

CITY OF CHARLEVOIX
210 STATE ST. CHARLEVOIX, MICH. 49720

PLANNING COMMISSION PUBLIC MEETING AGENDA

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MONDAY, July 10, 2017 at 7:00 P.M. in the City Council Chambers.

- 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 June 12, 2017 MINUTES
- F) CALL FOR PUBLIC COMMENT NOT RELATED TO AGENDA ITEMS
- G) NEW BUSINESS
 - 1. Planning Commission bylaws review.
 - a. Planning Commission discussion.
- H) OLD BUSINESS
 - 1. Zoning Code Review.
 - a. Staff presentation.
 - b. Planning Commission discussion.
- I) STAFF UPDATES
- J) REQUESTS FOR NEXT MONTHS AGENDA OR RESEARCH ITEMS.
- K) ADJOURNMENT

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CITY OF CHARLEVOIX
PLANNING COMMISSION MEETING MINUTES
Monday, June 12, 2017 - 7:00 p.m.
210 State Street, City Hall, Council Chambers, Charlevoix, MI

A. Call to Order

The meeting was called to order at 7:00 p.m. by Chair Chamberlain.

B. Roll Call

Chair: Sherm Chamberlain
Members Present: Judy Clock, John Elzinga, Mary Eveleigh, Dennis Halverson, Nelson Fletcher, RJ Waddell
Members Absent: Toni Felter, Rick Golding
City Staff: Susan Lucas, Staff Planner Networks Northwest; Elise Crafts, Regional Planner Networks Northwest

C. Inquiry Into Potential Conflicts of Interest

None.

D. Approval of Agenda

The Commission approved the agenda as presented.

E. Approval of May 8, 2017 Minutes

Motion by Member Waddell, second by Member Clock, to approve the May 8, 2017 minutes as presented. Motion passed by unanimous voice vote.

F. Call for Public Comment not Related to Agenda Items

Rick Groot, Taffy Barrel, questioned the approval of The Cantina. He felt it was not harmonious to any building in town. He stated the building had sheet metal siding and a walk-in cooler and storage shed in the back of the building. He also questioned how the out buildings were allowed which did not improve the alley. Chair Chamberlain asked Staff to provide photos for the Commission to review, and asked that the item be placed on the next agenda.

G. New Business

1. Short-Term Rental Ordinance

a. Staff Presentation

Staff Planner Lucas reviewed the draft Short-Term Rental Ordinance. The proposed ordinance would require registration of any short-term rentals that are rented two or more weeks per year. Member Waddell handed out draft documents for the registration process and the Good Visitor Guide. Discussion followed regarding enforcement provisions of the draft ordinance.

b. Planning Commission Discussion

Member Waddell stated that there were a few corrections as follows:

- Dwelling, two family - A single family dwelling unit attached to one (1) other single-family dwelling by a common wall or floor (also known as a "duplex")
- Bedroom – change first sentence to read: "A separate room or space with a legal means of egress, used or intended to be used specifically for sleeping purposes."
- Good Visitor Guideline Materials – numbering of the items 3) to be changed to 7)
- Short-term Rental – change beginning of first sentence to read: "Any dwelling or condominium, excepting boat docks, that is available for use for a fee or other compensation for a term of less than 30 consecutive days..."
- Application – change first sentence to read: "To register a dwelling unit used for short-term rentals, the property owner or agent of the owner shall complete an application form for each unit on the property."
- Revocation Procedure – change last bullet item to "short-term rental registration"

c. Motion

Motion by Member Elzinga, second by Member Halverson, to move the proposed Short-Term Rental Ordinance to City Council for further action and/or direction. Motion passed by unanimous voice vote.

2. Short-Term Rental Legislation

a. Staff Presentation

Staff Planner Lucas read aloud the proposed Senate Bill regarding short-term rentals and stated that if the Bill passes municipalities will not be able to adopt zoning language that interferes with the use of any dwelling unit as a short-term rental in a residential district.

b. Planning Commission Discussion

After discussion, the Commission concurred to have Staff Planner Lucas draft a letter opposing the Bill for Council's consideration.

c. Motion

Motion by Member Clock, second by Member Waddell, to authorize Staff Planner Lucas to draft a letter in opposition to the Senate Bill and present it to the City Council. Motion passed by unanimous voice vote.

H. **Old Business.**

1. Zoning Code Review

a. Staff Presentation

Regional Planner Crafts explained the proposed language changes to the definitions of manufactured home and mobile home. She began a discussion of Article II, *Signs*, of the Zoning Code and explained the extent to which the current ordinance does not comply with content neutral language. She posed the following questions:

Section 5.103(1): Do temporary banners at the intersection of M-66 and US-31 require a sign permit?

The banners require approval from the Zoning Administrator, but no sign permit.

Section 5.103(2): Is the Planning Commission comfortable with allowing temporary signs up to four square feet in sign face area and up to four feet in height in any district without a permit, so long as timing controls are in place before/after land use begins/concludes?

Regional Planner Crafts stated the simplest way to regulate was to define a maximum height dimension and a sign face area dimension as well as a specified posting duration for temporary signage which would not require a permit. She stated that another option would be to regulate temporary signs per zoning district. Discussion followed regarding possible scenarios for different type of temporary signs in residential or commercial zones. After discussion, the Commission concurred with allowing temporary signs up to four square feet in sign face area and up to four feet in height in any district without a permit.

Section 5.106: Needs to be regulated based on zoning district, not specific business (use). How do we balance the need for gas stations, for example, to have electronic signs, without opening that option to the entire zoning district (GC and MC) where gas stations are an allowed use? Same concern for home occupations within residential zoning districts, etc.

Regional Planner Crafts stated that electronic sign faces were prohibited in the sign ordinance. She suggested review by an attorney to offer some guidance on this issue and Staff Planner Lucas agreed. Regional Planner Crafts noted that the other issue was home occupation signage which was a specific use in a residential district which she would also need to research further.

Section 5.107: Should temporary sign sizes be regulated based on frontage widths or zoning districts? Should the maximum number of signs be accounted for in sum, or by each sign type, i.e. 2 temporary signs, 1 ground sign, etc.?

Discussion followed regarding the number of temporary signs allowed per parcel. Regional Planner Crafts stated that she will review best practices for how to divide up the number of signs allowed.

Section 5.112: Added severability clause which predicts valid signage regulations in the event of a lawsuit.

Regional Planner Crafts referenced the last page of the ordinance which included a severability and substitution clause that was recommended which provides that if any part of the ordinance is challenged in court and is rendered illegal the rest of the ordinance stays in effect.

b. Planning Commission Discussion

Member Waddell reviewed his questions regarding the proposed ordinance including the need to regulate business plaza signs so that a development had one sign with business names listed vs. multiple signs for each business. He felt that governmental, informational, building permit, and safety signs should be addressed in the ordinance as

exempted from a permit requirement. Discussion followed regarding window signs and temporary poster type signs and the Commission concurred to discuss window signs further at the next meeting. Regional Planner Crafts stated that she will provide an amended draft for the next meeting as well as highlighted sections that need further discussion and direction.

I. Staff Updates

Staff Planner Lucas stated that Larry Sullivan will be providing Zoning Administrator services on an interim basis.

Regional Planner Crafts stated that there was an administrative error in the noticing for the hangar site plan review that the Commission was to review that evening in that the property owners within the 300' radius were not properly noticed. She stated that Mr. Sutton was coming forward with a proposal for a new hangar at the Airport which requires a Level B site plan review. She requested a special meeting in June to accommodate the applicant.

