

**TITLE II - UTILITIES AND SERVICES
CHAPTER 21
GARBAGE AND RUBBISH**

2.1. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

- (1) "Garbage." The term "garbage" as used herein shall be deemed to include animal, fruit and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of foods in kitchens, stores, markets, hotels, restaurants and other places where food is stored, cooked or consumed.
- (2) "Rubbish." The term "rubbish" as used herein shall be deemed to include all waste material such as:
 - (a) That which can be economically processed or disposed of and shall include all ordinary wastes such as paper cartons, rags, boxes, wood, excelsior, leather, rubber, tree limbs not to exceed three (3) inches in diameter, and other miscellaneous materials. Said listing is by way of inclusion and not by exclusion. Material shall not exceed four (4) feet in maximum dimension.
 - (b) Which due to its nature or size, cannot be economically processed or disposed of and shall include ashes, cinders, debris from building construction, metal, barrels, glass containers, broken dishes, crockery, and tree limbs greater than three (3) inches in diameter or four (4) feet in length.
- (3) "Builder's or Contractor's Refuse." Builder's or contractor's refuse shall include all forms of refuse generated as a result of building construction, alterations or repairs of contractors or tradesmen.
- (4) "Yard Waste." Yard waste consists of grass clippings, yard trimmings, leaves and general yard and garden waste materials.
- (5) "Hazardous Refuse." Hazardous refuse shall include explosives, chemicals, radioactive material, highly inflammable material, and any other material that is dangerous and would result in serious hazards.
- (6) "Trash." Trash shall include all forms of waste materials.
- (7) "Collector." Collector shall be any person who shall collect, haul or otherwise dispose of any trash, garbage or other refuse on a commercial basis.

2.2. Preparation.

Refuse shall be prepared as follows:

- (1) Garbage—Domestic. All garbage not disposed of by the owner or occupant of any property within the City through an incinerator, sink grinder or other installation approved by the City for the disposal of garbage shall be well drained and shall be wrapped in several thicknesses of paper and placed in proper containers specified in Section 2.4.
- (2) Garbage—Commercial. Garbage from hotels, clubs, restaurants, institutions and other establishments for group eating other than private residences, (not disposed of through an incinerator, sink grinder or other installation approved by the City for disposal of garbage), vegetable stands, bakeries, canneries and similar establishments, shall be well drained but need not be wrapped.
- (3) Ashes. Ashes shall be placed in separate containers, and shall be cooled and kept dry.

- (4) Other Trash. All other trash shall be placed in a container or containers of the size hereinafter prescribed, except trash which cannot be placed in containers because of its size and shape, and refuse not so placed in containers shall be prepared as provided under bulk trash.
- (5) Bulk Trash. Any trash not required to be placed in an approved container will be prepared as follows: Bulk and all other trash shall be compressed and securely tied with non-metallic material in bundles not heavier than sixty (60) pounds or more than four (4) feet in length and more than eighteen (18) inches in diameter.
- (6) Hazardous Refuse. Hazardous refuse shall be disposed of outside of the City by the owners or generators of said refuse or their agents.
- (7) Open Bulk Containers. All containers of a box, crate or container type construction with more than one cubic foot of inside volume must be broken open and emptied before being placed in the refuse container.

2.3. Containers.

No owner, tenant, or lessee of any public or private premises shall permit to accumulate upon his premises any trash, garbage, or other refuse unless it is placed and maintained in containers as follows:

- (1) Containers for Garbage. All containers used for garbage shall be of substantial metal or plastic construction, provided with handles or bails, and a tight fitting cover. They shall have a capacity of not less than ten (10) or more than thirty-five (35) gallons and shall weigh not more than sixty (60) pounds when filled.
- (2) Containers for Trash. Containers that are broken or fail to meet the requirements of this Chapter may be classified as trash, and after due notice to the owner, collected as such at anytime after two (2) weeks from the date of condemnation. Due notice shall constitute the placement of an official tag with the caption "Condemned" along with the date of condemnation.
- (3) Location of Containers Prior to Collection. Containers shall not be placed under the eaves of any building in such a manner as to permit water to enter them, and any container filled or partially filled with ice or water will not be emptied.

2.4. Collection.

- (1) It shall be unlawful for any person other than authorized collectors as provided for herein or owners of said trash, garbage or refuse to collect, handle or interfere in any manner with garbage and trash containers, receptacles or bulk refuse placed in the streets, alleys or other public places in the City.
- (2) All trash or garbage or other refuse pending collection shall be set out, properly bundled or in proper containers as defined and provided for in this Chapter, at the front curb line in plain view at the edge of the nearest public street fronting the dwelling unit. All such proper trash, garbage or other refuse in proper containers, and only such, will be picked up at least once a week. Trash and garbage may be set out for pick up in plastic garbage bags, provided such bags are closed and are not set out more than eight (8) hours before pick up.
- (3) Waste containers placed for pick up in accordance with this Chapter shall be removed by such owner, tenant, lessee or occupant from the place of their placement for pick up within fifteen (15) hours from time said container is actually collected.
- (4) No owner, tenant, lessee or occupant shall permit trash, garbage, or other refuse, in or out of containers, to stand along the roadside waiting for collection, or for any other reason, for a continuous period in excess of fifteen (15) hours. Should such trash, garbage or other refuse be left along the roadside for collection, or for any other reason, in excess of fifteen

(15) hours, the City shall notify the said owner, tenant, lessee or occupant by personal service of a written notice or by first class mail to remove the same within twenty-four (24) hours. If said owner, tenant, lessee, or occupant shall fail to remove said trash, garbage or other refuse within the twenty-four (24) hour period, the City has the right and the power to collect said trash, garbage or other refuse and shall bill the said owner, tenant, lessee or occupant for the cost incurred by the collection by the City.

2.5. Service Charges.

- (1) Any collector, as defined by this Chapter, shall forthwith, following the effective date of the amendment of this Chapter as provided for herein, file with the City Manager a schedule of all the prevailing collection charges and rates.
- (2) Charges for collection of refuse will be made based upon quantity, frequency of collections and other considerations.
- (3) Said schedule of collection charges and rates shall not be increased without approval of the City Council, following a public hearing. Such public hearing shall be preceded with a seven (7) day notice in a newspaper of general local circulation and the costs and administrative expenses of said public hearing shall be paid by the licensed collector. Any increase in said rates shall only be approved upon a finding that the costs to the collector of doing business have increased, due to the operation of new governmental regulations or due to increased costs of materials or labor required to provide collection services, or due to increased costs of incineration or deposit in a landfill operation.

(The collector shall, however, use due diligence to keep costs from increasing, and to keep increases at a minimum, and no cost increase created or continued by the bad faith of the collector shall constitute a basis for increasing rates.)

2.6. General Provisions.

The following general provisions shall apply:

- (1) **Burning and Burying.** No person shall throw any trash, garbage or refuse upon the grounds or bury the same on any premises, public or private, or burn the same in any manner.

(Ord. No. 658, 03-06-00)

- (2) **Depositing and Scattering.** No person shall deposit or scatter trash, garbage or other refuse on any public street, alley or public property in the City.
- (3) **Cleanliness.** It shall be the duty of every owner, tenant, lessee or occupant of any building, residential or commercial, having trash, garbage or other refuse to provide for and have proper storage containers as defined in this Chapter, of sufficient size and number to handle the accumulation of trash, garbage or other refuse on the premises. There shall be no undue accumulation of materials and the buildings and premises shall be kept in a clean and orderly condition. Should any person violate this provision, the City shall notify said owner, tenant, lessee or occupant by personal service of a written notice or by first class mail to correct the violation within twenty-four (24) hours from the time of notification. If the said owner, tenant, lessee, or occupant shall fail to correct the situation of which he has had notification within the twenty-four (24) hour period, the City has the right and power to correct the violation and bill the said owner, tenant, lessee, or occupant for the costs incurred for doing the work for the City.

2.7. Transporting.

The transportation of all trash, garbage or other refuse through streets, alleys or thoroughfares within the City limits shall be conducted in such manner as to create no nuisance and shall comply with the City Code. Collection vehicles for garbage shall have completely enclosed water-tight bodies. All collection vehicles shall be so designed that the wheel and axle loads when fully loaded shall not exceed the schedule of weights allowed by the laws of the State of Michigan and the City.

2.8. Disposal.

All collected trash, garbage or other refuse, originating in the City whether collected by the City under contract with a licensed contractor, through its own City Department, or collected by persons from their own premises and disposed of by said persons, if disposed of within the City by said contractor or persons, shall be disposed of at a landfill site approved or owned and/or maintained by the City or any other lawful place where the said disposal may be accomplished in a sanitary and lawful manner and in accordance with all the rules and regulations set forth in this Chapter or set forth by the proper authority of the City in accordance with this Chapter. However, this provision does not mean the City must approve, own or operate a sanitary landfill site.

2.9. Collector's License.

Every person transporting trash, garbage or other refuse over the streets or alleys of the City or collecting trash, garbage or other refuse on a commercial basis, shall obtain a license so to do, and upon the issuance of such license shall agree and provide that they shall pay all fees necessary for the disposal of such trash, garbage or other refuse to the owner of the site where disposed of, which site shall be approved by the City. The fees for such license shall be as specified by resolution.

2.10. License Revocation.

The license of any person for transporting trash, garbage or other refuse over the streets or alleys of the City or collecting trash, garbage or other refuse on a commercial basis who shall fail, neglect or refuse to pay the fees to the owner of the disposal site used by the licensee for the disposal of such trash, garbage or other refuse or shall otherwise fail to comply with any pertinent section of this Chapter, shall forthwith be revoked by the City Manager and the license of such person shall not thereafter be granted or renewed until the person has satisfactorily rectified all Code violations and paid all fees which should have been paid to the City or other landfill site owner and such damages as the City may become liable for such person's failure, neglect or refusal to deliver such trash, garbage or other refuse to a landfill site approved by the City.

2.11. Collection Charges.

All collection costs incurred by the City, the minimum charge of which shall be specified by resolution, and which are to be charged to the said owner, tenant, lessee or occupant as provided for in Sections 2.4(4) and 2.6(3) shall be paid within thirty (30) days of the date of statement sent to said owner, tenant, lessee or occupant requesting reimbursement. If said payment is not made within thirty (30) days, a service charge of three (3%) per cent shall be added thereto. If payment is not made within ninety (90) days, the said payments shall be considered as a lien on the property and shall be assessed against the property and collected as provided in section 1.345 of this Code.

CHAPTER 22 CITY WATER UTILITY

2.51. Definitions.

In the interpretation of this Chapter the following definitions shall apply unless the context clearly indicates otherwise:

- (1) The term "water main" shall mean that part of the water distribution system located within easement lines or streets designed to supply more than one (1) water connection.
- (2) The term "water connection" shall mean that part of the water distribution system connecting the water main with the premises served.
- (3) The term "department" shall mean the Public Works Department of the City. "Superintendent" shall mean the Superintendent of Public Works.

