

TITLE I - ADMINISTRATION
CHAPTER 1
ADOPTION, CONTENTS AND INTERPRETATION

1.1. Publication and Distribution of Code.

Publication of the within codification of the ordinances of the City of Charlevoix is hereby directed. Copies of the Code shall be published in looseleaf form and shall be distributed to City officers and employees as directed by the City Council.

One hundred copies of the original printing of this Code shall be published and made available to the public at a charge to be fixed by Council.

1.2. Amendment Procedure.

This Code shall be amended by ordinance. The title of each amendatory ordinance, adapted to the particular circumstances and purposes of the amendment, shall be substantially as follows:

- (1) To amend any section:

AN ORDINANCE TO AMEND SECTION _____ (or SECTIONS _____ AND _____) OF CHAPTER _____ OF TITLE _____ OF THE CODE OF THE CITY OF CHARLEVOIX.

- (2) To insert a new section, chapter or title:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CHARLEVOIX BY ADDING A NEW SECTION (_____ NEW SECTIONS, A NEW CHAPTER, or A NEW TITLE, as the case may be) WHICH NEW SECTION (SECTIONS, CHAPTER or TITLE) SHALL BE DESIGNATED AS SECTION _____ (SECTIONS _____ AND _____) OF CHAPTER _____ OF TITLE _____ (or proper designation if a chapter or title is added) OF SAID CODE.

- (3) To repeal a section, chapter or title:

AN ORDINANCE TO REPEAL SECTION _____ (SECTIONS _____ AND _____),
CHAPTER _____, TITLE _____, (as the case may be) OF THE CODE OF THE CITY OF
CHARLEVOIX.

1.3. Publication and Distribution of Amendments.

Amendments to the Code shall be published as required by the Charter of the City of Charlevoix and sufficient copies of each amendment shall be published in looseleaf form for insertion in the looseleaf copies of the Code. The City Clerk shall distribute such copies to the officers of the City having copies of the Code assigned to them. Each officer assigned a copy of the Code shall be responsible for maintaining the same and for the proper insertion of amendatory pages as received. Each copy of said Code shall remain the property of the City and shall be turned over by each officer having custody thereof upon expiration of his term of office to the City Clerk.

1.4. Contents of Code.

This Code contains all ordinances of a general and permanent nature of the City of Charlevoix and includes ordinances dealing with municipal administration, utilities and services, parks and public grounds, streets and sidewalks, zoning and planning, food and health, businesses and trades, building, housing, electrical, heating and plumbing regulations, police regulations and traffic regulations, and excludes ordinances granting franchises and special privileges, establishing sewer and other public improvement districts, providing for the construction of particular sewers, streets or sidewalks, or for the improvement thereof, and for the construction and improvement of other public works, authorizing the borrowing of money or the issuance of bonds. The Zoning Ordinance of the City adopted March 6, 1978, (Ordinance No. 369), as amended to the date of adoption of this Code, is set forth as Chapter 51 of this Code, except as section numbers and references to other ordinances of the City are changed to conform to the Code numbering system. The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the City in effect on the date of adoption of this Code. Ordinances hereafter adopted which are not of a general or permanent nature shall be numbered consecutively, authenticated, published and recorded in the book of ordinances, but shall not be prepared for insertion in this Code, nor be deemed a part hereof.

1.5. Short Title.

This ordinance may be known and cited as the "Charlevoix City Code".

1.6. Headings.

No provision of this Code shall be held invalid by reason of deficiency in any chapter or section heading.

1.7. Responsibility.

Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding, or abetting of another person to do said act.

1.8. Definitions.

The following words and phrases, when used in this Code and any amendment thereto, shall, for the purposes of this Code, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning.

- (1) "Person" shall include any individual, partnership, sole proprietorship, corporation, limited liability company, association, organization, club, estate, trust, and any other group or combination acting as a unit, and the individuals constituting such group or unit.
(Ord. No. 658, 03-06-00)
- (2) "Public Place" shall mean any place to or upon which the public resorts, or travels, whether such place is owned or controlled by the City or any agency of the State of Michigan, or is a place to or upon which the public resorts or travels by custom, or by invitation, express or implied.
- (3) "Street", "highway" and "alley" shall mean the entire width subject to an easement for public right of way, or owned in fee by the City, County or State, of every way or place, of whatever nature, whenever any part thereof is open to the use of the public, as a matter of right for purposes of public travel. The word "alley" shall mean any such way or place providing a secondary means of ingress and egress from a property.
- (4) "Sidewalk" shall mean that portion of a street between the curb lines or lateral lines and the right of way lines which is intended for the use of pedestrians.
- (5) "City" shall mean the City of Charlevoix, Michigan.

1.9. Title of Officer to Include Deputy or Subordinate.

Whenever, by the provisions of this Code, any officer of the City of Charlevoix is assigned any duty or empowered to perform any act or duty, the title of said officer shall mean and include such officer or his deputy or authorized subordinate.

1.10. Tense.

Except as otherwise specifically provided or indicated by the context, all words used in this Code indicating the present tense shall not be limited to the time of adoption of this Code but shall extend to and include the time of the happening of any act, event, or requirement for which provision is made therein, either as a power, immunity, requirement or prohibition.

1.11. Notice.

Except where otherwise provided or when a different method of notice is required by state law, any notice required to be given by any section of this Code shall be served:

- (1) By delivering the notice to the owner personally or by leaving the same at his residence, office or place of business with some person of suitable age or discretion, or
- (2) By mailing said notice by first class mail to such owner at his last known address, or
- (3) If the owner is unknown, by posting said notice in some conspicuous place on the premises at least three (3) days before the act or action concerning which the notice is given is required or is to occur.

No person shall interfere with, obstruct, mutilate, conceal, or tear down any notice made pursuant to this section without the authority of the city manager, the chief of police, or the city officer responsible for placing said notice.

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

1.12. Penalty.

Unless another penalty is expressly provided by this Code, any person who violates any provision of this Code shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Code is violated shall be considered as a separate violation. Any action taken under this section shall not prevent civil proceedings, or any other procedure or remedy for abatement or termination of the prohibited activity.

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

1.13. Severability.

It is the legislative intent of the City Council in adopting this Code, that all provisions and sections of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the City of Charlevoix and should any provision or section of this Code be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent that this Code shall stand, notwithstanding the invalidity of any provision or section thereof.

The provisions of this section shall apply to the amendment of any section of this Code whether or not the wording of this section is set forth in the amendatory ordinance.

1.14. Effective date.

This Code shall take effect as specified in the ordinance which adopts it.

CHAPTER 2
STREET NAMES AND HOUSE NUMBERS

1.21. Street Names.

All streets shall be known and designated by the names applied thereto on the map of the City known as the Street Plan, filed with the City Clerk. The naming of any new street or the changing of the name of any street shall be done by resolution, which resolution shall amend said map.

1.22. Vacating Streets.

Vacated portions of streets and alleys shall be eliminated from said street plan map. The vacating of any street or alley shall be done by resolution, which resolution shall amend said map.

1.23. Street Numbers.

All premises shall bear a distinctive street number on the front at or near the front entrance of said premises in accordance with and as designated upon the street plan map on file in the office of the City Clerk.

1.24. Numbering Buildings.

The owners and occupants of all buildings in the City shall cause the correct numbers to be placed thereon in accordance with said street plan map. No person shall display other than the officially designated numbers on any house or building.

1.25. Numbers.

As used in this Chapter, "numbers" shall mean Arabic numbers which are a minimum of four (4) inches high and which are of a color which contrasts to the premises or building on which the numbers are located.
(Ord. No. 676, §1, 09-16-02)

1.26. Additional Numbering Requirements.

If the location of the premises or building or the existence of obstructions do not allow the numbers on a building to be plainly visible from the road, the numbers shall not only be displayed on the premises or building, but shall

also be displayed on a post or similar object which shall be adjacent to the drive or access to the premises or building and the numbers shall be a minimum of four (4) feet above the ground and shall be plainly visible from the road. Numbers shall not be placed on mailboxes.

(Ord. No. 676, §2, 09-16-02)

CHAPTER 3
LOCAL OFFICERS' COMPENSATION COMMISSION

1.41. Commission Created.

Pursuant to section 2.11 of the Charter a Local Officers' Compensation Commission is created. It shall determine the salaries of City elected officials. The Commission shall consist of five (5) members who are registered electors of the City, appointed by the Mayor subject to confirmation by a majority of the members elected and serving on the Council. The terms of office shall be five (5) years, except that of the members first appointed, one (1) each shall be appointed for terms of one (1), two (2), three (3), four (4) and five (5) years. All first members shall be appointed within thirty (30) days after the effective date of this Chapter. Thereafter members shall be appointed before October 1, of the year of appointment. Vacancies shall be filled for the remainder of an unexpired term. No officer or employee of any government agency shall be eligible to be appointed to the Commission.

1.42. Duties and Powers.

The Commission shall determine the salaries of the City elected officials which determination shall be the salaries unless the legislative body by resolution adopted by two-thirds (2/3) of the members elected to and serving on the Council rejects the determinations. The determinations of the Commission shall be effective thirty (30) days following their filing with the City Clerk unless rejected by the Council. In case of rejection, the existing salary shall prevail. Any expense allowance or reimbursement paid to elected officials in addition to salary shall be for expenses incurred in the course of City business and accounted for to the City.

1.43. Meetings.

The Commission shall meet for not more than fifteen (15) session days in every odd numbered year and shall make its determination within forty-five (45) calendar days of its first meeting, which shall be held on or before forty-five (45) days after the effective date of this Chapter. A majority of the members of the Commission constitutes a quorum for conducting the business of the Commission. The Commission shall take no action or make determinations without a concurrence of a majority of the members appointed and serving on the Commission. The Commission shall elect a chairman from among its members. "Session days" means any calendar day on which the Commission meets and a quorum is present. The Members of the Commission shall receive no compensation, but shall be entitled to actual and necessary expenses incurred in the performance of their duties.

CHAPTER 4
ADMINISTRATIVE POLICY AND PROCEDURE

1.51. Division of Administrative Service.

The Administrative service of the City Hall shall be under the supervision and direction of the City Manager, except as otherwise provided by the City Charter and shall be divided into the following offices and departments, each of which shall be the responsibility of and under the control of a head as listed opposite such office or department.

<u>DEPARTMENT</u>	<u>OFFICIAL TITLE</u>
Clerk	City Clerk
Treasurer	City Treasurer - Comptroller
Assessor	City Assessor
Police	Police Chief
Fire	Fire Chief
Electric Utility	Director
Public Works	Superintendent of Public Works
Water Supply	Superintendent of Water Department
Personnel	As delegated by City Manager
Purchasing	As delegated by City Manager
Recreation	Recreation Director
Waste Water Plant	Chief Operator
Seasonal Departments	Golf, Dock, Etc.

The duties of the above offices shall be as outlined in the City Charter, the State statutes and delineated in this Code.

1.52. City Manager.

The city manager shall see that all laws, ordinances, rules, and regulations adopted by the city council, and the provisions of this Code, are properly enforced. The city manager shall attend all meetings of the council, regular and special unless excused by the city council. During the absence or disability of the manager, the manager shall designate a qualified city employee to temporarily perform the duties of the city manager. The city manager may delegate to a qualified city employee any action or decision which the city manager is authorized to make pursuant to this Code.

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

1.53. Department Heads.

All administrative officers are responsible to the City Manager for the effective administration of their respective departments and offices, and all activities assigned to them. He or she shall employ or appoint all officers and employees except as otherwise provided in the City Charter or this Code. The City Manager shall make recommendations for all appointments to be made by the City Council. The City Manager may set aside any action taken by any administrative officer and may supersede him or her in the functions of the office.

1.54. Vacancies.

In case of vacancy in office or during the absence of any administrative office, the City Manager may designate an interim acting head to perform personally the functions of the office, until such vacancy is filled in accordance with the Charter.

1.55. All departments.

All departments of the City shall comply with the following:

- (1) All department heads shall keep informed as to the latest practices in their particular field and shall inaugurate with the approval of the City Manager in the case of departments responsible to him or her or in case of other departments, with the approval of the officer or body to whom the department head is responsible, such new practices as appear to be of benefit to the service and to the public.
- (2) Reports of the activities of each department shall be made to the Manager as he shall direct.

- (3) Each department head shall be held responsible for the preservation of all public records under his jurisdiction and shall provide a system of filing and indexing the same. No public records, reports, correspondence or other data relative to the business of any department shall be destroyed or removed permanently from the files without the knowledge and approval of the City Manager.
- (4) All monies collected by any department shall be deposited daily with the office of City Treasurer along with record of activities and receipts. Exceptions as to Holidays, special events and weekends may be changed with the permission of the city manager.