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

Member Waddell questioned whether the Commission could receive a copy of the "tickler" list of future topics.

Member Eveleigh addressed conflict of interest issues and the Commission agreed to review the Commission's By-Laws regarding such at the next meeting.

Staff Planner Lucas stated that she had a site plan review for the next meeting. She gave a brief overview of last week's event with MSU's *Sustainable Built Environment Initiative* involving Van Pelt Alley.

K. Adjournment

Motion by Member Halverson, second by Member Clock, to adjourn the meeting. Motion passed by unanimous voice vote. Meeting adjourned at 8:48 p.m.

Joyce M. Golding/fgm

City Clerk

Sherm Chamberlain

Chair

MEMO

July 7, 2017

To: City of Charlevoix Planning Commission
From: Sarah Lucas, Director of Community Development
Re: Progress report

Following is an update on staff activities related to prior Planning Commission discussions and ongoing initiatives, for your review and discussion at the July 10 Planning Commission meeting.

Sign Ordinance

Extensive discussion was held at the June meeting regarding the ongoing rewrite of the City's sign regulations. Following that discussion, additional time and research was necessary to work through some specific issues in current and proposed sign regulations. A revised draft of the sign regulations **will not be presented** at the July 10 meeting; however, staff will lead a discussion with the Planning Commission relative to some specific questions and issues that require additional guidance from the Planning Commission.

A final draft of the sign regulations will be presented to the Planning Commission in August.

Recommended Zoning Changes

A number of changes have been proposed to address issues and inconsistencies in the current Zoning Ordinance, via review by Networks Northwest staff, consultant Denise Cline, and the Planning Commission. The Planning Commission requested the complete list of recommended zoning changes for reference and review (attached). Of the recommended changes, the following language has been proposed and reviewed by the Planning Commission:

Article 1, 5.1 Title

- Added reference to Michigan Zoning Enabling legislation. (p. 1)

Article 2, Definitions

- Added examples for definition of **adjoining**, to either include/not include parcels separated by road right-of-way/easement/or utility right-of-way
- Added definition of **aggrieved person**

- Added definition for **dredging**
- Amended definition of **manufactured home** to accommodate the definition of **mobile home**
- Amended definition of **mobile home** to refer to **manufactured home**
- Added definition of **planned unit development**.

Article 4, 5.26 Schedule of Uses

- Added **upland dredging** as a use permitted

Article 5, 5.27(2) Table 5.27(2) Dimensional Requirements...

- Corrected spelling of “buildings” in footnote 7 (still needs to be assigned in table)

Article 7, 5.46 Accessory Buildings and Uses

- Added **upland dredging** use to be included in 5.46(4)
- Added subsection 5.45(4)(k) regarding **upland dredging**

Article 8, 5.65 Fences and Walls

- Provided example language regarding regulating fencing material
- Added subsection 5.65(12) regarding **retaining walls**

Article 8, 5.71(1) Front Setback on Corner Lots

- Added example diagram regarding *Front Setback on Corner Lots*

Article 9, 5.81(3)(g) Buffer Area Requirements by District

- Added clarifying language to explain buffer type numeral system

Article 12, 5.116 Applicability

- Added subsection 5.116(2)(d) regarding site plan review on a water front parcel

If desired, the Planning Commission can proceed with scheduling a public hearing to begin the approval process for these proposed changes; or can wait until additional language has been finalized.

Site Plan Review

Due to information provided by the Michigan Association of Planning, and questions relative to specific site plan approvals, the Planning Commission requested to review site plan review requirements of the Zoning Ordinance at the July meeting. Staff is working with acting/contractual zoning administrator Larry Sullivan to identify potential issues and questions in the site plan review, and will present the site plan review requirements with analysis at the August meeting.

Relatedly, questions regarding the recent approval of a site plan initiated some Planning Commission discussion and a subsequent request for photos of the site in question, for further Planning Commission review and discussion. However, the Zoning Ordinance provides specific guidance as to site plan approval and appeal procedures. In order to be consistent with ordinance language and approval/appeal procedures, staff recommends that specific questions, requests for information, or grievances should be routed through staff in order to identify any issues or necessary next steps.

Short Term Rental Ordinance

The proposed short-term rental ordinance will be presented to City Council for their input on August 7. The presentation will not be a public hearing; rather, the Council will be asked for input and direction as to whether the Planning Commission should hold a public hearing on the proposed changes.

Bylaws

Questions were raised at the June meeting about how conflict of interest issues are addressed in the Planning Commission bylaws. The bylaws are attached for your review and reference. Members may propose amendments to the bylaws if desired or necessary.

If you have any questions prior to the July 10 meeting, please don't hesitate to contact myself or Elise Crafts at 231-929-5000, or via email at elisecrafts@networksnorthwest.org or sarahlucas@networksnorthwest.org.

City of Charlevoix Zoning Code Review: Aligning City Goals & Zoning Regulations

In consideration of City Planning Commission goals, Networks Northwest staff has conducted a review of the City of Charlevoix Zoning Code. Zoning review is organized into several topic areas that address goals and objectives of a number of City-adopted or –endorsed plans and documents, including:

- City of Charlevoix Master Plan (2016) goals and priorities
- Michigan Economic Development Corporation’s Redevelopment Ready Communities program, and factors that will be considered in certification of a community as Redevelopment Ready, including (see appendix for complete checklist):
 - The community has adopted a zoning ordinance that aligns with the goals of the master plan.
 - The zoning ordinance provides for areas of concentrated development in appropriate locations and encourages the type and form of development desired
 - The zoning ordinance includes flexible tools to encourage development and redevelopment
 - The zoning ordinance allows for a variety of housing options
 - The zoning ordinance includes standards to improve non-motorized transportation
 - The zoning ordinance includes flexible parking standards
 - The zoning ordinance includes standards for green infrastructure
- 2017-2018 City Council goals (see attached memo and summary);
- Tip of the Mitt Watershed *Local Gaps Analysis* (2011)
- *Enacting Shoreline Zoning Protections*, developed by the Land Information Access Association for the Lake Charlevoix Watershed (2016)

Where applicable, these considerations are identified as an introduction to each area of review.

Residential/Commercial Objectives

RRC Objectives: *The zoning ordinance allows for a variety of housing options.*

Master Plan Action Items: *Promote Charlevoix and the region as a viable place to live and work year-round: Promote diverse and viable housing options through incentives and flexible zoning requirements*

Enhance the Downtown Business District: Encourage higher density and mixed uses

Conversion of single-family to two-family dwelling as a special/conditional use.

As household sizes shrink, large historic homes may become “too much house” for older couples or single people. Allowing some home owners to divide these larger homes into two dwelling units would provide important options to property owners while providing much-needed rental housing. This activity is permitted in the R-2A district, but few properties are designated R-2A.

Regional Precedent

- Allowed as special uses in Traverse City’s R-1 districts.

Accessory dwelling units.

Accessory dwelling units are often promoted as a simple way to incrementally add housing units – often small rentals – to existing lots and neighborhoods, while minimizing the impacts to surrounding homes and residents.

Regional Precedent

- Allowed as a use-by-right in Villages of Suttons Bay, Empire, City of Frankfort, and other communities.
- Up to ten ADUs per year are permitted in Traverse City as conditional uses.

Cottage housing.

Cottage housing overlay districts can provide opportunities to developers and property owners to create smaller, single-family homes in higher densities than are typically allowed, while ensuring that they are carefully designed and consistent with surrounding neighborhood character.

It’s important to note that while cottage housing may be developed under PUD or other zoning requirements, an overlay would give the developer/property owner guidance up front as to desired development patterns.

