

The Charlevoix City Council met on Monday, October 19, 2020 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. 821 of 2020**

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

THE CITY OF CHARLEVOIX ORDAINS:

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

BUILDING HEIGHT.

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

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

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

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

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

(C) Restaurant with outdoor seating

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

(D) Roof top decks

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

- (1) A zoning and building permit for any roof top deck must be first obtained from the City Zoning Administrator and Charlevoix County Building Department and is subject to construction of and maintenance of guardrails and other protective features as required by the Charlevoix County Building Code.
- (2) Any request for a City of Charlevoix zoning permit that includes a roof top deck must undergo site plan review and receive approval by the Planning Commission prior to issuance of a zoning permit.
- (3) Parapet walls and perimeter guardrails shall extend around the perimeter of the roof top deck and incorporate exterior building materials consistent with the architectural style of the underlying structure subject to Section 153.170.
- (4) Any structure on a deck or patio must be permitted under the Zoning Code. Portable appurtenances are prohibited. Temporary appurtenances and structures are subject to site plan review to assure public safety.
- (5) Except within the CBD, Central Business District, amplified musical instruments or sounds are prohibited. Any other music or sound that would violate the City's noise ordinances and restrictions is prohibited.
- (6) All commercial food preparation shall take place inside the establishment.
- (7) No open flames are allowed.
- (7) Lighting shall be shielded and pointed downward and shall not be a nuisance to adjacent properties subject to Section 153.172.
- (8) Roof top deck space is subject to the requirements of Section 153.185 et seq., Off-Street Parking, Loading, Access and Circulation.

SECTION 4. Severability.

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

construed to affect the validity of any other part or portion of this Ordinance or of the Code of the City of Charlevoix, Michigan.

SECTION 5. Effective Date.

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

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

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

State of Michigan } §
City of Charlevoix }

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. 821 of 2020 adopted by the City Council of the City of Charlevoix, County of Charlevoix, State of Michigan, at a regular meeting held on October 19, 2020 and published in the *Charlevoix Courier* on October 23, 2020, 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 1876.

Dated: October 20, 2020

Joyce M. Golding, City Clerk