

CITY OF CHARLEVOIX
210 STATE ST. CHARLEVOIX, MICH. 49720
PLANNING COMMISSION PUBLIC MEETING AGENDA

MONDAY, AUGUST 13, 2018 AT 6:00 PM in the City Council Chambers, 210 State Street, Charlevoix, MI

- A. Call to Order/Pledge of Allegiance
- B. Roll Call
- C. Inquiry into Potential Conflicts of Interest
- D. Approval of Agenda
- E. Approval of the Minutes
 - 1. July 9, 2018 Minutes
- F. Call for Public Comment Not Related to Agenda Items
- G. New Business
 - 1. Public Hearing: Zoning Ordinance Amendment #1 Housekeeping
 - 2. Public Hearing: Zoning Ordinance Amendment #2 Procedure Changes
 - 3. 2016 Census/Housing Data for Charlevoix
 - 4. Code of Ethics
- H. Old Business
- I. Staff Updates
- J. Requests For Next Months Agenda or Research Items
- K. Adjournment by 8:00 PM unless extended by a motion.

The City of Charlevoix will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting upon one weeks' notice to the City of Charlevoix. Individuals with disabilities requiring auxiliary aids or services should contact the City of Charlevoix Clerk's Office in writing or calling the following: City Clerk, 210 State Street, Charlevoix, MI 49720 (231) 547-3250.

CITY OF CHARLEVOIX

Approval of the Minutes

TO: Planning Commission

FROM: Kathy Egan

SUBJECT: July 9, 2018 Minutes

DATE: August 13, 2018

ATTACHMENTS:

▯ July 9, 2018 draft minutes

CITY OF CHARLEVOIX
PLANNING COMMISSION MEETING MINUTES
Monday, July 9, 2018 - 6:00 p.m.
210 State Street, City Hall, Council Chambers, Charlevoix, MI

A. Call to Order

The meeting was called to order at 6:00 p.m. by Chair Chamberlain.

B. Roll Call

Chair:	Sherm Chamberlain
Members Present:	Toni Felter, Brian Gelb, Dennis Halverson, Philip Parr, RJ Waddell, Rick Golding
Members Absent:	Jennifer Muladore
Member Vacancy:	One
Staff Present:	Kathy Egan, Community Planner Networks Northwest

Chair Chamberlain reported that Nelson Fletcher submitted his resignation from the Planning Commission and expressed gratitude to him for serving.

C. Inquiry into Potential Conflicts of Interest

D. Approval of Agenda

Motion by Member Felter, second by Parr to approve the agenda as presented. Motion passed by unanimous voice vote.

E. Approval of the June 11, 2018 Minutes

Motion by Member Waddell, second by Member Gelb to approve the June 11, 2018 meeting minutes as presented. Motion passed by unanimous voice vote.

F. Call for Public Comment Not Related to Agenda Items

G. New Business

1. Moose Sculpture

Egan introduced the topic of a potential donation to the City of a life-size moose sculpture from Claudia and Weldon Baird. The donors were specific that they thought it would be a welcome addition to East Park. City Council asked the Planning Commission to review the idea and report to them.

Chair Chamberlain asked if there was any public comment on this subject. There was none. He went on to say that although the sculpture is unique it is not connected to the history of Charlevoix and it would interfere with the use of the park. He noted that it was important that East Park remain open and green.

Other points from commissioners included:

- The viewshed is important to the City. For this reason, the City declined donations in the past, citing shuffleboard courts and a fireplace as examples.
- The goal of the East Park design team was to keep it minimal.
- It is not appropriate for East Park; other parks may be a better location for the sculpture.
- Concern that the sculpture may be a safety hazard. Kids may be tempted to try to climb it and it is made of rusty metal.
- The offer is a nice gesture and made with good intentions, but it interferes with what is in the park.

Motion by Member Halverson, seconded by Member Golding to thank the Bairds for their generous offer, but for aesthetic and safety reasons they recommend that the City Council not accept the offer.

Yeas: Waddell, Parr, Halverson, Golding, Gelb, Felter, Chamberlain

Nays: None

Absent: Muladore

2. Zoning Ordinance Amendment Review #1 Housekeeping

Egan introduced the list of proposed zoning amendments. Ten have to do with the update of the sign section of the ordinance, four are from a previous ordinance review, three deal with a reduction in ZBA membership from 7 to 5, and the rest are miscellaneous clarifications.

A contradiction in the ordinance needs to be clarified. In one place it says that the minimum width of a dwelling is 16 feet and in another place it reads to be 22 feet. After discussion the Commission agreed to change both to 20 feet minimum width. The rest of the changes were reviewed.

Motion by Member Felter, second by Member Parr to forward the draft amendments with the change to 20 feet minimum dwelling width to a public hearing at the August meeting. Motion passed by unanimous voice vote.

3. Zoning Ordinance Amendment Review #2 Procedure Changes

Egan introduced the proposed amendment that would remove City Council from approval procedures for site plan reviews, special land uses, site condo approvals, and planned unit developments. This is a recommendation from City Council.

Motion by member Golding, second by Member Halverson to forward the draft amendments to a public hearing at the August meeting. Motion passed by unanimous voice vote.

H. Old Business

1. Rental Ordinance Example

Egan provided the simplest rental ordinance example she was able to find which is used in Ionia, Michigan. The Commission discussed it. Although the goal is noble, public safety enforcement is a challenge and it depends on who is conducting the inspections. Police or fire personnel would not be able to inspect at this level, it would need some sort of a building inspection certification. After researching and discussing the idea of the City adopting a long term rental policy the Commission came to the consensus that now is not the time for Charlevoix to enact such an ordinance. Even a simple ordinance can be extensive and expensive to enforce. It was noted that there were no members of the public asking for such standards. No action taken.

2. Housing Discussion Report

Egan presented the report on housing options available to the City. Chamberlain requested a report that showed the trends in housing needs, employment trends, and demographics as a next step. The Planning Commission can follow that with the fieldtrip idea to take a look at what housing is available in the different districts. The third step would be to formulate changes to the Zoning Ordinance.

