

CITY OF CHARLEVOIX
REGULAR CITY COUNCIL MEETING MINUTES
Monday, October 19, 2020 – 6:00 p.m.
210 State Street, Charlevoix, MI

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

1. Pledge of Allegiance

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

A. Alley Corridor Vision Draft

City Manager Heydlauff recalled that Council directed him to work on an implementation strategy for the 2018 Downtown Alley Corridor Vision. He provided an overview of the draft and explained several key topics to Council. He indicated that he will forward the draft to the Planning Commission and DDA for their input before returning to Council for their final consideration.

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

4. Inquiry Regarding Conflicts of Interest

The Mayor stated he would recuse himself from Item 6.A.

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 – October 5, 2020
- B. Accounts Payable and Payroll Check Registers
 - a. Special Accounts Payable Check Register – September 30, 2020
 - b. Regular Accounts Payable Check Register – October 20, 2020
 - c. ACH Payments – October 2, 2020 to October 16, 2020
 - d. Payroll Check Register – October 16, 2020
 - e. Payroll Transmittal – October 16, 2020
 - f. Tax Disbursement – October 20 2020
- C. Historic District Commission Resignation – Vicki Voisin
- D. Planning Commission Resignation – Brian Gelb
- E. Submit Certified Local Government Grant Application to SNPO – approve historic preservation grant application

CITY OF CHARLEVOIX
RESOLUTION NO. 2020-10-03
RESOLUTION TO SUBMIT CERTIFIED LOCAL GOVERNMENT APPLICATION
TO THE MICHIGAN STATE HISTORIC PRESERVATION OFFICE

WHEREAS, *the City of Charlevoix DDA and Historic District Commission wish to nominate the 200 block of downtown Charlevoix to the National Register of Historic Places as a means of recognizing the historic significance of our commercial district while also providing resources in the form of Historic Tax Credits to property owners for rehabilitation projects; and*

WHEREAS, *the City of Charlevoix will file an application to the Michigan State Historic Preservation Office (SHPO) for the Certified Local Government (CLG) Grant in the amount of \$10,000 for the National Register Nomination for the resources located in the 200 block of downtown Charlevoix; and*

WHEREAS, *Lindsey Dotson from City of Charlevoix is appointed as the Grant Project Manager who will oversee the CLG grant management and grant administration duties; and*

WHEREAS, *Charlevoix Main Street DDA will receive and pay vendor invoices related to the grant project.*

NOW THEREFORE BE IT RESOLVED, *that the City of Charlevoix acknowledges that the Certified Local Government (CLG) is an expense reimbursement program. The Charlevoix Main Street DDA authorizes expenditures in the amount of \$10,000 for the project work with the knowledge that eligible expenditures up to the approved grant amount will be reimbursed to Charlevoix Main Street DDA upon SHPO acceptance of final project work, SHPO acceptance of the final completion report, SHPO audit and acceptance of financial documentation for eligible costs.*

RESOLVED this 19th day of October, 2020 A.D.

Resolution was adopted by the following yea and nay vote:

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

F. MPPA Capacity Purchase – authorize the purchase of capacity up to a maximum expenditure of \$79,200

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

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

6. Public Hearings & Actions Requiring Public Hearings

A. Public Hearings for Ordinances 821 and 822

The Public Hearings were opened by the Mayor at 6:29 p.m. He then recused himself and Deputy Mayor Cole took over the meeting. At their October 5th meeting, Council tabled this agenda item in order to obtain additional information. Council discussed indoor commercial food preparation and no open flames being allowed.

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

Motion by Kalbfell, second by Oleksy to approve Ordinance 821 amending the Zoning Ordinance for Roof Top Uses as amended.

**CITY OF CHARLEVOIX
ORDINANCE NO. 821 of 2020**

AN ORDINANCE TO AMEND TITLE XV, CHAPTER 153, SECTION 153.005 AND SECTION 153.118 OF THE CHARLEVOIX CITY CODE

THE CITY OF CHARLEVOIX ORDAINS:

SECTION 1. Title XV, Chapter 153, Section 153.005 of the City of Charlevoix Code is hereby amended to repeal and replace the definition of "Building Height" as follows:

BUILDING HEIGHT.

- (a) The vertical distance measured from the average finished grade around the building to the highest point of a flat roof; to the deck line of a mansard roof; and to the average height between the eaves and ridge for a gable, hip and gambrel roof, or to an equivalent point on any other roof, excluding structural elements not intended for habitation and not exceeding six (6) feet above the maximum building height including antenna arrays, smoke and ventilation stacks, flag poles, mechanical equipment and life-safety features, and parapet walls designed solely to screen mechanical and elevator equipment.
- (b) For a building located on a sloping site, height shall be measured from the average finished grade. (See 153.146 of this chapter.)

SECTION 2. Title XV, Chapter 153, Section 153.005 of the City of Charlevoix Code is hereby amended to add the following definitions:

DECK, ROOF TOP. A finished surface constructed above any top plate of a structure without a roof or walls, except for railings, and which is designed to function as useable outdoor area for human activity.

LIFE-SAFETY FEATURES. A necessary component of a building whose primary use is to eliminate or reduce danger and hazards to occupants and users of a building, including but not limited to enclosed stairwells on a roof, or enclosed elevator systems on a roof, railings on a roof, or fire suppression systems on a roof.