2.52. Service Connections.

Applications for water connections shall be made to the Department on forms prescribed and furnished by the Department. Water connections, water connection upgrades and water meters shall be installed in accordance with rules and regulations of the Department and upon prior payment of the required connection fee and installation fee. All meters shall be the property of the City. The City shall be responsible for maintenance, repair and replacements of water meters from normal wear and tear; the property owner shall be responsible for maintenance, repair and replacement for damage to the water meter not from normal wear and tear, including neglect, freezing pipes or other physical damage to the meter. Connection fees and connection upgrade fees shall not be less than the cost of materials, installations, and overhead attributable to such installations. Connection fees, connection upgrade fees and meter installation fees shall be paid to the City at the time the application is filed, and shall be in such amounts as the Council shall, from time to time, determine by resolution. The required connection fee and meter installation fee shall be charged to each property served. The City shall own all water lines to the first point of isolation, which is the first curb stop valve. The City shall own and be responsible for maintaining the water connection from the point it leaves the main line to the first point of isolation, which is the first curb stop valve. The property owner shall own and be responsible for maintaining the water connection from the first point of isolation to the structure the service line is feeding, even if all or some of the water connection is within the road right-of-way. The property owner shall notify the City of any work to be done in the road right-of-way prior to commencing work in the road right-of-way. The property owner shall be responsible to restore the road right-of-way to its previously existing condition upon completion of any work in the road right-of-way.

(Ord. No. 774, 10-19-2015)

2.53. Turning on Water Service.

No person, other than an authorized employee of the Department, shall turn on or off any water service, except that a licensed plumber may turn on water service for testing his work (then it must be immediately turned off) or upon receiving a written order from the Department; provided, that upon written permit from the Department, water may be turned on for construction purposes upon payment of the charges applicable thereto.

2.54. Water Meters.

All premises using water shall be metered, except as otherwise provided in this Code. No person except a Department employee shall break or injure the seal or change the location of, alter or interfere in any way with any water meter.

On all new installations there shall be a shut-off on each side of the meter for the purpose of testing, inspecting and replacement of the meter.

2.55. Access to Meters.

The Department shall have the right to shut off the supply of water to any premises where the Department is not able to obtain access to the meter. Any qualified employee of the Department shall at all reasonable hours, have the right to enter the premises where such meters are installed for the purpose of reading, testing, removing, or inspecting same and no person shall hinder, obstruct, or interfere with such employee in the lawful discharge of his duties in relation to the care and maintenance of such water meter.

2.56. Reimbursement for Damage.

Any damage which a meter may sustain resulting from carelessness of the owner, agent, or tenant or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water, or steam backing from a boiler, shall be paid by the owner of the property to the City on presentation of a bill therefor; and in cases where the bill is not paid, the water shall be shut off and shall not be turned on until all charges have been paid to the City.

2.57. Meter Failure.

If any meter shall fail to register properly, the Department shall estimate the consumption on the basis of former consumption and bill accordingly.

2.58. Inaccurate Meters.

A consumer may require that the meter be tested. If the meter is found accurate, a charge of three (\$3.00) dollars will be made. If the meter is found defective, it shall be repaired or an accurate meter installed and no charge shall be made.

2.59. Accuracy Required.

A meter shall be considered accurate if, when tested it registers not to exceed two (2%) percent more to two (2%) percent less than the actual quantity of water passing through it. If a meter registers in excess of two (2%) percent more than the actual quantity of water passing through it, it shall be considered "fast" to that extent. If a meter registers in excess of two (2%) per cent less than the actual quantity of water passing through it, it shall be considered "slow" to that extent.

2.60. Bill Adjustment.

If a meter has been tested at the request of a consumer and shall have been determined to register "fast" the City shall credit the consumer with a sum equal to the percent "fast" multiplied by the amount of all bills incurred by said consumer within the three (3) months prior to the test, and if a meter so tested is determined to register "slow", the Department may collect from the consumer a sum equal to the percent "slow" multiplied by the amount of all the bills incurred by the consumer for the prior three (3) months. When the Department on its own initiative makes a test of a water meter, it shall be done without cost to the consumer, other than his paying the amount due the City for water used by him as above provided, if the meter is found to be "slow".

2.61. Hydrant Use.

No person, except an employee of the City in the performance of his duties, shall open or use any fire hydrant except in case of emergency, without first securing a written permit from the Department and paying such charges as may be prescribed.

2.62. Lawn Sprinkling.

The City Manager, subject to approval by the Council, may regulate, limit or prohibit the use of water for any purpose. Such regulations shall restrict less essential water uses to the extent deemed necessary to assure an adequate supply for essential domestic and commercial needs and for fire fighting. No such regulation, limitation or prohibition shall be effective until twenty-four (24) hours after the publication thereof in a newspaper of general circulation in the City. Any person violating such rule or regulation shall, upon conviction thereof, be punished as prescribed in Chapter 1 of this Code.

2.63. Additional Regulations.

The City Manager may make and issue additional rules and regulations concerning the Water Distribution System, connection thereto, meter installation and maintenance, connection and meter installation fees, hydrants and water mains and the appurtenances thereto, not inconsistent herewith. Such rules and regulations shall be effective upon approval by the City Council. The rules and regulations now in effect shall continue until changed in accordance with this section.

2.64. Injury to Facilities.

No person, except an employee of the City in the performance of his duties, shall willfully or carelessly break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the City Water Distribution System.

2.65. Cross Connections.

- (1) The City adopts by reference the Water Supply Cross Connection rules of the Michigan Department of Environmental Quality, being R325.11401 through R325.11407.
[Ord. 731, 07/21/08]
- (2) It shall be the duty of the Charlevoix Water Department to cause inspections to be made of all properties served by the public water supply, where cross connections with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Charlevoix Water Utility and as approved by the Michigan Department of Environmental Quality.
[Ord. 731, 07/21/08]
- (3) The representative of the Charlevoix Water Department shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the City of Charlevoix for the purpose of inspecting the piping system or systems thereof for cross connections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, where requested, shall be deemed evidence of the presence of cross connections.
- (4) For all water services connected to the City Water Supply, all testable backflow prevention assemblies shall be tested upon installation to be sure that the device is working properly. Subsequent testing of assemblies shall be conducted on an annual basis as required by the City and in accordance with the Michigan Department of Environmental Quality requirements. Only individuals that are certified in Cross Connection Control by the State of Michigan shall be qualified to perform such testing.
- (5) The Charlevoix Water Utility is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this section exists, and to take such precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection(s) has been eliminated in compliance with the provisions of this section.

- (6) The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this section and by the State and Charlevoix County Plumbing Code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

Water Unsafe for Drinking

- (7) This section does not supersede the State Plumbing Code.
- (8) Any person violating the provisions of this Section or the written order of the City of Charlevoix Water Department in pursuance of this Section is responsible for a municipal civil infraction.

CHAPTER 22A
CITY WATER SERVICE--EXCLUSIVE WATER SOURCE
(Ord. No. 673, §2, 05-20-02)

2.71 Definitions.

As used in this Chapter:

- (1) "City" means the City of Charlevoix.
- (2) "City water service" means the water supplied by the City under Chapter 22 of this code.
- (3) "Impact area" means the property located within the City of Charlevoix, Charlevoix County, Michigan, and described as follows (and also illustrated in the attached map):

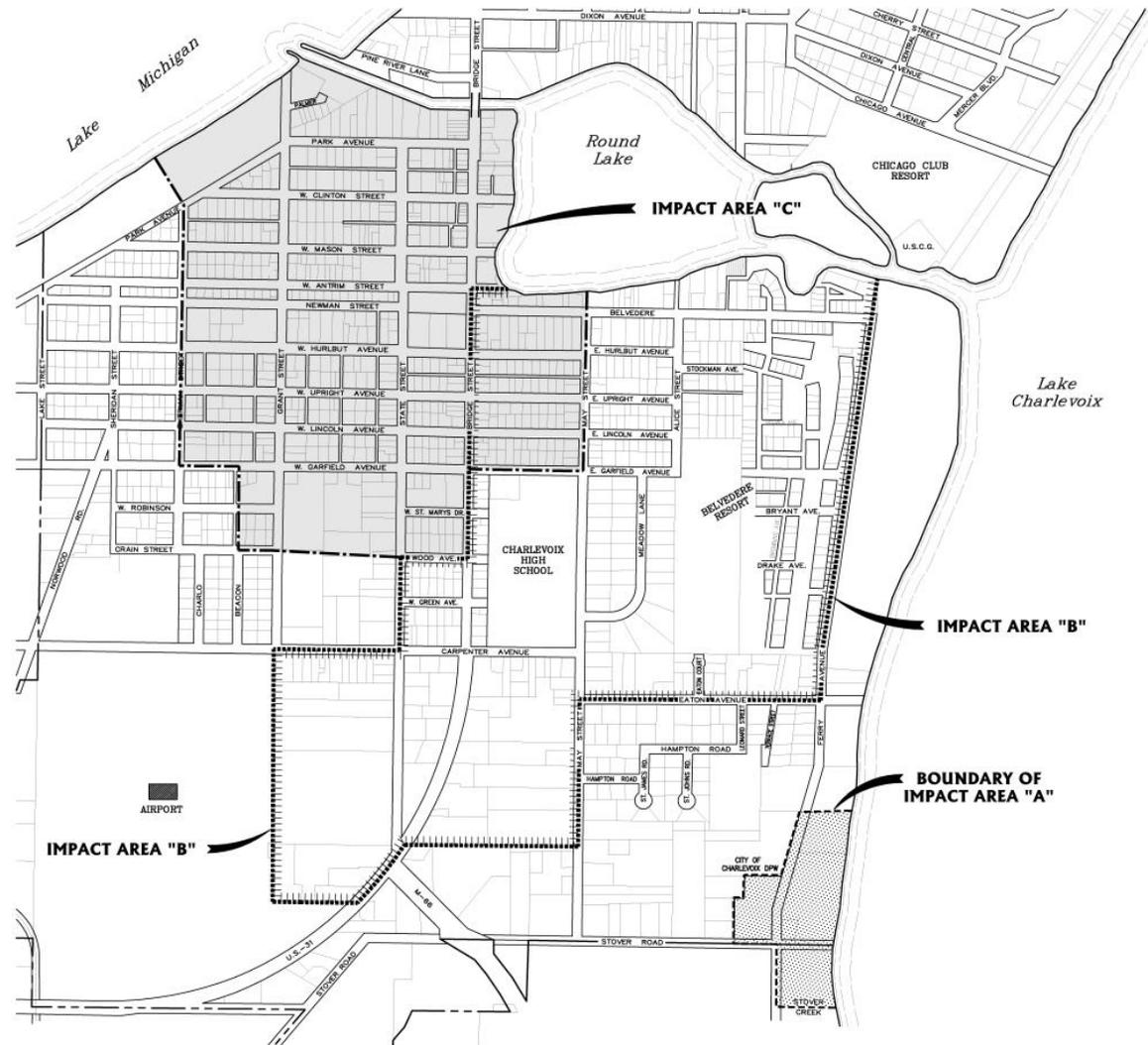
In the City and Township of Charlevoix, Charlevoix County, Michigan.