1.56. Purchasing agent.

He/she shall be charged with the efficient purchase of all items for the City. He/she may name a subordinate to work under his/her supervision in carrying out the duties entailed.

Competitive bids or quotations shall be obtained in purchases of goods over one thousand five hundred dollars (\$1,500.00) when deemed practical and contracts awarded to the lowest responsible bidder. Bids will be required of all purchases of goods over three thousand dollars (\$3,000.00); excepting in cases where the city manager determines it is clearly to the city's advantage to waive this provision. All purchases of goods or services in excess of ten thousand dollars (\$10,000.00) must be awarded by action of the city council.

There shall be sealed competitive bids for all contracts of twenty thousand dollars (\$20,000.00) or more. Competitive bidding at the discretion of the city council may take place, but is not required for contracts of twenty thousand dollars (\$20,000.00) or more for professional services, emergency repairs or emergency services. Competitive bidding is not required for contracts between governmental units.

(Ord. No. 410, 08-16-82; Ord. No. 611, 01-17-94)

1.57. Reserved. (Ord. 739, 02/16/09)

1.58. Voidability of contract.

A contract involving a prohibited conflict of interest under this chapter shall be voidable only by decree of a court of proper jurisdiction in any action by the State or a political subdivision which is a party thereto, as to any person that entered into the contract or took assignment thereof, with actual knowledge of the prohibited conflict. In the case of a person other than an individual, the actual knowledge must be that of an individual or the body finally approving the contract for the person. An action to void any contract shall be brought within one (1) year after discovery of circumstances suggesting the existence of a violation of the constitutional provision as implemented by this chapter. To meet the ends of justice any such decree shall provide for the reimbursement of any person for the reasonable value of all moneys, goods, material, labor, or services furnished under the contract, to the extent that the state or political subdivision has benefited thereby. This provision shall not prohibit the parties from arriving at an amicable settlement.

1.59. Personnel.

He/she shall be the personnel director of the city, with power to hire and discharge employees of the City not subject to the charter regulations. He/she shall enforce all personnel regulations and may prepare personnel guidelines for all employees subject to approval of the council. City manager may delegate these responsibilities to a subordinate.

1.60. Payment of moneys.

All moneys belonging to the city shall be paid out upon presentation of a valid voucher approved and signed by the treasurer and clerk issued in accordance with the charter. All checks drawn by the treasurer, or his deputy, must be countersigned by the city clerk or his deputy.

1.61. Approval of legal documents.

The mayor shall sign, the city clerk shall attest to, the city manager shall approve as to substance, and the city attorney shall approve as to form, all contracts and agreements requiring the assent of the city, unless otherwise provided for by law, the charter, ordinance or the provisions of the code.

1.62. Bonds.

Bonds shall be required in accordance with Article X of the charter.

CHAPTER 5
PERSONNEL REGULATIONS

1.151. Residence.

- (a) The city manager shall be a resident of the city.

- (b) Fulltime officers, employees and other personnel of the City hereinafter employed by the city must be bona fide residents of the Charlevoix Community School District (school district), except at the time of appointment or employment when they need not be residents of the school district, but shall establish residence in the school district within ninety (90) days from the date of appointment or employment. For good cause shown, the city manager may allow an additional ninety (90) days for a total one hundred eighty (180) days for newly appointed or employed officers, employees or personnel of the city to establish residence in the school district from the date of appointment or employment. A city employee who is a school district resident may temporarily become a non-school district resident for a period not to exceed ninety (90) days. For good cause, the city manager may extend this time period for up to an additional ninety (90) days.

This provision does not apply to the following:

- (1) Any uniformed officer, employee or other personnel governed under a current collective bargaining agreement to the extent that any provision in this chapter is inconsistent with any provision concerning city residency contained in any current collective bargaining agreement.

- (2) Any parttime officer, employee or other personnel of the city. For the purposes of this chapter, parttime employees, officials or personnel shall be defined as those employees, officials or personnel working less than thirty (30) hours per week.

- (3) Any seasonal employee, officer or personnel of the City of Charlevoix. For the purposes of this chapter, seasonal officers, employees or other personnel of the city shall be defined as those officers, employees or personnel that do not work more than six (6) consecutive months during any one (1) calendar year.

(Ord. No. 442, 01-21-85; Ord. No. 548, 06-03-91; Ord. No. 616, 09-06-94)

1.152. Records.

All employees, officers and other personnel of the city shall maintain an up-to-date record of residence address with the city clerk. Failure of any employee or officer to comply with this section shall be cause for removal or discharge from the city service.

(Ord. No. 442, 01-21-85)

CHAPTER 6
CIVIL DEFENSE ORGANIZATION

1.201. Definitions.

In the interpretation of this Chapter the following definitions shall apply:

- (1) "Civil Defense" shall mean the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, for protection against and to minimize and repair injury and damage resulting from enemy attack, sabotage, or other hostile action, or by natural disaster.
- (2) "Natural Disaster" shall mean any condition seriously affecting or threatening public health, welfare, or security as a result of severe fire, explosion, flood, tornado, hurricane, or similar natural or accidental cause and which is beyond the control of public or private agencies ordinarily responsible for the control or relief of such conditions. Riots, strikes, insurrections, or other civil disturbances shall not be included within the meaning of "Natural Disaster."
- (3) "Emergency" shall mean a condition resulting from enemy attack or natural disaster which cannot be handled by normal operating personnel and facilities.
- (4) "Civil Defense Volunteer" shall mean any person who serves without compensation in the Civil Defense Organization.

1.202. Department of Civil Defense.

- (1) The City Department of Civil Defense shall utilize to the fullest extent personnel and facilities of existing City departments and agencies. The City Manager shall be the director of said department and shall be responsible for its organization, administration, and operation.
- (2) The Department of Civil Defense shall also consist of such assistants, clerical help, employees and Civil Defense volunteers as are deemed necessary by the City Manager for the proper functioning of the organization, which assistants may include deputy directors in the areas of financial services, law enforcement, fire control, engineering services, and health and medical services; any of such positions shall, so far as possible, be additional duty assignments to existing personnel, and it is the

intent of this Chapter that Civil Defense and disaster assignments be as nearly consistent with normal duty assignments as possible.

- (3) The organization of said Department shall also consist of the employees, equipment, and facilities of all City departments and agencies suitable for or adaptable to Civil Defense and designated by the City Manager to participate in the Civil Defense activity.

1.203. Powers and Duties of the Mayor.

- (1) In the event of actual or threatened enemy attack or natural disaster, the Mayor, or in his absence or inability to serve, the Mayor Pro Tem, as conservator of the peace, shall,
 - (a) Declare a state of emergency within the City thereby placing in effect the Civil Defense and disaster control plan required by this Chapter.
 - (b) As soon as possible, thereafter, convene the City Council to perform its legislative and administrative functions as the situation may demand. The Council shall have the power to terminate the state of emergency.

- (c) Request the chief elected official of Charlevoix County, through the county emergency management coordinator, to declare a local state of emergency and to request assistance from the State of Michigan and its agencies.
(Ord. No. 696, 08-02-04)
 - (d) Have the power to command services and the use of equipment and facilities for such work and duties as the City may require to aid the regular and volunteer City forces in time of emergency.
 - (e) Promulgate such emergency regulations as may be deemed necessary to protect life and property and conserve critical resources, which regulations may be invoked when necessary for tests of Civil Defense and disaster plans. All such regulations shall be subject to approval of the Council as soon as practicable subsequent to promulgation.
- (2) The Mayor, or in his absence or inability to serve, the Mayor Pro Tem, shall have power to order Civil Defense forces to the aid of the State or political subdivisions thereof subject to Council review as soon as practicable.

1.204. Powers and Duties of the City Manager.

- (1) The powers and duties of the City Manager, as the director of Civil Defense, shall consist of the following:
- (a) The City Manager shall coordinate the Civil Defense activities and make emergency assignments of Civil Defense duties and Civil Defense forces in order to meet the situations not covered in the normal duties of such forces.
 - (b) The City Manager may take all necessary action to conduct tests of the Civil Defense and natural disaster plans.
 - (c) When a state of emergency has been declared, the City Manager shall assemble and utilize Civil Defense forces and prescribe the manner and conditions of their use.

- (d) The City Manager shall designate a line of succession among his department heads to carry out the powers and duties of this subsection in the event of his absence or his inability to serve.
 - (e) The City Manager shall be responsible for public relations, information, and education regarding all phases of Civil Defense.
 - (f) The City Manager shall be responsible for the development of a Civil Defense and disaster control plan and upon adoption, shall be responsible for such implementation and revision of the plan as to maintain it in a current state of readiness at all times.
 - (g) The City Manager shall maintain liaison and cooperate with all other interested and affected agencies, public and private.
 - (h) The City Manager shall coordinate the recruitment and training of volunteer personnel and agencies to augment the personnel and facilities of the City for Civil Defense purposes.
- (2) The City Manager is hereby authorized to exercise the powers granted to the Mayor in section 1.203, either in the absence or inability to serve of the Mayor and Mayor Pro Tem or where delay in the exercise of such powers would be contrary to the public interest.

1.205. Civil Defense and Disaster Control Plan.

A comprehensive Civil Defense and disaster control plan shall be adopted by resolution of the Council upon the recommendation of the City Manager. In the preparation of this plan as it pertains to the City organization, it is the intent that the services, equipment, facilities and personnel of all existing departments and agencies shall be utilized to the fullest extent possible. When approved, it shall be the duty of all City Departments and agencies to perform the functions and duties assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times.

1.206. Conflicting Ordinances, Orders, Rules and Regulations Suspended.

At all times when the orders, rules and regulations made and promulgated pursuant to this Chapter shall be in effect, they shall supersede all existing ordinances, orders, rules and regulations insofar as the letter of same may be inconsistent therewith.

1.207. Violations.

It shall be unlawful for any person willfully to obstruct, hinder or delay the Civil Defense Organization in the enforcement of any rules or regulations issued pursuant to this Chapter, or to do any act forbidden by any rule or regulation pursuant to the authority contained in this Chapter. It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia, or any other means of identification as a member of the Civil Defense Organization of the City unless authority to do so has been granted to such person by the proper officials. Convictions for violations of the provisions of this Chapter shall be punishable in accordance with Chapter 1 of this Code.

CHAPTER 7
BOARDS AND COMMISSIONS
ARTICLE I. IN GENERAL

1.241. General provisions.

All boards and commissions existing at the time of the adoption of this Code shall be continued and the members serving thereon shall remain in office for the duration of the term for which they were appointed.

1.242. Vacancies.

Unless otherwise provided, any vacancy occurring in the membership of any board or commission shall be filled for the remainder of the unexpired term in the manner provided for original appointment.

1.243. Removal.

Unless otherwise provided, the appointing authority may remove any member of any board or commission for cause, but any member shall be entitled to a public hearing on such removal, on written demand filed with the appointing authority within ten (10) days after notice of removal has been given to such member.

1.244. Compensation.

Unless otherwise provided, all members of boards and commissions shall serve without compensation as members thereof.

1.245--1.250. Reserved.

ARTICLE II. HOUSING COMMISSION

1.251. Commission continued.

Pursuant to Public Act No. 18 of the Extra Session of 1933, State of Michigan, as amended, the commission created for the City of Charlevoix, Michigan, known as the "Charlevoix Housing Commission," is continued.

1.252. Members; terms.

Said commission shall consist of five (5) members to be appointed by the mayor of the City of Charlevoix with the consent of the city council. The term of the office of members of the commission shall be five (5) years, provided that members of the initial commission shall be as follows: One (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, one (1) member for a term of four (4) years and one (1) member for a term of five (5) years. The term of office of the member initially appointed for one (1) year term shall expire on the third Monday in April, 1976, and the term of other commission members in turn shall expire on the third Mondays in April of succeeding years.

1.253. Vacancies; removal.

Members of the Charlevoix Housing Commission shall be residents of the City of Charlevoix, and in the event any commissioner removes from the city during his term of office his position shall thereby have become vacated. Members of the commission shall serve without compensation, and any commissioner may be removed from office during his term either with or without good cause by resolution concurred on by not less than three (3) members of the Charlevoix City Council at any regular or special meeting thereof.

1.254. Powers and duties.

The Charlevoix Housing Commission shall have all the powers and duties vested or permitted to be vested in the housing commission by said Public Act 18, of the Extra Session of 1933, as heretofore or hereafter amended, and any laws heretofore or hereafter enacted which are supplemental thereto, it being intended to vest in the Charlevoix Housing Commission all powers and duties permitted by law.

1.255. Meetings.

The commission shall meet at regular intervals. The said meeting shall be public. It shall adopt its own rules of procedure and shall keep a record of the proceedings. Three (3) members shall constitute a quorum for the transaction of business. A president and vice-president shall be elected by the commission. The commission may appoint a director who may also serve as secretary, and such other employees or officers as shall be necessary. The commission shall prescribe the duties of all of its officers and employees and may, with the approval of the city council, fix their compensation. The commission may, from time to time, as necessary, employ engineers, architects and consultants, within the limitation of its established budget.