Regional Precedent

- The City of Harbor Springs Zoning Ordinance allows cottage housing development, known as “single family detached condominium developments” as a special use.

Residential uses in commercial and office districts.

While the ordinance permits dwellings above the first floor in most commercial districts, multi-family and single-family attached or detached dwelling types are limited in the Professional Office, General Commercial, Industrial, Central Business, and Commercial Hospitality. Commercial districts may be an appropriate location for higher-density housing or “missing middle” housing types like duplexes, fourplexes, or townhomes, in that these districts are more intensive; create more walkability; gradually transition higher-intensity uses into residential districts; and typically generate less public opposition to new multi-family residential development.

Regional Precedent

- Multi-family housing is allowed as a use-by-right in all Frankfort and Traverse City commercial districts
- Allowed as conditional uses in East Bay Township.

Transient housing

Transient housing is currently defined as “an apartment, condominium, single family home or similar dwelling unit rented out to individuals or groups.” As written, there’s nothing in the definition to indicate that the rental is temporary, or temporary for what length of time, i.e. nightly or weekly. This may become particularly relevant in discussions about short-term rentals. The Planning Commission may consider a new definition of transient housing to align with changes regarding short-term rentals, single room rentals, etc.

Natural Resource Protection

Master Plan Goals: Pursue water quality protection measures alongside regional organizations.

City Council Goals: Ensure Charlevoix is environmentally sustainable while also economically viable

Charlevoix should be a leader in using renewable energy to meet the demands of our electric customers and to protect our natural resources. Our built infrastructure should incorporate design standards that protect our waterways, preserve our trees, and encourage healthy living. Recycling, energy optimization, and water conservation will be encouraged.

- *Consider ordinance changes in support of the Lake Charlevoix Watershed Plan and improve storm water effluent*

Two zoning analyses include recommendations for water quality protection measures in the Charlevoix City Zoning Ordinance: the 2011 Tip of the Mitt Watershed *Local Gaps Analysis*; and the 2016 *Enacting Shoreline Zoning Protections*, developed by the Land Information Access Association for the Lake Charlevoix Watershed. Complete recommendations from each are attached, and are summarized below.

Enacting Shoreline Zoning Protections Redefine High Water Elevation

- Require coordinated permits from other agencies Require all county, state, federal permits be obtained prior to zoning permit issuance
- Require formal site plan review for all waterfront uses
- Specifically regulate the number of docks allowed
- Specifically regulate or prohibit keyhole/funnel development
- Prohibit the construction of seawalls
- Prohibit the construction of new boathouses; grandfather in existing boathouses

Local Ordinance Gaps Analysis

- Shoreline protection strip provisions should be required in all shoreline districts in the city, with some exception. In the exception areas, however, low cost and effective methods can and should be used to mitigate the impacts of polluted stormwater runoff directly into the city lakes and streams.
- Encourage or require a (minimum) 30 feet Shoreline Protection Strips. Require the maintenance and re-establishment of native vegetation and prohibit the use of invasive species.
- Restrict boat repair and maintenance activities in marinas to clearly marked areas to prevent debris from falling into the water and prevent the spread of invasive species.
- Require marina fueling stations to have spill containment equipment that is stored in a clearly marked location. Also require a spill contingency plan, and post emergency phone numbers in a prominent location. Finally, signs of leakage or spillage should be investigated immediately, and undertake cleanup in accordance with applicable BMPs.
- Consider adding review of stormwater BMPs and other water quality protections in the site plan review ordinance.

Definitions

- Cottage industries are similar to home occupations, with the exception that they may permit several employees that are not residents of the home. Permitting cottage industries in residential or other districts has been identified as a way to encourage entrepreneurial activity by allowing individuals to begin and gradually expand their business concept. They are currently not defined or regulated by the zoning ordinance.
- Definitions for “family” need to be carefully worded in order to comply with Fair Housing law (recommendation for language is forthcoming from the Fair Housing Center of West Michigan).

Signs

A 2015 Supreme Court decision has clarified how communities to regulate signage; and most Michigan communities are facing some changes to their ordinances in order to comply with the new understanding that regulations must be content-neutral. A number of sections within the ordinance may require modifications, including:

- Section 5.102.9
- Section 5.103
- Section 5.104
- Section 5.107

MSU Extension recommends that, rather than re-working existing sign language, communities might be better served by simply preparing a new sign ordinance.

Development and Redevelopment

RRC Objective: The zoning ordinance provides for areas of concentrated development in appropriate locations and encourages the type and form of development desired

The zoning ordinance provides for areas of concentrated development in appropriate locations and encourages the type and form of development desired

Master Plan goal: Preserve and enhance Charlevoix's unique small town character.

- *Revise zoning regulations to encourage smaller scale development on commercial corridors with established maximum building sizes and parking away from the street side of buildings.*

Redevelopment Ready Districts

Some properties in the City may be more appropriate for development or redevelopment, and/or may present opportunities for higher-density, mixed use development that's compatible with existing community character. Identifying these "redevelopment ready" properties or areas and developing standards, with community input, specifically designed to encourage development or redevelopment could reduce administrative/procedural barriers and act as an incentive for development.

Redevelopment ready districts would:

- Identify appropriate development types and parameters
- Streamline approval procedures
- Include design guidance and/or form-based zoning overlay for high-priority development/redevelopment ready areas that allow developers to proceed without special approvals (site plan review would still be required)

General Site Development Standards

The ordinance states that the Planning Commission "may require parking in the side or rear of a building where possible, if a proposed development fronts a public street." Development standards may be modified to require it, with some language to allow for exemptions as needed.

Some additional design requirements may be included to address building placement and other details in order to encourage or require commercial development that is compatible with Charlevoix's unique character. For instance, regulations can require predominant building walls and entryways to face the street; for building mass to make up a specified proportion of the lot width; and to require a specified proportion of transparency in any street-facing walls.

MEMORANDUM

TO: Sarah Lucas, Networks Northwest
FROM: Denise Cline
DATE: 3-3-17
RE: City of Charlevoix Zoning Ordinance

This review is intended to provide a general review of the City of Charlevoix Zoning Ordinance and to provide some specific feedback on ordinance provisions which appear to be problematic or which could be improved.

1. **General.** This is a very detailed, regulatory and comprehensive ordinance as is expected and appropriate in a small urban environment. It is written well and contains up-to-date regulations which respond appropriately to recent zoning issues. There are also instances where flexibility is provided in certain situations.
2. **Format.** The ordinance could be made more user-friendly with the use of better graphic design elements that more effectively provide a visual “break” to each article and section. Text tends to visually “run” together and it is sometimes difficult to pick out the specific sections you are looking for. In addition, under each Article heading, tables should be added which list all of the sections contained within that Article (containing page numbers). A good example of an Article that needs some new formatting is Article 7 – Use Requirements. The uses are group according to the categories of Accessory Buildings and Uses, Residential Uses, Lodging, Dining and Entertainment Uses, etc. The uses beneath these headings should stand out better visually for ease of reference. They are currently shown in italic non-bold text – the uses could stand out visually through the use of bold text or some type of color block. These specific uses should be included in the proposed article table so that users can find the use they are looking for quickly. The ordinance would be more user-friendly by making the entire document interactive. Currently, the Table of Contents is interactive, but buttons and links could be added throughout the ordinance to allow users to click on the smaller, proposed article tables, a general reference Table of Contents that could be added to the footer, and links added to referenced sections in the ordinance and other laws outside the ordinance.
3. **Article 1.** Add reference to the enabling legislation here (Authority).
4. **Article 2. Definitions:**
 - a. Does the definition of *adjoining* include those properties separated by a road or easement?
 - b. Add definition for *aggrieved person*.
 - c. Separate definitions for *manufactured home* and *mobile home* are not needed. They are not regulated separately in the text of the Ordinance.

d. Define *Planned Unit Development*.

e. *Recreational Facility, Indoor* - This definition states that the facility is not publicly-owned, but what would it be classified as if it were publicly owned (if, for example, the city owned an ice arena)? Would it then fall under the category of a "*publicly-owned building*" which are permitted in all non-residential districts?

f. How is *Transient Housing* different from *Boarding House*? How does a *Bed & Breakfast* differ? (See definitions below). These definitions are very similar and the average user might not be able to tell the difference between the three by definitions. Table 5.26 allows transient housing as permitted in all residential districts but boarding houses/rooming houses and bed and breakfasts are Special Uses only in R1 and R2. (B & B are also allowed in some commercial districts). Do the following definitions really provide the needed distinction between the three?