I. Staff Updates

J. Request for Next Month's Agenda or Research Items

There will be two public hearings for Zoning Ordinance amendments. Housing/employment/demographic data will be presented.

Member Waddell questioned a point of order. There were three donations to the City in the past week and the Planning Commission has been asked to review only one of them. The others were the Blue Star Memorial plaque and Keep Charlevoix Beautiful plaques on downtown light poles. Chair Chamberlain said it may be a consistency issue and will confer with the Mayor.

K. Adjournment by 8:00 p.m. Unless Extended by Motion

Motion by Member Golding, second by Member Halverson to adjourn the meeting. Motion passed by unanimous voice vote. Meeting adjourned at 7:16 p.m.

Kathy Egan

Community Planner

Sherm Chamberlain

Chair

CITY OF CHARLEVOIX

New Business

TO: Planning Commission

FROM: Kathy Egan

SUBJECT: Public Hearing: Zoning Ordinance Amendment #1 Housekeeping

DATE: August 13, 2018

BACKGROUND

There are two public hearings for Zoning Ordinance amendments this month.

I've included a sheet on the public hearing process as an introduction to the process for the new planning commissioners. At the same time it can serve as a refresher for everyone and be used as a handout for members of the public.

The first proposed amendment is considered to be housekeeping and all the changes are minor. We reviewed the changes last month and can do so again during this hearing.

ATTACHMENTS:

- ▣ Public Hearing Procedure
- ▣ Chart of Proposed Housekeeping Amendments
- ▣ Additional Housekeeping Amendment Information

Public Hearing Procedure – Zoning Ordinance Amendment

1. The Chair opens the Public Hearing, and turns to the Planner and/or Zoning Administrator for an introduction/explanation of the proposed amendment.
2. If amendment was requested by formal application, the applicant may present their request.
3. Planning Commission may question staff on the content of the amendment.
4. The Chair opens the floor to Public Comment:
 - Individuals are encouraged to state their name and address (although it is not required).
 - Comments should be directed to the Chair.
 - Chair has the option to answer questions.
 - Chair may limit the amount of time for each person wishing to make public comment.
 - Every individual who wishes to speak shall have an opportunity to speak before anyone is allowed to speak twice.
5. When everyone has had an opportunity to speak, the Chair shall close the floor to public comment.
6. Any written comments are acknowledged and incorporated into the public record.
7. The Chair closes the Public Hearing.
8. The Planning Commission then considers and deliberates the proposal and recommends action to the City Council.

City of Charlevoix
Zoning Ordinance Amendments
Housekeeping
8/13/18 Public Hearing

Page No.	Section Number	Topic	Language	Notes
11	Sect. 5.9	Home Occupation (Minor) definition	Home Occupation (Minor). A vocational activity conducted as an accessory use in a dwelling unit by a member or members of the resident family, which is accessory and incidental to the principal residential use of the dwelling. Minor home occupations have two (2) or less employees who also reside at the same location , have no exterior signage, and conduct business in a manner not known to the general public.	Conflicts with standards in Section 5.46(7)
12	Sect. 5.11	Lot Lines. <i>Front Lot Line</i> definition	<i>Front Lot Line</i> . In the case of an interior lot, the line separating the lot from the street right-of-way or road easement. For a corner lot, the principal front lot line shall be the location of the traditional front entrance of the structure. the front lot line shall be the shortest of the two lot lines tangent to the street right-of-way or road easement. In the case of a through lot, the front lot line shall be determined by the zoning administrator based on the dominant orientation of abutting and facing lots.	Correct contradiction with Sect. 5.71(1)
15	Sect 5.14	Recreation Facility, Indoor and Outdoor definitions	A facility that is not publicly owned , open either to the general public or to members and their guests...	Apply to both public and non-public per D. Cline review.
17	Sect. 5.14	Signs	A structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs or trademarks by which any message or image is afforded public visibility from outdoors on behalf of, or for the benefit of, any product, place, activity, individual, firm, corporation, institution, profession, association, business or organization. (See Article 11 for detailed definitions.)	Strike existing definition and match definition to new definition in Article 11
25/51	Sect. 5.27(2) and 5.47(1)(c)	Area, Height, and Placement/Residential Uses	see attached	Standards for minimum dwelling width do not match
25	Sect. 5.27(2)	Footnote no. 7	see attached	Move to 5.46(1)(g) and reletter rest of section
31	Sect. 5.31	Allowed Uses chart	add "Athletic Courts" to Recreation facility line. See attached	Per D. Cline review.
40	Sect. 4.46(1)(g)	Add sentence	The minimum distance between a principal building and detached accessory buildings shall be ten (10) feet, and a minimum of twenty (20) feet shall be provided between the sides of adjacent single family buildings and/or accessory structures.	Relocate Footnote no. 7 from page 25

City of Charlevoix
Zoning Ordinance Amendments
Housekeeping
8/13/18 Public Hearing