1.256. Finances.

Funds for the operation of the commission may be provided by the city council, but the commission shall, as soon as possible, reimburse the city for all monies expended by it for the commission from revenues received from the sale of bonds.

1.257. Conflicts of interest.

No member of the housing commission or any of its officers or employees shall have any interest, directly or indirectly, in any contract for property, materials, or services to be acquired by said commission.

1.258. Reports.

The commission shall make an annual report of its activities to the city council and shall make such other reports as the city council may, from time to time, require.

1.259–1.260. Reserved.

ARTICLE III. SHADE TREE COMMISSION

1.261. Commission continued.

The shade tree commission for the City of Charlevoix, Michigan, heretofore created, is continued. This commission shall consist of three (3) members, citizens and residents of this city, who shall be appointed by the mayor with the approval of the council.

1.262. Term of office.

The term of the three (3) persons to be appointed by the mayor shall be three (3) years, except that the term of two (2) of the members appointed to the first commission shall be only one (1) and two (2) years respectively. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of said term.

1.263. Compensation.

Members of the commission shall serve without compensation.

1.264. Powers and duties.

The Commission shall have power to study, investigate, plan, advise, report, and recommend to council, the city manager or the mayor any action, program, plan or legislation which the commission shall find or determine to be necessary or advisable for the care, preservation, trimming, planting, replanting, removal or disposition of trees and shrubs in public ways, streets and alleys. The commission shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. All plans, findings, advices, reports and recommendations made by the commission approving or concurring therein, and members who do not so approve or concur therein shall have the right, as a part of such report, to state their reasons for refusing to approve or concur. The commission, when requested by council or the mayor, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

1.265—1.270. Reserved.

ARTICLE IV. DOWNTOWN DEVELOPMENT
DIVISION 1. DOWNTOWN DEVELOPMENT AUTHORITY*
(Ord. No. 397, 04-19-82)

1.271. Title.

This division shall be known and may be cited as the "Downtown Development Authority Ordinance."
(Ord. No. 397, 04-19-82)

1.272. Authority.

This division is enacted pursuant to the provisions of Act 197 of the Public Acts of 1975, as amended, and subject to the provisions thereof unless otherwise specifically provided for herein.
(Ord. No. 397, 04-19-82)

1.273. Definitions.

The terms used herein shall have the same meaning as given to those terms in Act 197 of the Public Acts of 1975, as amended, or as hereinafter in this section provided unless the context clearly indicates to the contrary.
As used in this section:

Act 197 means Act 197 of the Public Acts of Michigan of 1975 as now in effect or hereinafter amended being MCLA 125.1651 et seq.; MSA 5.3010(1) et seq.

Authority means the Charlevoix Downtown Development Authority created by this division.

Board means the governing body of the Charlevoix Downtown Development Authority.

Chief executive officer means the mayor of the City of Charlevoix.

City means the City of Charlevoix, Michigan.

Council or City council means the city council of the City of Charlevoix.

Downtown District means the downtown district designated by this division as now existing or hereinafter amended.

(Ord. No. 397, 04-19-82)

1.274. Determination of necessity for development authority.

The city council of the City of Charlevoix hereby determines that it is necessary for the best interests of the public to halt property value deterioration and increase property tax valuation where possible in the business district of Charlevoix, to eliminate the causes of that deterioration, and to promote economic growth by establishing a downtown development authority pursuant to Act 197.

(Ord. No. 397, 04-19-82)

*Editor's note—Ordinance No. 397, adopted Mar. 19, 1982, added the provisions pertaining to the downtown development authority. The sections were renumbered for convenience.

(Ord. No. 397, 03-19-82)

1.275. Established; powers generally.

Pursuant to Act 197 of the Public Acts of 1975, as amended, the City of Charlevoix does hereby establish a downtown development authority for the City of Charlevoix, Michigan. The authority shall analyze the impact of economic changes and growth in the downtown district, and develop plans to promote orderly economic growth in the downtown development district. The authority shall be a public body corporate and shall be known and exercise its powers under the title of "Charlevoix Downtown Development Authority." The authority may adopt a seal, may sue and be sued in any court in this state and shall possess all of the powers necessary to carry out the purpose of its establishment as provided by this division and Act 197. The enumeration of a power in this division or in Act 197 shall not be construed as a limitation upon the general powers of the authority. The authority shall implement a development plan in the downtown district as necessary to achieve the purposes of the Downtown Development Act, all in accordance with the powers granted by this division and Act 197.

(Ord. No. 397, 04-19-82)

1.276. Description of downtown district boundaries.

The downtown district, in which the authority shall exercise its power as provided by Act 197, shall consist of the following described property in the City of Charlevoix, Charlevoix County, Michigan, subject to such changes as may hereinafter be made pursuant to this section and Act 197:

An area in the City of Charlevoix, Charlevoix County, Michigan, within the boundaries described as follows:

In City of Charlevoix, Charlevoix County, Michigan, Beginning at the intersection of the center line of Hurlbut Avenue with the center line of State Street; thence Northerly along the center line of said State Street to the Easterly extension of the South line of the North 54 feet of Lot 79 of Upright and Hurlbut's addition to the said City; thence Westerly along said extension to the Southeast corner of the North 54 feet of Lot 79; thence continuing Westerly along said South line of the North 54 feet of Lots 79, 78, and 77 to the West line of the East 10 feet of Lot 77, said addition; thence Northerly along said West line of the East 10 feet to the center line of Newman Street; thence Easterly along the center line of Newman Street to the Southerly extension of the West line of Lot 2 of said Upright and Hurlbut's Addition; thence Northerly along said extension and along the West line of said Lot 2 and the Northerly prolongation thereof to the center line of Antrim Street; thence Westerly along the center line of Antrim Street to the Southerly extension of the West line of Lot 5 of Block 11 of the Original Plat of the Village of Charlevoix; thence Northerly along said extension and the West line of said Lot 5 to the center line of Mason Street; thence Westerly along the center line of Mason Street to the center line of Grant Street; thence along the center line of Grant Street Northerly to its intersection with the center line of Clinton Street; thence

along the center line of Clinton Street Easterly to its intersection with the northerly prolongation of the west line of Lot 5 of said Block 10; thence Southerly along said prolongation line and the west line of said Lot 5 to the Southwest corner of said lot; thence along the south line of Lots 5 and 4 of said block to the Southeast corner of said Lot 4; thence along the east line of said Lot 4 and the northerly prolongation thereof to the center line of Clinton Street; thence Westerly along the center line of said Clinton Street to the Southerly extension of the West line of Lot 21, Block 9 of the Village of Charlevoix; thence Northerly along said extension and the West line of Lot 21 and the Northerly prolongation thereof to the Southwest corner of Lot 4 of said Block 9; thence continuing Northerly along the West line of Lot 4 of said Block 9 to the Northwest corner of said Lot 4; thence Easterly along the North line of said Block 9 and the Easterly prolongation thereof to the center line of State Street; thence Northerly along the center line of State Street to the center line of Park Avenue; thence Easterly along the center line of Park Avenue to the Southerly extension of the West line of the East 16.5 feet of Lot 3, Block 1 of said Village of Charlevoix; thence Northerly along said extension and said West line of the East 16.5 feet of said lot, 165. feet; thence Northeasterly 30.5 feet to the East line of said Lot 3; thence Northerly along said East line of Lot 3 to its intersection with a line which is parallel with the South revetment of the entrance channel of Charlevoix Harbor and which is 30 feet south therefrom; thence Northwesterly along said line which is parallel with said channel to its intersection with the Southeasterly line of the City of Charlevoix Property as described in the Lease recorded in Liber 229, page 890, Charlevoix County Records; thence along the Southeasterly line of said Park property (described as South 59° West) to the Northwest corner of Lot 5, Block 17 of the Village of Charlevoix; thence Southerly along said East line of Lot 5 and Southerly prolongation to the said East line of Lot 5 to the center line of Park Avenue; thence West along said center line of Park Avenue to the Southerly extension of the West line of said Lot 5 of said Block 17; thence Northerly along the Southerly prolongation of said Lot 5 and continuing along the West line of said Lot 5 to its intersection with the Southeasterly line of said City property as described in said Liber 229, page 890; thence Southwesterly (described as South 59° West) along said City property to the Easternmost corner of the Beatrice Sommerville property as described in Liber 280, page 33, Charlevoix County Records; thence along the said Sommerville property North 71°55' West to the Northernmost corner of said property; thence continuing along said Sommerville property South 23°36' West 20 feet to the Southeasterly line of Palmer Street and being on the Southwesterly line of the property leased to the State of Michigan as recorded in Liber 229, Page 890, Charlevoix County records; thence North 64°05' West along the Southwesterly line of said State of Michigan property 122.22 feet to the angle point in said State of Michigan property; thence North 25°55' East along said State of Michigan property and extension thereof to the center line of the channel; thence Northwesterly along the center line of said channel to the shore of Lake Michigan; thence Northeasterly along the shore of Lake Michigan to its intersection with the Northerly line of Pine River Lane; thence Southeasterly along said lane to the Southeasterly corner of the Lake House Condominium as recorded in Liber 258, page 123, Charlevoix County Records; thence along said condominium line North 10° East 176.60 feet to the angle point in said boundary line; thence continuing along said condominium boundary North

TITLE I

08/01/2011

Page 29 of 80

52°27'14" West to a point 132 feet South of the South line of Dixon Avenue; thence, parallel with said South line of Dixon Avenue, to a point 393 feet West of the West line of Michigan Avenue; thence North 165 feet to the center line of said Dixon Avenue; thence along the center line of Dixon Avenue to a point 220 feet East of Michigan Avenue as it existed prior to June, 1941; thence South 231 feet; thence West 35.2 feet to an angle point in the Northerly line of the former E. James Hiller property described in Liber 187, page 832, Charlevoix County Records; thence South 52°08'25" East along said Hiller property 261.9 feet; thence continuing along said Hiller property South 1°38'28" West 34.94 feet to the shore of Round Lake; thence Southwesterly, Southerly, Southeasterly and Easterly along said shore to its intersection with the Westerly line of Lot 6, Block 19 of Newman's Addition to the Village of Charlevoix; thence Southerly along said Westerly line of Lot 6 to a point 22.5 feet North of the Northerly line of Belvedere Avenue; thence West to a point being 29.76 feet East of the West line of Lot 4, Block 19 of said Newman's Addition; thence parallel with the West line of said Lot 4 South 7.6 feet; thence parallel with the South line of said Lot 4, West 6. feet; thence South parallel with said West line of Lot 4 and Southerly extension thereof to the center line of Belvedere Avenue; thence Westerly along the center line of said Belvedere Avenue to its intersection with the Northerly extension of the East line of the West 40 feet of Lot 2, Block 5 of Mason's Addition to the Village (now City) of Charlevoix; thence Southerly along said extension and said East line of the West 40 feet of Lot 2, 125.5 feet; thence West 6 feet; thence South 45 feet to the South line of the North 137.5 feet of said Lot 2; thence Westerly along said last mentioned line and continuing along the South line of the North 137.5 feet of Lot 1 of said Block 5 and the Westerly prolongation thereof to the center line of Bridge Street; thence South along the center line of Bridge Street to the center line of Hurlbut Avenue; thence Westerly along the center line of Hurlbut Avenue to the point of beginning; all being a part of Government Lots 2 and 3 and a part of the Northwest Quarter of the Southwest Quarter, all in Section 26, Town 343 North, Range 8 West, and part of Government Lot 1 and part of the Northeast Fractional Quarter, all in Section 27, Town 34 North, Range 8 West.

(Ord. No. 397, 04-19-82; Ord. No. 463, §1, 06-02-86; Ord. No. 681, §1, 12-02-02, *ratified 06-19-06*)

1.277. Downtown development authority board; membership; terms.

The authority shall be under the supervision and control of a board consisting of the mayor and eight (8) members as provided by Act 197. The members shall be appointed by the mayor, subject to approval by the Charlevoix City Council. The board members shall hold office for the terms provided in Act 197. All members shall hold office until the board member's successor is appointed. A board member shall take office by swearing and subscribing to the constitutional oath of office.

(Ord. No. 397, 04-19-82)

1.278. Powers of the authority.

Except as specifically otherwise provided in this division, the authority shall have all powers provided by law subject to the limitations imposed by law and herein. The authority, with the approval of the Charlevoix City Council, may levy an ad valorem tax on the real and tangible personal property not exempt by law and as finally equalized in the downtown district. The tax shall not be more than two (2) mills. The tax shall be collected by the City of Charlevoix at the same time and in the same manner as the city collects its other ad valorem taxes. The tax shall be paid to the treasurer of the downtown development authority and credited to the general fund of the authority.

