

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. 822 of 2020**

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

THE CITY OF CHARLEVOIX ORDAINS:

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 Title XV, Chapter 153, Section 153.230 of the City of Charlevoix Code is hereby repealed and replaced as follows:

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

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

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

Site plan review shall be required, as applicable, under the following conditions, or under other circumstances required by the City of Charlevoix Zoning Ordinance or other applicable law, unless exempted by Section 153.232.

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 Title XV, Chapter 153, Section 153.232 of the City of Charlevoix Code is hereby repealed and replaced as follows:

Site plan review shall not be required for:

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

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 Title XV, Chapter 153, Section 153.233 of the City of Charlevoix Code is hereby repealed and replaced as follows:

153.233 PRE-APPLICATION CONFERENCE

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

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

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

153.234 SITE PLAN REVIEW PROCEDURES

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

- (A) Site Plan and Level "A" reviews shall be performed by the Zoning Administrator as follows:
 - (1) Two (2) copies of a complete site plan and an electronic version, in a format specified by the city, shall be submitted along with an application for that purpose and a fee, as established by the City Council.
 - (2) The Zoning Administrator shall review the site plan for completeness.
 - (3) If the site plan is found to be incomplete, the Zoning Administrator shall return the site plan to the applicant with a list of items needed to make the site plan complete.
 - (4) Once the site plan is determined to be complete, the Zoning Administrator shall notify and seek comment from other city departments as applicable. A review by all the applicable departments will be held within fourteen (14) days. A report will be drafted by the Zoning Administrator stating a synopsis of the proposal and how the proposal relates to the zoning ordinance standards.
 - (5) The Zoning Administrator shall consider the site plan, any comments received and the applicable standards of this ordinance and shall either approve the site plan, as submitted, if all applicable requirements and the standards of Section 153.237 have been met; approve the site plan with conditions; or deny approval of the site plan, if applicable requirements and standards have not been met.
 - (6) The reasons for the Zoning Administrator's action, along with any conditions that may be attached, shall be stated in writing and provided to the applicant.
 - (7) If approved, two (2) copies of the final site plan shall be signed and dated by the Zoning Administrator and the applicant. One (1) copy,

along with the digital version, shall be kept on file with the city and one (1) copy shall be returned to the applicant or their designated representative. If the plan is approved with conditions, a revised plan shall be submitted reflecting those conditions and signed by the applicant and Zoning Administrator prior to the issuance of any permits.

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

(Prior Code, § 5.118) (Ord. 794, passed 9-17-2018)

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

153.235 SUBMITTAL REQUIREMENTS

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

<i>Table 153.235: Required Site Plan Content</i>		
<i>Required Information</i>	<i>Level "A"</i>	<i>Level "B"</i>
GENERAL INFORMATION		
Date, north arrow and scale	X	X
Name and firm address of the professional individual responsible for preparing the site plan	X	X
Name and address of the property owner or petitioner	X	X
Location sketch	X	X
Legal description of the subject property	X	X
Size of subject property in acres or square feet	X	X
Boundary survey dated within 6 years of application	X	X
Preparer's professional seal		X
Revision block (month, day and year)	X	X
EXISTING CONDITIONS		
Existing zoning classification of subject property	X	X
Property lines and required setbacks (dimensioned)	X	X
Location, width and purpose of all existing easements	X	X
Location and dimension of all existing structures on the subject property	X	X
Location of all existing driveways, parking areas and total number of existing parking spaces on subject property	X	X
Abutting street right-of-way width	X	X
Location of all existing structures, driveways and parking areas within 300 feet of the subject property's boundary		X