Commencing at the North 1/4 corner of Section 35, Town 34 North, Range 8 West; thence South on North and South 1/4 line of said section 1138.50 feet; thence South 89°39'00" East 303.00 feet, more or less, to the Westerly line of the former C&O Railroad right-of-way, being the POINT OF BEGINNING of this description; thence continuing South 89°39'00" East 350 feet, more or less, to the shore of Lake Charlevoix; thence Southerly along said shore to the thread of Stover Creek; thence Westerly along the thread of Stover Creek to the Easterly line of former Highway M-66; thence Northerly along said highway 469.20 feet, more or less, to the centerline of Stover Road; thence West along said centerline of Stover Road to a point which is 1162.26 feet East of the centerline of May Street; thence North 330.00 feet; thence East 62.44 feet; thence North 165.00 feet; thence East 260.75 feet to the Northwesterly line of the former C&O Railroad right-of-way; thence Northeasterly along said railroad right-of-way to the POINT OF BEGINNING; being a part of Government Lot 1, Section 35, Town 34 North, Range 8 West. The above described property extends to the water's edge of Lake Charlevoix. (This area is called Impact Area A on the attached map)

AND ALSO:

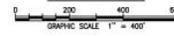
Part of Sections 26, 34 and 35, T34N, R8W, City of Charlevoix, Charlevoix County, Michigan, more fully described as: BEGINNING at the Northeast corner of Section 34, said corner being at the intersection of State Street and Carpenter Avenue; thence West along the centerline of Carpenter Avenue to the intersection of Grant Street; thence South 1906 feet; thence East to the centerline of US-31; thence northeasterly along the centerline of US-31 to a point that is 1419 feet south of the North line of Section 35; thence East, parallel with the North line of Section 35 to the centerline of May Street; thence North along the centerline of May Street to the intersection of Eaton Avenue; thence East along the centerline of Eaton Avenue to the intersection of Ferry Avenue; thence northerly along the centerline of Ferry Avenue and its extension to the south shore of channel between Lake Charlevoix and Round Lake; thence westerly along said south shore to the intersection of Antrim Street extended; thence West along the centerline of Antrim Street to the intersection of Bridge Street; thence South along the centerline of Bridge Street to the intersection of Wood Avenue; thence West along the centerline of Wood Avenue to the intersection of State Street; thence South along the centerline of State Street to the intersection of Carpenter Avenue and the POINT OF BEGINNING. (This area is called Impact Area B on the attached map)

IMPACT AREA MAP



City of Charlevoix

SITE PLAN



NOTE:
 THIS MAP REPRESENTS AN ILLUSTRATION OF A PORTION
 OF THE CITY OF CHARLEVOIX AND IMPACT AREAS "A",
 "B", AND "C" AS INCLUDED IN CHAPTER 22A OF THE
 CHARLEVOIX CITY CODE. WHILE IMPACT AREA ILLUSTRATIONS
 ARE CONSIDERED GENERALLY ACCURATE AND ARE BASED
 ON THE LEGAL DESCRIPTIONS INCLUDED IN CHAPTER 22A,
 MEASUREMENTS ON THIS MAP ARE NOT EXACT.

Engineering
 Environmental
 Architecture
Engling
 111 W. WASHINGTON ST. SUITE 100
 CHARLEVOIX, MI 49720
 TEL: 231.635.1111
 FAX: 231.635.1112

By: _____
 Date: _____
 Title: _____

Drawn By: _____
 Checked By: _____
 Date: 04-15-15
 Scale: 1" = 400'

Location:
 CITY OF CHARLEVOIX
 CHARLEVOIX COUNTY
 MICHIGAN

IMPACT AREAS A, B, & C
 Chapter 22A of the Charlevoix City Code

Project No.
 2008064.01
 Sheet
 1
 of 1

AND ALSO:

A part of the West ½ of Section 26, and a part of the East ½ of Section 27, all in T.34N.-R.8W., City of Charlevoix, Charlevoix County, Michigan, described as follows; Commencing at the South Section Corner common to said Sections 26 and 27, also being the intersection of the centerline of State Street with the centerline of West Carpenter Avenue; thence North along the Section Line common to said Sections 26 and 27, which is also the centerline of State Street, 672.9 feet to the centerline of Wood Avenue and the Point of Beginning of this description; thence West 898.5 feet to the intersection of the centerline of Grant Street with centerline of Crain Street; thence continuing West along the centerline of Crain Street 288.1 feet to centerline of Beacon Street; thence North parallel with Grant Street 614.5 feet to the centerline of West Garfield Avenue; thence West along the centerline of West Garfield Avenue 474.9 feet to the centerline of Sherman Street; thence North along the centerline of Sherman Street 1930.1 feet to the centerline of Park Avenue; thence N.34°W. to the shore of Lake Michigan; thence Northeasterly along the shore of Lake Michigan extended to the south bulkhead of the Pine River channel; thence Southeasterly along the south bulkhead of the Pine River channel to Round Lakes' westerly bulkhead; thence Southerly along said bulkhead to the southerly bulkhead of Round Lake; thence Easterly along the southerly bulkhead and/or shore of Round Lake to the north extension of the centerline of May Street; thence South along said north extension of the centerline of May Street to the intersection of the centerline of May Street with the centerline of Belvedere Avenue; thence continuing South along the centerline of May Street 1165.5 feet to the centerline of East Garfield Avenue; thence West along the centerline of East Garfield Avenue 837.3 feet to the centerline of Bridge Street; thence South along the centerline of Bridge Street 643.5 feet to the centerline of Wood Avenue; thence West along the centerline of Wood Avenue 487.1 feet to the centerline of State Street and the Point of Beginning. (This area is called Impact Area C on the attached map)

Subject to the rights of the public and of any governmental unit in any part thereof taken, used or deeded for street, road or highway purposes.

[Ord. 732, 07/21/08]

- (4) "MDEQ" means the Michigan Department of Environmental Quality, or its successor agency.
- (5) "Water well" means an opening in the surface of the earth for the purpose of removing water through non-mechanical or mechanical means for any purpose.

2.72 Private water wells prohibited and exceptions.

No person, firm, association, corporation, or any other entity shall install, construct, develop, maintain or use a water well within the impact area except as follows:

- (1) A water well may be used if the MDEQ determines that the use of a water well is not influenced or potentially influenced by contaminated groundwater and further determines the use of that water well will remain permanently unaffected by the future migration of contaminated groundwater, and proof of those determinations is delivered to the City, the City Manager may execute a waiver allowing the use of the water well.
- (2) A water well may be used for groundwater monitoring and/or remediation as part of response activity approved by the MDEQ.
- (3) A water well may be used in the event of a public emergency.

2.73 Connection to City water service required.

The owner or occupant of any property or structure within the impact area that is currently serviced by a private water well shall remove or otherwise disable the water well and connect to the City water service pursuant to Chapter 22 of this Code within thirty (30) days of the effective date of this Chapter. The owner or occupant of any property or structure within the impact area that desires water service at the property or structure shall connect to the City water service pursuant to Chapter 22 of this Code.

2.74 Identification of existing wells in the "Impact Area".

The City will identify existing wells in the "Impact Area" by consultation with the City water supply personnel.

2.75 Notification to Department of Environmental Quality.

If the City ever intends to amend or repeal this Chapter, it shall notify the Michigan Department of Environmental Quality, or its successors, of its intentions no less than thirty (30) days before such amendment or repeal is enacted.

2.76 Nuisance Per Se.

A violation of this Chapter is hereby declared to be a public nuisance or nuisance per se and is declared to be offensive to the public health, safety and welfare.

2.77 Court Action for Abatement of Nuisance.

The City may take civil action requesting injunctive relief against any person, firm, association, corporation or other entity found to be in violation of this Chapter. This abatement action shall be in addition to any penalty imposed by Section 2.78 below.

2.78 Municipal Civil Infraction.

Any person, firm, association, corporation or other entity who violates any provision of this Chapter shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Acts 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than One Hundred and 00/100 (\$100.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation. Any action taken under this Section shall not prevent civil proceedings for abatement or termination of the prohibited activity permitted under Section 2.77 above.

2.79 Notification of Local Health Officials.

The City shall provide the Environmental Health County Supervisor for Charlevoix County with a certified copy of this ordinance no less than thirty (30) days after it becomes effective.

**CHAPTER 23
CITY SEWER SERVICE**

2.81. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

- (1) "ASTM" means American Society for Testing Materials.
- (2) "B.O.D." (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20 degrees C., expressed in milligrams per liter.
- (3) "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 5 feet outside the inner face of the building wall.
- (4) "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.
- (5) "Cesspool" shall mean an underground pit into which raw household sewage or other untreated liquid waste is discharged and from which the liquid seeps into the surrounding soil or is otherwise removed.
- (6) "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.
- (7) "Council" shall mean the City Council of the City of Charlevoix.
- (8) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
- (9) "Grease Interceptor" (or "Grease Trap") shall mean a tank of suitable size and material located in a sewer line and designed to remove grease and oily wastes from the sewer.
- (10) "Health Officer" shall mean the legally designated health authority of the City, or his authorized representative.
- (11) "Industrial Wastes" shall mean the liquid wastes from industrial, manufacturing processes, trade or business as distinct from sanitary sewage.
- (12) "Uncontaminated Industrial Waste" shall mean waste water which has not come into contact with any substance used in or incidental to industrial processing operation and to which no chemical or other substance has been added; and, "Storm Water" shall mean that part of precipitation which reaches the sewers as runoff from natural land surface, building roofs, or pavements or as ground water infiltration.
- (13) "Superintendent" shall mean the City Manager for the City of Charlevoix or his authorized representative or agent.
- (14) "Natural Outlet" shall mean any outlet into a water course, pond, ditch, lake or other body of surface or ground water.
- (15) "Nuisance" shall mean, but is not limited to, any condition where sewage (or garbage) is exposed to the surface of the ground or is permitted to drain on or to the surface of the ground, into any ditch, storm sewer, lake or stream, or when the odor, appearance, or presence of this material has an obnoxious or detrimental effect on or to the senses and/or health of persons, or when it shall obstruct the comfortable use or sale of adjacent property.
- (16) "Person" shall mean any individual, firm, company, association, society, corporation, or group.

- (17) "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- (18) "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.
- (19) "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
- (20) "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
- (21) "Seepage Pit" (or "Dry Well") shall mean a cistern or underground enclosure constructed of concrete blocks, bricks, or similar material loosely laid with open joints so as to allow the septic tank overflow or effluent to be absorbed directly into the surrounding soil.
- (22) "Septic Tank" shall mean water-tight receptacle receiving sewage and having an inlet and outlet designed to permit the separation of solids in suspension from such wastes and to permit such retained solids to undergo decomposition therein.
- (23) "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
- (24) "Sewage Disposal Facilities" shall mean privy, cesspool, seepage pit, septic tank, absorption field, or other devices used in the disposal of sewage or human excreta.
- (25) "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.
- (26) "Sewage Works" shall mean all facilities for collecting, pumping, treating and disposal of sewage and industrial wastes.
- (27) "Sewer" shall mean a pipe or conduit for carrying sewage.
- (28) "Shall" is mandatory. "May" is permissive.
- (29) "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flow during normal operations.
- (30) "Storm Sewer" or "Storm Drain" shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.
- (31) "Sub-Surface Disposal Field" shall mean a facility for the distribution of septic tank overflow or effluent below the ground surface through a line, or a series of branch lines, of drain tile laid with open joints to allow the overflow or effluent to be absorbed by the surrounding soil throughout the entire field.
- (32) "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
- (33) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

USE OF PUBLIC SEWERS REQUIRED

2.82. Waste Deposits.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property, within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

2.83. Water Pollution.

It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment is provided as determined by the Superintendent who may seek review by the appropriate agency of the State of Michigan or Charlevoix County.

2.84. Privies and Septic Tanks.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

2.85. Sewer Connection Required.

The owner or occupant of any property situated within the City upon which is located a structure in which water is used or available for household, commercial, industrial or other purposes, shall, at his own expense, cause such property to be connected to an available public sanitary or combined sewage collection facility, as and where required under the terms of Act 151, of the Michigan Public Acts of 1961, as amended (regardless of any population requirements in the Act). Such owner or occupant shall also be required to install suitable toilet facilities within such structures.

PRIVATE SEWAGE DISPOSAL

2.88. Private Sewer Systems.

Where a public sanitary sewer is not available so that the provisions of Section 2.85 do not apply, the building sewer shall be connected to a private sewage disposal system which shall comply with all regulations of the Charlevoix County Health Department.