(Ord. No. 397, 04-19-82; Ord. No. 448, 04-15-85)

1.279. Directors, bond and director.

If a director is employed as authorized by Section V of Act 197, that director shall post bond in the penal sum of five thousand dollars (\$5,000.00) as required by such section of such Act 197 and by this division.

(Ord. No. 397, 04-19-82)

1.280. Meetings.

Within thirty (30) days after the appointment of the board of the downtown development authority, the chairman of such board shall call a meeting of the board. The chairman shall open the meeting and call for an election of other board officers which shall consist of the following officers:

- (1) Vice-Chairman.
- (2) Treasurer.
- (3) Secretary.

The Board shall prepare bylaws to govern the procedure of meetings and powers of its officers.

1.281. Sources of revenue, permitted expenditures.

The activities of the authority shall be financed from one or more of the funding sources set out in Act 197, as amended.

1.282. Publication requirements.

Promptly after adoption of this division, a copy of the same shall be filed with the Secretary of State, pursuant to Act 197, as amended, and shall be published at least once in a newspaper of general circulation in the City.

1.283. Section heading; severability; repealer.

Section headings are provided for convenience only and are not intended to be part of this division. If any portion of this division shall be held unlawful, the remaining portions shall remain in full force and effect. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

DIVISION 2. DEVELOPMENT AND FINANCING PLAN

1.284. Title.

This division shall be known and may be cited as "The Development Plan and Tax Increment Financing Plan Ordinance".

(Ord. No. 426, 05-16-83)

1.285. Authority.

This division is enacted pursuant to the provisions of Act 197 of the Public Acts of 1975, as amended, subject to the provisions thereof unless otherwise specifically provided for herein.

(Ord. No. 426, 05-16-83)

1.286. Definitions.

The terms used herein shall have the same meaning as given to those terms in Act 197 of the Public Acts of 1975, as amended, or as hereinafter in this section provided unless the context clearly indicates to the contrary.

As used in this section:

- (1) *Captured equalized valuation* means the amount in any one year by which the total current equalized valuation of the development district exceeds the initial equalized valuation.

- (2) *Development area* shall mean the area encompassed within the Downtown Development District as more fully described in the Development Plan and Tax Increment Plan, all property being encompassed within the City of Charlevoix, County of Charlevoix, State of Michigan.
- (3) *Development Plan* means the "Tax Increment and Development Plan" as amended and transmitted to the City Council by the Downtown Development Authority for public hearing, and as may be modified by action of the City Council and confirmed by Ordinance No. 426, copies of which are on file in the office of the City Clerk for the City of Charlevoix.
- (4) *Downtown Development Authority* means the City of Charlevoix Downtown Development Authority.
- (5) *Initial equalized valuation* means the most recently assessed value as finally equalized of all the taxable property within the boundaries of the development area at the time of the adoption of Ordinance No. 426.
- (6) *Taxing jurisdiction* shall mean each unit of government levying ad valorem tax on property in the development district.

(Ord. No. 426, 05-16-83)

1.287. Approval and adoption of plan, as amended. (Ord. No. 681, §2, 12-02-02)

- (1) The Development and Tax Increment Financing Plan, as originally adopted on May 16, 1983 and as amended on August 21, 1989 (Section 1.299 of the City Code); November 11, 1991 (Section 1.300 of the City Code); and February 28, 1994 (Section 1.301 of the City Code) is further amended, approved, and adopted to revise the legal description of the Development Area incorporated into the plan by reference as Exhibit "B" to include the property in the City of Charlevoix, Charlevoix County, Michigan as described in Section 1.276 of the Charlevoix City Code.
- (2) Article II of the Development and Tax Increment Financing Plan, as amended, is hereby further amended to add a new Section Q, which shall read in its entirety as follows:

Q. Statement of Contemplated Uses for that Portion of Development Area added by 2002 Amendment of the Development Area; Financing.

The Development Area was amended effective January 1, 2003 to include the former Charlevoix Middle School building and grounds, which at the time of the amendment were vacant and in need of substantial repair. It is in the public interest that this property be returned to productive use, either in the public or private sector or a combination of public and private usage. As a result, the site may be utilized for one or more of the following uses or any similar use even if the use is not listed below:

(1) Purchase of Property; Renovation or Demolish.

An attempt will be made to purchase the property or, at least obtain a right of first refusal or similar legal mechanism which will allow purchase of the property in the future. Ultimately, if the property can be purchased, the building may be renovated or demolished, depending upon cost estimates and potential uses of the site. If the existing building is demolished, a new building may be erected to accommodate the needs of a new use. Funding for the purchase and any intermediate steps such as a right of first refusal will come from Downtown Development Authority funds collected pursuant to the Development Plan/Tax Increment Plan.

(2) Resale or Lease.

All or part of the site may be resold or leased to public and/or private entities, depending on the contemplated use and the terms of the proposed transaction.

(3) Additional Parking.

A portion of the site may be used to help accommodate parking needs for the downtown area.

(4) Public Park

Part of the site may also be used as a public park which will serve nearby residential areas and preserve and promote natural beauty in the downtown area.

(5) Mixed Public/Private Use.

The site may also be studied to determine whether a mix of public and private uses will best serve the needs of the downtown development area and the community as a whole.

The financing for the projects within the Development Area added by the 2002 amendment shall conform to the original Development and Tax Increment Financing Plan, as amended.

- (3) As provided in Section 1.301 of the City Code, the Development and Tax Increment Financing Plan, as amended, shall continue through December 31, 2013, except as extended by a subsequent amendment to or modification of the plan by appropriate ordinance.
- (4) A copy of the Development and Tax Increment Financing Plan, as amended, shall be maintained on file in the city clerk's office cross-indexed to the Development Plan and Tax Increment Financing Plan Ordinance, as amended.

Cross reference(s)--Amendments to plan, § 1.299.

1.288 Boundaries of development area.

The boundaries of the development area set forth in the development plan shall include the property in the City of Charlevoix, Charlevoix County, Michigan as described in Section 1.276 of the Charlevoix City Code.

(Ord. No. 426, 05-16-83; Ord. No. 681, §3, 12-02-02)

1.289. Preparation of base year and subsequent year state equalized valuation and all procedures related thereto.

Upon adoption of Ordinance No. 426 and establishment of the state equalized value of all property in the district, the city assessor shall prepare an assessment roll of the district, calculate the initial state equalized valuation of the district, and certify this valuation to the county equalization office, and secretary to the DDA board. Each year thereafter, until the secretary to the DDA board certifies completion of the development plan, the city assessor shall prepare assessment and tax rolls for the district, calculate the total amount of equalized valuation of the district, calculate the captured and noncaptured equalized valuation of the district, and certify these valuations to the county equalization office, secretary to the DDA board, and city treasurer.

(Ord. No. 426, 05-16-83)

1.290. Payment of tax increments to downtown development authority.

The city treasurer is authorized, as ad valorem taxes are collected on the property in the development district, to pay to the downtown development authority, that portion of the captured taxes (taxes on captured equalized valuation) provided for in the Downtown Development Authority annual budget as approved by city council. Payment shall be made by the city treasurer in the normal course of business. The remaining captured taxes not remitted to the downtown development authority account will be remitted to the applicable taxing jurisdictions on a pro-rata basis.

(Ord. No. 426, 5-16-83)

1.291. Establishment of tax increment fund; approval of depository.

The city treasurer shall serve as treasurer to the downtown development authority. The treasurer is hereby authorized to establish a separate fund, on behalf of the downtown development authority. Tax increment monies received and paid to the account of the downtown development authority pursuant to the development plan shall be deposited in this fund. All monies in the fund and earnings thereon shall be used only in accordance with the development plan and this chapter, and any amendment thereto. Except in emergencies, disbursements from the fund shall require the prior approval of the downtown development authority board. The chairman of the board may approve disbursements without the approval of the full board, when a delay would increase the expense to the fund.

(Ord. No. 426, 05-16-83)

1.292. Annual budget.

The annual budget of the downtown development authority as prepared by the authority and approved by the city council shall be based upon the downtown development plan and tax increment financing plan, but the amount of funds budgeted for receipt or expenditure in any year shall not be limited to the amount which may have been established for receipt or expenditure in the development plan. It shall be the responsibility of the city treasurer to pay to the account of the downtown development authority the amounts of funds as approved in the annual budget of the downtown development authority, without regard to the estimated cost of development over the life of the plan as detailed in the tax increment financing plan and development plan.

(Ord. No. 426, 05-16-83)

1.293. Debt.

The downtown development authority may, from time to time, issue bonds to finance capital improvements provided for under the development plan. Under no circumstances shall total bonded indebtedness for all primary capital improvements under the development plan exceed the debt limitation established in the plan, as it may be amended. Prior to the issuance of any debt, the downtown development authority shall obtain the approval of the city council. In review of annual downtown development budgets, the city council shall be required to approve such revenues and expenditures as may be necessary to meet service payments on debt initially authorized by the city council.

(Ord. No. 426, 05-16-83)

1.294. Use of monies in tax increment financing fund.

The monies credited to the fund and on hand thereon from time to time shall be used in the following manner:

- (1) To pay, to the extent determined desirable by the DDA, the cost of completing the public improvements as set forth in the development plan, including any debt service payments.
- (2) To pay the cost of any additional improvements in the development plan that are determined necessary by the DDA and approved by the city council.
- (3) To reimburse the city for expenditures made or funds advanced to provide any project-related services to the downtown development authority or the fund or to acquire property, clear land, make preliminary plans, and improvements necessary for the development of the development area in accordance with the plan.

- (4) The downtown development authority shall not expend any funds on any improvements described in the development plan and tax increment financing plan as secondary improvements without a prior amendment of the development plan and tax increment financing plan. Provided, that any amendments or modifications of the plan shall not affect the initial equalized valuation and the initial equalized valuation will remain that established at the time of the adoption of Ordinance No. 426 notwithstanding any amendments or modifications to this chapter or the development plan and tax increment financing plan.

(Ord. No. 426, 05-16-83)

1.295. Annual audit.

As soon as practical upon the end of each fiscal year, the downtown development authority shall submit to the city council, with copies to each taxing jurisdiction, a report and audit on the status of the tax increment fund. The report shall include the amount and source of revenue in the account, the amount and purpose of expenditures from the account, the initial and ending fund balance, the initial, current and captured equalized valuations of the development district, tax increments received by the downtown development authority and those shared with the taxing jurisdictions, and any additional information requested by the city council or deemed appropriate by the downtown development authority.

(Ord. No. 426, 05-16-83)

1.296. Refund on final surplus tax increments.

At the completion of the development plan, as it may be amended a final report shall be prepared and any surplus money in the fund shall be returned by the treasurer from the fund to the taxing jurisdiction on a pro-rata basis. Such pro-rata distribution shall be determined on the basis of the average tax rate levied by each jurisdiction over the life of the plan.

(Ord. No. 426, 05-16-83)

1.297. Plan review.

Prior to each phase of physical construction implemented by or on behalf of the downtown development authority pursuant to the development plan and tax increment financing plan the development authority shall submit a site plan for review by the city planning commission and approval by the city council. Prior to any bidding or award of any construction or purchasing contracts, the downtown development authority shall submit to the Charlevoix city manager's office for approval all detailed plans and specifications for any improvements and/or construction to be implemented under the development plan.

(Ord. No. 426, 05-16-83)

1.298. Governing body determination according to Public Act 197, of Public Acts of 1975.

The Charlevoix City Council hereby determines the following considerations:

- (1) That the tax increment financing plan and development plan meets the requirements as set forth in Public Act 197 of the Public Acts of 1975.
- (2) The proposed method of financing the development as detailed in the tax increment financing plan and development plan is feasible and the authority has the ability to arrange the financing.
- (3) The development is reasonable and necessary to carry out the purposes of this act.
- (4) The development plan is in reasonable accord with the master plan of the City of Charlevoix .
- (5) Public services, including, but not limited to, fire and police protection and utilities, are or will be adequate to serve the project area.
- (6) Any proposed changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the City of Charlevoix.

(Ord. No. 426, 05-16-83)

1.299. First amendment to the tax increment financing plan and Development plan.

- (a) *Purpose.* The completion of some projects and the planning for other projects make it appropriate to amend the original tax increment financing plan and development plan (hereafter both plans are jointly referred to as the "original plan"). Rather than just amending specific sections to both plans, this amendment is intended as a general supplemental to both and should be read in conjunction with both plans. The downtown development authority has completed or is in the process of completing those projects listed in exhibit "H," which is attached. This amendment will also permit the implementation of secondary improvements as described in the original plan. New projects which will begin as soon as possible and will be completed by 1999 within the boundaries of the district are listed in exhibit "I," which is attached, as well as those projects called secondary improvements in the original plan. Financing for all of these projects shall conform to the original plan. Nothing in this amendment shall prohibit the downtown development authority from implementing or completing phase I and II of the primary improvements as described in the original plan.
- (b) *Existing or future contracts; revised projection of captured tax revenue.* The original plan and this amendment are also subject to existing or future contracts among different taxing entities regarding a distribution of captured tax revenue and the termination of the downtown development authority. A revised projection of captured tax revenue for the Downtown Development Authority including contractually required refunds to other taxing entities is set forth in exhibit "J," as attached. Except as modified by this amendment the original tax increment financing plan and development plan shall remain in full force and effect.