Page No.	Section Number	Topic	Language	Notes
45	Sect. 5.46(7)(b)	Signs	Except for a sign , as allowed by <i>Article 11</i> , the home occupation must not be evident from the street or any neighboring property. (Minor home occupations shall not have signage.)	
45	Sect. 5.46(8)	Outdoor Display and Sales	Outdoor Display and Sales are allowed in CBD Overlay only during district-wide sidewalk sale events.	Add sentence to the end of 5.46(8)
46	Sect. 5.46(9)(a)5	Signs	There shall be no signs on the unit, greater than three (3) square feet, other than allowed per Article 11. a sign or logo identifying the manufacturer with an area no greater than three (3) square feet, plus any necessary safety information signs.	
48	Sect. 5.46(10)(c)2	WECS	Minimum Lot Area. A building-mounted WECS shall be allowed on any lot , except in the SR district , provided that all other requirements are met.	Per D. Cline review.
48	Sect. 5.46(10)(c)6	Signs	There shall be no signs on the WECS , greater than three (3) square feet, other than allowed per Article 11. a sign or logo identifying the manufacturer with an area no greater than three (3) square feet, plus any necessary safety information signs.	
59	Sect. 5.48(1)(b)1(d)i	Signs	Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this type of photographic reproduction; or	
60	Sect. 5.48(1)(f)1	Signs	Any sign or advertising for the sexually oriented business must comply with the provisions of this ordinance. No sign or advertising may include photographs, silhouettes or drawings of any "specified anatomical areas" or "specified sexual activities," or obscene representations of the human form and may not include animated or flashing illumination.	
66	Sect. 5.52(4)(i)	Signs	...Any such delivery vehicle shall be unmarked and not bear any emblem or sign that would indicate the nature of its cargo. In addition,...	
67	Sect. 5.52(4)(l)	Signs	A dwelling or an accessory structure in which a primary caregiver is providing primary caregiver services to qualifying patients shall not have any signage, symbols, pictures or similar features visible from the outdoors that would indicate the nature of the primary caregiver services being conducted in the dwelling.	

City of Charlevoix
Zoning Ordinance Amendments
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Page No.	Section Number	Topic	Language	Notes
79	Sect. 5.61(4)	Building Regulations	<i>Frontage</i> . No principal building shall be erected on a lot, unless that lot fronts its full width , as required by <i>Section 5.60</i> , upon an improved street or access road. Multiple-family, commercial, office, industrial, or other developments may be exempt from this requirement, as provided in <i>Section 5.60</i> .	Per Denise Cline notes
83	Sect. 5.69(1)	Projections into setbacks	Certain architectural features, such as eaves , cornices, bay windows (or windows without foundations), gutters, chimneys, pilasters and similar features may project no further than three (3) feet into any required yard .	clarifying that eaves can project into yard setbacks
83	Sect. 5.71(1)	Setback Requirements	<i>Front Setback on Corner Lots</i> . A corner lot shall have two front lot lines : a principal front lot line and a secondary front lot line . The principal front lot line shall be the location of the traditional front entrance of the structure. Where the lot lines are of equal length, and/or the principal front lot line is not evident, then the zoning administrator shall determine the principal front lot line.	Correct conflict with definition of Front Lot Line.
86	Sect. 5.78(2)	Signs	No exterior signage advertising the rental shall be allowed. Signage shall be subject to the requirements of Article 11.	
112	Sect. 5.101	Signs	Strike definitions for "Flashing Sign", Home Occupation Sign", and Ingress-Egress Sign".	Strike definitions for words that do not appear anywhere in the text.
159	Sect. 5.175(2)	ZBA	Membership. The ZBA shall consist of seven (7) five (5) members appointed by the city council, one (1) of whom may be a member of the planning commission, and two (2) alternate members.	Change ZBA from 7 to 5 members
159	Sect. 5.177(1)	ZBA	Meetings of the board shall be held once each month, and at such additional times as the board may determine but at least one time annually . The time of regular meetings shall be specified in the rules and regulations. There shall be a fixed place of meeting, and all meetings shall comply with the Open Meetings Act, Act 267 of the Public Acts of 1976, as amended.	Match meeting requirement to that of the MZEA
160	Sect. 5.177(2)	ZBA	... except that a concurring vote of five (5) four (4) members shall be necessary to grant a land use variance.	Change requirement for a land use variance vote.
171	Sect. 5.195	Conditional Zoning	Section 5.195 Conditional Zoning	Create new Section heading - language is there but heading isn't.

City of Charlevoix
Zoning Ordinance Amendments
Housekeeping
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Section 5.27(2) chart and 5.47(1)(c) Pages 25 and 51

- The chart has the minimum dwelling width at 16' and the Residential Uses section has it at 22' along with a provision that the 22' be at least 67% of the length of the building. Planning Commission needs to discuss which they prefer and make the two sections match each other.
- Also, footnote No. 7 does not have a corresponding point on the chart. It needs to be moved to Section 5.46(1)(g). *(as shown in Zoning Ordinance Amendment Chart)*

**Table 5.27(2) Dimensional Requirements: Single Family- Two Family - Private Club
Residential**

Zoning District	Max. Building Height (ft.)	Minimum Yard Setbacks (ft.)				Lot Coverage (%)	Min. Floor Area (sq. ft.)		
		Front ¹	Side		Rear		1 story	2 stories	Principal Structure Minimum Width (ft)
			Interior	Street Side					
R1	26	15 ²	10	15	25	40 ³	1,040	1,600	16 20
R2	26	15	8	15	25	40 ⁴	800	1,200	16 20
R2A	26	15	10	20	30	40	800	1,200	16 20
PC	26	0	See	0	0	0	0	0	16 20

¹ The zoning administrator may determine that front yards may be the opposite of the yard fronting a public street or right of way on lots with sloping topography, or facing water bodies.

² Setbacks within the C&O Club Development shall be thirty-five (35) feet for front yard, fifteen (15) side yard, and twenty-five (25) for the rear yard.

³ Maximum lot coverage shall be fifty (50) percent for lots less than seven thousand (7,000) square feet.

⁴ Maximum lot coverage shall be fifty (50) percent for lots less than six thousand (6,000) square feet.

⁷ A minimum of twenty (20) feet shall be provided between the sides of adjacent single family buildings and/or accessory structures.

Page 51 Sect. 5.47(1)(c) The minimum width of a single family dwelling unit shall be twenty ~~two (22)~~ (20) feet for at least sixty-seven (67) percent of its length, measured between the longest exterior walls.

