to the building is unused and the outdoor seating area will not interfere with pedestrian movement; and

WHEREAS, the patrons of the Bridge Tap Room and the general public are not permitted to consume alcoholic beverages outside of the seating area unless it is during an event authorized by City Council.

NOW THEREFORE BE IT RESOLVED, that the City of Charlevoix authorizes the Bridge Street Tap Room to provide outdoor seating and to serve food and alcoholic beverages within that seating area effective through December 31, 2020 based on the attached site plan dated May 26, 2020.

RESOLVED this 1st day of June, 2020 A.D.

Resolution was adopted by the following yea and nay vote:

Yeas: Bryan, Oleksy, Cole, Kalbfell, Slater
Nays: None
Abstain: Hagen

E. 2020 Permit Parking Rules and Process

Hagen returned to the meeting. City Manager Heydlauff stated that this item was originally scheduled for action back on March 16, 2020 but was canceled due to the onset of pandemic conditions. Given Council's consideration for other changes downtown, he recommended against establishing permit parking spaces this year so that as much parking can be available as possible.

Mayor Kurtz opened the item to public comment and none was heard.

Motion by Cole, second by Hagen to suspend permit parking for the 2020 season.

Yeas: Bryan, Oleksy, Cole, Kalbfell, Hagen, Slater

Nays: None

F. Council Appointment

Motion by Hagen, second by Kalbfell to reappoint Kay Heise to the Historic District Commission, term expiring June 2023.

Yeas: Bryan, Oleksy, Cole, Kalbfell, Hagen, Slater

Nays: None

8. **Reports & Communications**

A. Public Comments

- Shirley Gibson felt Council members should not profit personally by using City property.

B. City Manager Comments

- Confirmed with Council that three items will have further discussion: park use fees, long term strategy for Van Pelt Alley, and commercial boat slip.
- Asked Council for direction regarding the bridge railings for a future agenda item
- COVID-19 update and re-opening City Hall by appointment

C. Mayor & Council Comments

- Council reflected on their personal experiences and friendship with Leon Perron; all agreed that he served his City well.

9. **Other Council Business**

Slater felt that Council should set aside a designated area for peaceful protests.

Mayor Kurtz opened the item to public comment and two were heard.

Motion by Slater, second by Oleksy to designate East Park and Bridge Park as locations for peaceful protests.

Yeas: Oleksy, Hagen, Slater

Nays: Bryan, Cole, Kalbfell

The Mayor broke the tie by voting nay. Motion failed.

It was noted that the dissenting members were not in favor of East Park. Council ultimately decided not to specify a particular area.

10. **Adjourn**

The Mayor adjourned the meeting at 8:59 p.m.

Joyce M. Golding	City Clerk	Luther Kurtz	Mayor
Special Accounts Payable – 05/20/2020			
AT&T	4,419.93	PRIORITY HEALTH	39,707.12
AT&T LONG DISTANCE	259.73	STANDARD INSURANCE CO	2,675.38
AZZOPARDI, ANTHONY	49.45	VSP INSURANCE CO. (CT)	543.09
CHARLEVOIX STATE BANK	6,415.06	WEX BANK	1,100.57
CHARTER COMMUNICATIONS	671.67	TOTAL	59,904.10
GREAT LAKES ENERGY	266.27		
HOLIDAY COMPANIES	3,225.22		
MONEY LIFE INSURANCE	570.61		
Regular Accounts Payable – 06/02/2020			
5 ALARM FIRE & SAFETY	697.32	CINTAS	383.62
ABILITA	1,425.00	CINTAS CORPORATION	158.16
AIRGAS USA LLC	69.29	CSI EMERGENCY APPARATUS LLC	1,382.45
ALLSHRED SERVICES	104.00	DeROSIA, PATRICIA E.	50.00
AMERICAN WASTE INC.	46.76	DOAN, GERARD P.	50.00
ANDERSON, ELIZABETH A.	50.00	DORAN, JUSTIN J.	50.00
ANZELL, BETH A.	50.00	DOTSON, LINDSEY J.	50.00
AT YOUR SERVICE PLUS INC	250.00	EJ USA INC.	674.18
AVFUEL CORPORATION	7,659.98	ELLIOTT, PATRICK M.	50.00
BELL EQUIPMENT COMPANY	136.99	ELLSWORTH FARMER'S EXCHANGE	792.00
BIOTECH AGRONOMICS INC	468.00	EMBROIDME	182.35
BOUND TREE MEDICAL LLC	99.51	FAMILY FARM & HOME	119.54
BUDDE, ELAINE	50.00	FASTENAL COMPANY	55.50
CDW GOVERNMENT INC.	540.00	GEMPLER'S	172.99
CENTRAL DRUG STORE	26.36	GOLDING, JOYCE M.	50.00
CERTIFIED LABORATORIES	193.67	GOOD BOY EVENTS	100.00
CHX AREA CHAMBER OF COMMERCE	10,000.00	GRAINGER	1,096.58
CHARLEVOIX COUNTY EQUALIZATION	1,407.11	GREAT LAKES PIPE & SUPPLY	520.00
CHARLEVOIX COUNTY TREASURER	821.01	Grey	20.00
CHARLEVOIX SCREEN MASTERS INC	1,367.27	HACH COMPANY	2,082.35