(Ord. No. 517, 08-21-89)

Cross reference(s)--Approval and adoption of plan, § 1.287.

1.300. Second amendment to the tax increment financing plan and development plan.

This is the second amendment to the original tax increment financing plan and development plan and their first amendment (hereafter both plans as amended are jointly referred to as the "original plan").

The development plan is hereby clarified to acknowledge carry-over of unspent captured monies from one (1) year to the next. All carry-over shall be incorporated with monies currently being captured and may only be spent consistent with the development plan and all amendments to the plan; provided that such carry-overs have

previously been agreed to by contract with the taxing entities. Except as modified by this amendment, the original plan as amended shall remain in effect. The following are new projects that shall begin as soon as possible. Financing for the new projects shall conform to the original plan as amended. The new projects and their estimated costs added by this amendment are:

- (1) *State street water system improvements.* This project involves making improvements to the water system in the downtown area consistent with the water master plan and included, but is not limited to, a twelve-inch main tapping into ten-inch main in Park Avenue and then running south in State Street to Hurlbut Street and then East in Hurlbut Street to Bridge Street. The project shall also include making such additional improvements as are necessary to increase water pressure in the DDA area. The estimated cost is one hundred seventy-five thousand dollars (\$175,000.00). The financing of this project may also involve reimbursing the First State Bank of Charlevoix and/or the City of Charlevoix for expenditures advanced by these entities to begin implementation of this project.

- (2) *Street lighting.* This project includes the installation of decorative lighting as well as underground conduits and other appurtenances in Bridge Street and Michigan Avenue between Dixon Avenue and Hurlbut Street and also in east and west street and alleys between Round Lake and mid-block between Bridge and State Streets as originally proposed in Item 1(A) in Exhibit "I" to the first amendment to the original plan. The estimated cost is one hundred fifty thousand dollars (\$150,000.00).

(Ord. No. 585, 11-11-91)

1.301. Third amendment to the tax increment finance and development plan.

This document constitutes the third amendment to the tax increment financing and development plan (the original tax increment financing plan and the development plan and all amendments will collectively be called the plan). The original plan as amended remains in effect except as specifically amended or supplemented by this document.

Recently, the authority has crystallized plans for further improvements to the downtown district. Accordingly, it is appropriate to amend the plan at this time to describe the proposed improvements as well as how the authority will pay for such projects.

The projects being added to the plan are described in Exhibit 1, set out herein below. The authority will pay for these projects on a cash basis without bonding. Exhibit 1 is a list of potential projects. The Charlevoix Downtown Development Authority (DDA) will decide when, and if, each project will be implemented. No persons will be displaced because of these projects.

Since all projects will be financed on a cash basis without bonding, no additional impact is anticipated on other taxing jurisdictions within the downtown district.

In addition to the projects listed in Exhibit 1, the duration of the plan is amended to continue through December 31, 2013. Accordingly, Section V of the original plan which stated that the plan would last until 2002 will no longer be operative.

(Ord. No. 612, 02-28-94)

EXHIBIT 1

PROJECT LIST FOR THIRD AMENDMENT TO DDA TAX INCREMENT FINANCE AND DEVELOPMENT PLAN

1. *Descriptive Name--Bridge Park--Property Acquisition from MDOT to allow implementation of Bridge Park Plan.*

Location--Immediately east of Bridge Street and immediately south of the current access drive to the Beaver Island Boat Company. The parcels are more specifically described as Liber 118, pages 460, 463, 520 and 546.

Description of project--Acquisition of parcel with Liber #118, page 546 from the Michigan Department of Transportation to allow for the construction of a lift station/restroom building and offices for the Beaver Island Boat Company. Also possible acquisition of parcels described in Liber 118, pages 460, 463 and 520, as required from MDOT to implement the Bridge Park plan. Final design may include some portion of a lift station on these parcel and/or may require the construction of underground storage for the Coast Guard.

Description of stages--There is only one stage of the project anticipated and that would be the purchase of the property as required. A second stage may be required should the Coast Guard requirements not be

known until completion of the first stage. The acquisition is anticipated to be taken place before July 1, 1995.

Description of parts of the development that are to be left as open space and the use contemplated for the space--A majority of the parcels are contemplated to be used as open space with park use being contemplated on the westerly portions of properties and walkways and parking lot being planned for the easterly portions of the property. A lift station/restroom/Beaver Island Boat Company office is contemplated under a portion of the planned park area, but the building will be depressed and park will be reconstructed on top of the structures.

Project financing--It is anticipated that the acquisitions will be funded through tax increment financing on a cash basis.

Project Cost Estimate--Estimated cost of acquisition is \$250,000.

2. Descriptive Name--Purchase and Development of MDOT Property Immediate North of the Pine River Building.

Location--Fifteen (15) feet of property measured in a north-south direction immediately north of Pine River Building. The Pine River Building is more specifically described as tax # 242-007.

Description of the Project--The project proposes to acquire the fifteen (15) feet of the MDOT property immediately north of the Pine River Building and to construct a handicapped accessible walkway and other park amenities to complement the area parks and to ensure that the property is left as park/open space.

Description of Stages--The first stage of the project would be to acquire the property. It is anticipated that this stage would take place by July 1, 1995. The second stage of the project would be to construct a walkway and other park amenities. The second stage is anticipated to be completed by July 1, 1997.

Description of parts of the development that are to be left as open space and the use contemplated for the space--It is anticipated that all of the property currently in open space will remain so. It is planned that the property would involve handicapped sidewalk construction and other open space plantings, etc.

Project Financing--It is anticipated that the project would be financed through tax increment financing.

Project Cost Estimate--Acquisition of property--estimated twenty-five thousand dollars (\$25,000.00).
Development of property estimate twenty-five thousand dollars (\$25,000.00).

3. *Descriptive Name--Water Main Construction in Antrim, Mason and Clinton streets between Bridge and State streets.*

Description of Project--Water main installation in Antrim, Mason and Clinton streets between Bridge Street and State Street.

Description of Stages--It is anticipated that the construction will take place under one construction contract. It is anticipated that the project will [be] completed by December 1, 1996.

Description of parts of the development that are to be left as open space and the use contemplated for the space--N/A--This is underground construction.

Project Financing--It is anticipated that the project will be paid for with tax increment financing on a cash basis and possibly supplemented by City General Fund revenues.

Project Cost Estimate--Twenty-five thousand dollars (\$25,000.00).

4. *Descriptive Name--Coast Guard Storage Area*

Location--Under the bank in the park area known as Bridge Park.

Description of Project--The project is planned to accommodate the needs of the Coast Guard for what storage area they need up to a maximum of three thousand one hundred (3,100) square feet in their operations of a Coast Guard vessel in downtown Charlevoix.

Description of Stages--It is anticipated that the project will be completed in one stage by December 1, 1996.

Description of parts of the development that are to be left as open space and the use contemplated for the space--It is anticipated that the area above the storage area will remain as park area, therefore all of the area in the project will remain as open space.

Project Financing--It is anticipated that the project will be financed with tax increment financing on a cash basis.

Project Cost Estimate--Fifty thousand dollars (\$50,000.00).

5. *Descriptive Name--Street Light Acquisition and Installation.*

Location--The acquisition and installation of street lights in State Street between Park Avenue and Antrim Street and in Antrim, Mason, Clinton and Park Avenue between Bridge Street and State Street.

Description of Project--The project includes the purchase and installation of the street lights including required footings, conduit for the street lights, as well as future sound system and electrical outlets and the conduit and wiring for same.

Description of Stages--It is determined that the installation and the reconstructed streets would be completed by December 1, 1996.

Project Financing--It is anticipated that the project will be financed with tax increment financing on a cash basis.

Project Cost Estimate--Seventy-five thousand dollars (\$75,000.00).

1.302. **Fourth Amendment to the Development and Tax Increment Financing Plan.**

(Ord. No. 700, 03-14-05)

The Fourth Amendment to the Development and Tax Increment Financing Plan is approved, as described below, and Section 1.302 is added to Title I, Chapter 7 of the City Code which shall be entitled "Fourth Amendment to the Development and Tax Increment Financing Plan" and shall read as provided in Exhibit 1 to this ordinance. This approval is intended to allow for the planning for all of those projects described in Exhibit 1. Since all proposed projects would take place on land owned by the City or land over which the City has jurisdiction, no project shall proceed beyond the planning stage without specific approval by the City Council.

1.303. **Amendment to the Duration of the Development and Tax Increment Financing Plan.**

The Development and Tax Increment Financing Plan, as amended, shall continue through and including December 31, 2026, except as extended by a subsequent amendment to or modification of the plan by appropriate ordinance and Section 1.287 is superceded to the extent that the duration of the Development and Tax Increment Financing Plan is being extended through December 31, 2026.

Exhibit 1

Project List for the Fourth Amendment to the DDA Tax Increment Financing and Development Plan

1. Descriptive Name—Marina Construction

Location—The Marina extends from Antrim Street to a point approximately 200 feet north of the Clinton Street right-of-way along the shores of Round Lake and extends into Round Lake.

Description of Project—The project includes obstructions and removals along the bulkhead, shore sheeting the bulkhead, four floating pier systems extending into Round Lake, miscellaneous shopper docks construction on the north and south end of the project, construction of electric, water and sanitary sewer lines to service the docks, and supporting tie backs for shore sheeting.

Description of Stages—There is only one stage of the project anticipated. Construction is planned to start in the Fall of 2005 and be completed in the Spring/Summer of 2006.

Description of Parts of the Development That Are to Be Left as Open Space and the Use Contemplated and Use Contemplated for the Space—The water surface not taken up by the dock system will be open space, except when used by vessels for moorage.

Project Financing—It is anticipated that the project will be financed in part by a grant from the Michigan DNR Waterways Commission. See section 7 regarding financing for the remainder of the project.

Project Cost Estimate—The estimated cost of the marina is \$4,829,500.

2. Descriptive Name—East Park Construction

Location—Between Antrim Street, Clinton Street, Bridge Street and Round Lake in downtown Charlevoix.

Description of Project—The project includes numerous removals in the site area, including a section of the street end to relocate the street, reconstruction of the street area with storm systems, curb and gutter and bituminous paving, numerous walkways with concrete pavement, special pavement and brick pavement, construction of a fish pond, site railings, irrigation system, numerous park amenities, such as benches, trash receptacles, etc, site lighting and all other elements normally included in a park system of this type. The submarine memorial will not be permanently relocated without prior approval from Council.

Description of Stages—It is anticipated that the project will be completed in either one or two stages. Stage one to begin in the Fall of 2005 with completion in the Spring of 2006. Stage two to begin in the Fall of 2006 and completed in the Spring/Summer of 2007.

Description of Parts of the Development That Are to Be Left as Open Space and the Use Contemplated for the Space—The entire area, except for the construction of a Marina Building described below, a fish pond, existing band shell and rest room structure will be open space with grass and paved walkway areas.

Project Financing—It is anticipated that the project will be financed in part by a grant from the Michigan DNR Waterways Commission. See section 7 regarding financing for the remainder of the project

Project Cost Estimate—The cost estimate for the project is estimated at \$2,610,597.

3. **Descriptive Name—Harbormaster Building**

Location—The Harbormaster building will be placed at the foot of Clinton Street between the street ending and Round Lake.

Description of Project—The Harbormaster building will include facilities to house the Marina staff, amenities for the boaters, public restrooms, and a deck on top of the building for public viewing.

Description of Stages—There is only one stage of the project anticipated. Construction is planned to start in the Fall of 2005 and be completed in the Spring/Summer of 2006.

Description of Parts of the Development That Are to Be Left as Open Space and the Use Contemplated—The top of the building, the pedestrian overlook, will be left as open space.

Project Financing—It is anticipated that the project will be financed in part by a grant from the Michigan DNR Waterways Commission. See section 7 regarding financing for the remainder of the project

Project Cost Estimate—\$1,473,869.

4. Descriptive Name—Storm Sewer Construction

Location—In Mason Street from Round Lake to the west side of Bridge Street and in Clinton Street from the Round Lake to approximately one-half way to Bridge Street.

Description of Project—The project includes 48 - 60" diameter pipe in Mason Street and a 24" diameter pipe in Clinton Street, along with associated manholes etc. and pollution control devices.