Table 153.235: Required Site Plan Content		
Existing water bodies (rivers, creeks, wetlands and the like)	X	X
Existing landscaping and vegetation on the subject property		X
Size and location of existing utilities		X
Location of all existing surface water drainage facilities	X	X
PROPOSED DEVELOPMENT		
Location and dimensions of all proposed buildings	X	X
Location of all proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, walls, fences, signs, exterior lighting, curbing, parking areas (including dimensions of a typical parking space and the total number of spaces to be provided) and unloading areas	X	X
Setbacks for all buildings and structures	X	X
Recreation areas, common use areas, dedicated open space and areas to be conveyed for public use		X
Flood plain areas and basement and finished floor elevations of all buildings	X	X
Landscape plan (showing location of proposed materials, size and type)		X
Layout and typical dimensions of proposed parcels and lots		X
Number of proposed dwelling units (by type), including typical floor plans for each type of unit		X
Number and location (by code, if necessary) of efficiency and 1-, 2- and 3- or more bedroom units		X
All deed restrictions or covenants		X
Brief narrative description of the project including proposed use, existing floor area (sq. ft.), size of proposed expansion (sq. ft.) and any change in the number of parking spaces	X	X
ENGINEERING		
Proposed method of handling sanitary sewage and providing potable water	X	X
Location and size of proposed utilities, including connections to public sewer and water supply systems and/or size and location of on-site systems	X	X
Location and spacing of fire hydrants		X
Location and type of all proposed surface water drainage facilities	X	X
Grading plan at no more than 2-foot contour intervals		X
Proposed streets (including pavement width, materials and easement or right-of-way dimensions)		X
BUILDING DETAILS		
Typical elevation views of all sides of each building		X
Gross and usable floor area	X	X
Elevation views of building additions	X	X
Building height	X	X

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

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

(Prior Code, § 5.119)

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

153.236 COORDINATION WITH OTHER DEPARTMENTS AND AGENCIES

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

- (1) City of Charlevoix Fire and Rescue Department
- (2) City of Charlevoix Public Works Department
- (3) Charlevoix County Road Commission

- (4) Michigan Department of Transportation
 - (5) Charlevoix District Health Department
 - (6) Charlevoix County Drain Commissioner
 - (7) City of Charlevoix Police Department
 - (8) City of Charlevoix Downtown Development Authority
 - (9) Any other agency that may be affected by the Site Plan.
- (B) This review does not alleviate the applicant from obtaining any and all required permits and/or approvals from the departments and agencies listed above. Any comments received from the departments and agencies within a reasonable time (14 days) will be reviewed and considered by the Planning Commission and/or the Zoning Board of Appeals (ZBA).
- (1) The Planning Commission may approve an application conditioned on obtaining agency permits, or may, if the permit is critical to the site plan, require the permit or approval prior to issuance of their approval.
 - (2) No construction activity associated with an approved site plan shall be undertaken until permits and approvals from all applicable agencies have been presented to the Zoning Administrator.
 - (3) Whenever possible, site plan review by the Zoning Administrator and Planning Commission shall be coordinated and done simultaneously with other reviews by the Zoning Administrator and Planning Commission on the same application.
 - (4) When an application is dependent on the need for a dimensional variance from the ZBA, re-zoning of property, or a zoning ordinance text amendment, such action must be completed prior to final site plan approval by the Planning Commission.

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

153.237 STANDARDS FOR SITE PLAN APPROVAL

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

- (A) The site plan must comply with all standards of this Article and all applicable requirements of this chapter, as well as with all other applicable city, county, state and federal laws and regulations.
- (B) The site must be designed in a manner that is harmonious, to the greatest extent possible, with the character of the surrounding area.
- (C) The site must be designed to minimize hazards to adjacent property and to reduce the negative effects of traffic, noise, smoke, fumes and glare to the maximum extent possible.
- (D) The site plan does not have a negative impact on the provisions of human services, housing, transportation needs, and access to food in the community.
- (E) The site plan protects the natural environment and conserves natural resources and energy to the extent possible in light of the proposed development.
- (F) Unless a more specific design standard is required by the city through a different ordinance or regulation, all uses and structures subject to site plan review shall comply with the following design standards:
 - (1) *Traffic circulation.*
 - a. The site plan shall comply with the applicable zoning district requirements for minimum floor space, height of building, lot size, yard space, density and all other requirements as set forth in the City of Charlevoix Zoning Ordinance, unless otherwise provided.
 - b. Vehicular and Pedestrian Circulation. Safe, convenient, uncontested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. A pedestrian circulation system shall be provided and shall be as insulated as completely as reasonably possible from the vehicular circulation system. The number, location and size of access and entry points, and internal vehicular and pedestrian circulation routes shall be designed to promote safe and efficient access to and from the site, as well as circulation within the site. In reviewing traffic features, the number, spacing and alignment of existing and proposed access points shall be considered relative to their impact on traffic movement on abutting streets and adjacent properties.
 - c. Walkways from parking areas to building entrances
 - a. Internal pedestrian walkways shall be developed for persons who need access to the building(s) from internal parking areas and shall be designed to provide access from these areas to the entrances of the building(s)
 - b. The walkways shall be designed to separate people from moving vehicles.
 - c. These walkways shall have a minimum width of five (5) feet with no car overhang or other obstruction.
 - d. The walkways must be designed in accordance with the Michigan Barrier Free Design Standards.
 - e. The walkways shall be distinguished from the parking and riving areas by use of any of the following materials: special pavers, bricks, raised elevation or scored concrete. Other materials may be used if they are appropriate to the overall design of the site and building and acceptable to the review authority.
 - (2) *Storm water.* Storm water retention and drainage systems shall be designed so the removal of surface water will not adversely affect neighboring properties or public storm water drainage systems. Unless impractical, storm water shall be removed from all roofs, canopies and paved areas by an underground surface drainage system. Low impact design solutions such as rain gardens and green roofs are encouraged. The proposed project will meet the City of Charlevoix Storm Water Ordinance.
 - (3) *Snow Storage.* Proper snow storage areas shall be provided so to not adversely affect neighboring properties, vehicular and pedestrian clear vision, and parking area capacity.
 - (4) *Landscaping.* The landscape shall be preserved in its natural state, insofar as practical, by minimizing unnecessary tree and soil removal. Any grade changes shall be in keeping with the general appearance of neighboring developed areas. Provision or preservation of landscaping, buffers or greenbelts may be required to ensure the proposed uses will be adequately buffered from one another and from surrounding property.
 - (5) *Screening.* Where non-residential uses abut residential uses, appropriate screening shall be provided in accordance with Section