SECTION 3. Title XV, Chapter 153, Sections 153.118 (C) and (D) of the City of Charlevoix Code are hereby added as follows:

(C) Restaurant with outdoor seating

- (1) Restaurants providing outdoor seating within an at-grade deck or patio or a roof top deck, must first acquire a zoning and building permit from the City and Charlevoix County Building Department.
- (2) All structures would be subject to review by the Zoning Administrator and shall meet the requirements of the Ordinance.
- (3) Restaurant outdoor seating shall be allowed only during normal operating hours of the establishment.
- ~~(4) All food preparation shall take place inside the establishment.~~
- (4) If alcoholic beverages are to be served, the current Liquor Control Commission rules and regulations shall apply.
- (5) Any music or sound that would violate the City's noise ordinances and restrictions is prohibited.
- (6) Lighting shall be shielded and pointed downward and shall not be a nuisance to adjacent properties subject to Section 153.172.
- (7) Outdoor seating space is subject to the requirements of Off-Street Parking, Loading, Access and Circulation.

(D) Roof top decks

The following provisions are intended to regulate roof top deck use, permanent or temporary, in all districts to reduce safety concerns, noise and other nuisances, and visual impact on neighboring properties and on the community generally. The use of roof top decks is subject to the following restrictions:

- (1) A zoning and building permit for any roof top deck must be first obtained from the City Zoning Administrator and Charlevoix County

Building Department and is subject to construction of and maintenance of guardrails and other protective features as required by the Charlevoix County Building Code.

(2) Any request for a City of Charlevoix zoning permit that includes a roof top deck must undergo site plan review and receive approval by the Planning Commission prior to issuance of a zoning permit.

(3) Parapet walls and perimeter guardrails shall extend around the perimeter of the roof top deck and incorporate exterior building materials consistent with the architectural style of the underlying structure subject to Section 153.170.

(4) Any structure on a deck or patio must be permitted under the Zoning Code. Portable appurtenances are prohibited. Temporary appurtenances and structures are subject to site plan review to assure public safety.

(5) Except within the CBD, Central Business District, amplified musical instruments or sounds are prohibited. Any other music or sound that would violate the City's noise ordinances and restrictions is prohibited.

(6) All commercial food preparation shall take place inside the establishment.

(7) No open flames are allowed.

(8) Lighting shall be shielded and pointed downward and shall not be a nuisance to adjacent properties subject to Section 153.172.

(9) Roof top deck space is subject to the requirements of Section 153.185 et seq., Off-Street Parking, Loading, Access and Circulation.

SECTION 4. 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 5. Effective Date.

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

Ordinance No. 821 was adopted on the 19th day of October, 2020 A.D., by the Charlevoix City Council as follows:

Motion by: Kalbfell

Seconded by: Oleksy

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

Nays: None

Absent: None

State of Michigan }
City of Charlevoix } §

Planner Egan stated that the second proposed amendment is a review of the Site Plan Review section of the ordinance. The proposed amendment also helps to meet the goals of the Redevelopment Ready Community program by making the review process clear, quick, and transparent.

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

Motion by Kalbfell, second by Oleksy to approve Ordinance 822 amending the Zoning Ordinance for the Site Plan Review Process.

CITY OF CHARLEVOIX ORDINANCE NO. 822 of 2020

AN ORDINANCE TO AMEND TITLE XV, CHAPTER 153, SECTIONS 153.230 THROUGH 153.243 OF THE CHARLEVOIX CITY CODE

THE CITY OF CHARLEVOIX ORDAINS:

SECTION 1. Title XV, Chapter 153, Section 153.230 of the City of Charlevoix Code is hereby repealed and replaced as follows:

The purpose of this subchapter is to establish uniform requirements for the planning and design of developments within the city in order to achieve the following objectives:

- A. to determine compliance with the provisions of this chapter;
- B. to apply provisions of this ordinance equitably and fairly;
- C. to promote the orderly development of the city;
- D. to prevent depreciation of land values;
- E. to ensure a consistent level of quality throughout the community;
- F. to ensure a harmonious relationship between new development and the existing natural and manmade surroundings;
- G. to achieve the goals and recommendations of the city Master Plan; and
- H. to promote consultation and cooperation between applicants and the city in order that applicants may accomplish their objectives in the utilization of land, consistent with the public purposes of this chapter and the Master Plan.

SECTION 2. Title XV, Chapter 153, Section 153.231 of the City of Charlevoix Code is hereby amended so that the first sentence reads as follows:

Site plan review shall be required, as applicable, under the following conditions, or under other circumstances required by the City of Charlevoix

Zoning Ordinance or other applicable law, unless exempted by Section 153.232.

SECTION 3. Title XV, Chapter 153, Section 153.232 of the City of Charlevoix Code is hereby repealed and replaced as follows:

Site plan review shall not be required for:

- (A) Developments, expansions, or additions to existing uses within the Charlevoix City Airport.
 - (B) Single- or two-family dwellings on a lot on which there exists no other principal building or use or for any home occupation or accessory building in a single-family residential district.
- (Prior Code, § 5.117)

SECTION 4. Title XV, Chapter 153, Section 153.233 of the City of Charlevoix Code is hereby repealed and replaced as follows:

153.233 PRE-APPLICATION CONFERENCE

The Charlevoix Zoning Administrator and/or planner shall have the authority to conduct a pre-application meeting with the applicant/developer to assist them in understanding the site plan review process and other ordinance requirements; and to provide insight as to what portions of their proposed development may be of special concern to the Planning Commission.

This conference is not mandatory, but is recommended for small and large projects alike. For large projects, a pre-application conference should be held several months in advance of the desired start of construction. Such an advance conference will allow the applicant/developer time to prepare the needed information for the Planning Commission to make a proper review.