Boarding/Rooming House. A building, structure, or portion thereof, where individual rooms are rented to separate parties, such as transitional homes, hostels or similar uses.

Transient Housing. An apartment, condominium, single family home or similar dwelling unit rented out to individuals or groups. (See *Section 5.78*)

Bed and Breakfast. A building or structure, or portion thereof, where two or more individual rooms are rented separately to transients for compensation. (See *Section 5.46(3)*)

5. Article 4 and 5 (Residential and Nonresidential/Mixed Use Districts) – Uses Allowed and District Regulations.

a. Page 25 - where is footnote 7 listed in the tables on this page? I only see the footnote itself. "Buildings" is spelled wrong in this footnote.

b. Grouping the district regulations this way with tables and footnotes is not all that user-friendly. I recommend having 1-2 pages specifically for each district containing only that district's standards and uses allowed. While this does add more pages to the ordinance, it makes it much clearer for the public to look up the standards that apply to their district. In addition, a diagram could be added to show the standards (setbacks, building envelope, setback averaging, lot coverage etc).

c. In general, breaking up the residential and non-residential zone uses into two tables means that, if I am looking to open up a specific facility (churches, for example), and I want to know what districts they are allowed in, then I am flipping back and forth to find the two tables where churches are listed (both the residential table and the non-residential table). All districts could appear in one table if the table is oriented landscape on the page (color matched to the zoning map also helps to distinguish districts). So, the uses allowed could be presented in two ways: (1) all in one table with all districts and uses listed so that people

can look up a single use and see what districts it is allowed in; and (2) in individual tables within a section devoted to each district (which also contains all regulations pertaining to that district).

- d. *State-Licensed Residential Facilities* should be added as permitted in all residential districts as per the MZEA Section 125.3206. "State licensed residential facility" means a structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer individuals under 24-hour supervision or care.
- e. Table 5.31 Allowed Uses in Non-Residential and Mixed Zones. Following are some uses that don't seem to be listed (although some might be able to fall under the "similar uses" category):
- Add Personal Services as a catch all for other types of service establishments – day spa, etc.
 - Indoor Showrooms (i.e. interior design)
 - Museum
 - Art studio/gallery (listed in the CBD overlay but not in the use table)
 - Guided Tour Operations
 - Funeral home/crematorium (not listed as an allowable use but it does have parking requirements listed)
 - There should be some type of general services category to catch all other uses such as exterminator, cleaning companies, cash advance, etc.
 - Outdoor equipment sales. Likely this would fall under retail with a gross leasable area greater than 15,000 sq ft (with a 60,000 sq foot maximum). But what is considered "gross leasable area" – there is no definition for this. Does this square footage take into account outdoor sales areas? Also, section 5.50 stipulates that a single retail business shall not occupy a gross leasable area greater than 20,000 sq ft. Yet, the table also contains the statement "60,000 sq ft maximum" and refers to Section 5.50 – this is inconsistent).
 - Broadcasting studios
 - Accessory dwelling units
 - Contractors with outdoor storage
 - Laboratories (does have parking requirements listed)
 - Medical marijuana primary caregiver. While there is a separate section devoted to this use, it should also appear in the use tables. Bring definitions out of body of ordinance and put in definitions section.
 - Couriers (UPS office, FedEx)
 - Tattoo parlor

Table of uses should be cross-referenced with the uses listed in the overlay district and those listed in the parking space table.

6. **Central Business District.** Outdoor display and sales is listed as permitted in the CBD in Table 5.31 and section 5.46(8) is referenced. But, at the bottom of page 45 (section 5.46(8)), it says this section shall not apply to the CBD Overlay District and then references Section 5.41 (CBD Overlay) which then says that outdoor display is not allowed except during sidewalk sales. So, what this ultimately means is that outdoor display and sales is allowed in the CBD except for in the CBD Overlay – however getting to this information is a little circuitous. It would be helpful to state (in Section 5.46(8)) that outdoor display and sales in the CBD Overlay is only allowed during sidewalk sales.

7. **Section 5.46 Accessory Buildings and Uses.**

a. Home Occupation (minor) – #7 (page 45) states that the home occupation shall be carried out only by the inhabitants of the dwelling plus not more than one non-resident employee. The definition states that minor home occupations have two (2) or less employees who reside at the same location but does not mention non-resident employees. This is slightly confusing. I think this means that, if an off-site person is employed, it no longer qualifies as a “minor” home occupation? Many communities allow Cottage Industry as a Special Use (essentially a more intense home occupation). Typically, these types of home-based businesses fall under the following (or similar) criteria:

1. requires regular visits by clients or customers;
2. needs frequent delivery or shipment of goods;
3. conducts regular operations or store materials outside of the residence;
4. employs two or more individuals who reside off premises;
5. and, has the potential to rapidly increase in size and intensity

b. Wind Energy Conversion Systems – 10.c.2 (page 47) the minimum lot area – states that a building-mounted WECS shall be allowed on any lot provided all other requirements are met. However, Table 5.31 does not allow them in the SR District, so this section text should reflect that. Some communities address other issues related to WECS such as ice throw and shadow flicker.

8. **Section 5.47 Residential Uses.**

a. Table 5.27(2) lists a principal structure minimum width of 16 ft in R1, R2, R2A, and PC, but 5.47 (1) (c) has a minimum width of 22 feet for at least 67% of its length. Also, this section is referring to both attached and detached units – is this minimum width always appropriate for “attached” single-family? I would think the minimum width requirements should only apply to detached units.

- b. Section 5.47 (3) Site Condominiums – 5.47 (3)(a)(3)(b) says that each site condominium unit shall comply with all applicable provisions of this ordinance (min area, width, setbacks and height). However, what would be considered applicable? If each site condominium unit needs to comply with the regulations of a “single zoning lot”, then it should say that specifically. You could add language like this:

Zoning Requirements. All site condominium projects shall be located within the zoning district that permits the proposed use and shall comply with all zoning requirements of this Ordinance.