Section 5.31 Allowed Uses: Non-Residential and Mixed Use Zones Page 31

Recreation facility/Athletic courts	Indoor	-	P	P	-	-	-	P	-	-	
	Outdoor	-	-	-	-	-	P	S	-	P	Section 5.49(1)

CITY OF CHARLEVOIX

New Business

TO: Planning Commission

FROM: Kathy Egan

SUBJECT: Public Hearing: Zoning Ordinance Amendment #2 Procedure Changes

DATE: August 13, 2018

BACKGROUND

The City Council has decided that they want to shift some zoning approval processes to the Planning Commission. They feel that the Planning Commission is the appropriate body to determine if these applications meet the requirements of the Ordinance, and that by eliminating the second round of review and approval by the City Council the process will be streamlined for both the city and the applicant.

Those approval process approvals include:

- Special land use permits
- Site plan reviews
- Site condo approvals
- Planned Unit Development approvals

Attached is a Zoning Ordinance amendment which would make the appropriate changes to the review and approval processes.

ATTACHMENTS:

- ▣ Chart of Proposed Amendments
- ▣ Additional Amendment Information

City of Charlevoix
Zoning Ordinance Amendments
to remove City Council from Planning Commission Procedures
8/13/18 Public Hearing

Page No.	Section Number	Topic	Language
7	5.7	definition of Condominium, Site	(9) Site Condominium Development Plan. The plans, drawings and information prepared for a site condominium development, as required by Section 66 of the Condominium Act and this ordinance, for review by the planning commission and the city council.
27	Sect. 5.27(4)b(6)	Footnote no. 1	City council The Planning Commission may waive this requirement for the expansion of existing developments.
52 - 56	5.47(3)	Site Condominiums	see attached
60	5.48(1)(d)1 and 2	Sexually Orientated Businesses	see attached
71 - 72	5.55(2)	Mineral Extraction Operations	see attached
74	5.55(4)(a)1	Wireless Communications Towers	see attached
107	5.93(6)	Parking Alternatives	...provided that the planning commission and city council may approve a site plan as required by Section 5.118 as amended...
127	5.118(2)(f)	Site Plan Review Procedures	see attached
131	5.122	Performance Guarantees	... The city manager council may require that a performance guarantee be furnished ...shall be set forth by the city manager, with input from staff, council ...
137 - 145	5.141(2) through 5.144(4)(d)	Planned Unit Developments	see attached
133	footnote 36	Strike entire footnote	The Planning Commission shall review special land use applications unless otherwise specified in this ordinance, in which case city council shall review special land use applications. City council shall follow the same procedures as the planning commission.—

City of Charlevoix
Zoning Ordinance Amendments
To remove City Council from Planning Commission Procedures
8/13/18 Public Hearing

Section 5.47 (3) Site Condominiums

Site Condominiums. This chapter requires ~~preliminary~~ review of **site condominium** plans by the **planning commission**, ~~followed by final review and approval by the city council~~, to ensure that **site condominiums** comply with this ordinance and other applicable city ordinances.

Section 5.47(3)(a) and 5.47(3)(a)1

(a) ~~Optional~~ Planning Commission Review of Preliminary Plans.

1. Prior to final review and approval of a **site condominium development plan** ~~by the city council~~, a preliminary **site condominium development plan** ~~shall~~ **may** be reviewed by the **planning commission** in accordance with the procedures, standards and requirements provided by this section ~~if requested by the applicant~~. Such review shall take place following a public hearing by the **planning commission** on the preliminary plan. At least fifteen (15) days' notice of the hearing shall be given by ordinary mail, sent to the owners of, or parties with interest in, the lands within three hundred (300) feet of the property to be included in the development, as listed in the current city tax assessment rolls.

Section 5.47(3)(a)4

After reviewing the preliminary **site condominium development plan**, the **planning commission** shall prepare a written statement of recommendations regarding the proposed **site condominium development**, including any suggested or required changes in the plan. The **planning commission** shall provide a copy of its written recommendations to the applicant ~~and to the city council~~.

Section 5.47(3)(b)1-4

Review and Approval of Final Plans ~~by City Council~~.

1. ~~After receiving the planning commission's recommendations on the preliminary plan, the applicant shall submit to the zoning administrator a minimum of ten (10) copies of a final site condominium development plan which complies with the requirements of this section and of Section 5.305(a) of the City of Charlevoix Parcel Division Ordinance. All of the requirements for plats, as set forth in that ordinance, shall be required for site condominium developments. The zoning administrator shall forward the copies of the final plan to the city council.~~
2. The final **site condominium** plan shall incorporate all of the recommendations, if any, made by the **planning commission** based on its prior review of the preliminary plan. If any of the **planning commission's** recommendations are not incorporated in the final plan, the applicant shall clearly specify, in writing, which recommendations have not been incorporated and the reasons why. Except for changes made to the plan as needed to incorporate the recommendations of the **planning commission**, the final plan shall

otherwise be identical to the preliminary plan acted upon by the **planning commission**. Changes made to the plan other than those necessary to incorporate the recommendations of the **planning commission** shall be resubmitted to the **planning commission** for further review and recommendation prior to approval of the plan ~~by the city council.~~

3. After receiving the ~~planning commission's recommendations and a~~ final **site condominium development plan**, the ~~city council~~ **planning commission** shall proceed to review and may approve, deny, or approve with conditions the plan in accordance with the standards and requirements provided the City of Charlevoix Parcel Division Ordinance and other applicable procedures, standards and requirements of this section.
4. As a condition of approval of a final **site condominium development plan** the **city manager, with input from staff** ~~council~~ may require that a financial guarantee, covering the estimated cost of improvements associated with the **site condominium development** for which approval is sought, be deposited with the city, as provided by the Michigan Zoning Enabling Act, Public Act 110 of the Public Acts of 2006, as it may be amended from time to time.

Section 5.47(3)(d)

Construction in Compliance with Approved Plan. No **buildings** or **structures** shall be constructed, nor shall any other site improvements or changes be made on the property in connection with a proposed **site condominium development**, except in compliance with a final **site condominium development plan**, as approved by the ~~city council~~ **planning commission**, including any conditions of approval.