HANKINS, SCOTT A.	50.00	OHM ADVISORS	29,019.50
HERITAGE-CRYSTAL CLEAN LLC	96.40	PEARSALL, MICHAEL	487.00
HEYDLAUFF, MARK L.	84.00	PENINSULA FIBER NETWORK LLC	470.00
HYDE SERVICES LLC	197.50	PLUNKETT & COONEY	2,680.00
JOHNSON, MELISSA A.	50.00	POWER LINE SUPPLY	17,901.26
KLOOSTER, ALIDA K.	50.00	PRELL'S TOWING SERVICE LLC	618.75
KLOOSTER, PATRICK H.	50.00	QUALITY CAR & TRUCK REPAIR INC	734.41
KNORR, KENT J.	50.00	QUILL CORP	69.99
KSS ENTERPRISES	717.93	REICH, ROBIN	80.00
LAKESHORE TIRE & AUTO SERVICE	46.95	SHANAHAN, CHERYL J.	50.00
LAMAR COMPANIES	770.00	SILVA, JESSE L.A.	50.00
LAVENDER, JOSEPH E.	50.00	SITE ONE LANDSCAPE SUPPLY	359.60
LETTERS ONLINE	50.00	STEPHENS, LYON G.	50.00
LIVINGSTON, BRIAN D.	50.00	STUART C IRBY CO	302.85
MACGREGOR PLUMBING & HEATING	510.00	SWEM, DONALD L.	50.00
MAMA T'S COMMERCIAL CLEANING	225.00	TELEDYNE INSTRUMENTS INC	1,475.29
MAYER, SHELLEY L.	50.00	TELE-RAD INC	320.00
MCGINN, KELLY A.	50.00	TERMINAL SUPPLY CO	394.22
MCLEAN ENGINEERING CO INC	1,827.00	TRAVERS, MANUEL J.	50.00
MCMULLEN, DONALD R.	50.00	TRUCK & TRAILER SPECIALTIES	302.50
MICHIGAN MUNICIPAL LEAGUE	2,017.00	UNIVERSAL CLEANERS LLC	3,100.00
MICHIGAN WATER ENV ASSOC	154.00	USA BLUE BOOK	4,138.72
MILLER, WILLIAM S.	50.00	VILLAGER PUB, THE	219.16
MINERAL MASTERS	1,865.07	WORK & PLAY SHOP	519.98
NORTH CENTRAL MICHIGAN COLLEGE	3,435.00	WURST, RANDALL W.	50.00
NORTHERN CREDIT SERVICES	152.75	WYMAN, MATTHEW A.	50.00
NORTHERN MICHIGAN HARDWOODS	2,380.00	TOTAL	117,246.12
NORTHERN PUMP SERVICE INC.	5,122.30		

ACH Payments – 05/18/2020 to 05/29/2020

MI PUBLIC POWER AGENCY	26,633.41	VANTAGEPOINT (401 ICMA PLAN)	858.02
MI PUBLIC POWER AGENCY	15,062.59	VANTAGEPOINT (457 ICMA PLAN)	19,992.38
MI PUBLIC POWER AGENCY	185,112.11	VANTAGEPOINT (ROTH IRA)	1,186.52
IRS (PAYROLL TAX DEPOSIT)	40,251.53	MERS (DEFINED BENEFIT PLAN)	71,848.16
ALERUS FINANCIAL (HCSP)	350.00	TOTAL	367,191.45
STATE OF MI (WITHHOLDING TAX)	5,896.73		