- a. *For the purposes of these regulations, each condominium unit in a site condominium shall be considered as a single zoning lot and shall comply with all regulations of the zoning district in which it is located.*
- b. *In a site condominium containing single-family detached dwelling units, not more than one (1) dwelling unit shall be located on a single site condominium unit nor shall a dwelling unit be located on a site condominium unit with any other principal structure or use.*
- c. *Required yards shall be measured from the boundaries of the site condominium unit.*
9. **Section 5.55 Other Uses.** This section lists mineral extraction but it is not listed in the Table of Allowed Uses. This same section lists Athletic Courts and this use is found in Table 5.26 – only in residential districts. In terms of athletic courts, they they might be appropriate in some non-residential districts. Possible athletic courts are meant to be included within the “Recreational Facility” use?
10. **Section 5.61 Building Regulations.**

- a. **Section 5.61(4)** states that no principal building shall be erected on a lot unless that lot fronts its full width upon an improved street or access road. However, take a look at the diagram contained within the definition of *lot* – the lot in the northwest corner of the diagram only has a small portion of its width fronting on a street. Section 5.61 (4) also says that other developments may be exempt from this – I would clarify to state residential developments may be exempt and would also state who makes that determination.
- b. **Section 5.61 (5)** states that only one principal building shall be located on a lot (with some exceptions such as multiple family, commercial, or industrial). However, I would argue that the single-family attached dwellings (i.e. townhouses) should also be listed here. Per the definition of such provided in this ordinance, a single-family attached dwelling situation is not considered multiple family. These types of dwelling units might also occur in several buildings upon one lot. 5b also states that the buildings must be under single ownership, but often townhouse situations are individually owned while the land area is collectively owned.

11. **Section 5.65 Fences & Walls.** Many communities allow up to four feet in the front yard – this is just a notation. Are there materials which are not allowed (i.e. plywood, woven wire, scrap lumber, sheet metal)?
12. **Section 5.71 Setback Requirements.** This section is badly in need of diagrams showing examples. Item 1.b is especially confusing.
13. **Section 5.80 Building Appearance.** This section needs diagrams as examples. There are many more optional design standards available to use – i.e. transparency, façade standards, the use of pedestrian-scale designs, and building form.
14. **Table 5.81(3)(g):** Buffer Area Requirements by District - the numbers 1, 2, and 3 seem to refer to the buffer type in the table below, but the table doesn't state this and it makes it confusing to the user.
15. **Article 11 Signs.**
- a. Add a statement about remaining content-neutral into the purpose statement.
 - b. Remove definitions that are not content-neutral (such as business center sign, construction sign, development identification sign, directional sign, home occupation sign, identification sign, informational sign, political sign, real estate development sign, real estate sign, etc).
 - c. Major revisions are needed to bring this section into compliance with the Supreme Court decision in *Reed et al v. Town of Gilbert, Arizona et al.* This decision confirmed that sign regulations in local zoning must be content-neutral (i.e. not regulated by content – in other words, if you have to read the sign to know how it is regulated, then it is not a legal regulation). Many examples in Section 5.104 are content-based regulation (such as construction signs, political signs, real estate signs, etc). Signs must only be regulated based on the sign structure (primary freestanding, temporary, wall sign) and/or the use of property/or district allowed (signs on residential property, commercial property, etc).
16. **Section 5.152 Nonconforming Uses.** The ordinance does not address destruction of a nonconforming use. The next section addresses destruction of a nonconforming building, but what happens if the nonconformity is for the use only and it is destroyed by fire? Can they rebuild the building and re-establish the use? Does the 6 month discontinuation period in 5.152 (5) (d) apply in this situation?
17. **Section 5.194** is confusing. It begins by talking about an amendment to conform to a decree of a court but all of the sub-numbers under this cover Conditional Rezoning – these two things don't seem to be related. Is there a Section missing that should be titled "Conditional Rezoning"?

18. The city might want to consider adding a section on what is required for uses not requiring a site plan? Are the submittal requirements listed? Tables listing the administrative procedure for different types of uses are helpful to the user.
19. Shoreline development is not well-addressed in terms of water resource protection but also in terms of encouraging innovative shoreline re-development along the waterfront that provides a mix of residential and commercial uses.

Proposed Language for Zoning Ordinance Amendments as of 3-8-2017

Upland Dredging on Round Lake

Section 5.7, pg. 7

Add a definition for upland and inland dredging.

Dredging: clean out the bed of a harbor, river, or other area of water by scooping out mud and other materials with a dredge.

- (1) Upland Dredging. Removing material from above the high water mark in order to allow for waterway access.
- (2) Inland Dredging. Removing material from inland waterways to maintain watercraft navigability or increase water depth.

Section 5.26, pg. 23

Add upland dredging as a use permitted in any R1 district on Round Lake by special use permit, as boathouses already are.

Table 5.26 Allowed Uses: Residential Zones						
P = Permitted Use by Right S = Special Land Use	R1	R2	R2A	R4	PC	Specific Requirements
Accessory						
Accessory uses, buildings and structures	P	P	P	P	P	Section 5.46(1)
Bed and breakfast establishment	S	S	-	-	-	Section 5.46(3)
Boathouses, upland dredging	S	-	-	-	S	Section 5.46(4)
Day care	Family day care home	S	S	-	-	
	Group day care home	S	S	-	-	Section 5.46(5)
Foster care	Adult foster care family home	S	S	-	-	
	Foster family home and foster family group home	S	S	-	-	
Major home occupation	S	S	S	S	-	Section 5.46(7)
Minor home occupation	P	P	P	P	P	Section 5.46(7)
Solar panels	P	P	P	P	P	Section 5.46(9)
Wind energy conversion systems, single accessory	P	P	P	P	P	Section 5.46(10)
Residential						
Adult foster care large group home	-	-	-	S	-	
Adult foster care small group home	S	S	-	-	-	
Convalescent and nursing homes	-	-	-	S	-	
Dwellings	Single family, detached	P	P	P	P	Section 5.47(1)
	Single family, attached	-	-	P	P	Section 5.47(1)
	Two family	-	-	P	P	
	Multiple family	-	-	-	P	
Senior housing: Independent living, assisted living and similar facilities	-	-	-	S	-	Section 5.47(2)
Transient housing	P	P	P	P	P	Section 5.78
Boarding/Rooming House	S	S	-	-	-	

Table 5.26 Allowed Uses: Residential Zones						
P = Permitted Use by Right S = Special Land Use	R1	R2	R2A	R4	PC	Specific Requirements
Offices and Services						
Day care center/nursery	S	S	-	-	-	Section 5.51(1)
Recreation and Open Space						
Public parks/playgrounds	P	P	P	P	-	
Athletic courts	P	P	-	P	P	Section 5.55(1)
Public/Institutional						
Churches and customary related uses	P	P	P	P	P	
Colleges and universities	-	-	-	S	-	
Community centers	-	-	-	S	-	
Other Uses						
Essential service , publicly owned	P	P	P	P	P	
Site condominium	P	P	P	P	P	Section 5.47(3)

Section 5.46(4), pg. 42-44

Add subsection (k) and adjust title of subsection to include Inland Dredging

- (4) **Boathouses and Upland Dredging.** Special land use approval for a **boathouses and upland dredging without a boathouse** in the R1 Zone shall be subject to the following requirements. **Boathouses and upland dredging:**
- (a) shall not be permitted on Lake Michigan or Lake Charlevoix;
 - (b) **Boathouses** shall have a gabled roof with a minimum roof pitch of 8:12 for new construction. Repair of existing **structures** may utilize the existing roof pitch and roof design at the time of application. Multiple peaks and a variety of rooflines or other architectural features consistent with the character of the neighborhood are encouraged. Eaves extending out greater than twenty-four (24) inches shall be considered part of the building footprint;
 - (c) **Boathouses** are permitted over the water but may not extend greater than eighty (80) feet lakeward from the existing sea wall location¹, or **ordinary high water mark** if no sea wall is present;
 - (d) where **upland** dredging is required, **boathouses** may not extend greater than fifty (50) feet inland from the existing sea wall location or **ordinary high water mark** if no sea wall is present;
 - (e) shall be located at least ten (10) feet from **side lot lines**; no **rear yard setback** required;
 - (f) **Boathouses** shall not exceed a building footprint (length x width) of two thousand (2,000) square feet in area, exclusive of eaves;
 - (g) **Boathouses** shall not contain sleeping quarters, kitchens or bathrooms;
 - (h) **Boathouses** in the R1 Zone shall not exceed a height of sixteen (16) feet with the base elevation starting at the **ordinary high water mark**. (See *Figure 5.46(4)-1*)

¹ Existing sea wall locations shall be those locations as of the adoption of the zoning ordinance.