Section 5.47(3)(f)

Expandable or Convertible Condominium Developments. Approval of a final **site condominium development plan** shall not constitute approval of expandable or convertible portions of a **site condominium development**, unless the expandable or convertible areas were specifically reviewed and approved by the **planning commission** ~~and city council~~ in compliance with the procedures, standards and requirements of this section.

Section 5.47(3)(g)2

Any change which constitutes a major change shall be reviewed by the **planning commission**, at a public hearing and with the notice required for an original approval of a **site condominium development**, ~~and shall also be reviewed and approved by the city council~~, as provided in this chapter for the original review and approval of preliminary and final plans.

Section 5.47(3)(h)

Incorporation of Approved Provisions in Master Deed. All provisions of a final **site condominium development plan** which are approved by the ~~city council~~ **planning commission**, as provided by this section, shall be incorporated by reference in the **master deed** for the **site condominium project**. Further, all major changes to a development shall be incorporated by reference in the **master deed**. A copy of the **master deed**, as recorded with the Charlevoix County Register of Deeds, shall be provided to the city within ten (10) days after recording.

Section 5.37(3)(i)

Commencement of Construction. Construction of an approved **site condominium development** shall commence within two (2) years after final site condominium development approval and be diligently pursued to completion in accordance with the terms and conditions of the approval. The two-year period may be extended by the **city-council planning commission**, at its discretion, for additional time periods as determined appropriate by the **council-planning commission**. Any extension shall be applied for, in writing, by the applicant prior to the expiration of the initial two-year period.

Section 5.48(1)(d) Sexually Orientated Businesses

(d) Procedures.

1. **Special Use.** Review of any request for establishment of a sexually oriented business shall be in accordance with the special land **use** provisions of *Article 13* of this ordinance.; ~~provided, the **planning commission** shall make a recommendation, after public hearing, to the city-council.~~ The **city-council planning commission** shall ~~also~~ conduct a public hearing, in accordance with the timing and notification requirements of *Section 5.131(2)* and shall approve, deny or approve with conditions the special land **use** request based on the requirements of this Article and the general standards of *Section 5.133*.
2. **Conditions of Approval.** Prior to granting approval for the establishment of any sexually oriented business, the **city-council planning commission** may impose conditions or limitations upon the establishment, location, construction, maintenance or operation of the use as authorized by *Section 5.132*. Any evidence, bond or other performance guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

Section 5.55 Mineral Extraction Operations

(1) *Mineral Extraction Operations.*

- (a) A special **use** approval shall be required for mineral extraction operations, including removal of soil, sand or gravel, where more than six hundred (600) cubic yards will be removed. The special **use** permit shall be subject to approval by the **city-council planning commission** following a public hearing ~~and recommendation from the planning commission~~. Once issued, the special **use** may be reviewed annually by the **city-council planning commission** to ensure that the operation conforms to all plans, progress, conditions and sureties. Removal operations shall not begin until the special **use** is approved and a zoning compliance permit is issued.
- (b) Application. In addition to the submittals for a special **use** outlined in *Section 5.131*, an application for a mineral extraction permit shall be accompanied by the following:
 1. A fee, determined by resolution of the **city manager, with input from staff, council,** to defray review, administration and inspection costs.
- (c) Requirements. A special use permit shall not be issued unless activities comply with all the following requirements and the **city-council planning commission** finds that there will be no serious consequences to the

immediate area or community at large. A special use permit may be revoked if the use is found in violation of any part of this section:

1. Activities shall comply with applicable soil erosion and sedimentation control regulations.
2. Final **grades** shall not exceed five (5) percent and shall meet existing elevations at all property lines. **Grades** in excess of five (5) percent may be permitted by the **city council planning commission** if the applicant demonstrates that an increase is essential to implement a plan for future **use**.

Section 5.118(2)(e) and (f) Site Plan Review Procedures

- (e) The **planning commission** shall consider the **site plan** and shall either ~~recommend approval of~~ approve the **site plan**, as submitted, if all applicable requirements and standards have been met; ~~recommend approval of~~ approve the **site plan** with conditions; or ~~recommend denial of~~ 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 5.120*.
- ~~(f) After the **planning commission** decision has been made under *Section 5.118(2)(e)*, the **zoning administrator** shall forward the recommendation to **city council** for review, including all relevant documentation. **City council** shall consider the **site plan** and shall either approve the **site plan**, as submitted, if all applicable requirements and standards have been met; approve of the **site plan** with conditions; or deny approval of the **site plan** if applicable requirements and standards have not been met. The **city council** review shall be based on the requirements of this chapter, comments received from city departments and consultants, and, specifically, the review standards of *Section 5.120*.~~

Section 5.141 through 5.144 Planned Unit Developments

Section 5.141(2)

Size. Each PUD shall contain a minimum of twenty-one thousand, seven hundred eighty (21,780) square feet; provided sites containing less than twenty-one thousand, seven hundred eighty (21,780) square feet may be considered for rezoning to PUD, if the **city council planning commission** determines that the site will advance the purposes of the PUD District. When determining the appropriateness of areas less than the applicable minimum required, the **city council planning commission** shall determine that:

Section 5.142(3)

Modification of Minimum Requirements. District regulations applicable to a land **use** in the PUD may be altered from the requirements specified in *Table 5.142(2)*, including, but not limited to, modification from the **lot area** and **width**, building **setbacks**, height, **lot coverage**, **signs** and parking. The applicant for a PUD shall identify in writing all intended deviations from the zoning requirements. Modifications may be approved by the **city council planning commission** during the preliminary development plan review stage, ~~after planning commission recommendation~~. These adjustments may be permitted only if they will result in a higher quality and more sustainable development consistent with the purposes of PUD expressed in *Section 5.140*. The modifications shall also satisfy at least four (4) of the following criteria:

Section 5.142(4)

Density Bonus. In addition to the modification of minimum requirements permitted in *Section 5.142(3)*, the ~~city council, after planning commission recommendation,~~ may permit an increase in the total number of residential units allowed within a PUD where it is demonstrated that at least three (3) of the following amenities will be included in the development:

Section 5.143(1)

Conditions. Reasonable conditions may be imposed upon the PUD approval by the **planning commission** ~~and/or city council~~ as part of the final decision of the PUD application. The conditions imposed shall be recorded in the minutes of the approval action and shall remain unchanged except upon amendment of the PUD in accordance with the procedures of *Section 5.147*. Conditions may include, but are not limited to, those necessary to:

Section 5.143(2)

Performance Guarantees. The ~~city council or~~ **planning commission** may require reasonable performance guarantees in accordance with *Section 5.122* of this ordinance to ensure completion of specified improvements within the PUD.