SECTION 5. Title XV, Chapter 153, Section 153.234 of the City of Charlevoix Code is hereby repealed and replaced as follows:

153.234 SITE PLAN REVIEW PROCEDURES

The process for reviewing the site plan shall be as follows:

- (A) Site Plan and Level "A" reviews shall be performed by the Zoning Administrator as follows:
 - (1) Two (2) copies of a complete site plan and an electronic version, in a format specified by the city, shall be submitted along with an application for that purpose and a fee, as established by the City Council.
 - (2) The Zoning Administrator shall review the site plan for completeness.
 - (3) If the site plan is found to be incomplete, the Zoning Administrator shall return the site plan to the applicant with a list of items needed to make the site plan complete.
 - (4) Once the site plan is determined to be complete, the Zoning Administrator shall notify and seek comment from other city departments as applicable. A review by all the applicable departments will be held within fourteen (14) days. A report will be drafted by the Zoning Administrator stating a synopsis of the proposal and how the proposal relates to the zoning ordinance standards.
 - (5) The Zoning Administrator shall consider the site plan, any comments received and the applicable standards of this ordinance and shall either approve the site plan, as submitted, if all applicable requirements and the standards of Section 153.237 have been met; approve the site plan with conditions; or deny approval of the site plan, if applicable requirements and standards have not been met.
 - (6) The reasons for the Zoning Administrator's action, along with any conditions that may be attached, shall be stated in writing and provided to the applicant.
 - (7) If approved, two (2) copies of the final site plan shall be signed and dated by the Zoning Administrator and the applicant. One (1) copy, along with the digital version, shall be kept on file with the city and one (1) copy shall be returned to the applicant or their designated representative. If the plan is approved with conditions, a revised plan shall be submitted reflecting those conditions and signed by the applicant and Zoning Administrator prior to the issuance of any permits.
- (B) Site Plan and Level "B" reviews shall be performed by the Planning Commission as follows:
 - (1) Two (2) copies of a complete site plan and an electronic version, in a format specified by the city, shall be submitted along with an application for that purpose and a fee, as established by the City Council.
 - (2) The Zoning Administrator shall review the site plan for completeness.
 - (3) If the site plan is found to be incomplete, the Zoning Administrator shall return the site plan to the applicant with a list of items needed to make the plot plan or site plan complete.
 - (4) Once the site plan is determined to be complete, the Zoning Administrator shall notify and seek comment from other city departments as applicable. A review by all the applicable departments will be held within fourteen (14) days. A report will be drafted by the Zoning Administrator stating a synopsis of the proposal and how the proposal relates to the zoning ordinance standards.
 - (5) The applicant will then submit eleven (11) copies of the complete (revised) site plan; 2 full size, 9 11" x 17" and an electronic version, in a format specified by the city.
 - (6) The Zoning Administrator shall transmit the site plan and report to the Planning Commission for consideration at its next meeting that meets the noticing requirements. Comments, if any, from the public, city departments and consultants shall be transmitted to the Planning Commission prior to its review of the plan. Where required by the City of Charlevoix Zoning Ordinance or other applicable law, notice shall be given to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction, and a public hearing held.
 - (7) The Planning Commission shall consider the site plan and shall either approve the site plan, as submitted, if all applicable requirements and standards have been met; approve the site plan with conditions; or deny the site plan if applicable requirements and standards have not been met. The Planning Commission review shall be based on the requirements of this chapter, comments received from city departments and consultants, and, specifically, the review standards of Section 153.237.
 - (8) If approved, two (2) copies of the site plan shall be signed and dated by the Planning Commission chairperson and the applicant. One (1) copy, plus the digital copy, shall be kept on file with the city and one (1) copy shall be returned to the applicant or their designated representative. If the plan is approved with conditions, a revised plan shall be submitted reflecting those conditions and signed by the

applicant and the Planning Commission chairperson, prior to the issuance of any permits.
(Prior Code, § 5.118) (Ord. 794, passed 9-17-2018)

SECTION 6. Title XV, Chapter 153, Section 153.235 of the City of Charlevoix Code is hereby repealed and replaced as follows:

153.235 SUBMITTAL REQUIREMENTS

(A) Required content. Each site plan submitted shall contain the information detailed in Table 153.235 as applicable:

Table 153.235: Required Site Plan Content		
Required Information	Level "A"	Level "B"
GENERAL INFORMATION		
Date, north arrow and scale	X	X
Name and firm address of the professional individual responsible for preparing the site plan	X	X
Name and address of the property owner or petitioner	X	X
Location sketch	X	X
Legal description of the subject property	X	X
Size of subject property in acres or square feet	X	X
Boundary survey dated within 6 years of application	X	X
Preparer's professional seal		X
Revision block (month, day and year)	X	X
EXISTING CONDITIONS		
Existing zoning classification of subject property	X	X
Property lines and required setbacks (dimensioned)	X	X
Location, width and purpose of all existing easements	X	X
Location and dimension of all existing structures on the subject property	X	X
Location of all existing driveways, parking areas and total number of existing parking spaces on subject property	X	X
Abutting street right-of-way width	X	X
Location of all existing structures, driveways and parking areas within 300 feet of the subject property's boundary		X
Existing water bodies (rivers, creeks, wetlands and the like)	X	X
Existing landscaping and vegetation on the subject property		X
Size and location of existing utilities		X
Location of all existing surface water drainage facilities	X	X
PROPOSED DEVELOPMENT		
Location and dimensions of all proposed buildings	X	X
Location of all proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, walls, fences, signs, exterior lighting, curbing, parking areas (including dimensions of a typical parking space and the total number of spaces to be provided) and unloading areas	X	X
Setbacks for all buildings and structures	X	X
Recreation areas, common use areas, dedicated open space and areas to be conveyed for public use		X
Flood plain areas and basement and finished floor elevations of all buildings	X	X
Landscape plan (showing location of proposed materials, size and type)		X
Layout and typical dimensions of proposed parcels and lots		X
Number of proposed dwelling units (by type), including typical floor plans for each type of unit		X
Number and location (by code, if necessary) of efficiency and 1-, 2- and 3- or more bedroom units		X
All deed restrictions or covenants		X
Brief narrative description of the project including proposed use, existing floor area (sq. ft.), size of proposed expansion (sq. ft.) and any change in the number of parking spaces	X	X