Description of Stages—There is only one stage of the project anticipated. Construction is planned to start in the Fall of 2005 and be completed in the Spring/Summer of 2006.

Description of Parts of the Development That Are to Be Left as Open Space and the Use Contemplated and Use Contemplated for the Space—Not applicable.

Project Financing—See section 7 regarding financing for the remainder of this project.

Project Cost Estimate—The estimated cost is \$316,344.

5. Descriptive Name—Off-Site Parking

Location—The southeast corner of the old Middle School site on Mason Street.

Description of Project—The parking lot is proposed with curb and gutter construction, bituminous surface along with appropriate drainage systems and landscaped islands.

Description of Stages—It is anticipated that the parking lot will be constructed during phase one, which has a planned construction start of Fall 2005, with a completion date of Spring/Summer 2006.

Description of Parts of the Development That Are to Be Left as Open Space and the Use

Contemplated—The only open space contemplated in the parking lot are green grassed islands and a parameter of grass around the parking lot.

Project Financing—It is anticipated that the project will be financed in part by a grant from the Michigan DNR Waterways Commission. See section 7 regarding financing for the remainder of the project

Project Cost Estimate— \$165,600

6. Descriptive Name—Personnel

The Downtown Development Authority (DDA) may hire personnel to promote the retail, economic and business advantages of the downtown area and to perform such other services as are authorized by Act 197 of 1975, as amended (the Act), or as may be specified by the DDA.

7. Financing of Projects and Personnel

Personnel that may be hired by the DDA will be paid out of the general revenue of the DDA which comes from Acaptured millage≡ and millage that is specifically assessed for the DDA. The other projects that are described in this amendment will be financed, in whole or in part, by the issuance of bonds as authorized by law. Installment contracts, as authorized by Act 99 of 1933, may also be used. As noted earlier, some projects may be funded in part by state grants as well.

Regarding bonding, the DDA=s financial consultant and bond counsel will recommend the type of bonds to be issued and terms of such bonds. The preliminary estimate of bonding potential is \$6.4 million. Until firm project cost estimates can be obtained, it should be assumed that the total amount of bonds to be issued will be the maximum amount that is authorized by law. It is anticipated that bonds will be issued in 2005. The DDA has successfully issued bonds for past projects. Based on information obtained from the financial consultant regarding the likely Alife≡ of the bonds, it is recommended that the Development and Tax Increment Financing Plan be extended through December 31, 2026.

8. Descriptive Name—Removal of Existing Band Shell, Fish Pond and Restroom Building; construction of a new pavilion/performance building, with amphitheater seating.

This project is specifically excluded from this Fourth Amendment to the Plan. Thus, the DDA shall not undertake this project unless authorized by a later amendment to the Plan.

1.304. Fifth Amendment to the Development and Tax Increment Financing Plan.

(Ord. No. 708, 11-08-05)

The Fifth Amendment to the Development and Tax Increment Financing Plan is approved and is attached as Exhibit 1. Section 1.304 is added to Title I, Chapter 7 of the City Code and shall read as provided in Exhibit 1. This approval is intended to allow for the planning for all of the project described in Exhibit 1. Since the proposed project would take place on land owned by the City, the project shall not proceed beyond the planning stage without specific approval by the City Council.

Exhibit 1

**Project List for the Fifth Amendment to the
DDA Tax Increment Financing and Development Plan**

- 1. Descriptive Name – Removal of Existing Band Shell, Fish Pond and Restroom Building; construction of a new pavilion/performance building, with amphitheater seating.**

Location—The existing band shell, Fish Pond and Restroom Building to be demolished is located on Round Lake, just north of the Mason Street right-of-way. The proposed pavilion/performance building, with amphitheater seating. The proposed location is immediately north of the Antrim Street right-of-way between Bridge Street and Round Lake.

Description of Project—The project includes the removal of the current band shell, fish pond and restroom facility. The construction of a new pavilion/performance building, including public restrooms, amphitheater seating for the pavilion.

Description of Stages— It is anticipated that the demolition and construction would take place in the second phase of the construction period beginning in the Fall of 2006 and be completed in the Spring/Summer of 2007.

Description of Parts of the Development That Are to Be Left as Open Space and the Use Contemplated—The location where the existing band shell, fish pond and restroom facility is removed will be open space.

Project Financing—This project will be financed by the general revenue of the DDA which comes from “captured millage” and millage that is specifically assessed for the DDA, by the use of installment contracts, as authorized by Act 99 of 1933, by bonding or a combination of this methods.

If bonding will be used, the DDA’s financial consultant and bond counsel will recommend the type of bonds to be issued and terms of such bonds. The amount of bonds which might be issued cannot be determined until firm project cost estimates are obtained. It is anticipated that bonds would be issued in 2005 or 2006. The DDA has successfully issued bonds for past projects.

Project Cost Estimate – \$ 1,490,642

1.305. Sixth Amendment to the Development and Tax Increment Financing Plan.

Exhibit 1
Project List for the Sixth Amendment to the
DDA Tax Increment Financing and Development Plan

1. **Descriptive Name – Interactive Water Feature**

Location – The Interactive Water Feature will be located in the Harbormaster Plaza near the Trout Stream in Charlevoix’s East Park.

Description of Project – Jets of water will leap out of the plaza and disappear back into the plaza surface. Children of all ages will be able to splash and play in the fountains while the less adventurous can view the water display from the roof gardens of the Harbormaster Building, the Trout Stream path and the Harbormaster Plaza. The Fountain will be an attraction to a wide range of audiences and located at the north end of the park. The fountain will not interfere with performances taking place at the Pavilion.

Description of Stages – There is only one stage of the project anticipated. Construction is planned to start in the Fall/Winter of 2007 and be completed in the Spring/Summer of 2008.

Description of Parts of the Development That Are to Be Left as Open Space and the Use Contemplated and Use Contemplated for the Space – The project consists of an interactive water feature. The water feature will be at ground level and will not affect the park’s open space.

Project Financing – It is anticipated that the project will be financed in part by tax increment financing and the Marina Fund.

Project Cost Estimate – The estimated cost of the Interactive Water Feature is not to exceed \$380,000, of which \$280,000 will come from the Marina and DDA Funds, and at least 25% of the final cost to come from private donations or grants.

ARTICLE V: PLANNING COMMISSION

(Ord. 751, 07/18/11)

1.400 Creation.

There shall be a City of Charlevoix Planning Commission pursuant to Act 33 of the Michigan Public Acts 2008, as amended, being the Michigan Planning Enabling Act (MCL 125.3801 et seq.), hereinafter referred to as the Planning Commission with the powers and duties as therein set forth and as hereinafter provided. This article shall be officially known and described as the "City of Charlevoix Planning Commission Ordinance."

1.401 Membership.

1. The Planning Commission shall consist of nine members appointed by the Mayor and subject to approval by a majority vote of the City Council. To be qualified to be a member and remain a member of the commission, the following qualifications must be met:
 - (a) Shall be a qualified elector of the City of Charlevoix, as defined in Section 1.407.
 - (b) Shall attend training for commission members, pursuant to Section 1.402 after an individual's first appointment and before reappointment;
 - (c) Shall meet the conditions provided for each individual member in subsections 2, 3, and 4.
2. Members shall be appointed for three-year terms. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that the terms of one-third of all commission members continue to expire each year. A member shall hold office until his or her successor is appointed.
3. The membership shall be representative of the important segments of the community, such as the economic, governmental, educational, and social development of the City of Charlevoix, in accordance with the major interests as they exist in the city, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, commerce, healthcare, building trades, hospitality, retail, finance, insurance, real estate, cultural, historic, and recreational resources.
4. The membership shall also be representative of the entire geography of the City of Charlevoix to the extent practicable.
5. The City shall fill any vacancy in the membership of the commission for the unexpired terms in the same manner as the initial appointment.

6. The transition from the previous City of Charlevoix Planning Commission and the commission established in this article shall be gradual and shall take place over the next three years. The City shall continue to make annual appointments, appointing approximately one-third of the membership of the commission as specified in this article, so that three years from the effective date of this article the membership, membership representation, and number of members have completed the transition to fully comply with this article. All other aspects of this article shall have immediate effect.

1.402 Training.

Appointed members of the Planning Commission shall attend educational programs designed for training members of Michigan planning commissions if the adopted City of Charlevoix budget for that fiscal year includes funds to pay for tuition, registration, and travel expenses for the training. Nothing in this paragraph shall prevent a member who has not had training from finishing his or her term of office unless the member resigns or is removed by action of the City Council. The member shall be ineligible for reappointment at the conclusion of the term of office if they did not attend training. The Planning Commission shall include in its bylaws what training programs qualify to meet this requirement.

1.403 Removal from office.

The City Council may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest as required by Section 1.404(4) shall constitute malfeasance in office.

1.404 Meetings

1. The Planning Commission shall hold not less than four regular meetings each year, and by resolution shall determine the time and place of meetings. Unless the bylaws provide otherwise, a special meeting of the commission may be called by the chairperson or by two other members, upon written request to the secretary. Unless the bylaws provide otherwise, the secretary shall send written notice of a special meeting to commission members not less than 48 hours before the meeting.
2. The business that the Planning Commission may perform shall be conducted at a public meeting of the commission held in compliance with the Open Meetings Act, Act 267 of the Michigan Public Acts of 1976 (MCL 15.261 to 15.275). Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by that act.
3. A writing prepared, owned, used, in the possession of, or retained by the Planning Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Act 442 of the Michigan Public Acts of 1976 (MCL 15.231 to 15.246).
4. Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the Planning Commission.

1.405 Powers and Duties

1. Master Plan.
 - (a) The Planning Commission shall make and approve a Master Plan as a guide for development within its planning jurisdiction. The planning jurisdiction includes areas within the city and may also include any areas outside of the city that, in the judgment of the commission, are related to planning for the city.
 - (b) In preparation of the Master Plan, the Planning Commission shall do all of the following, as applicable:

- i. Make careful and comprehensive surveys and studies of present conditions and future growth within the planning jurisdiction with due regard to its relation to neighboring jurisdictions.
 - ii. Consult with representatives of adjacent local units of government in respect to their planning so that conflicts in master plans and zoning may be avoided.
 - iii. Cooperate with all departments of the state and federal governments and other public agencies concerned with programs for economic, social, and physical development within the planning jurisdiction and seek the maximum coordination of the local unit of government's programs with these agencies.
 - (c) The Master Plan shall address land use and infrastructure issues. The plan shall include maps, plats, charts, and show the commission recommendations for the physical development of the city. The Master Plan shall also include information pertinent to the future development of the planning jurisdiction as detailed in Act 33 of the Michigan Public Acts of 2008. (MCL 125.3833 (2)).
 - (d) Preparation and adoption of and amendments to the Master Plan shall follow the procedures established in Act 33 of the Michigan Public Acts of 2008 (MCL 125.3839-125.3845).
2. Records.
 - (a) The Planning Commission shall adopt bylaws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings and determinations.
 - (b) The Planning Commission shall make an annual report to City Council concerning its operations and the status of planning activities, including recommendations regarding actions by the City Council related to planning and development.
3. Capital improvements program.

Upon adoption of the Master Plan, the Planning Commission shall annually prepare a capital improvements program (CIP) of public structures and improvements, with the assistance of staff. The CIP shall show those public structures and improvements, in the general order of their priority for the ensuing six-year period, based upon the requirements of the local unit of government for all types of public structures and improvements.
4. Review of plats.

Upon adoption of the Master Plan, the Planning Commission shall review and make recommendations on plats, after publishing and holding a public hearing.

1.406 Approval, ratification, and reconfirmation.

All official actions taken by the City of Charlevoix Planning Commission preceding the commission created by this article are hereby approved, ratified and reconfirmed. Any project, review, or process taking place at the effective date of this article shall continue with the commission created by this article, subject to the requirements of this article, and shall be deemed a continuation of any previous City of Charlevoix Planning Commission. This article shall be in full force and effect from and after its adoption and publication.

1.407 Definitions.

For purposes of this article, the following words shall have the following meanings respectively ascribed to them, except where the content clearly indicates a different meaning:

1. *Qualified elector*, as used in this article, intending to be consistent with Section 10 of the Michigan Election Law, being MCLA 168.10, means a United States citizen who has been a resident of the State of Michigan for six months, the City of Charlevoix for 30 days and is 18 years or older.