2.89. Discontinuance of System.

At such time as a public sewer becomes available to a property served by a private disposal system, a direct connection from sanitary facilities or plumbing shall be made to the public sewer in compliance with provisions of this Chapter.

BUILDING SEWERS AND CONNECTIONS

2.92. Permit Required.

Only authorized persons shall uncover and make any connections with or openings into, use, alter, or disturb any public sewer or appurtenance thereof and then only after first obtaining a written permit from the Superintendent.

2.93. Permit Fees.

There shall be two (2) classes of building sewer permits: (1) for residential and commercial service, and (2) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the City before any connection is made to a public sewer. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent.

Permit and inspection fees shall be paid to the Superintendent at the time the application is filed, and shall be in such amounts as the council shall, from time to time, determine by resolution.

2.94. Installation Costs.

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly result from the installation of the building sewer.

2.95. Separate Building Sewer.

A separate and independent building sewer shall be provided for each building, except where one building stands at the rear of another on an interior lot and no private sewer is available nor can one be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

2.96. Old Sewers.

Old building sewers may be used in connection with new buildings provided that upon examination and test by the Superintendent, the old sewer is found to meet all requirements of this Chapter.

USE OF THE PUBLIC SEWERS

2.100. Unpolluted Water.

No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, cooling air conditioning water or uncontaminated water or uncontaminated industrial waste to any sanitary sewer.

A normal amount of ground water leakage into basements may be drained to the sanitary sewer; however, any excessive volume of basement drainage as determined by the Superintendent will not be permitted.

2.101. Storm Sewers.

Storm water and all other unpolluted drainage, including industrial cooling water, or air-conditioning water, or uncontaminated industrial waste shall be discharged to sewers specifically designated as storm sewers, or to a natural outlet approved by the Superintendent, Charlevoix County Drain Commissioner, Michigan State Water Resources Commission, and/or other interested governmental agencies. Industrial cooling water, unpolluted air-conditioning water, or uncontaminated industrial waste may be discharged to a storm sewer or natural outlet upon approval of the Superintendent, and, where appropriate, upon approval of the County Drain Commissioner, or the appropriate agency of the State of Michigan.

2.102. Prohibited Uses.

Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- (1) Any gasoline, benzene, naphtha, fuel oil or explosive liquid, solid or gas.
- (2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment facilities, including but not limited to cyanides in excess of 2 mg/l as CN in the waste as discharged to the public sewer.

- (3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, or ground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

2.103. Specific Substances Prohibited.

No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as quantities of subject wastes in relation to flows, velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment facilities, degree of treatability of wastes and other pertinent factors. The substances prohibited are, but are not limited to:

- (1) Any liquid or vapor having a temperature higher than one hundred fifty (150°) degrees Fahrenheit or sixty-five (65°) degrees Centigrade.
- (2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substance which may solidify or become viscous at temperatures between thirty-two (32°) degrees Fahrenheit and one hundred fifty (150°) degrees Fahrenheit [zero (0°) degrees and sixty-five (65°) degrees C.]
- (3) Any garbage that has not been properly shredded: The installation and operation of any garbage grinder equipped with a motor of three-fourth ($\frac{3}{4}$) horsepower (0.76 HP metric) or greater shall be subject to the review and approval of the Superintendent.
- (4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (5) Any water or waste having a 5-day B.O.D. greater than 300 mg/l or containing more than 350 mg/l of suspended solids, except upon approval of the Superintendent in a written agreement.
- (6) Any waters or wastes containing chromium, copper, zinc, and similar objectionable or toxic substances; to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
- (7) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage to meet the requirements of the State, Federal or other public agencies of jurisdiction for discharge to the receiving waters.
- (8) Any discharge of phosphorus, ammonia nitrates, sugars or other nutrients or wastes containing them which in the opinion of the Superintendent, are in such quantities as to cause adverse effects or a significant load on the sewage treatment plant, or cause the stimulation of growths of algae, weeds, and slimes which are or may become injurious to water supply, recreational use of water, fish, wildlife, and other aquatic life, shall be limited to the extent necessary.
- (9) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

- (10) Any waters or wastes having a pH in excess of 9.5.
- (11) Materials which exert or cause:
 - (a) Unusual concentrations of inert suspended solids such as, but not limited to, Fuller's earth, lime slurries and lime residues, or of dissolved solids such as, but not limited to, sodium chloride and sodium sulfate.
 - (b) Excessive discoloration such as, but not limited to, dye wastes, vegetable tanning solutions.
 - (c) Unusual chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - (d) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- (12) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

2.104. Action by Superintendent.

If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 2.103, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (1) Reject the wastes.
- (2) Require pre-treatment to an acceptable condition for discharge to the public sewers.
- (3) Require control over the quantities and rates of discharge.
- (4) Require a special agreement or arrangement between the City and any person whereby any waste of unusual strength or character may be accepted by the City for treatment subject to payment therefor by the person receiving the service.

2.105. Pre-Treatment.

If the Superintendent permits the pre-treatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances and laws. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities, or additions to, or expansion of existing treatment facilities, shall be submitted for the approval of the Superintendent, and of the appropriate State agency. No construction of such facilities shall be commenced until approval is obtained in writing.

2.106. Order of Determination.

The Superintendent may by a written Order of Determination establish regulations relative to the sewage and industrial wastes to be received by public sewers. Such regulations may relate to the following:

- (1) Temperature of any liquid or vapor to be admitted to the sewer.
- (2) Grease or oil or other substances that may solidify or become viscous in the sewer.

- (3) Gasoline or similar liquid, gas or solid that is flammable or explosive.
- (4) Any substances which may tend to settle out in the sewer and cause stoppage or obstruction to flow.
- (5) Any liquid which is corrosive or highly acidic or highly alkaline.
- (6) Toxic or poisonous substances.
- (7) Iron, copper, chromium, nickel and zinc.
- (8) Cyanides.
- (9) Toxic radioisotopes.
- (10) Highly colored wastes.
- (11) Any noxious or malodorous gas or substance capable of creating a public nuisance.
- (12) Any substance which may be harmful to pipes, jointing material and manholes.
- (13) Any substance which may seriously interfere with the normal operation of the sewage treatment facility, such as overloading by slugs of concentrated material, liquid wastes extremely high in B.O.D., suspended matter or chlorine demand.

2.107. Statement by User.

Any person, firm or corporation whose operations entail the discharge of wastes containing toxic, poisonous or objectionable substances shall file with the City a written statement setting forth the nature of the operation contemplated or currently being carried on, the amount of water required to be used and its source, the proposed point of discharge of said waste into the sewage system of the City, the maximum amount to be discharged per second and a fair statement setting forth the expected bacterial, physical, chemical or other known characteristics of the wastes. Within thirty (30) days of receipt of said statement, the superintendent shall make an Order of Determination setting forth the maximum limits for the substances listed in Section 2.106.

2.108. Annual Review.

Any Order of Determination issued by the Superintendent may be reviewed annually, and the maximums set forth therein adjusted to compensate for increased flows in the entire sewer system or increased contribution of toxic, poisonous or objectionable substances by other users of the City sewer system. It shall be the duty of the Superintendent to apportion to each industry its fair share of toxic waste discharge in such manner that the combined waste of all users will not endanger the sewage system or treatment processes or the receiving waters.

2.109. Effect of Order.

Any Order of Determination issued in pursuance of this Chapter shall be considered a part of this Chapter for the specific industrial user or other establishment involved, and shall be enforceable in the same manner as this Chapter.

2.110. Enforcing order.

The Superintendent, when advised that a particular industrial user is violating the terms of the Order of Determination as herein referred to, may discontinue water and sewer service to such industrial user until such time as the industry shall conform to the provisions of the Order of Determination.

2.111. Pre-treatment.

Where the wastes from an industrial user exceed the limits set forth in the Superintendent's Order of Determination, said user may be required, as a condition precedent to its continued right to use the public sewer, to construct necessary pre-treatment facilities to keep wastes discharged to the public sewers within the order limits.

2.112. Appeal Procedure.

- (1) Any industrial user which is subject to an Order of Determination issued by the Superintendent shall have the right to appeal the rulings and findings of said Superintendent to a Board of referees consisting of two (2) registered professional engineers, one of whom shall be selected by the user and one by the City. Neither of said referees shall be in the employ of the party selecting him.
- (2) Within ten (10) days after receiving notice of the selection of the referees, the City shall file with the referees a copy of the Superintendent's determination and the results of the investigation. Ten (10) days thereafter, the appellant industrial user shall file its reply together with supporting documentation. The referees may thereafter require additional information and may, if they choose, hold a hearing at which both sides may present evidence and arguments. The referees shall render a written opinion within ten (10) days after the last documents are filed, and such opinion shall be binding upon all parties. If the referees cannot agree, they shall select a third referee having the same qualifications, and a decision of the majority shall be binding.
- (3) The referees shall be entitled to reasonable compensation and expenses, and the cost thereof shall be borne equally by appellant and the City.

2.113. Interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required in private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.

2.114. Sand Interceptors.

Sand interceptors shall be installed in garages, filling stations and other establishments which have washing facilities producing sandy waste waters.

2.115. Interceptor Maintenance.

Where installed, all grease, oil and sand interceptors, and preliminary treatment facilities for any waters or wastes shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

2.116. Control Manholes.

When required by the Superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be located in a safe and accessible position, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

2.117. Powers and Authority of Inspectors.

The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted at all reasonable hours to enter upon all properties for the purpose of inspection, measurement, sampling and testing, in accordance with the provisions of this Chapter.

2.118. Notice to Remediate at City's Option.

Prior to the imposition of the penalties set forth in Section 1.12 of this Code, the City shall not be required but may at its sole discretion, issue notice to a person in violation of this Chapter stating the nature of the violation and providing no more than ten (10) days for the correction of said violation.
(Ord. No. 658, 03-06-00)

2.119. Health Officer.

Nothing stated in these regulations may be construed to limit the power of the City or Health Officer to order the immediate and complete abatement of a public nuisance or menace to the public health or of a condition which, in the opinion of the City, may be a menace to the public health.

2.120. Restrictions Imposed by Other Laws.

If any provision of any other provision of the City Code and/or the statutes of the State of Michigan imposes greater restrictions than herein set forth, then such provisions and/or statutes shall control.

CHAPTER 24 CITY UTILITY RATES

2.131. Definitions.

Unless the context specifically indicates otherwise, the meanings of terms used in this Chapter shall be as follows:

- (1) "Premises" shall mean each lot or parcel of land, building or premises having any connection to the Water Distribution System of the City, or the Sewage Disposal System of the City, or which is supplied with electricity by the City Electric Utility.
- (2) "Person" shall mean any individual, firm, association, public or private corporation or public agency or instrumentality.
- (3) "Department" shall mean the Department of Public Works.
- (4) "Superintendent" shall mean the Superintendent of Public Works.

2.132. Basis of Charges.

All water service shall be charged for on the basis of water consumed as determined by the meter installed in the premises of water or sewage disposal service customers by the Department. All sewage disposal service shall be charged for on the basis of water consumed. No free water service or sewage disposal service shall be furnished to any person.

2.133. Water Rates.

Except as herein otherwise provided, water to be furnished by the System to any premises shall be measured by a meter or meters installed and controlled by the City, and charges per meter for such metered water service to any premises within the City connected with the water supply system, for each quarterly (3 months) period, shall be at the following rate or rates:

The rates now in effect for premises within the City shall continue as to such premises until changed pursuant to resolution of the City Council.