Table 153.235: Required Site Plan Content		
ENGINEERING		
Proposed method of handling sanitary sewage and providing potable water	X	X
Location and size of proposed utilities, including connections to public sewer and water supply systems and/or size and location of on-site systems	X	X
Location and spacing of fire hydrants		X
Location and type of all proposed surface water drainage facilities	X	X
Grading plan at no more than 2-foot contour intervals		X
Proposed streets (including pavement width, materials and easement or right-of-way dimensions)		X
BUILDING DETAILS		
Typical elevation views of all sides of each building		X
Gross and usable floor area	X	X
Elevation views of building additions	X	X
Building height	X	X

(B) Information waiver. Specific requirements of either a Level "A" or "B" site plan may be waived by the Zoning Administrator where it is determined that such information is not applicable to the request. The Planning Commission reserves the right to request the waived information for Level B Site Plan reviews in their decision making process.

(C) Additional reports/study. The Zoning Administrator or Planning Commission may require additional studies, reports or written opinions from qualified consultants to determine compliance with this chapter or other applicable law or to ensure negative impacts to public health, safety and welfare are avoided or mitigated. These reports/studies may include, but are not limited to, traffic studies, transportation plans, geotechnical reports, flood hazard evaluations or environmental assessments. The Zoning Administrator, or Planning Commission, shall have the authority to choose the individual consultant, firm or company. The costs of additional study shall be paid for by the applicant.

(Prior Code, § 5.119)

SECTION 7. Title XV, Chapter 153, Section 153.236 of the City of Charlevoix Code is hereby repealed and replaced as follows:

153.236 COORDINATION WITH OTHER DEPARTMENTS AND AGENCIES

(A) The Zoning Administrator shall forward Level "A" and Level "B" site plans and applications to the following departments and agencies where applicable for their information and opportunity to comment:

- (1) City of Charlevoix Fire and Rescue Department
- (2) City of Charlevoix Public Works Department
- (3) Charlevoix County Road Commission
- (4) Michigan Department of Transportation
- (5) Charlevoix District Health Department
- (6) Charlevoix County Drain Commissioner
- (7) City of Charlevoix Police Department
- (8) City of Charlevoix Downtown Development Authority
- (9) Any other agency that may be affected by the Site Plan.

(B) This review does not alleviate the applicant from obtaining any and all required permits and/or approvals from the departments and agencies listed above. Any comments received from the departments and agencies within a reasonable time (14 days) will be reviewed and considered by the Planning Commission and/or the Zoning Board of Appeals (ZBA).

- (1) The Planning Commission may approve an application conditioned on obtaining agency permits, or may, if the permit is critical to the site plan, require the permit or approval prior to issuance of their approval.
- (2) No construction activity associated with an approved site plan shall be undertaken until permits and approvals from all applicable agencies have been presented to the Zoning Administrator.
- (3) Whenever possible, site plan review by the Zoning Administrator and Planning Commission shall be coordinated and done simultaneously with other reviews by the Zoning Administrator and Planning Commission on the same application.
- (4) When an application is dependent on the need for a dimensional variance from the ZBA, re-zoning of property, or a zoning ordinance text amendment, such action must be completed prior to final site plan approval by the Planning Commission.

SECTION 8. Title XV, Chapter 153, Section 153.237 of the City of Charlevoix Code is hereby repealed and replaced as follows:

153.237 STANDARDS FOR SITE PLAN APPROVAL

A site plan shall be approved or approved with conditions, only upon a finding of compliance with the following standards:

- (A) The site plan must comply with all standards of this Article and all applicable requirements of this chapter, as well as with all other applicable city, county, state and federal laws and regulations.
- (B) The site must be designed in a manner that is harmonious, to the greatest extent possible, with the character of the surrounding area.
- (C) The site must be designed to minimize hazards to adjacent property and to reduce the negative effects of traffic, noise, smoke,

fumes and glare to the maximum extent possible.