Payroll Net Pay – Check Date 05/29/2020

HEYDLAUFF, MARK L.	2,724.04	HART II, DELBERT W.	1,335.10
GOLDING, JOYCE M.	1,653.60	JONES, ROBERT F.	1,121.43
DEROSIA, PATRICIA E.	1,305.24	FARRELL, MITCHELL L.	1,345.29
DOTSON, LINDSEY J.	1,422.46	THORP JR, WILLIAM D.	1,476.05
KLOOSTER, ALIDA K.	1,753.72	LEITNER, RYAN S.	1,214.41
GOLOVICH, KAREN J.	985.70	FERGUSON, ROYCE L.	1,520.68
BARNEVELD, RICHELLE L.	1,252.16	DORAN, JUSTIN J.	2,107.26
EDWARDS, MACKENZIE R.	1,299.42	FREY, DYLAN V.	589.60
MCGINN, KELLY A.	2,085.82	HART III, DELBERT W.	915.49
LAVENDER, JOSEPH E.	1,728.90	SLADEK, RYLYNN S.	313.45
DOAN, GERARD P.	2,407.55	LOUISELLE, ELLIE N.	300.95
UMULIS, MATTHEW T.	1,204.45	BEMIS, JACKSON R.	691.52
HANKINS, SCOTT A.	1,693.34	FINNERTY, HOLLY E.	858.01
ORBAN, BARBARA K.	1,417.76	CRANDELL, ZACKARY R.	325.93
FLICKEMA, ANDREW M.	1,425.30	MUELLER, JASON C.	588.12
RILEY, DENISE M.	450.14	KNORR, KENT J.	1,953.46
MUNK, CHRISTOPHER J.	1,235.16	ANZELL, BETH A.	1,318.58
SCHICK, TIELER R.	1,356.45	MAY, MEREDITH A.	130.60
MATELSKI, KRISTEN L.	1,356.19	HART, DAVID R.	221.85
BINGHAM, LARRY E.	324.92	MCDONNELL, JENNA N.	436.07
WURST, RANDALL W.	1,114.49	GILL, DAVID R.	787.71
MAYER, SHELLEY L.	1,463.50	MASSON, DONALD J.	271.18
HILLING, NICHOLAS A.	1,450.77	LIVINGSTON, BRIAN D.	1,708.92
MEIER III, CHARLES A.	1,329.58	STANLEY, MARK J.	55.41
ZACHARIAS, STEVEN B.	1,609.75	WYMAN, MATTHEW A.	1,781.56
NEWMAN, MARK J.	1,022.67	MILLER, WILLIAM S.	992.33
SWEM, DONALD L.	2,466.17	DOUGLAS, MARK	886.47
EATON, BRAD A.	2,609.72	PRIOR, ERIN C.	1,029.43
WILSON, TIMOTHY J.	2,749.91	FRATRICK, JOSEPH W.	525.80
LAVOIE, RICHARD L.	2,322.13	MCMULLEN, DONALD R.	2,407.17
STEVENS, BRANDON C.	2,624.89	SILVA, JESSE L.A.	1,506.86
DRAVES, MARTIN J.	2,254.25	JOHNSON, MELISSA A.	1,251.77
ANDERSON, ELIZABETH A.	1,209.90	STEPHENS, LYON G.	1,218.45
KENWABIKISE, DAVID L.	1,097.59	TRAVERS, MANUEL J.	1,400.21
ELLIOTT, PATRICK M.	2,381.83	STEVENS, JEFFREY W.	533.00
SCHWARTZFISHER, JOSEPH	1,050.22	RILEY, CASEY W.	498.54
BRADLEY, KELLY R.	1,645.34	JONES, LARRY M.	826.74

FLORE, ROBERT A.	714.20	SPREEMAN, ASHLEY M.	453.38
MATZ, EMILY S.	843.20	FAULKNOR, CHRISTOPHER J.	1,923.31
WHEELER, MICHAEL W.	1,610.42	WHITLEY, ANDREW T.	2,486.58
MISHLER, MICHAEL. J.	950.89	MORRISON, KEVIN P.	1,102.48
AZZOPARDI, ANTHONY J.	1,514.55	TOTAL	110,328.99
DEKORNE, ELIZABETH A.	292.91		
DIETZ, AMANDA M.	1,212.29		
MOYER, NATHAN I.	1,294.35		

Payroll Transmittal – 05/29/2020

4FRONT CREDIT UNION	1,002.01	COMMUNICATION WORKERS OF AMER	659.38
AMERICAN FAMILY LIFE	608.28	MI STATE DISBURSEMENT UNIT	209.65
CHAR EM UNITED WAY	90.00	MONY LIFE INSURANCE	350.85
CHARLEVOIX STATE BANK	967.00	PRIORITY HEALTH	1,449.89
CHEMICAL BANK	25.00	TOTAL	5,362.06

Tax Disbursement – 06/02/2020

CHARLEVOIX COUNTY TREASURER	873.24	RECREATIONAL AUTHORITY	49.85
CHARLEVOIX DISTRICT LIBRARY	256.42	TOTAL	1,340.36
CITY OF CHARLEVOIX - TAXES DUE	160.85		