Section 5.143(4)

Time Limits. Each PUD shall be under construction within twelve (12) months after the date of approval of the final development plan. If this requirement is not met, the ~~city council~~ **planning commission** may, in its discretion, grant one extension not exceeding up to twelve (12) additional months; provided that prior to the expiration of the initial twelve (12) month period, the applicant shall submit reasonable evidence in writing to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in commencement of the PUD. If the PUD has not been commenced within the initial twelve (12) month approval period, or within an authorized extension thereof, any building permits issued for the PUD or any part thereof shall be of no further effect. At the expiration of the applicable period of time, the **planning commission** ~~or city council~~ may initiate proceedings for the rezoning of the property to some other **zoning district**.

Section 5.144(3)(d)

Recommendation. Following the public hearing, the **planning commission** shall review the PUD request and the preliminary development plan based on conformance with the standards of *Section 5.145* and shall ~~make a recommendation to the city council to~~ approve, deny or approve with modifications the request for PUD zoning and the preliminary development plan.

Section 5.144(3)(e)

~~*City Council Action.* Upon receipt of the **planning commission** recommendation, the **city council** shall conduct a public hearing, notice of which shall comply with the requirements of the Zoning Enabling Act, and review the preliminary development plan and the record of the **planning commission** proceedings. Based on the standards of *Section 5.145* and the recommendation of the **planning commission**, the **council** shall approve, deny or approve with modifications the preliminary development plan and rezoning request.~~

Section 5.144(4)

Final Development Plan. Within twelve (12) months of the ~~city council's~~ **planning commission's** approval of the preliminary development plan and PUD rezoning, the applicant shall submit a final development plan for the entire PUD or one or more phases to the **zoning**

administrator, in accordance with the requirements for Level B site plan review, as contained in *Table 5.119(1)* of this ordinance. If determined to be complete by the **zoning administrator**, copies of the plan shall be forwarded to the **planning commission**.

Section 5.144(4)(b)

Extension of Time Limit. One extension of the time period for submitting the final development plan may be granted by the **planning commission** for up to an additional twelve (12) months if a request is submitted by the applicant in writing prior to the expiration of the original twelve (12) month approval period. If an application for final development plan approval has not been submitted prior to the expiration of the original twelve (12) months or an approved extension, the preliminary development plan shall be null and void. In addition, the **planning commission** ~~or city council~~ may initiate a rezoning of the property to another **zoning district**.

Section 5.144(4)(d)

Review and Action. The **planning commission** shall review the final development plan in relation to its conformance with the preliminary development plan and any conditions or modifications attached to the PUD rezoning ~~by the city council~~. If it is determined that the final plan does not substantially conform to the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with *Section 5.144(3)*. If the final development plan is consistent with the approved preliminary development plan, the **planning commission** shall review the final plan in accordance with the standards for site plan review, *Section 5.120* and the PUD standards of *Section 5.145*. The **planning commission** shall prepare a record of its findings and shall approve, deny or approve with modifications the final development plan.

CITY OF CHARLEVOIX

New Business

TO: Planning Commission

FROM: Kathy Egan

SUBJECT: 2016 Census/Housing Data for Charlevoix

DATE: August 13, 2018

BACKGROUND

Included is a overview of the households and housing data for Charlevoix.

ATTACHMENTS:

▣ Housing Data

Profile for Charlevoix, Michigan

Population by Age, (2016)

Total	2,522	100%
Preschool (0 to 4)	163	6.50%
School Age (5 to 17)	187	7.40%
College Age (18 to 24)	212	8.40%
Young Adult (25 to 44)	566	22.40%
Adult (45 to 64)	624	24.70%
Older Adult (65 plus)	770	30.50%
Median Age*	50.9	

*Median Age is averaged for combined areas

Median Household Income (2016)

\$31,926

Households, 2016

Total Households	1,365	100.00%
Married with Children	76	5.60%
Married without Children	419	30.70%
Single Parents	100	7.30%
Non-family Households	770	56.40%
Living Alone	656	48.10%
Average Household Size	1.7	
Average Family Household Size	2.5	

Total Housing Units

2,196	100.00%
644	29.30%
721	32.80%
770	35.10%
779	35.50%
353	16.10%
80	3.60%
128	5.80%
725	33.00%

Resident Occupations, 2016

Employed civilian pop. 16 years and over	1,117	100.00%
Management, professional, and related	259	23.20%
Service	304	27.20%
Sales and office	291	26.10%
Construction, extraction, maintenance	63	5.60%
Production, transportation	200	17.90%

Source: U.S. Census Bureau, American Community Survey, latest 5-Year Estimates

CITY OF CHARLEVOIX

New Business

TO: Planning Commission

FROM: Kathy Egan

SUBJECT: Code of Ethics

DATE: August 13, 2018

BACKGROUND

The City Council approved Ordinance 793 in June which encompasses the City's Code of Ethics. In order to be compliant with the new code, Section 1.805 states that all boards, commissions, and committees must affirm their commitment to ethical conduct by reading the ordinance and signing the *Code of Ethics Acknowledgement* form.

Ordinance 793 is attached for your information.

I will have copies of the *Code of Ethics Acknowledgement* form available to sign at the meeting.