- (D) The site plan does not have a negative impact on the provisions of human services, housing, transportation needs, and access to food in the community.
- (E) The site plan protects the natural environment and conserves natural resources and energy to the extent possible in light of the proposed development.
- (F) Unless a more specific design standard is required by the city through a different ordinance or regulation, all uses and structures subject to site plan review shall comply with the following design standards:
 - (1) Traffic circulation.
 - a. The site plan shall comply with the applicable zoning district requirements for minimum floor space, height of building, lot size, yard space, density and all other requirements as set forth in the City of Charlevoix Zoning Ordinance, unless otherwise provided.
 - b. Vehicular and Pedestrian Circulation. Safe, convenient, uncontested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. A pedestrian circulation system shall be provided and shall be as insulated as completely as reasonably possible from the vehicular circulation system. The number, location and size of access and entry points, and internal vehicular and pedestrian circulation routes shall be designed to promote safe and efficient access to and from the site, as well as circulation within the site. In reviewing traffic features, the number, spacing and alignment of existing and proposed access points shall be considered relative to their impact on traffic movement on abutting streets and adjacent properties.
 - c. Walkways from parking areas to building entrances
 - a. Internal pedestrian walkways shall be developed for persons who need access to the building(s) from internal parking areas and shall be designed to provide access from these areas to the entrances of the building(s)
 - b. The walkways shall be designed to separate people from moving vehicles.
 - c. These walkways shall have a minimum width of five (5) feet with no car overhang or other obstruction.
 - d. The walkways must be designed in accordance with the Michigan Barrier Free Design Standards.
 - e. The walkways shall be distinguished from the parking and driving areas by use of any of the following materials: special pavers, bricks, raised elevation or scored concrete. Other materials may be used if they are appropriate to the overall design of the site and building and acceptable to the review authority.
 - (2) Storm water. Storm water retention and drainage systems shall be designed so the removal of surface water will not adversely affect neighboring properties or public storm water drainage systems. Unless impractical, storm water shall be removed from all roofs, canopies and paved areas by an underground surface drainage system. Low impact design solutions such as rain gardens and green roofs are encouraged. The proposed project will meet the City of Charlevoix Storm Water Ordinance.
 - (3) Snow Storage. Proper snow storage areas shall be provided so to not adversely affect neighboring properties, vehicular and pedestrian clear vision, and parking area capacity.
 - (4) Landscaping. The landscape shall be preserved in its natural state, insofar as practical, by minimizing unnecessary tree and soil removal. Any grade changes shall be in keeping with the general appearance of neighboring developed areas. Provision or preservation of landscaping, buffers or greenbelts may be required to ensure the proposed uses will be adequately buffered from one another and from surrounding property.
 - (5) Screening. Where non-residential uses abut residential uses, appropriate screening shall be provided in accordance with Section 153.171 to shield residential properties from noise, headlights and glare.
 - (6) Lighting. Lighting shall be designed to minimize glare on adjacent properties and public streets. As a condition of site plan approval, reduction of lighting during non-business hours may be required.
 - (7) Utility service. All utility service shall be underground, unless impractical due to engineering difficulties.
 - (8) Exterior uses. Exposed storage areas, machinery, heating and cooling units, service areas, loading areas, waste storage areas, utility buildings and structures, and similar accessory areas shall be located to have a minimum negative effect on adjacent properties and shall be screened, if reasonably necessary, to ensure compatibility with surrounding properties.
 - (9) Emergency access. All buildings and structures shall be readily accessible to emergency vehicles.
 - (10) Water and Sewer. Water and sewer installations shall comply with all City specifications and requirements.
 - (11) Signs. Permitted signs shall be located to avoid creating distractions, visual clutter and obstructions for traffic entering or exiting a site.

(Prior Code, § 5.120)

SECTION 9. Title XV, Chapter 153, Section 153.238 of the City of Charlevoix Code is hereby repealed and replaced as follows:

153.238 CONDITIONS OF SITE PLAN APPROVAL

- (A) Conditions which are designed to ensure compliance with the intent of this Zoning Ordinance and other regulations of the City of Charlevoix may be imposed on site plan approval.
- (B) Conditions imposed shall be based on the following criteria:
 - (1) Ensure that public services and facilities affected by the proposed land use and site plan will not be adversely affected.
 - (2) Ensure that the use is compatible with adjacent land uses and activities.
 - (3) Protect natural resources, the health, safety, welfare and social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - (4) Ensure compatibility between the proposed use or activity and the rights of the city to perform its governmental functions.
 - (5) Meet the intent and purpose of the City of Charlevoix Zoning Ordinance, be related to the regulations and standards established in the ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.

- (6) Ensure compliance with the intent of other city ordinances that are applicable to the site plan.
 - (7) Ensure compatibility with other uses of land in the vicinity.
- (Prior Code, § 5.121)

SECTION 10. Title XV, Chapter 153, Section 153.239 of the City of Charlevoix Code is hereby repealed and replaced as follows:

153.239 PERFORMANCE GUARANTEE

To assure compliance with this ordinance and any conditions of approval, performance guarantees may be required. The City Manager may require that a performance guarantee be furnished to ensure compliance with the requirements and conditions imposed under the City's Zoning Ordinance. The amount of the performance guarantee shall be set forth by the City Manager, with input from Council, and shall be an amount acceptable to the city in covering the estimated cost of improvements associated with the project for which zoning approval is sought. This performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or a surety bond, and shall be deposited with the treasurer of the City. The performance guarantee shall be deposited at the time of issuance of the permit authorizing the activity or project. The City shall not require the deposit of the performance guarantee before the date on which the City is prepared to issue the permit. The City shall rebate any cash deposits in reasonable proportion to the ratio of work completed on the required improvement as work on the required improvements progresses.

(Prior Code, § 5.122) (Ord. 794, passed 9-17-2018)

SECTION 11. Title XV, Chapter 153, Section 153.240 of the City of Charlevoix Code is hereby added as follows:

153.240 AUTHORITY AND LIMITATIONS

- (A) A person aggrieved by a decision of the Zoning Administrator or Planning Commission in granting or denying approval of a site plan, or regarding any conditions attached to an approval, may appeal the decision to the ZBA per the requirements of Section 153.038. A party aggrieved by the decision of the ZBA may appeal to the Charlevoix County Circuit Court.
- (B) Decisions on a Special Use Permit or Planned Unit Development site plan may not be appealed to the ZBA, and may be appealed directly to Circuit Court.
- (C) Land Use Permits associated with an approved site plan will not be issued until permits and approvals from applicable outside agencies have been presented to the Zoning Administrator. Such permits and approvals shall include but not be limited to soil erosion and sedimentation control permits, wetland permits, floodplain permits, driveway and road permits, and Health Department permits.

