

The Charlevoix City Council met on Monday, January 7, 2019 with Mayor Luther Kurtz presiding. All Councilmembers were present. The following is an excerpt from the official records of said meeting:

**CITY OF CHARLEVOIX
ORDINANCE NO.796 of 2019**

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CHARLEVOIX BY ADDING TWO NEW CHAPTERS, DESIGNATED AS CHAPTERS 66 AND 67 OF TITLE VI – HEALTH REGULATIONS OF SAID CODE, TO PROHIBIT MARIHUANA ESTABLISHMENTS WITHIN THE BOUNDARIES OF THE CITY OF CHARLEVOIX PURSUANT TO INITIATED LAW 1 OF 2018, MCL 333.27951, ET SEQ., AS MAY BE AMENDED; TO PROHIBIT SMOKING IN PUBLIC PLACES AND PUBLIC PARKS; TO PROVIDE PENALTIES FOR VIOLATION OF THIS ORDINANCE; TO PROVIDE FOR SEVERABILITY; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND TO PROVIDE AN EFFECTIVE DATE.

THE CITY OF CHARLEVOIX ORDAINS:

SECTION 1. Title IV, Chapter 66, Sections 6.110 through 6.113 of the City Code are hereby added as follows:

**CHAPTER 66
PROHIBITION OF RECREATIONAL MARIHUANA ESTABLISHMENTS**

6.110. Title.

This ordinance shall be known as and may be cited as the City of Charlevoix Prohibition of Marihuana Establishments Ordinance.

6.111. Definitions.

Words used herein shall have the definitions as provided for in Initiated Law 1 of 2018, MCL 333.27951, et seq., as may be amended.

6.112. No Marihuana Establishments.

The City of Charlevoix hereby prohibits all marihuana establishments within the boundaries of the City pursuant to Initiated Law 1 of 2018, MCL 333.27951, et seq., as may be amended.

6.113. Violations and Penalties.

- (1) Any person who disobeys neglects or refuses to comply with any provision of this ordinance or who causes allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
- (2) A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, in the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the City to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the City incurs in connection with the municipal civil infraction.
- (3) Each day during which any violation continues shall be deemed a separate offense.
- (4) In addition, the City may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
- (5) This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the City or by such other person(s) as designated by the City Council from time to time.

SECTION 2. Title IV, Chapter 67, Sections 6.120 through 6.125 of the City Code are hereby added as follows:

**CHAPTER 67
SMOKE FREE AREAS**

6.120. Purpose.

The purpose of this Ordinance is to protect the public health and welfare by regulating smoking in work sites, public places and certain other areas.

6.121. Definitions.

Words used herein shall have the definitions as provided for in PA 188 of 2009, MCL 333.12601, et seq., as may be amended, except that the following definitions shall apply to this Ordinance:

- (1) "E-Cigarette" means an electronic, noncombustible device that employs a heating element, power source, electronic circuit, battery, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form, or marihuana/TCH in any form, and the use or inhalation of which simulates smoking. This term shall include any device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, vaporizer, or under any other such product name or descriptor.
- (2) "Smoking" or "smoke" means the burning of a lighted cigar, cigarette, pipe, or any other matter or substance that contains a tobacco product or a marihuana product, and also includes the use of an e-cigarette to produce vapor from nicotine in a solution or other form, or marihuana/TCH in any form.

6.122. Smoking Prohibited as Provided in State Law.

Smoking is prohibited in any workplace and any food service establishment in the City of Charlevoix as provided in the Dr. Ron Davis Smoke-Free Air Law, PA 188 of 2009, MCL 333.12601, et seq., as may be amended. A workplace is a site employing at least one person. A food service establishment is any place with a license to serve food or beverages. This law covers public places, including, but not limited to, restaurants, bars, shopping malls, bowling alleys, concert halls, arenas, museums, mechanic shops, health facilities, nursing homes, education facilities, and child care centers. The terms and conditions of the Smoke-Free Air Law are adopted herein by reference except that, to the extent that this Ordinance is more restrictive than the Smoke-Free Air Law, the terms of this Ordinance shall govern.

6.123. Outside Smoking.

Smoking is prohibited within 25 feet of entrances, open windows and ventilation systems of all places where smoking is otherwise prohibited by this Ordinance. This prohibition shall not apply to persons who pass by such an entrance, open window, or ventilation system while traveling on a public street or sidewalk.

6.124. Smoking Prohibited in Public Parks or City Property.

A person shall not smoke in any park, designated beach area, or property owned or operated by the City. All parks, City property, and designated beach areas owned or operated by the City shall be so posted. This prohibition shall not apply to persons while traveling on a public street or sidewalk.

6.125. Violations and Penalties.

A person who violates or fails to comply with this section shall be subject to any one or more of the following:

- (1) Being asked to stop smoking or using tobacco products;
- (2) Being asked to leave the premises;
- (3) Responsible for a municipal civil infraction and subject to the civil fines set forth in this Code.

SECTION 3. 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 4. Effective Date.

This Ordinance shall become effective thirty (30) days after its enactment.

Ordinance No. 796 was adopted on the 7th day of January, 2019 A.D., by the Charlevoix City Council as follows:

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

State of Michigan }
 City of Charlevoix } §

 Joyce M. Golding Clerk Luther Kurtz Mayor

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. 796 of 2019 adopted by the City Council of the City of Charlevoix, County of Charlevoix, State of Michigan, at a regular meeting held on January 7, 2019 and published in the *Charlevoix Courier* on January 11, 2019, 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: January 8, 2019

 Joyce M. Golding, City Clerk