- (i) Existing sea wall² locations shall be considered the **rear lot line** for the purposes of calculating **lot area** and **coverage** requirements.
- (j) Sea walls may not be extended lakeward, nor shall any **filling** take place for the purposes of increasing lot size or relocating the **rear lot line**. (See *Figure 5.46(4)-2*)
- (k) Upland dredging that would result in permanent altering of the shoreline requires a public hearing for a special use permit before the property owner applies for permits from the State and Federal governments.
- (l) **Boathouses** in the Belvedere Club and Chicago Club are excluded from the height requirements for **accessory structures** provided that they may be extended in the same building line elevation and size as the existing **boathouses**. (See *Figure 5.46(4)-3*)

Retaining Walls

Add to Section 5.65, pg. 81-82
Add as subsection (12)

5.60. Fences and Walls

- (1) All **fences**, walls and other similar **structures** shall be located on private property and must not obstruct the sight distance of motorists from **driveways**, roads and intersections. **Fences** or walls in all districts, except Industrial, shall not exceed six (6) feet in height above **grade** when located in any portion of the **rear** or **side yard**. **Fences** located in the **front yard** are permitted provided they are open wrought iron, picket, split rail and similar decorative **fences**, have a maximum opacity of fifty (50) percent and do not exceed three (3) feet above **grade**.
- (2) All **fences** shall be constructed with the finished side exposed to the neighboring properties. Support posts shall be placed on the inside. The **fence** shall be properly maintained and its appearance shall be harmonious with the surrounding properties and neighborhood.
- (3) Fence posts and decorative caps shall not extend greater than six (6) inches above the maximum allowed height. (See *Figure 5.65(3)*)
- (4) **Fences** or walls in Industrial Districts shall not exceed nine (9) feet in height above **grade** in the **side** and **rear yards**. All other relevant provisions of this section shall apply.
- (5) It shall be unlawful to erect or maintain a **fence**, wall or other similar **structure** equipped with or having barbed wire, spikes, razor wire or similar devices, or any electrical charge or current sufficient to cause shock. In Industrial Districts, however, a security **fence** may be installed with one (1) foot of barbed wire; provided, the barbed wire is at least eight (8) feet above the **adjacent grade**.

² Existing sea wall locations shall be those locations as of the adoption of the zoning ordinance.

- (6) **Fences** in the **front yard** shall have a minimum **setback** of twelve (12) inches from the property line.
- (7) **Fences** shall not be allowed to be located directly over property lines, unless two (2) or more **adjoining** property owners submit a joint application to the **zoning administrator** for approval.
- (8) Posts, cement, wood and any other **fence** materials shall not encroach onto **adjoining** properties, unless such encroachments are authorized under a joint application.
- (9) An artificial **berm** with a **fence** placed on top of it is considered part of the **fence**, with the combination being subject to the height limits for **fences** established in subsection (1) above.
- (10) The required **fence** height shall be maintained through the entire length on sloping properties. Grading and/or **filling** of materials to elevate the **grade** for a higher **fence** is prohibited.
- (11) Walls constructed of stone, brick or similar materials shall be permitted in the **front yard** provided they do not exceed three (3) feet in height. The height limits in the **side** and **rear yards** shall not exceed six (6) feet. Walls shall be set back a minimum of two (2) feet from all property lines and must be constructed and maintained in the future as to not create safety concerns for **adjoining** property owners or the general public. The **planning commission** may approve walls not to exceed six (6) feet in height in the **front yard** for developments in the **R4 zone**. This section shall not apply to **retaining walls**, as defined by this ordinance or **screening walls** under Section 5.81.
- (12) **Retaining Walls** in residential districts are subject to the following requirements:
 - (a) Retaining walls in the front yard(s), or yard(s) facing the public right-of-way, may be no taller than three (3) feet in height, and must be set back from the front property line, or property lines fronting the public right-of-way, a minimum of two (2) feet.
 - (b) In cases where the height or slope of the grade in the front yard(s), or yard(s) facing the public right-of-way, needing to be retained is greater than three (3) feet, multiple tiers may be used. The horizontal distance between tiers must be a minimum of five (5) feet.
 - (c) Retaining walls in side or rear yards that do not face a public right-of-way may be greater than three (3) feet tall, but are required to be designed and sealed by a licensed engineer to ensure the safety of adjoining property.
 - (d) Retaining walls must be constructed of stone, brick, treated lumber or similar materials. Plain cement block and untreated wood are not acceptable materials.
 - (e) The fill behind retaining walls must consist of dirt, drain stone, or similar materials.
 - (f) Retaining walls must be maintained in such a condition as to not present a threat to adjacent properties, or people or objects in the public right-of-way.

Site Plan Review for Waterfront Parcels

Add to Section 5.116, pg. 125-126

- (2) **Level "B" Review.** The **planning commission** shall act upon all **site plans**, other than those provided for level "A" review, in connection with the creation of a **use** or the erection of a **building or structure** in any of the following circumstances:
 - (a) Any "permitted" **use** within any **zoning district** occupying a **building** of two thousand (2000) square feet or more.
 - (b) Any special **use** in any district.
 - (c) Any Planned Unit Development.
 - (d) Any site plan on a waterfront parcel.
 - (e) As otherwise required by this ordinance.

Addressing Summer Worker Rentals

5.14. Definitions R – S

Rentals.

- (1) Long Term Rentals. Any dwelling or condominium or portion thereof, that is available for use for a fee or other compensation for a term of 30 consecutive days or more.
- (2) Short Term Rentals. Any dwelling or condominium or portion thereof, that is available for use for a fee or other compensation for a term of less than 30 consecutive days, not including hotel rooms, transitional housing operated by a non-profit entity, group homes such as nursing homes and adult foster care homes, and hospitals or other health care related facilities.

5.15. Definitions T – U – V

~~**Transient Housing.** An apartment, condominium, single family home or similar dwelling unit rented out to individuals or groups. (See Section 5.78)~~

5.78. Renting of Residential Properties

Renting of residential properties, including but not limited to homes, condos, apartments, townhouses, and duplexes, as **transient housing**, regardless of the underlying **zoning district**, shall comply with the following standards:

- (1) No exterior signage advertising the rental shall be allowed.
- (2) **Accessory Structures** may not be rented to separate individuals or groups.

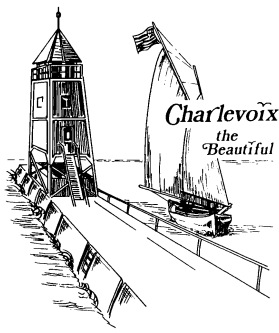
- (3) Short term renting of individual rooms to separate individuals or groups is prohibited and shall be considered a **bed and breakfast**, which requires special land use approval under *Article 13*.
- (4) Long term renting of no more than one (1) individual room in a residential structure is permitted, as long as the structure is owner occupied.

Front Yard on Corner Lot Definition Discrepancy

5.11. Definitions L – M

Lot Lines.