2. *Residence*, as used in this article, intending to be consistent with Section 11 of the Michigan Election Law, being MCLA 168.11, means that place at which a person habitually sleeps, keeps his or her personal effects and has a regular place of lodging. If a person has more than one residence, or if a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. This section shall not be construed to affect existing judicial interpretation of the term residence.
 - (a) An elector shall not be deemed to have gained or lost a residence by reason of being employed in the service of the United States or of this state, while engaged in the navigation of the waters of this state or of the United States or of the high seas, while a student at an institution of learning, while kept at any state facility or hospital at public expense, or while confined in a jail or prison. Honorably discharged members of the armed forces of the United States or of this state and who reside in the veterans' facility established by this state may acquire a residence where the facility is located. The residence of a person who is a patient receiving treatment at a hospital or other facility pursuant to Act No. 258 of the Public Acts of 1974, as amended, being Sections 330.1001 to 330.2106 of the Michigan Compiled Laws, is the village, city, or township where the person resided immediately before admission to the hospital or other facility.
 - (b) A member of the armed forces of the United States shall not be deemed a resident of this state in consequence of being stationed in a military or naval place within the state.

1.500 ARTICLE VI. HISTORIC DISTRICT COMMISSION AND HISTORIC DISTRICT GOVERNING ORDINANCE (Ord. 706, 10/17/05; Ord. 751, 07/18/11)

1.501 Section 1. SHORT TITLE

This Ordinance shall be known as the "Historic District Governing Ordinance of the City of Charlevoix".

1.502 Section 2. STATEMENT OF PURPOSE

Historic preservation is hereby declared to be a public purpose and the City Council of the City of Charlevoix may hereby regulate the construction, addition, alteration, repair, moving, excavation, and demolition of resources in historic districts within the City limits. The purpose of this Ordinance is to:

- (1) Safeguard the heritage of the City of Charlevoix by preserving districts which reflect elements of its history, architecture, archaeology, engineering, or culture.
- (2) Stabilize and improve property values in each district and surrounding areas.
- (3) Foster civic beauty.
- (4) Strengthen the local economy.
- (5) Promote the use of historic districts for the education, pleasure, and welfare of the citizens of the City of Charlevoix and of the State of Michigan.

The City of Charlevoix may by Ordinance establish one or more historic districts. The historic district(s) shall be administered by the Historic District Commission and pursuant to this Ordinance.

1.503 Section 3. DEFINITIONS

- (1) "Alteration" means work that changes the detail of a resource but does not change its basic size or shape.
- (2) "Certificate of Appropriateness" means the written approval of a permit application for work that is appropriate and does not adversely affect a resource.

- (3) "Commission" means the Historic District Commission of the City of Charlevoix.
- (4) "Demolition" means the razing or destruction, whether entirely or in part, of a resource and includes, but is not limited to, demolition by neglect.
- (5) "Demolition by Neglect" means neglect in maintaining, repairing, or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.
- (6) "Denial" means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.
- (7) "Historic District" means an area, or group of areas, not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.
- (8) "Historic Preservation" means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archaeology, engineering, or culture.
- (9) "Historic Resource" means a publicly or privately owned building, structure, site, object, feature or open space that is significant in the history, architecture, archaeology, engineering, or culture of the City of Charlevoix, State of Michigan, or the United States.
- (10) "Notice to Proceed" means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under Section 399.205(6) of Public Act 169 of 1970, as amended.
- (11) "Open Space" means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or buffer between other resources.
- (12) "Ordinary Maintenance" means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the

elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for the purposes of this Ordinance.

(13) "Proposed Historic District" means an area, or group of areas not necessarily having contiguous boundaries, that has delineated boundaries and that is under review by a committee or a standing committee for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.

(14) "Repair" means to restore a decayed or damaged resource to good or sound condition by any process. A repair that changes the external appearance of a resource constitutes work for the purposes of this Ordinance.

(15) "Resource" means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within a historic district.

(16) "Work" means construction, addition, alteration, repair, moving, excavation, or demolition.

1.504 Section 4. HISTORIC DISTRICT STUDY COMMITTEE AND THE STUDY COMMITTEE REPORT

Before establishing a historic district(s), the City Council shall appoint a Historic District Study Committee. A majority of the persons appointed to the Study Committee shall have a clearly demonstrated interest in or knowledge of historic preservation. If a Historic District Study Committee has already been created prior to the enactment of this ordinance, then that committee shall be deemed to be in compliance with this ordinance. The Study Committee shall contain representation of at least one member appointed from one or more duly organized local historic preservation organizations. The Study Committee shall do all of the following:

(1) Conduct a photographic inventory of resources within each proposed historic district following procedures established by the State Historic Preservation Office of the Michigan Historical Center.

(2) Conduct basic research of each proposed historic district and historic resources located within that district.

(3) Determine the total number of historic and non-historic resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the Committee shall be guided by the selection criteria for evaluation issued by the United

States Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR part 60, and criteria established or approved by the State Historic Preservation Office of the Michigan Historical Center.

(4) Prepare a preliminary Historic District Study Committee report that addresses at a minimum all of the following:

- (A) The charge of the Committee.
- (B) The composition of Committee membership.
- (C) The historic district(s) studied.
- (D) The boundaries of each proposed historic district in writing and on maps.
- (E) The history of each proposed historic district.
- (F) The significance of each district as a whole, as well as a sufficient number of its individual resources to fully represent the variety of resources found within the district, relative to the evaluation criteria.
- (G) Transmit copies of the preliminary report for review and recommendations to the local planning body, the State Historic Preservation Office of the Michigan Historical Center, the Michigan Historical Commission, and the State Historic Preservation Review Board.
- (H) Make copies of the preliminary report available to the public pursuant to Section 399.203 (4) of Public Act 169 of 1970, as amended.

(5) Not less than sixty (60) calendar days after the transmittal of the preliminary report, the Historic District Study Committee shall hold a public hearing in compliance with Public Act 267 of 1976, as amended. Public notice of the time, date and place of the hearing shall be given in the manner required by Public Act 267. Written notice shall be mailed by first class mail not less than fourteen (14) calendar days prior to the hearing to the owners of properties within the proposed historic district, as listed on the most current tax rolls. The report shall be made available to the public in compliance with Public Act 442 of 1976, as amended.

(6) After the date of the public hearing, the Committee and the City Council have not more than one year, unless otherwise authorized by the City Council, to take the following actions:

- (A) The Committee shall prepare and submit a final report with its recommendations and the recommendations, if any, of the local planning body to the City Council as to the establishment

of a Historic District(s). If the recommendation is to establish a Historic District(s), the final report shall include a draft of the proposed ordinance(s).

(B) After receiving a final report that recommends the establishment of a Historic District(s), the City Council, at its discretion, may introduce and pass or reject an ordinance(s). If the City Council passes an ordinance(s) establishing one or more Historic Districts, the City shall file a copy of the ordinance(s), including a legal description of the property or properties located within the Historic District(s) with the Register of Deeds.

(7) A writing prepared, owned, used, in the possession of, or retained by a committee in the performance of an official function of the Historic District Commission should be made available to the public in compliance with Public Act 442 of 1976, as amended.

1.505 Section 5. ESTABLISHING, MODIFYING, OR ELIMINATING HISTORIC DISTRICTS

(1) The City Council may at any time establish by ordinance additional historic districts, including proposed districts previously considered and rejected, may modify boundaries of an existing historic district, or may eliminate an existing historic district. Before establishing, modifying, or eliminating a historic district, a historic district study committee appointed by the City Council shall follow the procedures as stated in Section 399.203 (1-3) of Public Act 169 of 1970, as amended. To conduct these activities, the City Council may retain the initial committee, establish a standing committee, or establish a committee to consider only specific proposed districts and then be dissolved. The committee shall consider any previously written committee reports pertinent to the proposed action.

(2) In considering elimination of a historic district, a committee shall follow the procedures set forth in Section 399.203 (1-3) of Public Act 169 of 1970, as amended for the issuance of a preliminary report, holding a public hearing, and issuing a final report but with the intent of showing one or more of the following:

(A) The historic district has lost those physical characteristics that enabled the establishment of the district.

(B) The historic district was not significant in the way previously defined.

(C) The historic district was established pursuant to defective procedures.

1.506 Section 6. THE HISTORIC DISTRICT COMMISSION

The City Council may establish by ordinance a commission to be called a Historic District Commission. The Commission may be established at any time, but not later than the time the first historic district is established. Each member of the Commission shall reside within the city limits. The Commission shall consist of seven (7) members. Members shall be appointed by the City Council. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. Members shall be appointed for a term of three (3) years, except the initial appointments of three (3) members for a term of two (2) years and two (2) members for a term of one year. Subsequent appointments shall be for three-year terms. Members shall be eligible for reappointment. In the event of a vacancy on the Commission, interim appointments shall be made by the City Council within sixty (60) calendar days to complete the unexpired term of such position. Two (2) members shall be appointed from a list submitted by duly organized local historic preservation organizations. If such a person is available for appointment, one member shall be an architect who has two years of architectural experience or who is duly registered in the State of Michigan.

The City Council may prescribe powers and duties of the Commission, in addition to those prescribed in this Ordinance, that foster historic preservation activities, projects, and programs in the local unit.

1.507 Section 7. HISTORIC DISTRICT COMMISSION MEETINGS, RECORDKEEPING & RULES OF PROCEDURE

- (1) The Historic District Commission shall meet at least quarterly or more frequently at the call of the Commission.
- (2) The business that the Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, as amended. Public notice of the date, time, and place of the meeting shall be given in the manner required by Public Act 267. A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the Commission.
- (3) The Commission shall keep a record of its resolutions, proceedings and actions. A writing prepared, owned, used, in the possession of, or retained by the Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information, Public Act 442 of 1976, as amended.

- (4) The commission shall adopt its own rules of procedure and shall adopt design review standards and guidelines to carry out its duties under this act.

1.508 Section 8. DELEGATION OF MINOR CLASSES OF WORK

The commission may delegate the issuance of Certificates of Appropriateness for specified minor classes of work to its staff, or to another delegated authority. The Commission shall provide to its delegated authority specific written standards for issuing Certificates of Appropriateness under this subsection. The Commission shall review the Certificates of Appropriateness issued by the delegate on at least a quarterly basis to determine whether or not the delegated responsibilities should be continued.

1.509 Section 9. ORDINARY MAINTENANCE

Nothing in this Ordinance shall be construed to prevent ordinary maintenance or repair of a resource within a historic district or to prevent work on any resource under a permit issued by the inspector of buildings or other duly delegated authority before the Ordinance was enacted.

1.510 Section 10. REVIEW BY THE COMMISSION

The Commission shall review and act upon only exterior features of a resource and shall not review and act upon interior arrangements unless specifically authorized to do so by the City Council or unless interior work will cause visible change to the exterior of the resource. The Commission shall not disapprove an application due to considerations not prescribed in subsection 399.205 (3) of Public Act 169 of 1970, as amended.

1.511 Section 11. DESIGN REVIEW STANDARDS AND GUIDELINES

- (1) In reviewing plans, the Commission shall follow the U.S. Secretary of Interior's *Standards for Rehabilitation* and guidelines for rehabilitating historic buildings as set forth in 36 C.F.R. part 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the Commission may be followed if they are equivalent in guidance to the Secretary of Interior's *Standards* and *guidelines* and are established or approved by the State Historic Preservation Office of the Michigan Historical Center.
- (2) In reviewing plans, the Commission shall also consider all of the following:

- (A) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.
- (B) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.
- (C) The general compatibility of the design, arrangement, texture, and materials proposed to be used.
- (D) Other factors, such as aesthetic value, that the commission finds relevant.

1.512 Section 12. PERMIT APPLICATIONS

- (1) A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a historic district. The person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do that work shall file an application for a permit with the inspector of buildings. Upon receipt of a complete application, the inspector of buildings shall immediately refer the application, along with all required supporting materials that make the application complete to the commission. A permit shall not be issued and proposed work shall not proceed until the Commission has acted on the application by issuing a Certificate of Appropriateness or a Notice to Proceed as prescribed in this Ordinance.
- (2) The Commission shall file Certificates of Appropriateness, Notices to Proceed, and Denials of applications for permits with the inspector of buildings. A permit shall not be issued until the Commission has acted as prescribed by this Ordinance.
- (3) If an application is for work that will adversely affect the exterior of a resource the Commission considers valuable to the City of Charlevoix, the state of Michigan, or the nation, and the Commission determines that the alteration or loss of that resource will adversely affect the public purpose of the city, state, or nation, the Commission shall attempt to establish with the owner of the resource an economically feasible plan for the preservation of the resource.
- (4) The failure of the Commission to act on an application within sixty (60) calendar days after the date a complete application is filed with the Commission, unless an extension is agreed upon in writing by the applicant and the Commission, shall be considered to constitute approval.
- (5) The Commission may charge a reasonable fee to process a permit application.

1.513 Section 13. DENIALS

If a permit application is denied, the decision shall be binding on the inspector or other authority. A Denial shall be accompanied by a written explanation by the Commission of the reasons for denial and, if appropriate, a notice that an application may be re-submitted for Commission review when the suggested changes have been made. The Denial shall also include the notification of the applicant's right to appeal to the State Historic Preservation Review Board and to the circuit court.