- 153.171 to shield residential properties from noise, headlights and glare.
- (6) *Lighting.* Lighting shall be designed to minimize glare on adjacent properties and public streets. As a condition of site plan approval, reduction of lighting during non-business hours may be required.
 - (7) *Utility service.* All utility service shall be underground, unless impractical due to engineering difficulties.
 - (8) *Exterior uses.* Exposed storage areas, machinery, heating and cooling units, service areas, loading areas, waste storage areas, utility buildings and structures, and similar accessory areas shall be located to have a minimum negative effect on adjacent properties and shall be screened, if reasonably necessary, to ensure compatibility with surrounding properties.
 - (9) *Emergency access.* All buildings and structures shall be readily accessible to emergency vehicles.
 - (10) *Water and Sewer.* Water and sewer installations shall comply with all City specifications and requirements.
 - (11) *Signs.* Permitted signs shall be located to avoid creating distractions, visual clutter and obstructions for traffic entering or exiting a site.

(Prior Code, § 5.120)

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

153.238 CONDITIONS OF SITE PLAN APPROVAL

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

(Prior Code, § 5.121)

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

153.239 PERFORMANCE GUARANTEE

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

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

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

153.240 AUTHORITY AND LIMITATIONS

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

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

153.241 AMENDMENT TO APPROVED SITE PLAN

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

- (A) The holder of an approved site plan shall notify the Zoning Administrator of any proposed change to an approved site plan.
- (B) Changes to a Level "A" site plan may be approved by the Zoning Administrator.
- (C) Minor changes to a Level "B" site plan may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design or any specified conditions imposed as part of the original approval. Minor changes shall include the following:
 - (1) Reduction in building size or increase in building size up to five (5) percent of total approved floor area.
 - (2) Movement of buildings or other structures by no more than ten (10) feet.

- (3) Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
 - (4) Changes in building materials to a comparable or higher quality.
 - (5) Changes in floor plans which do not alter the character of the use.
 - (6) Changes required or requested by a city, county, state or federal regulatory agency in order to conform to other laws or regulations.
- (D) A proposed change to a Level "B" site plan, determined by the Zoning Administrator to not be a minor change, shall be submitted to the Planning Commission as a site plan amendment and shall be reviewed in the same manner as the original application.
(Prior Code, § 5.123)

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

153.242 EXPIRATION

Site plan approval shall expire twelve (12) months after the date of approval, unless substantial construction has been commenced and is continuing. The Zoning Administrator, in the case of a Level "A" site plan, or the Planning Commission, in the case of Level "B" site plan, may grant one extension of up to twelve (12) additional months; provided the applicant requests an extension in writing prior to the date of expiration of the site plan. The extension shall be approved if the applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant and the project will proceed within the extension period. If the above provisions are not fulfilled or the extension has expired prior to construction, the site plan approval shall become null and void.
(Prior Code, § 5.124)

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

153.243 AS BUILT PLAN

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

SECTION 15. Severability.

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

SECTION 16. Effective Date.

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

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

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

State of Michigan
 City of Charlevoix } §

 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. 822 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