ATTACHMENTS:

- ▣ Code of Ethics Form
- ▣ Ethics Ordinance



CODE OF ETHICS ACKNOWLEDGEMENT

As ☐ Mayor ☐ Council Member ☐ Board/Commission/Committee Member ☐ Employee of the City of Charlevoix, I, _____ agree to uphold the Ethical Conduct Ordinance of the City of Charlevoix and conduct myself by the following model of excellence. I will:

- Recognize the worth of all individuals and appreciate their individual talents, perspectives, and contributions;
- Help create an atmosphere of respect and civility where individual members, City staff, and the public are free to express their ideas and work to their full potential;
- Respect the dignity and privacy of individuals and organizations;
- Respect and maintain the nature of confidential and privileged information and opinions acquired as a result of my position;
- Conduct my public affairs with honesty, integrity, fairness and respect for others;
- Avoid and discourage conduct that is divisive or harmful to the best interests of Charlevoix; and
- Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit.

I affirm that I have read and fully understand the Code of Ethics for the City of Charlevoix (Ordinance 793 of 2018).

Signed

Date

The Charlevoix City Council met on Monday, June 18, 2018 with Mayor Luther Kurtz presiding. All Councilmembers were present. The following is an excerpt from the official records of said meeting:

Motion by Cole, seconded by Kalbfell, to approve Ordinance No. 793 of 2018, as follows:

**CITY OF CHARLEVOIX
ORDINANCE NO. 793 of 2018**

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CHARLEVOIX BY ADDING A NEW CHAPTER, WHICH NEW CHAPTER SHALL BE DESIGNATED AS CHAPTER 10 OF TITLE 1 – ADMINISTRATION OF SAID CODE

THE CITY OF CHARLEVOIX ORDAINS:

SECTION 1. Title I, Chapter 10, Sections 1.801 through 1.806 of the City Code are hereby added as follows:

**CHAPTER 10
ETHICAL CONDUCT**

1.801. Ethical Conduct.

- (1) The citizens of Charlevoix are entitled to have fair, ethical and accountable local government that has earned the public's full confidence for integrity.
- (2) Furthermore, the effective functioning of democratic government requires that public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government; public officials be independent, impartial and fair in their judgment and actions; public office be used for the public good, not for personal gain; and public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.
- (3) To this end, the Charlevoix City Council adopts this ordinance to assure public confidence in the integrity of local government and its effective and fair operation. Serving in local government is the holding of public trust. This trust should never be undermined.

In all actions, employees, the City Manager, and City Council members will adhere to all local, state and federal laws regulating ethical action. Various professional codes of ethics and other similar documents may be used to supplement determinations of ethical conduct.

1.802. Conflicts of Interest.

- (1) Conflicts of interest will naturally occur from time to time and in such cases when they may or do in fact arise, should be presented publicly to diminish the potential of actual or perceived special interests.
- (2) *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - (a) "Conflict of interest" may occur when action by the city, either through its employees, its boards, committees, commissions or other such bodies, or the City Council, could be construed as impacting negatively or positively an interest of an employee or Council Member, his or her relatives, business or financial investments, property, or other interests.
 - (b) "Immediate family" shall mean the spouse, child, parents, brother, sister, half- sister, half-brother or the spouses of any listed relatives. All relationships shall include those arising from adoption and marriage.



- (c) "City Council", except where specifically referred to, shall refer to the Mayor and each member of the City Council.
 - (d) "Boards, Commissions, Committees" shall refer to those boards, committees, commissions, or other bodies created by statute, local ordinance, resolution, local policy and any and all subcommittees those bodies may, from time to time, create.
- (3) City Council reporting of conflicts of interest.
- (a) If a case may arise when a Council Member or the Mayor has a conflict of interest, he or she shall make known the potential conflict in open session when City Council business might involve such interest. The Council Member or Mayor need not provide detail on the potential conflict so as to injure a client or patient relationship.
 - (b) In addition to the general rule on conflicts of interest above, the following specific conflicts of interest are specifically prohibited:
 - (i) *Holding of other offices.* No Council Member shall hold any other city office or employment during the term for which they were elected to the Council except where specifically allowed by the Charter and/or statute.
 - (ii) *Voting involving a conflict of interest.* No member of the Council shall vote on any question in which he, she or a member of their immediate family as defined in this subchapter, has a financial interest, other than the common public interest, or on any question concerning his or her own conduct. Council Members who may have a financial interest shall state such interest and then refrain from debating, commenting, or otherwise seeking to influence the Council on such question.
 - (iii) If a member of City Council believes that another member of City Council has a conflict, he or she shall raise such perceived conflict. If the member in question does not concede a conflict, the majority of the remaining Council Members may vote to prohibit that Council Member or the Mayor who may have a conflict from participating in that item of business. The Council shall solely be the judge of its own members and the Mayor.
- (4) Board, Committee, Commission Conflicts of interest.
- (a) If a case may arise when a member of a board, committee, or commission has a conflict of interest, he or she shall make known the potential conflict in open session when the body might conduct business involving such interest. The member need not provide detail on the potential conflict so as to injure a client or patient relationship.
 - (b) In addition to the general rule on conflicts of interest above, the following specific conflicts of interest are specifically prohibited:
 - (i) *Voting involving a conflict of interest.* No member of the body shall vote on any question in which he, she or a member of their immediate family as defined in this subchapter, has a financial interest, other than the common public interest, or on any question concerning his or her own conduct. Members who may have a financial interest shall state such interest and then refrain from debating, commenting, or otherwise seeking to influence the Council on such question.
 - (ii) If a member believes that another member has a conflict, he or she shall raise such perceived conflict. If the member in question does not concede a conflict, the majority of the remaining body

members may vote to prohibit that member who may have a conflict from participating in that item of business.