- (1) *Front Lot Line.* 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, see Section 5.71(1). ~~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.
- (2) *Rear Lot Line.* The lot line opposite and most distant from the front lot line. In the case of an irregular, triangular or flared lot, the rear lot line shall be a line at least ten (10) feet in length entirely within the lot, parallel to and at the maximum distance from the front lot line. An undeveloped through lot does not have a rear lot line.
- (3) *Side Lot Line.* A lot line that is neither a front lot line, nor a rear lot line.
- (4) *Street Side Lot Line.* A side lot line abutting a street on a corner lot.



CITY OF CHARLEVOIX
210 STATE ST. CHARLEVOIX, MICH. 49720

Planning Commission Bylaws

Adopted May 12, 2014

1.0 Purpose.

- 1.1 The name shall be the City of Charlevoix Planning Commission, hereafter known as the "Commission". The City of Charlevoix hereafter shall be known as the "City."
- 1.2 These Bylaws are adopted by the Commission to facilitate the performance of its duties as outlined in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, (M.C.L. 125.3801 *et seq.*), hereinafter "the Planning Act."
- 1.3 These Bylaws are also adopted to facilitate the duties of the Commission for administration of a zoning ordinance as outlined in P.A. 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 *et seq.*), hereinafter "the Zoning Act."

2.0 Membership. Members of the Commission are appointed pursuant to Title I, Chapter 7, Article V of the City Code, entitled Planning Commission. (Ord. 751)

- 2.1 Each member shall represent and advocate what is best for the City as a whole, putting aside personal or special interests.
- 2.2 In an effort to establish a diverse Commission, the City shall make every effort to appoint members who represent important sectors of the community and economy consistent with the requirements of Title I, Chapter 7, Article V of the City Code.
- 2.3 Liaisons. The purpose of liaisons is to provide technical assistance and advice, participate in discussions with the Commission, and answer questions from the general public or the Commission. Liaisons may include Planning Department staff, City department heads, planning consultants, the City Attorney, surveyors, engineers, or other qualified consultants.
- 2.4 Attendance. A Commission member's absence from three consecutive regularly scheduled meetings shall be considered nonfeasance in office. Nonfeasance in office shall be grounds for the City Council to remove a member from the Commission for nonperformance of duty, or misconduct, after holding a public hearing on the matter. The Commission secretary, or acting secretary in the absence of the elected secretary, shall keep attendance records and shall notify the City Council whenever any member of the Commission is absent from three consecutive regularly scheduled meetings, so the City Council can consider further action allowed under law or excuse the absences.

- 2.5 Training. Each member is encouraged to attend at least four hours per year of training in planning and zoning during the member's current term of office.
- 2.6 Incompatibility of Office.
- a.) Each member of the Commission shall avoid conflicts of interest and/or incompatibility of office. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:
- (1) Issuing, deliberating on, voting on, or reviewing a case concerning the member, on land owned by the member, or if the case involves land adjacent to the members property.
 - (2) Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss.
 - (4) Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to the commissioner, or a friend or family member of the commissioner.
 - (5) Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, stepchildren, grandchildren, parents, brothers, sisters, grandparents, parents in-law, grandparents in-law, or members of his or her household.
 - (6) Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is an applicant or agent for an applicant, or has a direct interest in the outcome.
- b.) If a question exists whether the circumstances actually present a conflict of interest, the Planning Commission member or zoning staff shall make a reasonable attempt to contact the city attorney prior to the Planning Commission meeting at which the matter that may give rise to the conflict of interest will be considered to obtain a legal opinion concerning whether a conflict of interest legally exists. If the Planning Commission member or zoning staff is not able to obtain a legal opinion from the city attorney then the Planning Commission may, by majority vote of the members present, adjourn the case to a specific time, date, and place in order to obtain a written opinion from the city attorney.
- c.) When a conflict of interest exists, the member of the Commission, or committee, shall do all of the following immediately, upon first knowledge of the case and determining that a conflict exists:
- (1) declare a conflict exists at the next meeting of the Commission or committee:

- (2) cease to participate at the Commission or committee meetings, or in any other manner, or represent one's self before the Commission, its staff, or others, and
- (3) during deliberation of the agenda item before the Commission or committee, remove one's self from the front table where members of the Commission sit, until that agenda item is concluded.
- d.) If a member of the Commission is appointed to another office, which is an incompatible office with his or her membership on the Commission, then on the effective date of the appointment to the other office, that shall result in an automatic resignation from the Commission. If a member of another office is appointed to the Commission, which is an incompatible office with his or her membership in the other office, then on the effective date of the appointment to the Commission, that shall result in an automatic resignation from the other office.

3.0 Duties of all members.

3.1 *Ex Parte* contact

- a.) Members shall avoid *Ex Parte* contact about cases where an administrative decision is before the commission whenever possible.
- b.) Despite one's best efforts it is sometimes not possible to avoid *Ex Parte* contact. When that happens, the member should take detailed notes on what was said and report to the Commission at a public meeting or hearing what was said, so that every member and other interested parties are made aware of what was said.

3.2 Site Inspections

- (a) Planning Commissioners are encouraged to do a site inspection prior to any public meetings or hearings where a decision may be made on a particular lot or parcel. Planning Commissions should visit the site by themselves and avoid contact with the applicants, property owners, and neighbors. If requested, members may visit the site with the Zoning Administrator or liaison.

3.3 Code of Conduct/Accepting gifts.

- a.) Each Planning Commissioner shall abide by the City of Charlevoix Code of Ethics and Conflict of Interest Policy. Gifts shall not be accepted by a member of the Commission or liaisons.

4.0 Officers

- 4.1 Selection: At the first regular meeting of each calendar year, the Commission shall select from its membership a Chair, and Vice-Chair. All officers are eligible for reelection. In the event the office of the Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the Commission shall select a successor to the office of Vice-Chair for the unexpired term.

- 4.2 Tenure. The Chair and Vice-Chair shall take office at the first regular meeting of the calendar year following their selection and shall hold office

for a term of one year or until their successors are selected and assume office.

- 4.3 Chair's Duties. The Chair retains his or her ability to discuss, make motions and vote on issues before the Commission. The Chair shall:
- a.) Preside at all meetings with all powers under parliamentary procedure;
 - b.) Shall rule out of order any irrelevant remarks; remarks which are personal; remarks about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or other remarks which are not about the topic before the Commission;
 - c.) Call special meetings if deemed necessary;
 - d.) Review with the staff, prior to a Commission meeting, the items to be on the agenda if he or she so chooses;
 - e.) Periodically meet with the Planning Director and/or other Planning Department staff to review Planning Department operation, procedures, and to monitor progress on various projects.
 - f.) Chair or perform a major role in the interview and selection process for a Planning Director;
 - g.) Act as the Commission's and Planning Department's chief spokesman and lobbyist to represent the Commission at local, regional, and state government levels.
 - h.) Represent the Commission before the City of Charlevoix; and
 - i.) Perform such other duties as may be ordered by the Commission.
- 4.4 Vice-Chair's Duties. The Vice-Chair shall:
- a.) Act in the capacity of Chair, with all the powers and duties found in Section 4.3 of these Rules, in the Chair's absence;
 - b.) Perform such other duties as may be ordered by the Commission.
- 4.5 Recording Secretary's Duties. The Recording Secretary shall be the City staff designated by the Planning Commission to properly notice meetings, record the audio, and compose draft minutes.