2.134. Connection Charges.

The rates now in effect for premises within the City shall continue as to such premises until changed pursuant to resolution of the City Council.

2.135. Sewer Rates.

Charges for sewage disposal service shall be levied upon all premises having any sewer connection with the public sewers. The rates now in effect for premises within the City shall continue as to such premises until changed pursuant to resolution of the City Council.

2.136. Service to City.

The City shall pay the same water and sewer rates for service to it as would be payable by a private customer for the same service. All such charges for service shall be payable quarterly from the current funds of the City, or from the proceeds of taxes which the City, within constitutional limits, is hereby authorized and required to levy in amounts sufficient for that purpose.

2.137. Electric Rates.

The rates now in effect for premises within the City shall continue as to such premises until changed pursuant to resolution of the City Council.

2.138. Rate Revision.

The water and sewer service rates and electrical service rates prescribed in this Chapter may be altered by resolution of the City Council, and when so changed shall be published at least once in a newspaper of general circulation in the City.

2.139. Billing.

Bills for water service, sewage disposal service and electric service shall be due and payable when rendered and shall be subject to a service charge for late payment at a rate to be established pursuant to resolution of the City Council. The Superintendent shall have charge of the reading of all meters. He shall keep a record of all meter readings and shall keep accounts of the charges for water and sewer service and electric service furnished to all premises and shall render bills for the same. All water and sewer service charges and electric service rates shall be collected by the city treasurer, who shall credit the same to the proper account. Water and sewer service and electric service bills shall be payable at the city offices.

2.140. Collection.

- (a) The department is hereby authorized to enforce the payment of charges for water service to any premises by discontinuing the water service to such premises and the payment of charges for sewage disposal service to any premises may be enforced by discontinuing either the water service or the sewage disposal service to such premises, or both, and an action of assumpsit may be instituted by the city against the customer. The charges for water service and sewage disposal service, which, under the provisions of Act 94, Public Acts of 1933 of the State of Michigan, as amended, are made a lien on the premises to which furnished, are hereby recognized to constitute such lien; and the city treasurer shall, annually, on April 1, certify all unpaid charges for such services furnished to any premises, which, on the thirty-first day of March preceding, have remained unpaid for a period of six (6) months, to the city assessor who shall place the same on the next tax roll of the city. Such charges so assessed shall be collected in the same manner as general city taxes. In cases where the city is properly notified in accordance with said Act 94 of 1933, that a tenant is responsible for water or sewage disposal service charges, no such service shall be commenced or continued to such premises until there has been deposited with the department, a sum sufficient to cover two (2) times the average quarterly bill for such premises as estimated by the superintendent, such deposit to be in no case less than fifteen dollars (\$15.00). Where the water service to any premises is turned off to enforce the payment of water service charges or sewage disposal service charges, the water service shall not be recommenced until all delinquent charges have been paid and a deposit as in the case of tenants is made, and there shall be a water turn-on charge as may be established pursuant to resolution of city council. In any other case where, in the discretion of the superintendent, the collection of charges for water or sewage disposal service may be difficult or uncertain, the superintendent may require a similar deposit. Such deposit may be applied against any delinquent water or sewage disposal service charges and the application thereof shall not affect the right of the department to turn off the water service and/or sewer service, to any premises for any delinquency thereby satisfied. No such deposit shall bear interest and such deposit or any remaining balance thereof, shall be returned to the customer making the same when he shall discontinue receiving water and sewage disposal service or, except as to tenants to whom notice of responsibility for such charges has been filed with the city, when any eight (8) successive quarterly bills shall have been paid by said customer with no delinquency.
- (b) The charges for electric service to any premises may be enforced by discontinuing such service or by court action. The deposit requirements and turn-off charges for electric service shall be the same as for water service.

2.141. Liens.

Pursuant to Act 178 of 1939, as amended, the city shall have a lien for the collection of water or sewer system rates, assessments, charges, tap-in fees, privilege fees or any other fee or charge relating to water or sewer services or connections. This lien shall be on any structure, lot or lots on which a structure is located, or on any land to which sewer system service or water service has been connected or supplied. This lien shall become effective immediately upon the distribution or connection of the water or sewer service to the property being supplied, but shall not be enforceable for more than three (3) years. The city manager or a designee of the city manager is authorized, but not required, to file a notice of lien with the register of deeds to give notice of the existence of any lien or liens. When connection fees may be paid in installments pursuant to Section 2.142, a notice of lien must be filed with the register of deeds.

(Ord. No. 621, 03-20-95)

2.142. Installment payments.

If connection fees to a commercial or industrial facility exceed twenty-five thousand dollars (\$25,000.00) and if in the determination of the city council the construction or expansion of the facility will create jobs and provide significant economic benefit to the city, then the council may permit by resolution the installment payment of connection fees as follows: one-third (1/3) shall be paid upon execution of the written agreement which is required by this ordinance and the balance shall be paid periodically as determined by the council as long as all connection fees plus interest are fully paid on or before two (2) years from the date of water and/or sewer connection. If connection fees to a community recreational facility exceed twenty-five thousand dollars (\$25,000.00), then the council may permit by resolution the installment payment of connection fees as follows: one-fifth (1/5) shall be paid upon execution of the written agreement which is required by this ordinance and the balance shall be paid periodically as determined by the council as long as all connection fees plus interest are fully paid on or before four (4) years from the date of the water and/or sewer connection. The resolution regarding either facility shall describe the conditions under which the council is willing to accept installment payments and shall include, but is not limited to, the number of installments, the due date of each installment, the interest rate to be charged, and the amount of each installment payment. The interest rate shall be the bank prime loan rate which is applicable to the week in which the resolution authorizing installment payments has been adopted as published in the Federal Reserve Statistical Release for Selected Interest Rates. A written agreement regarding either facility shall be executed between the City and the owner of the land to which the water and/or sewer service will be connected which contains the terms of the resolution and which grants to the city the right to accelerate unpaid connection fees. For a commercial or industrial facility the agreement shall also include a provision which grants to the city a lien on the benefited real property for the unpaid connection fees and which also grants to the city the power of sale to foreclose on the lien by advertisement. In addition, the agreement regarding either facility shall provide that the rights granted to the city in the written agreement may be exercised if there is a default in the terms of the agreement by the owner or assignee of the owner. The agreement shall be in a form approved by the city attorney. The city shall adopt by resolution criteria similar to those criteria used in the city's industrial tax abatement policy which will be used to determine when a commercial or industrial facility construction or expansion will create jobs and provide significant economic benefit to the city. The term "connection fees" as used in this ordinance [Ordinance No. 621] shall mean tap-in fees, privilege fees, or any other fee or charge which arises by virtue of the mere connection to city water and/or sewer services. The term "community recreation facility" as used in this ordinance shall mean a swimming pool, ice rink, gymnasium or similar facility as determined by the city council which is open to the residents of the city at the lowest user fees, if any, even if the facility is located outside of the city and which is owned by a municipal corporation or a nonprofit corporation.

(Ord. No. 621, 03-20-95; Ord. No. 641, 06-02-97)

A septage pretreatment facility may only connect to the City's sewer system pursuant to a written agreement between the City and the owner of the proposed septage pretreatment facility. This contract must be approved by the City Council. The contract shall specify the amount of connection fees, the terms of payment of those connection fees, the applicable sewer rate, the conditions under which the connection fees or sewer rate may change and the method of payment of the connection fees. The amount of connection fees and the method of payment of those connection fees may vary from provisions that would apply to a sewer user that is not a septage pretreatment facility. The contract shall include such other provisions as shall be acceptable to the owner of the septage pretreatment facility and the City Council. The agreement shall be in a form approved by the city attorney. The City shall be under no obligation to permit a septage pretreatment facility to connect to the City's sewer system and any such decision is subject to the sole discretion of the

City Council to determine whether any proposal is in the best interests of the City. The term "septage pretreatment facility" shall mean a facility that receives and treats non-domestic wastewater that originates from residential type septic systems including single family homes, condominiums, apartments and commercial users such as hotels, motels, offices, restaurants, schools, retail structures, etc. with the exception of restaurant grease interceptors and industrial process wastewater. Pretreated septage shall comply with the characteristics of common domestic sewage as defined in the City's Sewer Use Ordinance. The treatment process shall be approved and licensed by the State of Michigan and operated pursuant to the contract with the City of Charlevoix as specified in this ordinance. (Ord. No. 707, 11/07/05)

2.143. Enforcement.

- (a) *Installment payments—acceleration.* If installment payments have been authorized pursuant to Section 2.142 and a default in the installment payment agreement occurs, then the city in its discretion may elect to accelerate the unpaid connection fees. Notice of the acceleration shall be sent by first-class mail to the address shown on city tax rolls.
- (b) *Installment payments—Foreclosure by advertisement.* If the city elects to foreclose on a lien for which installment payments have been accelerated, then the procedure for foreclosure by advertisement as described in MCL 600.3201 through MCL 600.3280, MSA 27A.3201 through MSA 27A.3280, as currently amended or later amended, shall be used except as follows:
 - (1) Any reference to a sheriff shall mean the city's police chief or the designee of the police chief;
 - (2) Any reference to a mortgage shall mean the lien described in this ordinance [Ordinance No. 621]. The term "mortgagor" shall mean the owner of the land which is subject to the lien at the time the lien came into existence as provided in Section 2.141 and the term "mortgagee" shall mean the City of Charlevoix;
 - (3) All lands subject to the lien shall be treated as one (1) parcel and may be sold as one (1) parcel;
 - (4) If the city elects to commence foreclosure, then the sum of seven hundred dollars (\$700.00) shall be added to the amount owing for unpaid connection fees and unpaid interest. This amount shall be deemed to reimburse the city for staff time, attorney fees, and other expenses not otherwise reimbursed to the city under the foreclosure by advertisement statute.
- (c) *Liens not involving installment payments.* The city may enforce liens which do not involve installment payments by using the general laws of the state which provide for the enforcement of tax liens.
- (d) *Alternate remedy.* As an alternative to the procedures provided in subsections (b) or (c) above, the City may elect to treat the lien as a debt and may commence legal action against the proper parties to collect such debt.

(Ord. No. 621, 03-20-95)

2.144. Improvement payments.

Often, industrial or commercial property owners considering new construction or significant expansion request that significant improvements or extensions be made to public services or utilities provided by the city such as water, sewer or electric services as well as public roads. As an incentive for the city to undertake such improvements and to complete them promptly, an industrial or commercial property owner typically offers and then agrees to pay for all or part of the cost of the improvements. The city may execute a contract with the industrial or commercial property owner regarding the improvements to be made, the amount which will be paid by the industrial or commercial property owner toward the cost of the improvement and when such payment is due. The contract shall require complete payment of the cost of the improvement at least prior to the commencement of water and/or sewer service to the property.

(Ord. No. 621, 03-20-95)

Issue Date: 10/19/2015

CHAPTER 25 CITY UTILITY EXTENSIONS

2.161. Procedure established.

The procedures established in this chapter shall apply in charging and allocating the pro-rata share to benefited property owners of all cost and expense for extending any and all utility services into any area where said city-owned and operated utilities are not present.