SECTION 12. Title XV, Chapter 153, Section 153.241 of the City of Charlevoix Code is hereby added as follows:

153.241 AMENDMENT TO APPROVED SITE PLAN

Changes to an approved site plan shall be permitted only under the following circumstances:

- (A) The holder of an approved site plan shall notify the Zoning Administrator of any proposed change to an approved site plan.
 - (B) Changes to a Level "A" site plan may be approved by the Zoning Administrator.
 - (C) Minor changes to a Level "B" site plan may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design or any specified conditions imposed as part of the original approval. Minor changes shall include the following:
 - (1) Reduction in building size or increase in building size up to five (5) percent of total approved floor area.
 - (2) Movement of buildings or other structures by no more than ten (10) feet.
 - (3) Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
 - (4) Changes in building materials to a comparable or higher quality.
 - (5) Changes in floor plans which do not alter the character of the use.
 - (6) Changes required or requested by a city, county, state or federal regulatory agency in order to conform to other laws or regulations.
 - (D) A proposed change to a Level "B" site plan, determined by the Zoning Administrator to not be a minor change, shall be submitted to the Planning Commission as a site plan amendment and shall be reviewed in the same manner as the original application.
- (Prior Code, § 5.123)

SECTION 13. Title XV, Chapter 153, Section 153.242 of the City of Charlevoix Code is hereby added as follows:

153.242 EXPIRATION

Site plan approval shall expire twelve (12) months after the date of approval, unless substantial construction has been commenced and is continuing. The Zoning Administrator, in the case of a Level "A" site plan, or the Planning Commission, in the case of Level "B" site plan, may grant one extension of up to twelve (12) additional months; provided the applicant requests an extension in writing prior to the date of expiration of the site plan. The extension shall be approved if the applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant and the project will proceed within the extension period. If the above provisions are not fulfilled or the extension has expired prior to construction, the site plan approval shall become null and void.

(Prior Code, § 5.124)

SECTION 14. Title XV, Chapter 153, Section 153.243 of the City of Charlevoix Code is hereby added as follows:

153.243 AS BUILT PLAN

- (A) For a project which requires a detailed site plan review, an as-built site plan shall be submitted to the City within 90 days of completion or occupancy, whichever comes first. This site plan shall be prepared to the same standard as the approved site plan. The Zoning Administrator shall use this as-built site plan as a comparison to the approved site plan, and the actual construction on the ground to ensure compliance with the conditions, and other requirements of the site plan, Planned Unit Development, special use permit, and requirements of this ordinance.
- (B) If the as-built site plan does not show compliance with the conditions, and other requirements of the site plan, Planned Unit Development,

special use permit, or other requirements of this ordinance, the deviation shall be considered a violation of this ordinance and shall be subject to any applicable enforcement remedy.

SECTION 15. 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 16. Effective Date.

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

Ordinance No. 822 was adopted on the 19th day of October, 2020 A.D., by the Charlevoix City Council as follows:

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

*State of Michigan } §
City of Charlevoix }*

B. Public Hearing to Conduct a Deer Cull

The Mayor returned to the meeting. Chief Doan recalled the timeline of deer management meetings and discussions over the last two years. The deer cull would be conducted in January 2021 if approved. Tony Aderman from the USDA answered several questions from Council.

Mayor Kurtz opened the item to public comment and five were heard, four of which were not in favor.

It was the general consensus of Council to not conduct a cull at this time. They agreed to collaborate with the Little Traverse Bay Bands of Odawa Indians going forward regarding this issue and others.

Motion by Slater, second by Cole to establish communication with Little Traverse Bay Bands of Odawa Indians over deer culling and other topics. Motion carried by unanimous voice vote.

The public hearings were closed by the Mayor at 7:13 p.m.

7. All Other Actions & Requests

A. Assessing Agreement

City Manager Heydlauff stated that City Assessor Joe Lavender desires to transition away from employment with the City and instead transition to an independent contractor so that he can take on additional units. He stated that from a service perspective, this would not change anything except the Assessor's in-office availability will drop from four days per week to one. City Manager Heydlauff noted that the Assessor would continue GIS work remotely.

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

Motion by Cole, second by Kalbfell to authorize the City Manager to sign the assessing agreement with Up North Assessing as presented. Motion carried by unanimous voice vote.

B. Fence Regulation Request for Planning Commission

Slater stated that some on Council would like to ask the Planning Commission to further study fence regulations as a means of controlling nuisance animals. Zoning Administrator Scheel stated that now that there is a decision on the deer cull, he will issue ordinance enforcement letters to those residents who have installed a deer fence.

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

Motion by Slater, second by Oleksy to request the Planning Commission study fence regulations relative to nuisance animals.

Yeas: Slater, Hagen, Cole

Nays: Oleksy, Bryan, Kalbfell

Mayor voted Yea to break the tie. Motion carried.

8. Reports & Communications

A. Public Comments

- Darlene Klien requested a report regarding the money given to the Chamber of Commerce for job finding

B. City Manager Comments

- May GTB grant request for stretchers is being resubmitted in November due to COVID-19 constraints in May
- Fall tree planting begins this week
- Clerk is busy with election related tasks
- In interest of meeting brevity, the November 2nd meeting will be Consent Agenda only

C. Mayor & Council Comments

9. **Other Council Business**

The Mayor suggested that the City look into making sidewalks more accessible this winter. Council requested that the City Manager pursue options and bring them back to Council.

10. **Adjourn**

The Mayor adjourned the meeting at 7:44 p.m.