- (5) City Manager reporting of conflicts of interest.
 - (a) If a case may arise when the City Manager has a conflict of interest, he or she shall make written notification of such conflict to the Mayor and the City Clerk. To the extent possible, the City Manager's involvement in the situation will be minimized to avoid the appearance of impropriety. The City Manager's conduct shall at all times be in accord with the ICMA Code of Ethics.
 - (b) It shall not be deemed a conflict of interest by the City Manager to enforce or cause to be enforced zoning or ordinance violations in keeping with standard practice. It shall also not be deemed a conflict of interest for action to be taken by the city to improve or otherwise conduct normal public activities in the neighborhood where the City Manager may reside.
- (6) *Employee reporting of conflicts of interest.* If a case may arise when an employee of the city or the city's Attorney, Auditor, or other professional contractor may have a conflict of interest, he, she, or the corporation, partnership or entity shall promptly report such conflict or potential conflict to the City Manager. The City Manager shall determine what steps if any may be necessary to avoid the potential for preferential or adverse action because of the conflict.
- (7) *Council appearance before other bodies.* City Council shall not appear before or seek to influence members of other Boards, Commissions, or Committees except when they may be appointed to such body, serve as a member by virtue of statute or Charter, or may be invited to address the body by a majority vote of the body.
- (8) *General prohibition.* The City Council, board, committee, and commission members, the City Manager, and city employees should not take any special advantage of services, goods or opportunity for personal gain that is not available to the public in general.

1.803. Statutory Prohibitions.

In accord with Public Act 196 of 1973 (being M.C.L.A. §§ 15.342 et seq.) the following shall apply to members of the City Council, the City Manager, and all other employees of the city.

- (1) *Confidential information.* The City Council, the City Manager, or an employee shall not divulge to an unauthorized person, confidential information acquired in the course of employment in advance of the time prescribed for its authorized release to the public.
- (2) *Personal opinions.* The City Council, the City Manager, or an employee shall not represent his or her personal opinion as that of the city.
- (3) *Use of city resources.* The City Council, the City Manager, or an employee shall use city personnel resources, property, and funds judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal gain or benefit.
- (4) *Acceptance of gifts.* The City Council, the City Manager, or an employee shall not solicit or accept a gift or loan of money, goods, services, or other thing of value for the benefit of a person or organization, other than the state, which tends to influence the manner in which the public officer or employee or another public officer or employee performs official duties.
- (5) *Use of office for private gain.* The City Council, the City Manager or an employee shall not engage in a business transaction in which the public officer or employee may profit from his or her official position or

authority or benefit financially from confidential information which the person has obtained or may obtain by reason of that position or authority. Instruction which is not done during regularly scheduled working hours except for annual leave or vacation time shall not be considered a business transaction pursuant to this division if the instructor does not have any direct dealing with or influence on the employing or contracting facility associated with his or her course of employment with this state.

- (6) *Outside employment.* The City Council, the City Manager, or an employee shall not engage in or accept employment or render services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the officer or employee's official duties or when that employment may tend to impair his or her independence of judgment or action in the performance of official duties.
- (7) *Negotiation for private gain.* Except in cases of an employment agreement or contract, the City Council, the City Manager, or an employee shall not participate in the negotiation or execution of contracts, making of loans, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision relating to a business entity in which the person has a financial or personal interest.

1.804. Non-Discrimination.

The city will not discriminate against any person in the provision of public service or employment on the basis of gender, race, creed, age, sexual orientation, language proficiency, income level, or any other legally protected classification. Such non-discrimination provisions may be limited by state or federal law.

1.805. Promulgation.

- (1) The City Manager is authorized to draft policies, procedures, and other documents necessary to enforce provisions of this subchapter. To the extent deemed necessary, statements from this subchapter may be appended to contracts with outside vendors and contractors. The City Manager may also revise the city's Personnel Policy as needed to reflect this subchapter.
- (2) Upon approval of this ordinance and upon assuming office, the Mayor, Council Members, board, committee, and commission members, the City Manager and employees the City Manager may designate from time to time shall affirm their commitment to ethical conduct and this ordinance by signing the form below:

As a _____ of the City of Charlevoix, I agree to uphold the Ethical Conduct Ordinance of the City of Charlevoix and conduct myself by the following model of excellence. I will:

- *Recognize the worth of all individuals and appreciate their individual talents, perspectives, and contributions;*
- *Help create an atmosphere of respect and civility where individual members, City staff, and the public are free to express their ideas and work to their full potential;*
- *Respect the dignity and privacy of individuals and organizations;*
- *Respect and maintain the nature of confidential and privileged information and opinions acquired as a result of my position;*
- *Conduct my public affairs with honesty, integrity, fairness and respect for others;*
- *Avoid and discourage conduct that is divisive or harmful to the best interests of Charlevoix; and*
- *Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit.*

I affirm that I have read and fully understand the Code of Ethics for the City of Charlevoix.

Signed

Dated

1.806. Penalty.

- (1) *Violations by Council members and board, commission, and committee members.* Violation of any provision of by a member of the City Council or a board, commission, committee may be punishable by action of the City Council to censure, reprimand, or otherwise discipline its own members or those of a board. Additionally, violations may also be felonies or misdemeanors under state or federal law.
- (2) *Violations by employees.* Violation of any provision may subject an employee to punishment up to and including termination. In addition to employment disciplinary action, the city may seek remedy in a court of competent jurisdiction for damages.

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.

Ordinance No. 793 of 2018 was adopted on the 18th day of June, 2018 A.D., by the Charlevoix City Council as follows:

Motion by: Cole
Seconded by: Kalbfell

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

State of } § Michigan
City of } Charlevoix

Luther Kurtz, Mayor
Joyce M. Golding, Clerk

CERTIFICATION

I, the undersigned, City Clerk of the City of Charlevoix, Charlevoix County, Michigan, do hereby certify that the foregoing is a true and complete copy of Ordinance No. 793 of 2018 adopted by the City Council of the City of Charlevoix, County of Charlevoix, State of Michigan, at a regular meeting held on June 18, 2018 and published in the *Charlevoix Courier* on June 22, 2018, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267 of the Michigan Public Acts of 1976.

Dated: June 22, 2018


Joyce M. Golding, City Clerk