2.162. Special assessments.

In certain instances the City of Charlevoix, by majority vote of its city council, may elect to extend utility services at initial city expense. The charge to be assessed each property owner benefited and served shall be calculated on the basis of the actual cost per effective front foot, which shall be determined by dividing total project cost by effective front footage. Effective front footage is defined as being determined by modifying actual front footage by a depth factor as set forth in the State of Michigan State Tax Commission Assessing Manual, depth factor schedule, such manual incorporated in and made part of this chapter. The charge to each benefited property owner shall be assessed at the time of project completion and shall be paid no later than the time actual service connections are made to the particular parcel or parcels of land served, which said charge shall bear interest at the rate of six (6) percent per annum, compounded annually, accruing from the date of project completion to date of payment.

2.163. Private financing.

In certain other instances the city, by majority vote of the city council, may consent to a third party extending the utility services, provided all applicable local and state laws and regulations are complied with, at the third party's initial expense. Other benefited property owners may, at any time, elect to make service connections to the extended utility service, provided, however, that before such connection is made, the property owner or owners pays to the city, in full, the amount of the assessed charge as to the particular parcel or parcels of land benefited, the amount of which the assessed charge is calculated on the basis of the formula set forth in Section 2.162, except that there shall be no interest charge as set forth in Section 2.162. All monies received by the city from benefited property owners as a condition of their making service connections to the utility services, shall be paid over to the third party or parties, his or their heirs and assigns, who initially bore the cost and expense of the project, by way of reimbursement.

(Ord. No. 513, 04-17-89)

2.164. New subdivisions.

Any provision of this chapter to the contrary notwithstanding, in all new plats of real property within the City of Charlevoix the plat proprietor shall provide at said proprietor's sole expense, within the physical area included in the boundaries of said plat, water lines, sewer lines, underground electrical transmission lines, storm water drainage or dispersion or seepage systems together with all accessory equipment thereto not charged to or paid for by the individual platted lot property owner, and shall pay for the cost of all street construction and improvement, all in accordance with State and City of Charlevoix specifications, with such city specifications to be determined and approved by the council of the City of Charlevoix by submission by the plat proprietor of a development plan.

CHAPTER 26
CHARLEVOIX MUNICIPAL AIRPORT
(ORD 755, 02/20/12)
ARTICLE I. IN GENERAL

2.181. Definitions.

Aeronautical Commercial Activity means any operation of an aircraft for compensation or hire, or any services performed incidental to the operation of any aircraft for which a fee is charged or compensation received while basing aircraft, advertising, or performing such services at the Charlevoix Municipal Airport. This includes, but is not limited to, the servicing, fueling, maintaining and repairing of Third Party Aircraft, the rental or charter of aircraft under an Federal Aviation Regulations (F.A.R.) Part 135 certificate (scheduled or unscheduled), the operation of flight schools, the operation of aircraft for the application of chemicals or other substances, aerial photography, or aerial surveys. An Aeronautical Commercial Activity is one type of Commercial Activity.

Airport means Charlevoix Municipal Airport.

Airport Manager means the individual tasked with oversight and management of all activities at Charlevoix Municipal Airport, and includes designees of the Airport Manager. The Airport Manager shall be appointed by the City Manager.

Based Aircraft means an aircraft stationed at the Airport on a long-term or permanent basis, through an arrangement for the storage of the aircraft in either a hangar or an outdoor tie-down area.

City means the City of Charlevoix.

City Manager means the City Manager of the City or a designee of the City Manager.

Commercial Activity means the sale or rental of any commodities, supplies, or services and includes, but is not limited to, an Aeronautical Commercial Activity.

Contract means any contract, lease, covenants, or other written agreement.

Fuel means any liquid which is used to power an airplane. Fuel includes, but is not limited to, 100LL and JetA.

License means a written document issued by the City, pursuant to this Chapter, that grants permission to engage in a specified Commercial Activity at the Airport. A license may also be called a permit.

Minimum Standards means the minimum requirements for the conducting of any Commercial Activity at the Airport as adopted by the City Council by resolution and as amended from time to time.

Person means any individual, firm, partnership, corporation, company, or association, including any trustee or receiver.

Schedule of Insurances means the list of types of insurance, limits of coverage, and other insurance-related requirements for the conducting of an Aeronautical Commercial Activity or any other type of activity as adopted by the City Council by resolution and as amended from time to time.

Schedule of Rates and Charges means the fees or charges for the conducting of an Aeronautical Commercial Activity or any other type of activity at the Airport as adopted by the City Council by resolution and as amended from time to time.

Third Party Aircraft shall mean aircraft that are not owned or leased by a self-fueling operator.

Transient Aircraft means an aircraft that is not a Based Aircraft.

Through the Fence means an agreement whereby a landowner whose property abuts the Airport is given permission to taxi aircraft between the privately owned land and the publicly owned Airport.

2.182. Existing Contracts.

It is not intended for this Chapter to interfere with existing contracts. However, where this Chapter or compliance with federal grant assurance imposes a greater duty on a person than does an existing contract and where this Chapter does not directly and irreconcilably conflict with that contract, then the greater duty imposed by this Chapter shall apply. All future contracts shall be made consistent with this Chapter.

2.183. Licenses Non-Exclusive.

All licenses for a Commercial Activity at the Airport shall be granted on a non-exclusive basis, conforming to all federal statutes, orders, guidelines, and regulations.

2.184. Agreement with U.S. Government.

During time of war or national emergency, the City shall have the right to enter into an agreement with the U.S. Government for military use of part or all of the Airport and/or its facilities. Any contracts to persons other than the U.S. Government shall be subject to and subordinate to any such agreement with the U.S. Government.

2.185. Nondiscrimination.

No person shall, in the use of the Airport or any of the facilities located thereon, discriminate or permit discrimination against any other person or group of persons on the grounds of race, color, creed, national origin, sex, or age, or in any other manner prohibited by federal statutes, federal regulations, or City anti-discrimination policies. In addition, there shall be no discrimination in the pricing of services offered by Airport Licensees.

2.186. Federal and State Regulations.

All rules and regulations enacted by the Michigan Aeronautics Commission and/or the Federal Aviation Administration relative to pilots, aircraft, air traffic, and airports now in effect, or any amendments adopted in the future are hereby adopted by reference and made a part of these regulations as fully as if the same and each of all of them were completely set forth herein. In addition, all contracts, leases and licenses shall be subordinate to the City's commitment to comply with federal grant assurances and other obligations to the federal government.

2.187. Airport Manager's Authority.

The Airport Manager shall have authority to do the following: enforce all laws, ordinances, standards, resolutions, rules, and regulations governing pilots, aircraft, air traffic, and the general public using the Airport; suspend flying operations when, in the Airport Manager's judgment, the condition of the Airport or weather is such as to make flying operations unsafe; issue notices to airmen (NOTAMS) as are appropriate for conditions at the Airport; and take such lawful action as may be necessary for the proper handling, conduct, and management of the public in attendance at the Airport. The Airport Manager may delegate responsibilities which are assigned to the Airport Manager under this Chapter to such persons as have been designated by the City Manager to assist the Airport Manager. The City Manager may delegate to the Airport Manager any duty or authority of the City Manager contained in this Chapter.

2.188. Suspension or Revocation of License & Alternate Remedy.

- A. A violations of this Chapter by agents or employees of a licensee shall be deemed to be a violation by the licensee. As used in this Chapter, a violation of this Chapter includes not only a violation of this Chapter of the City Code, but also a violation of any provision of the applicable license.
- B. The City may suspend or revoke any license that has been issued pursuant to this Chapter for a violation of this Chapter.
- C. If the City Manager has reason to believe that a licensee has violated or is violating this Chapter, the City Manager may, but is not required to, prepare or cause to be prepared a written notice specifying the factual basis for the alleged violations of this Chapter. The notice shall also state the date, time, and place of a hearing before the City Council concerning whether the license or permit should be suspended or revoked. The written notice shall be served on the licensee either personally or by certified mail, restricted delivery and return receipt requested, no less than twenty-one (21) days before the hearing.
- D. As an alternate remedy to license suspension or revocation by the City, the City may commence legal action in a court of competent jurisdiction to force compliance with the license as well as any applicable *Minimum Standards* and/or written plan related to a license and for such other relief as the Court shall deem equitable.

2.189. Hearing.

- A. If a hearing is held before the City Council, the licensee shall be given an opportunity to confront adverse witnesses and present evidence and legal arguments to the City Council, and may be represented by an attorney. Following the hearing, the City Council shall decide whether any portion of this Chapter has been or is being violated. If the City Council finds that any portion of this Chapter or any other provision of the City Code has been or is being violated, then the City Council shall decide whether the license should be suspended or revoked by evaluating the severity of the violation, whether more than one violation has been established, whether the licensee ignored warnings that a violation was occurring, the time period that the violation or violations were in existence and whether there have been prior violations. The City Council's decision shall be based on substantial, material, and competent evidence. The decision shall be in writing and shall specify the factual evidence upon which the decision is based. A copy of the City Council's written decision shall be given to the licensee once it is approved by the City Council.

2.190. Fees/permits.

The City Council may set fees for usage of the Airport and Airport property. These fees shall be listed on a *Schedule of Rates and Charges*.

2.191. Insurance.

Each person seeking a license for a Commercial Activity at the Airport shall, prior to the issuance of the license, furnish the City with copies of certificates of insurance providing insurance coverage against loss occasioned by bodily injury or property damage pursuant to the Airport's *Schedule of Insurances* and shall execute an indemnification agreement with the City against any loss occasioned by bodily injury or property damage associated with the proposed licensee's use of the Airport. The indemnification agreement shall be in such form as shall be prescribed by the City.

2.192. Inspections.

City personnel, including but not limited to the City Manager, Airport Manager, City fire personnel, and/or City police officers, shall have the authority and the duty to make such inspections of a person's use of the Airport, as well as buildings and facilities at the Airport used by any person, to determine compliance with the provisions of this Chapter.

ARTICLE II. VEHICLES

2.193 Operation and Parking.

- A. A person who operates a motor vehicle within the boundaries of the Airport shall comply with all of the following requirements:
- (1) A person shall only operate a motor vehicle in locations designated by the Airport Manager and such operation of a motor vehicle shall not interfere with aircraft movement and shall not create hazardous conditions to persons, property, or Airport operations.
 - (2) A person shall not operate a snowmobile and/or a recreational or off-road vehicle within the Airport boundaries without the written approval of the Airport Manager.
- B. A person who parks a motor vehicle within the boundaries of the Airport shall comply with all of the following requirements:
- (1) The motor vehicle shall only be parked in locations designated by the Airport Manager.
 - (2) A parking permit for that motor vehicle shall be issued under subsection D below and shall not be transferred to any other motor vehicle, except as authorized in subsection E below.
 - (3) An annual parking permit shall be affixed to the motor vehicle to which it was issued in the bottom right hand corner of the front windshield of that motor vehicle. A six (6) month, monthly, weekly, overnight and daily (non-overnight) parking permit shall be hung from the rearview mirror of the motor vehicle in such a manner that the permit information is visible from the outside of the motor vehicle. Provided, however, any parking permit issued for a motor vehicle prior to the effective date of this amendatory ordinance may remain displayed or affixed to that motor vehicle in the location designated at the time the permit was issued. Any subsequent parking permit shall comply with the display and location requirements of this subsection.
 - (4) The motor vehicle shall only be parked in the parking area authorized by the parking permit issued pursuant to this Chapter. Parking in any other area shall be a violation of this Chapter.
 - (5) A motor vehicle shall not be parked in the parking area authorized by the parking permit beyond the time period authorized by such parking permit.
 - (6) A motor vehicle shall not be parked in the designated loading/unloading zone located adjacent to the south side of the terminal building. Provided, however, a motor vehicle may be temporarily stopped for no more than ten (10) minutes in the loading/unloading zone for the purpose of picking up or dropping off passengers or for the purpose of loading or unloading passenger luggage, if the driver of the motor vehicle remains at all times with the motor vehicle.
- C. A person who desires to park a motor vehicle within the boundaries of the Airport shall apply for and obtain a parking permit for the motor vehicle prior to the motor vehicle being parked within the boundaries of the Airport and shall pay the fee established pursuant to the *Schedule of Rates and Charges*. The application shall be on a form provided by the Airport Manager and shall contain the following information:
- (1) Name and address of the registered owner of the motor vehicle and contact phone number of the registered owner when applying for an annual permit or a six (6) month permit. The name and address of the registered owner of the motor vehicle shall not be required when applying for a monthly, weekly, overnight, or daily (non-overnight) parking permit.
 - (2) Make, model, model year, color, and license plate number of the motor vehicle.
 - (3) Parking area desired, which shall be one of the following:

- a. Premium parking area.
 - b. Daily parking area.
 - c. Multi-day/overnight/annual permit parking area.
 - d. Employee parking area.
 - e. Overflow/oversized vehicle parking area.
- (4) The type of parking permit desired, which shall be one of the following:
- a. An annual permit, which shall be valid from April 1 to March 31 of the succeeding year.
 - b. A six (6) month permit, which shall be valid for a period of six (6) months from the date of issuance.
 - c. A monthly permit, which shall be valid for a period of thirty (30) days from the date of issuance.
 - d. A weekly permit, which shall be valid for a period of seven (7) days from the date of issuance.
 - e. An overnight permit, which shall be valid until 11:59 p.m. of the day following the date of issuance.
 - f. A daily (non-overnight) permit, which shall be valid until 11:59 p.m. of the day of issuance.
- D. After receiving an administratively complete application, the Airport Manager or Airport Manager's designee shall issue the requested parking permit if he or she determines that the applicable fee has been paid and that there is a parking space available within the parking area desired by the applicant. No parking permit shall be issued until all information required under subsection C above is provided.
- E. An annual parking permit may be transferred to another motor vehicle only if all of the following requirements are met:
- (1) The parking permit that was previously issued shall be surrendered to the Airport Manager, or his or her designee, prior to a new parking permit being issued under this subsection.
 - (2) The motor vehicle to which the parking permit will be transferred shall be registered to a parent, spouse, or sibling of the person to whom the original parking permit was issued, or to a legal dependent of the person to whom the original parking permit was issued who has a valid driver's license and who is claimed as a dependent on the federal income tax return filed by the person to whom the original parking permit was issued. The person requesting the transfer shall establish the required relationship of this subsection.
 - (3) The parking permit being transferred shall not have been transferred more than three (3) previous times.
 - (4) The transferred parking permit shall be affixed to the windshield of the motor vehicle to which it was transferred as required by subsection B(3) above.
- F. Any parking permit used in violation of this Section or obtained through any fraud or misrepresentation, in addition to the penalty provisions of Section 2.200F of this Chapter, shall be subject to revocation by the Airport Manager, with no refund of any parking permit fee paid. Any such revocation may be appealed to the City Manager, who shall review the matter anew.

ARTICLE III. BUILDINGS AND PROPERTY

2.194. Buildings and Property.

Building size and building amenities for a Commercial Activity, which is allowed on Airport property, are stipulated in the *Minimum Standards*. The City shall own all buildings or structures constructed or placed on Airport property. A person may construct a building or structure on Airport property with permission of the City and as provided in this Chapter; provided, however, the City shall own the building or structure upon the completion of its construction. In addition, the following shall apply to all buildings or structures on Airport property:

- A. The use of all buildings and property on the Airport shall be subject to a lease between the user of the building or building amenities and the City. The lease shall stipulate the allowable uses, require compliance with the Airport's *Minimum Standards*, and contain such other terms and conditions as the parties shall agree. The lease shall be approved by the City Manager and approved as to form by the City Attorney.
- B. Except as provided herein, the use of private hangars on the Airport shall be limited to storage of aircraft and/or aircraft parts, or other aeronautical purposes as approved by the City Manager. Storage of other personal property may be approved by the written consent of the Airport Manager or City Manager. In its sole discretion, the City may require the lessee to provide additional taxiways and/or ramp space in front of or adjacent to a private hangar.
- C. Authorization to construct a building on the Airport may be issued after:
 - (1) Detailed building plans and a written plan outlining the intended use of any associated structure or building have been approved by the Airport Manager and all such plans shall comply with the *Minimum Standards* and generally accepted design and construction practices.
 - (2) Execution of a written lease agreement between the proposed lessee and the City.
 - (3) Compliance with the City's *Schedule of Insurances*.
 - (4) Payment of appropriate fees pursuant to the *Schedule of Rates and Charges*.
 - (5) Issuance of building permits when so required by the County.
- D. The construction of any building or structure shall:
 - (1) Comply with all applicable ordinances of the City if such ordinances are intended to apply to the Airport property.
 - (2) Be located according to the Airport's development plan and approved by the City Manager.
 - (3) Comply with rules for the construction of buildings or structures at the Airport which have been prepared by the City Manager.
 - (4) Be inspected and approved by the county building inspector and Airport Manager with respect to applicable building codes and to ensure that the building complies with the Airport's rules and plans for the building which were approved by the City.
- E. Alterations or additions to existing structures, whether internal or external, will be considered the same as new construction and, in addition, shall be owned by the City.
- F. All improvements to the property, such as utilities, approaches, paving, drain tiling, and fill dirt will be provided at the lessee's expense.

ARTICLE IV. COMMERCIAL USES

2.195. Commercial Uses & Licenses.

- A. No person shall engage in a Commercial Activity at the Airport without first obtaining a license from the City Clerk pursuant to the requirements of this Section. Provided, however, a person may continue a Commercial Activity previously authorized by a written contract with the City until such contract expires or is terminated pursuant to its terms. Thereafter, the person shall be required to obtain a license pursuant to the requirements of this Section. The City Council shall establish applicable fees through the Airport's *Schedule of Rates and Charges* and such fees shall be imposed on an annual basis, on or about April 1 of each year.

- B. The City Council shall have the right to adopt and amend *Minimum Standards* for any Commercial Activity. A Commercial Activity shall comply with all applicable *Minimum Standards* during the time that the license is in effect. *Minimum Standards* may be adopted or amended by resolution or motion of the City Council.
- C. When this Chapter requires that a written plan be submitted to the City as part of an application for a license for a Commercial Activity and a license is issued pursuant to that application, the Commercial Activity shall comply with the written plan during the time that the license is in effect.
- D. A person seeking a license under this Section shall submit a complete application to the Airport Manager on a form provided by the Airport Manager and pay the required fee. The application shall include all of the following:
- (1) Name and address of the individual or entity that will be conducting the Commercial Activity.
 - (2) The proposed location on the Airport where the Commercial Activity will be conducted.
 - (3) The proposed route for motor vehicle traffic within the Airport for accessing the Commercial Activity, including information that the proposed route will not interfere with the Airport's gate security and safety.
 - (4) Information that establishes that the nature and location of the proposed Commercial Activity will not interfere with Airport operations.
 - (5) Information that establishes compliance with the *Minimum Standards* applicable to the proposed Commercial Activity and all other requirements of this Chapter applicable to the proposed Commercial Activity.
 - (6) If the proposed Commercial Activity involves the operation of a scheduled or unscheduled commercial airline and ticket-purchasing passengers, a written plan documenting how the applicant will comply with the following reporting requirements:
 - a. Filing on a timely, annual basis Form 1800-31 with the Federal Aviation Administration (FAA).
 - b. Filing on a timely basis any other form or document with the FAA regarding the enplanement of passengers, take-offs and landings, or any other aspect of the applicant's proposed Commercial Activity which is conducted in whole or in part at the Airport and which is required by the FAA to be filed.
 - c. Filing on a timely basis any other form or document with the FAA regarding the enplanement of passengers, take-offs and landings, or any other aspect of the applicant's proposed Commercial Activity which is conducted in whole or in part at the Airport and which is not required by the FAA to be filed, but which the City requests in writing to be filed with the FAA.
 - d. Filing on a timely basis any forms, reports, or documents with the Transportation Security Administration, the Department of Homeland Security, the FAA, and any other local, state, or federal agency having jurisdiction over the applicant or over the applicant's proposed Commercial Activity.
- E. After receiving an administratively complete application, the Airport Manager shall review the application and determine whether the applicable fee has been paid and whether all of the following applicable licensing requirements are met for the proposed Commercial Activity:
- (1) The Commercial Activity complies with all of the *Minimum Standards* applicable to that Commercial Activity and complies with all other requirements of this Chapter applicable to the proposed Commercial Activity.
 - (2) The nature and location of the Commercial Activity will not interfere with Airport operations.
 - (3) The route for motor vehicle traffic within the Airport for accessing the Commercial Activity will not interfere with the Airport's gate security and safety.

- (4) If the application is a license renewal, that there are no current violations of this Chapter related to the proposed license.
 - (5) If this Chapter requires the submission of a written plan for any aspect of the Commercial Activity, the applicant has reasonably established in the written plan that there will be compliance with the applicable requirements of this Chapter.
- F. If the Airport Manager determines that the applicable fee has been paid and that all of the applicable licensing requirements contained in this Chapter have been met for the proposed Commercial Activity, then the Airport Manager shall forward the application to the City Clerk, who shall issue the license for the Commercial Activity sought within a reasonable time after receiving the application from the Airport Manager. The City Clerk shall either mail the issued license to the applicant, the applicant may pick up the issued license from the City Clerk's Office, or the City Clerk shall forward the issued license to the Airport Manager, who shall then personally deliver the issued license to the applicant. Following the issuance of any license under this Section, the City Clerk shall maintain a copy of the issued license as part of the City's records.
- G. Any license issued prior to March 31 in a calendar year shall remain in effect until March 31 of that same calendar year. Thereafter, any license issued shall remain in effect until March 31 of the year following the date of issuance. A license may be renewed by submitting a renewal application on a form supplied by the Airport Manager and, if renewal is approved, the payment of the applicable renewal fee established through the Airport's *Schedule of Rates and Charges*. A renewal license shall meet all standards and requirements that are applicable to the initial issuance of a similar license.
- H. A person to whom a license has been issued pursuant to this Chapter shall display that license to the Airport Manager upon request of the Airport Manager. However, the issued license shall not be required to be displayed at the site of the Commercial Activity.
- I. A licensee shall at all times conduct the Commercial Activity authorized by the license in full compliance with all of the requirements of this Chapter and shall not violate any provision of this Chapter. Failure of the licensee to comply with this subsection shall subject the licensee to suspension or revocation of the license.
- J. A copy of any form, report, or document filed by the licensee with the Federal Aviation Administration, the Transportation Security Administration, the Department of Homeland Security, and any other local, state, or federal agency having jurisdiction over the licensee or over the licensee's Commercial Activity shall be provided to the Airport Manager within seven (7) days after it has been filed with the applicable agency. The failure of the licensee to comply with this subsection shall be a violation of license requirements for which the license may be suspended or revoked.

ARTICLE V. ON-AIRPORT RESIDENCES

2.196. Residences - Airport Access.

- A. Residential dwellings are prohibited on Airport property, and Through-the-Fence access agreements shall not be granted to adjacent property owners of residential dwellings. An existing Through-the-Fence access agreement shall be allowed to remain until title to the property which benefits from the access agreement is conveyed to a new owner.