Joyce M. Golding	City Clerk	Luther Kurtz	Mayor
Special Accounts Payable – 09/30/2020			
STATE OF MICHIGAN	50.00	TOTAL	50.00
Regular Accounts Payable – 10/20/2020			
ACCESS LOCKSMITHING INC	132.50	GREAT LAKES PIPE & SUPPLY	319.77
ACCUMED GROUP, THE	4,013.49	HACH COMPANY	864.25
ACE HARDWARE	1,795.64	HERZOG ELECTRIC	297.73
ALL-PHASE ELECTRIC	116.67	HYDRO CORP	539.50
ALTA CONSTRUCTION EQUIP LLC	3,281.79	IDEXX DISTRIBUTION INC.	1,518.98
AMERICAN WASTE INC.	1,290.00	INDEPENDENT DRAFTING SERVICES	1,938.00
APX INC.	32.58	IPS GROUP INC	1,590.43
ARNST, JEFF	24.84	JACK DOHENY COMPANIES	142.09
AUTO VALUE	535.08	JOHN E. GREEN COMPANY	210.00
AVFUEL CORPORATION	37,623.44	KEN'S REAL FOOD	75.00
BEAVER RESEARCH COMPANY	217.05	KSS ENTERPRISES	255.34
BEHAN WINDOW CLEANING	140.00	LAMAR COMPANIES	770.00
BELL EQUIPMENT COMPANY	1,211.85	LEWIS, JACK & BRENDA	25.00
BLARNEY CASTLE OIL CO	843.43	LITTLE TRAVERSE DISPOSAL LLC	21,803.25
BLAZING AVIATION	139.58	LOTTIE'S BAGELS	84.00
BOSS, ERICA	200.00	MINERAL MASTERS	1,935.00
BOUND TREE MEDICAL LLC	469.83	MOUSSEAU, BERNARD	270.00
BRADFORD'S	35.75	NAVIA BENEFIT SOLUTIONS	50.00
CARQUEST OF CHARLEVOIX	678.35	NORTH COAST FASTENERS LLC	384.90
CCP INDUSTRIES INC	282.40	NORTHERN CREDIT SERVICES	430.53
CDW GOVERNMENT INC.	170.56	NORTHERN LIGHTS FAMILY	158.00
CENTRAL DRUG STORE	42.47	NORTHERN MICHIGAN REVIEW INC.	372.00
CHARLEVOIX SCREEN MASTERS INC	594.00	NORTHERN SAFETY CO INC	73.68
CHARLEVOIX STATE BANK	26,885.72	NORTHWEST FIRE	273.50
CHARTER COMMUNICATIONS	147.15	NW MI COG	36,315.00
CHEMICAL SYSTEMS INC.	3,576.00	OLESON'S FOOD STORES	62.85
CHEMTRADE CHEMICALS US LLC	5,826.40	OLSON BZDOK & HOWARD	2,689.25
CINTAS	55.91	PARASTAR INC.	75.80
CITY OF CHARLEVOIX - MISC	3,688.71	PARKER, MICHAEL	80.00
CITY OF CHARLEVOIX - UTILITIES	48,621.72	PENINSULA FIBER NETWORK LLC	470.00
CONWAY PROFESSIONAL SERVICES	4,280.00	PHYSICIAN'S CLINIC OF CHARLEVOIX	42.00
DELL MARKETING L P	1,053.44	PLUNKETT & COONEY	1,840.00
DHASELEER, CARL	117.00	POWER LINE SUPPLY	16,434.04
DITCH WITCH SALES OF MICHIGAN	2,444.56	PURITY CYLINDER GASES INC	278.85
DORNBOS SIGN INC.	40.90	QTPOD	1,425.00
DOWNING, DENNIS	50.00	QUALITY CAR & TRUCK REPAIR INC	726.30
EJ USA INC.	1,006.72	RANGE TELECOMMUNICATIONS	503.95
ELECTIONSOURCE	146.06	RESCO	8,701.60
EMBROIDME	90.90	RIETH-RILEY CONST CO INC	409,994.91
EMERGENCY MEDICAL PRODUCTS INC	195.15	SHARROW MASONRY INC	450.00
EMERGENCY VEHICLES PLUS	459.56	SHINDORF BUILDERS	1,117.00
ETNA SUPPLY	950.00	SPARTAN STORES LLC	49.75
FAMILY FARM & HOME	1,294.52	STAPLES	163.88
FASTENAL COMPANY	29.97	TAYLOR 12501 LLC	4,417.50
FREEDOM MAILING SERVICES INC.	2,253.42	TELNET WORLDWIDE	223.09
GALLS AN ARAMARK COMPANY	1,331.99	THORP, CARLI	75.00
GORDON FOOD SERVICE	17.97	TRUCK & TRAILER SPECIALTIES	64.60
GRAINGER	320.59	UNIFIRST CORPORATION	477.05
GREAT LAKES ELEVATOR LLC	3,408.93	VILLAGE GRAPHICS INC.	1,574.18

WILBERT BURIAL VAULT CO	591.36	ZIXCORP	13,510.12
WORK & PLAY SHOP	252.40	TOTAL	699,492.86
XEROX FINANCIAL SERVICES	168.84		
ZIIBIMJWANG INC	173.00		

ACH Payments – 10/02/2020 to 10/16/2020

PROXIMITY SPACE INC	105.40	ALERUS FINANCIAL (HCSP)	350.00
MI PUBLIC POWER AGENCY	12,814.02	STATE OF MI (WITHHOLDING TAX)	6,322.34
AMG PAYMENT SOLUTIONS	669.94	VANTAGEPOINT (401 ICMA PLAN)	912.08
PAYMENT SERVICE NETWORK	249.10	VANTAGEPOINT (457 ICMA PLAN)	20,519.35
STATE OF MI (SALES TAX)	21,575.46	VANTAGEPOINT (ROTH IRA)	1,155.76
DTE ENERGY	1,798.51	TOTAL	119,584.91
MI PUBLIC POWER AGENCY	9,893.77		
IRS (PAYROLL TAX DEPOSIT)	43,219.18		