5.0 Meetings

- 5.1 Regular meetings. Meetings of the Commission will be held the second Monday of every month at 7 p.m. at 210 State Street. When the regular meeting day falls on a legal holiday, the Commission shall select a suitable alternate day in the same month. An annual notice or regularly scheduled Commission meetings shall comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meeting Act M.C.L. 15.261 *et seq.*)
- 5.2 Special Meetings. Special meetings shall be called by the Chair, by any two members of the Commission, or by the Chair at the request of any non-member of the commission. Special meetings shall be properly notice in accordance with the Open Meetings Act.
- 5.3 Quorum. More than half the total number of seats for members of the Commission, regardless if vacancies exist or not, shall constitute a

quorum for the transaction of business and the taking of official action for all matters before the Commission. Whenever a quorum is not present at a regular or special meeting, those present shall adjourn the meeting to another day.

5.4 Motions.

- a.) Motions shall be restated by the Chair before a vote is taken.
- b.) Findings of Fact. All actions taken in an administrative capacity (including but not limited to, special use permits, subdivisions, zoning, site plan review, planned unit developments, review and submission on another municipality's proposed plan, review and submission on a capital improvement, review of township zoning) shall include each of the following parts.
 - (1) A finding of fact, listing what the Commission determines to be relevant facts in the case in order to eliminate misleading statements, hearsay, irrelevant, and untrue statements.
 - (2) Conclusions to list reasons based on the facts for the Commission's action, often directly related, or not, to a finding of compliance, or noncompliance, to standards.
 - (3) The Commission's action; recommendation or position, approval, approval with conditions, or disapproval.

5.5 Voting. Voting shall be by voice and shall be recorded as passing or failing. Roll call votes will be recorded only upon request by a member of the Commission and shall be recorded by "yes" or "no". Members must be present to cast a vote. Voting by proxy shall not occur. Except as provided herein, the affirmative vote of a majority of those present shall be necessary for the adoption of motions. The affirmative vote of a majority of the total number of seats for members of the Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan.

5.6 Parliamentary Procedure. Parliamentary procedure in Commission meetings shall be informal. However, if required to keep order, Commission meetings shall then be governed by *Roberts Rules of Order Newly Revised*, (10th Edition, Perseus Publishing, New York, 2000 (ISBN 0-7382-037-6)) for issues not specifically covered by these Bylaws. Where these Bylaws conflict, or are different than *Robert's Rules of Order*, then these Bylaws control.

5.7 Public Participation. All regular and special meetings, hearings, records, and accounts shall be open to the public.

- a.) All public comments not specifically related to agenda items shall be provided at the beginning of the meeting in accordance with the agenda. Public comments on specific agenda items shall be called for at the appropriate time by the Chair.
- b.) The Chair may limit the amount of time allowed for each person wishing to make public comment at a Commission meeting. The Chair may ask members of the audience to caucus with others sharing similar positions so they may select a single spokesperson. If a single spokesperson is selected, that individual shall be able to

make public comment at the Commission meeting without time limit or an extended time limit.

- 5.8 Order of Business. Agenda. The Recording Secretary, or designee, shall prepare an Agenda for each meeting and the order of business shall be as follows:

- a.) Call to order and Pledge of Allegiance.
- b.) Roll call.
- c.) Inquiry into potential conflicts of interest.
- d.) Approval of agenda.
- e.) Approval of the minutes.
- f.) Call for public comment not related to agenda items.
- g.) New business
- h.) Old business
- i.) Staff updates/Planning Commission general comments/Request for research items.
- j.) Requests for future agenda items, research, or miscellaneous business.
- k.) Adjournment.

- 5.9 Placement of Items on the Agenda.

- a.) The City Planning Director/Zoning Administrator or City Manager may place items on the agenda with approval from the Chair.
- b.) The Chair, Vice-Chair, any member of the Commission may request specific items be placed on the agenda.
- c.) Any member of the public may request items be placed on the agenda, with prior approval from the Planning Commission Chair.

- 5.10 Minutes and Record. The Commission Secretary shall keep, or cause to be kept, a record of Commission meetings, which shall at a minimum include an indication of the following:

- a.) Copy of the meeting posting pursuant to P.A. 267 of 1976, as amended, (being the Michigan Open Meetings Act, M.C.L. 15.261 *et seq.*)
- b.) Copy of the minutes, and all its attachments which shall include a summary of the meeting, in chronological sequence of occurrence.

- 5.11 Retention. Commission records shall be preserved and kept on file in accordance with the State of Michigan

6.0 Committees

- 6.1 The Planning Commission may establish executive, ad-hoc, or citizen committees to assist the Commission in research, creation of neighborhood plans, to increase public involvement, or other specific purposes. Any committee established by the Commission may include not more than three Planning Commissioners. All committees are considered advisory and shall be required to follow the State of Michigan Open Meetings act.

7.0 Mileage and Per Diem

- 7.1 If requested, mileage shall be paid to members of the Commission at rates established by the City of Charlevoix for attending Commission meetings and other authorized meetings and trips to represent the City of

Charlevoix. City Council may establish a per diem rate for Commissioners. Commissioners may be reimbursed for travel expenses to attend training sessions or conferences with prior authorization from the City Planner/Zoning Administrator.

8.0 Hearings

- 8.1 Plan Hearings. Before the adoption of any part of a plan, as defined in the Planning Act, or any amendment to a plan, or recommending approval of an amendment to the City Council, the Commission shall hold at least one public hearing on the matter. Notice of the time and place of the hearing shall be given, not less than 15 days prior to such hearing, by at least one publication in a newspaper of general circulation within the city.
- 8.2 Any other hearings required by the Zoning Ordinance or special hearings requested by the Planning Commission shall be properly noticed in accordance with the City Zoning Ordinance, the Zoning Enabling Act, or Open Meetings Act.

9.0 Planning Commission Responsibilities

- 9.1 Planning Commission responsibilities and duties shall include all those delegated to the Commission by the Planning Enabling Act, the Zoning Enabling Act, the Land Division Act, Condominium Act and the City of Charlevoix Zoning Ordinance. Examples include but are not limited to:
 - a) Adoption and amendment to the City Master Plan and Parks and Recreation Master Plan.
 - b) Review of adjacent, or contiguous, local government plans from surrounding townships or Charlevoix County.
 - c) Review of the annual Capital Improvement Plan (CIP) and subsequent recommendation to City Council.
 - d) Review of new capital improvement projects not included in the annual CIP as defined by the adopted Capital Improvement Review Policy. (Resolution 2013-10-02 adopted on October, 21 2013)
 - e) Recommendations to City Council on zoning map and text amendments, Level B Site Plan Reviews, PUDs, and Site Condominiums.
 - f) Review and decision on Special Use Permit applications.
- 9.2 The Planning Commission may make other decisions or recommendations pertaining to land use if requested by City Council or the general public.
- 9.3 All powers of the zoning commission have been transferred to this Commission, pursuant to M.C.L. 125.3301 of the Zoning Act.

10.0 Adoption, Repeal, Amendments

- 10.1 Upon adoption of these Bylaws of May 12, 2014, they shall become effective and all previous Bylaws, shall be repealed.
- 10.2 The Commission may suspend any one of these Bylaws, for a duration of not more than one agenda item or meeting.
- 10.3 These Bylaws may be added to, amended or repealed in whole or in part. Proposed changes to these Bylaws must be submitted in writing to the members of the Planning Commission at least one (1) month in advance of the meeting at which the proposed changes will be considered. A majority vote of the entire Planning Commission members, regardless of

any vacancies, shall be required to amend these Bylaws. OR A vote of two-thirds (2/3) of the Planning Commission members present shall be required to amend these Bylaws.