ARTICLE VI. AIRCRAFT OPERATIONS

2.197. Aircraft.

- A. All Based Aircraft shall be registered with the Airport Manager.
- B. Transient Aircraft using the terminal parking area may park only in designated areas. The terminal parking area directly in front of the terminal building is closed to overnight parking except by prior arrangement with the Airport Manager.

- C. A person who places an aircraft on the ramp at the Airport outside of a private hanger shall comply with all of the following requirements:
- (1) The person shall locate the aircraft only on the Airport ramp and only in locations designated by the Airport Manager.
 - (2) The person shall chock and/or tie down the aircraft when the aircraft is located on the ramp and shall maintain such chocking and/or tie down of the aircraft at all times when the aircraft is located on the ramp.
 - (3) If an aircraft is placed on the ramp at the Airport outside of a private hanger, the person shall obtain a ramp permit for the aircraft, which shall be one of the following:
 - a. An annual permit, which shall be valid from April 1 to March 31 of the succeeding year.
 - b. A monthly permit, which shall be valid for a period of thirty (30) days from the date of issuance.
 - c. A weekly permit, which shall be valid for a period of seven (7) days from the date of issuance.
 - d. An overnight permit, which shall be valid until 11:59 p.m. of the day following the date of issuance.
 - (4) The person shall not keep the aircraft on the ramp beyond the time period authorized by the ramp permit obtained pursuant to subsection (3) above.
 - (5) The person shall pay to the City the applicable ramp permit fees as specified by the terms and conditions in the Airport's *Schedule of Rates and Charges*.
- D. Except as may be otherwise provided in a hanger lease or contract with the City, a person who lands an aircraft at the Airport shall pay a landing fee for each landing at the Airport as specified by the terms and conditions in the Airport's *Schedule of Rates and Charges*. Provided, however, if a person lands the same aircraft only once in a twenty-four (24) hour period and obtains a daily ramp permit, then the landing fee and daily ramp permit fee shall be combined into one fee as specified by the terms and conditions in the Airport's *Schedule of Rates and Charges*. Provided further that if the person obtains and pays the applicable fee for an annual ramp permit, all landing fees shall be deemed paid for the year in which the annual ramp permit remains valid.

ARTICLE VII. FIRE REGULATIONS

2.198. Fire Regulations.

- A. All persons shall comply with "No Smoking," "Fire Lane," and other regulatory signs.
- B. No airplane shall be fueled or drained of fuel while the engine is running or while in a hangar or other enclosed space.
- C. The cleaning of engines or other parts of an airplane within an enclosure shall be with nonflammable liquids. If volatile, flammable liquids are employed, cleaning operations shall be carried on in the open air.
- D. Floors shall be kept free and clean from oil at all times. The use of volatile or flammable substances for the cleaning of floors is prohibited.
- E. Owners and tenants of hangars or other structures shall be responsible for prompt removal of oily waste, rags, and other rubbish, such as empty oil, paint and varnish cans, bottles, etc., which shall not be allowed to accumulate.
- F. No rubbish, paper, or debris of any kind shall be permitted to be stored in or about the hangars or other structures.
- G. The storage of gasoline, kerosene, or other flammable liquids including those used in connection with the process of doping shall be in compliance with the regulations of the National Fire Prevention Association and all future amendments of those regulations for containers for flammable liquids and the storage of such containers.

- H. Any person responsible for the spillage or dripping of fuels or flammable liquids which may be unsightly or detrimental to the pavement or to the environment shall insure the immediate removal of the material. The responsibility for removal shall be assumed by the operator of the equipment causing the spillage or by the tenant or licensee responsible for the spillage. Any spillage or dripping of fuels, flammable liquids, acids, or the like shall be reported to the Airport Manager's office immediately.
- I. No fuels, oils, dopes, paints, solvents, or acids shall be disposed of or dumped in drains, on the ramp areas, catch basins, or ditches, or elsewhere on the Airport.
- J. No person shall start an aircraft engine or run an aircraft engine in any hangar or building at the Airport without the permission of the Airport Manager. This includes, but is not limited to, the running of an aircraft engine to enter or exit a hangar.

ARTICLE VIII. PERSONAL CONDUCT

2.199. Conduct.

- A. No person shall impede the operation of aircraft, or any authorized operation or activity at the Airport.
- B. No person shall cause objects to be placed on any runway or taxiway that could cause aircraft engine damage or take any other action that is a danger to aircraft or aircraft engines.
- C. A person shall obey all posted signs, fences and barricades prohibiting entry upon restricted areas or governing their activities and demeanor while at the Airport.
- D. No person shall use a closed or secure gate without closing or securing the gate after that person's use.
- E. No person shall enter within the Airport boundaries without good cause. Good cause shall include, but is not limited to: being a passenger of a plane located on the Airport; a pilot of a plane located on the Airport; a visitor of an aircraft owner, tenant, business, or operator of an aircraft; a visitor or invitee of Airport and/or City administration; an owner, operator, or employee of a business at the Airport; the customer or business invitee of a business at the Airport; a person having a contractual relationship with the City involving Airport property and the person's presence is in the performance of that contract; or a person otherwise authorized by laws or regulations of the City, state or federal government.
- F. No person shall hunt or discharge a firearm on Airport property without written permission from the Airport Manager except for law enforcement personnel in the performance of their duties.
- G. No person shall dispose of garbage, papers, refuse or other forms of trash on the premises of the Airport except in receptacles provided for such purposes, nor use a restroom other than in a clean and sanitary manner.
- H. No person shall operate or release any model aircraft, rocket, kite, balloon, or other similar contrivance at or upon the Airport without the prior approval of the Airport Manager. Approval shall be granted only if the proposed activity will not create a risk of harm to persons or property at the Airport or will disrupt Airport operations. Upon approval of the Airport Manager, a *Notice to Airmen* shall be issued prior to commencement of the approved activity.
- I. No person shall enter the terminal building or field area of the Airport with a pet or other animal unless the animal is caged or on a leash and under an authorized person's control.
- J. No person may smoke on any Airport apron or ramp, in any hangar or in any aircraft on Airport property, on any observation deck, or in any other place on Airport property where smoking is prohibited by means of posted signs indicating such prohibition.

- K. No person shall travel upon the premises of the Airport other than on roads or walkways except when authorized by the Airport Manager for a purpose related to the operation, maintenance or use of the Airport.
- L. No person shall solicit money or anything of value on the Airport for any non-Aeronautical Commercial Activity, unless otherwise approved by the Airport Manager, City Manager or City Council.
- M. Except as provided in this provision, air camping and camping within the Airport is prohibited. The Airport Manager may authorize air camping at certain times within specific areas and under rules established by the Airport Manager. A fee for air camping may be charged pursuant to the Airport's *Schedule of Rates and Charges*. The Airport Manager is authorized to revoke permission for a person to air camp for a violation of this Chapter, the failure to pay a required fee or for a violation of Air Camping rules. Sections 2.188 and 2.189 of this Chapter shall not apply to the revocation of permission for air camping.
- N. No person shall parachute at or upon the Airport without prior notice to the Airport Manager.
- O. No person shall parachute at a time which creates an unreasonable risk of harm to persons or property. A *Notice to Airmen* shall be issued prior to the commencement of the parachuting.
- P. No person shall obtain fuel for his, her, or its aircraft from any person or entity other than the City, except when the fuel is dispensed by a self-fueling operator in full compliance with all regulations of this Chapter applicable to that self-fueling operator.
- Q. A pilot shall escort all passengers to and from the pilot's aircraft. This requirement shall not apply to a licensee who has a written plan that has been approved by the City and which provides for a different method of implementing passenger safety.

ARTICLE IX. PENALTY

2.200. Penalty.

- A. Except as provided in subsections E, F, and G below, any person who violates any provision of this Chapter, including a person who engages in a Commercial Activity without a license for the Commercial Activity from the City, shall be responsible for a municipal civil infraction as defined in Public Act 126 of 1994, amending Public Act 236 of 1961, being Sections 600.101 - 600.9939 of the Michigan Compiled Laws and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. In addition to the fine, the City may in a municipal civil infraction proceeding seek from the Court an order imposing costs of prosecution, not to exceed Five Hundred and 00/100 (\$500.00) Dollars, and an enforcement order revoking the license and expelling the Commercial Activity from the Airport. Each day this Chapter is violated shall be considered as a separate violation.
- B. Officers of the City of Charlevoix Police Department are hereby designated as the authorized City officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
- C. A violation of this Chapter is hereby declared to be a public nuisance or a nuisance per se and is declared to be detrimental to the public health, safety and welfare.
- D. In addition to enforcing this Chapter through the use of a municipal civil infraction proceeding, the City may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Chapter, or may suspend or revoke a Commercial Activity License as provided in this Chapter.
- E. Any person who violates Section 2.199E of this Chapter shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred and 00/100 Dollars (\$500) and/or by imprisonment in the county jail for not more than ninety (90) days.
- F. Any person who violates Section 2.193 of this Chapter shall be responsible for a civil infraction, shall be issued notice of violation pursuant to Section 10.55 of the City Code, and shall be subject to all procedures, including the evidentiary presumption, related to

parking violations contained in the Michigan Motor Vehicle Code, adopted by reference in Title X, Chapter 145, Section 10.1(2) of the City Code.

- G. A person who has a Commercial Activity license and who fails to comply with a written plan that was submitted as part of the license application process or the applicable *Minimum Standards* shall not be subject to a municipal civil infraction or misdemeanor penalty pursuant to this Section for a violation of the written plan or the applicable *Minimum Standards*, but shall be subject to any other remedy provided in this Chapter.

2.201–2.299. Reserved.

ARTICLE X. SELF-FUELING OPERATIONS

2.300. Self-Fueling.

The City of Charlevoix requires that all aviation fuels at Charlevoix Municipal Airport be stored within a common fuel farm for environmental, safety and quality control reasons. Self-fueling operators shall store all aviation fuels in the City's Fuel storage system, and pay applicable fees under the *Schedule of Rates and Charges*.

2.301. Self-Fueling Dispensing License.

- A. No person shall dispense fuel at the Airport without first obtaining a self-fueling license from the City Manager.
- B. Dispensing of aviation fuel under a fuel dispensing license shall be consistent with the *Minimum Standards* for Charlevoix Municipal Airport.
- C. No person shall dispense fuel at the Airport unless and until financial assurances have been provided as contained in the Airport's *Minimum Standards*.

2.302. License Requirements.

The City Manager or a designee of the City Manager shall issue the self-fueling license after the City Manager has determined that there will be compliance with the applicable *Minimum Standards* and that the financial assurances as described in the *Minimum Standards* have been met.

2.303. Non-City Fuel Sales and Fueling Third Party Aircraft Prohibited.

The City of Charlevoix is the exclusive and proprietary provider of retail aviation fuels at the Airport. The sale of retail fuel by any person, including but not limited to a self-fueling operator, is prohibited. The fueling of Third Party Aircraft by any person, including but not limited to a self-fueling operator, is prohibited.

2.304. Fees.

The fee for the self-fueling license shall be contained in the *Schedule of Rates and Charges*. The fee shall be of an amount sufficient to reimburse the City for all administrative costs associated with the issuance of the license. Administrative costs include, but are not limited to, legal fees and consultant fees relating to the review of documents and the issuance of the license. Licensee shall also pay Fuel Flowage fees and Fuel System Use fees contained in the *Schedule of Rates and Charges* and must be current on the payment of all fees to maintain a self-fueling license.

2.305. Self-fueling License - Term.

The self-fueling license shall be valid for one (1) year from the date of issuance.