Payroll Net Pay – Check Date 10/16/2020

HEYDLAUFF, MARK L.	2,882.72	HART III, DELBERT W.	755.69
GOLDING, JOYCE M.	1,653.60	FINNERTY, HOLLY E.	654.95
DEROSIA, PATRICIA E.	799.18	CRANDELL, ZACKARY R.	532.52
DOTSON, LINDSEY J.	1,421.40	KNORR, KENT J.	1,958.91
KLOOSTER, ALIDA K.	1,753.73	ANZELL, BETH A.	1,318.21
GOLOVICH, KAREN J.	1,005.65	KLOOSTER, PATRICK H.	1,655.71
BARNEVELD, RICHELLE L.	1,163.10	EVANS JR, HALBERT K.	648.24
EDWARDS, MACKENZIE R.	1,299.42	DAVIS, LEAH R.	234.86
MILLER, FAITH G.	32.43	TELGENHOF, WILL G.	82.81
MCGINN, KELLY A.	2,085.82	WHITE III, MARCUS W.	585.23
LAVENDER, JOSEPH E.	1,728.57	KIRINOVIC, THOMAS F.	408.89
DOAN, GERARD P.	2,406.48	HART, DAVID R.	55.41
UMULIS, MATTHEW T.	1,203.53	MCDONNELL, JENNA N.	364.50
HANKINS, SCOTT A.	1,952.22	GILL, DAVID R.	557.72
ORBAN, BARBARA K.	1,234.27	MASSON, DONALD J.	404.03
FLICKEMA, ANDREW M.	1,589.58	LABLANCE, MAUREEN J.	148.69
RILEY, DENISE M.	454.71	LIVINGSTON, BRIAN D.	1,708.92
MUNK, CHRISTOPHER J.	1,268.55	STANLEY, MARK J.	63.72
SCHICK, TIELER R.	1,310.55	WYMAN, MATTHEW A.	1,647.33
MATELSKI, KRISTEN L.	1,355.87	MILLER, WILLIAM S.	1,152.94
BINGHAM, LARRY E.	1,006.88	DOUGLAS, MARK	1,050.54
MACGILLIVRAY, ROGER	371.04	PRIOR, ERIN C.	962.45
AZZOPARDI, LAUREN E.	268.45	FRATRICK, JOSEPH W.	518.81
WURST, RANDALL W.	1,610.41	MCMULLEN, DONALD R.	2,022.91
MAYER, SHELLEY L.	1,727.26	SILVA, JESSE L.A.	1,053.71
HILLING, NICHOLAS A.	1,404.87	JOHNSON, MELISSA A.	1,363.60
MEIER III, CHARLES A.	1,195.82	STEPHENS, LYON G.	73.49
ZACHARIAS, STEVEN B.	1,566.98	TRAVERS, MANUEL J.	1,535.87
NEWMAN, MARK J.	965.11	FAULKNER, CHRISTOPHER J.	2,544.80
SWEM, DONALD L.	3,086.32	STEVENS, JEFFREY W.	256.64
EATON, BRAD A.	2,586.02	RILEY, CASEY W.	649.67
WILSON, TIMOTHY J.	2,900.46	JONES, LARRY M.	614.99
LAVOIE, RICHARD L.	2,272.18	VANZANDT, ZORRAN C.	572.65
STEVENS, BRANDON C.	2,566.20	MATZ, EMILY S.	1,058.06
DRAVES, MARTIN J.	2,385.03	LEPIRD, KATIE A.	1,033.50
ANDERSON, ELIZABETH A.	1,233.97	MOYER, DAVID T.	43.61
KENWABIKISE, DAVID L.	1,161.97	WHEELER, MICHAEL W.	1,769.72
ELLIOTT, PATRICK M.	2,739.34	MISHLER, MICHAEL. J.	1,326.04
SCHWARTZFISHER, JOSEPH	1,069.98	AZZOPARDI, ANTHONY J.	1,772.99
BRADLEY, KELLY R.	2,043.63	PECK, JARICA L.	387.67
HART II, DELBERT W.	1,429.48	DIETZ, AMANDA M.	776.30
JONES, ROBERT F.	1,276.15	WELLS, JANINNA J.	168.49
FARRELL, MITCHELL L.	1,334.39	MOYER, NATHAN I.	1,724.83
THORP JR, WILLIAM D.	1,603.27	MARIHUGH, ANDREW J.	155.20
LEITNER, RYAN S.	1,016.11	WHITLEY, ANDREW T.	2,922.44
FERGUSON, ROYCE L.	1,498.97	MORRISON, KEVIN P.	1,687.89
DORAN, JUSTIN J.	2,107.26	BISHAW, JAMES H.	649.87
MANKER SR, DAVID W.	554.71	SEROUR III, MICHAEL J.	387.88
NEDWICK, DAVID J.	404.93	TOTAL	118,505.95
FREY, DYLAN V.	493.48		

Payroll Transmittal – 10/16/2020

4FRONT CREDIT UNION	943.00	COMMUNICATION WORKERS OF AMER	672.47
AMERICAN FAMILY LIFE	608.28	MI STATE DISBURSEMENT UNIT	209.65
CHAR EM UNITED WAY	90.00	MONEY LIFE INSURANCE	380.82
CHARLEVOIX STATE BANK	967.00	PRIORITY HEALTH	1,499.08
CHEMICAL BANK	25.00	TOTAL	5,395.30

Tax Disbursement – 10/20/2020			
CHARLEVOIX COUNTY TREASURER	31,160.97	CHARLEVOIX PUBLIC SCHOOLS	1,460.98
CHARLEVOIX PUBLIC SCHOOLS	44,589.49	CITY OF CHARLEVOIX - TAXES DUE	36,756.59
CHARLEVOIX PUBLIC SCHOOLS	1,490.86	TOTAL	116,949.48
CHARLEVOIX PUBLIC SCHOOLS	1,043.48		
CHARLEVOIX PUBLIC SCHOOLS	447.11		