1.514 Section 14. NOTICE TO PROCEED

Work within a historic district shall be permitted through the issuance of a Notice to Proceed by the Commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the Commission to be necessary to substantially improve or correct any of the following conditions:

- (1) The resource constitutes a hazard to the safety of the public or to the structure's occupants.
- (2) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.
- (3) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.
- (4) Retaining the resource is not in the interest of the majority of the community.

1.515 Section 15. APPEAL OF A COMMISSION DECISION

- (1) An applicant aggrieved by a decision of the Commission concerning a permit application may file an appeal with the State Historic Preservation Review Board. The appeal shall be filed within sixty (60) calendar days after the decision is furnished to the applicant. The appellant may submit all or part of the appellant's evidence and arguments in written form. The State Historic Preservation Review Board shall consider an appeal at its first regularly scheduled meeting after receiving the appeal. A

permit applicant aggrieved by the decision of the State Historic Preservation Review Board may appeal the decision to the circuit court having jurisdiction over the historic district commission whose decision was appealed to the State Historic Preservation Review Board.

- (2) Any citizen or duly organized historic preservation organization in the City of Charlevoix, as well as resource property owners, jointly or severally aggrieved by a decision of the historic district commission may appeal the decision to the circuit court, except that a permit applicant aggrieved by a decision rendered under this Ordinance may not appeal to the court without first exhausting the right to appeal to the State Historic Preservation Review Board.

1.516 Section 16. WORK WITHOUT A PERMIT

When work has been done upon a resource without a permit, and the Commission finds that the work does not qualify for a Certificate of Appropriateness, the Commission may require an owner to restore the resource to the condition that the resource was in before the inappropriate work or to modify the work so that it qualifies for a Certificate of Appropriateness. If the owner does not comply with the restoration or modification requirement within a reasonable time, the Commission may seek an order from the circuit court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a Certificate of Appropriateness. If the owner does not comply or cannot comply with the order of the court, the Commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a Certificate of Appropriateness in accordance with the court's order. The costs of the work done shall be charged to the owner, and may be levied by the City of Charlevoix as a special assessment against the property. When acting pursuant to an order of the circuit court, the Commission or its agents may enter a property for purposes of this section.

1.517 Section 17. DEMOLITION BY NEGLIGENCE

Upon a finding by the Commission that a historic resource within a historic district or a proposed historic district subject to its review and approval is threatened with Demolition by Neglect, the Commission may do either of the following:

- (1) Require the owner of the resource to repair all conditions contributing to demolition by neglect.
- (2) If the owner does not make repairs within a reasonable time, the Commission or its agents may enter the property and make such repairs as necessary to prevent Demolition by Neglect. The costs

of the work shall be charged to the owner, and may be levied by the City of Charlevoix as a special assessment against the property. The Commission or its agents may enter the property for purposes of this section upon obtaining an order from the circuit court.

1.518 Section 18. REVIEW OF WORK IN PROPOSED DISTRICTS

Upon receipt of substantial evidence showing the presence of historic, architectural, archaeological, engineering, or cultural significance of a proposed historic district, the City Council may, at its discretion, adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the Historic District Commission as prescribed in Section 12 of the Ordinance. The Historic District Commission shall review permit applications with the same powers that would apply if the proposed historic district was an established historic district. The review may continue in the proposed historic district for not more than one year, or until such time as the City Council approves or rejects the establishment of the historic district by ordinance, whichever occurs first.

1.519 Section 19. EMERGENCY MORATORIUM

If the City Council determines that pending work will cause irreparable harm to resources located within an established or proposed historic district, the City Council may by resolution declare an emergency moratorium on all such work for a period not to exceed six (6) months. The City Council may extend the emergency moratorium for an additional period not to exceed six (6) months, upon finding that the threat of irreparable harm to resources is still present. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.

1.520 Section 20. PENALTIES FOR VIOLATIONS

- (1) A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act is responsible for a civil violation and may be fined not more than \$5,000.00.
- (2) A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated or demolished.

1.521 Section 21. ACCEPTANCE OF GIFTS OR GRANTS

The City Council may accept state or federal grants for historic preservation purposes; may participate in state and federal programs that benefit historic preservation, and may accept public or private gifts for historic preservation purposes. The City Council may appoint the Historic District Commission to accept and administer grants, gifts, and program responsibilities.

1.522 Section 22. ACQUISITION OF HISTORIC RESOURCES

If all efforts by the Commission to preserve a resource fail, or if it is determined by the City Council that public ownership is most suitable, the City Council, if considered to be the public interest, may acquire the resource using public funds, public or private gifts, grants or proceeds from the issuance of revenue bonds. The acquisition shall be based upon the recommendation of the Commission. The Commission is responsible for maintaining publicly owned resources using its own funds, if not specifically designated for other purposes, or public funds committed for that use by the City Council. Upon recommendation of the Commission, the City may sell resources acquired under this section with protective easements included in the property transfer documents, if appropriate.

1.523. Creation of Historic District Commission

The City Council hereby creates a Historic District Commission.

1.524. Appointments & Membership.

Each member of the Commission shall reside within the City limits. The Commission shall consist of seven (7) members. The Mayor may recommend members, but members shall be appointed by motion of the City Council. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. Members shall be appointed for a term of three (3) years, except the initial appointments of three (3) members for a term of two (2) years and two (2) members for a term of one year. Subsequent appointments shall be for three-year terms. Members shall be eligible for reappointment. In the event of a vacancy on the Commission, interim appointments shall be made by the City Council within sixty (60) calendar days to complete the unexpired term of such position. Two (2) members shall be appointed from a list submitted by duly organized local historic preservation organizations. If such a person is available for appointment, one member shall be an architect who has two years of architectural experience or who is duly registered in the State of Michigan.

1.525 Powers and Duties.

The Commission shall have those powers and duties prescribed in the Ordinance known as the "Historic District Governing Ordinance of the City of Charlevoix," currently being Sections 1.325-1.347 of Chapter 1, Title I of the City Code. The Commission may have such additional powers and duties as the City Council may prescribe by ordinance.

SECTION 4.

Section 1.353 is added to the City Code and shall read as follows:

1.526. Compatibility with the Historic District Governing Ordinance.

This Ordinance is intended to supplement and not conflict with the ordinance known as the "Historic District Governing Ordinance of the City of Charlevoix," being Sections 1.325-1.347 of Chapter 1, Title I of the City Code. .

(Ord. 711, 05/15/06)

ARTICLE VI: HISTORIC DISTRICTS

1.550. Charlevoix Train Depot Historic District

The Charlevoix Train Depot Historic District is hereby established and is bounded and described as follows:

Block and lot number: 307 Chicago Ave., Charlevoix, MI 49720

Dimensions of parcel: Legal Information: 307 CHICAGO AVENUE

93SP 0692 FROM 123-099-15 COMMENCING AT THE NORTHEAST CORNER OF SECTION 23 T37N R8W THENCE ALONG THE EAST LINE OF SAID SODEG40'13" W 2653.39 FEET TO EAST ¼ CORNER OF SECTION THENCE CONTINUING ALONG SAID EAST SECTION LINE S0DEG39'18" W 1506.17 FEET (RECORDED AS 1507.40 FEET) TO CONCRETE MONUMENT RECORDED AS BEING 80 FEET NORTHWESTERLY OF CENTER LINE OF FORMER C&O RAILROAD RIGHT-OF-WAY AS MEASURED PERPENDICULAR THERETO THENCE S32DEG26'44"W (RECORDED AS BEING 32DEG44' DEFLECTED ANGLE TO RETURN FROM SAID SECTION LINE) 678.03 FEET THENCE S57DEG 33'16" EAST 29.77 FEET TO NORTHWESTERLY LINE OF SAID FORMER RAILROAD RIGHT-OF-WAY THENCE ALONG SAID RIGHT-OF-WAY S32DEG26'44" W 356.34 FEET TO IRON STAKE FOR POINT OF BEGINNING THENCE N70DEG47'12"W 48.26 FEET THENCE S33DEG15'32"W 362.44 FEET (RECORDED AS 367.27 FEET MORE OR LESS AND AS 361.90 FEET) TO NORTHERLY LINE OF CHICAGO AVENUE THENCE ALONG NORTHERLY LINE OF CHICAGO AVENUE S71DEG0'08"E (RECORDED AS S70DEG51' E) 53.59 FEET TO IRON STAKE BEING 50 FEET NORTHWESTERLY OF CENTER LINE OF SAID RAILROAD RIGHT-OF-WAY AS MEASURED PERPENDICULAR THERETO THENCE CONTINUING ALONG SAID LAST DESCRIBED COURSE S71DEG 00'08"E (RECORDED AS S70DEG 51'E) 26.18 FEET THENCE N32 DEG26'44"E 46.24 FEET THENCE S 57DEG33'16"E 19 FEET THENCE N32DEG26'44"E 196 FEET THENCE N12DEG33'16"W 26.87 FEET THENCE N57DEG33'16"W 25.46 FEET TO SAID FORMER RAILROAD RIGHT-OF-WAY THENCE ALONG SAID FORMER RIGHT-OF-WAY N32DEG26'44"E 93.66 FEET TO POINT OF BEGINNING BEING PART OF GOVERNMENT LOT 4 SECTION 23-34-8 CONTAINING 0.655 ACRES MORE OR LESS.

CHAPTER 8

SPECIAL ASSESSMENTS

(Ord. 706, §1, renum., 10/17/05)

1.600. Definitions.

- (1) The term "cost" as used in this Chapter, when referring to the cost of any local public improvement, shall include the cost of services, plans, condemnation, spreading of rolls, notices, advertising, financing, construction, and legal fees and all other costs incident to the making of such improvement, the special assessments therefor and the financing thereof.
- (2) The term "local public improvement" as used in this Chapter shall mean any construction of or improvement upon public property which results in special benefit to the real property in the vicinity of such improvement, including specifically but not by way of limitation the construction of sewers, waterworks and streets.

1.601. Advisory Petition.

The City Council, to ascertain whether or not a reasonable number of property owners to be assessed desire any particular local public improvement to be made, may request and receive a petition therefor, or may receive such a petition voluntarily presented; but in either event, such petition shall be advisory only.

1.602. Contents of Petition.

Each advisory petition shall be addressed to the Council and contain a brief description of the improvement sought to be made and shall be signed only by property owners. Each signature shall be followed by a brief description of the property owned by the signatory. The signatures on such petitions shall be verified by the oath of one or more of the circulators of such petition before filing.

1.603. Filing of Petition.

Advisory petitions shall be filed with the Clerk who shall refer them to the City Manager. The petition shall be presented to the Council at its next regular meeting or at a special meeting called for that purpose, together with the recommendation of the City Manager.

1.604. Initiatory Resolution.

Whenever the Council shall have power to make a local public improvement by special assessment, it shall by resolution set forth the improvement intended to be made and direct the City Manager to prepare a report containing any information it may require relative to such improvement.

1.605. Plans and Specifications.

The City Manager shall prepare, or cause to be prepared, plans and specifications of the local public improvement to be made; an estimate of the life of the improvement and of the cost thereof; a description of the assessment district or lands affected; and such other pertinent information as the Council requests.

1.606. Report of City Manager.

The City Manager shall prepare his report and set forth therein: a schedule of all property affected by the proposed local public improvement and the owners thereof; the assessed valuation of each parcel of land and any tax delinquencies thereon and whether such land is improved or unimproved; and such other information as the Council may have requested. The City Manager shall present this report and the plans and specifications to the Council together with his recommendations as to what proportion of the cost should be paid by special assessment and what part, if any, should be a general obligation of the City; the number of installments in which the assessment should be spread; and the lands which should be included in the special assessment district.

1.607. Determination on the Project, Notice.

After the City Manager has presented the report required in Section 1.327 for making any local public improvement as requested in the resolution of the Council, and the Council has reviewed said report, a resolution may be passed determining the necessity of the improvement; setting forth the nature thereof; prescribing what part or proportion of the cost of such improvement shall be paid by special assessment upon the property especially benefited; determination of benefits received by affected properties and what part, if any, shall be paid by the City at large; designating the limits of the special assessment district to be affected; placing the complete information on file in the office of the Clerk where the same may be found for examination; and directing the Clerk to give notice of public hearing on the proposed improvement at which time and place opportunity will be given interested persons to be heard. Such notice shall be given by one publication in a newspaper published or circulated within the City and by first class mail addressed to each person having an interest in property to be assessed as shown by the last general tax assessment roll of the City, said publication and mailing to be made at least fourteen (14) full days prior to the date of said hearing. The hearing required by this section may be held at any regular, adjourned or special meeting of the Council.

1.608. Hearing on Necessity.

At the public hearing on the proposed improvement, all persons interested shall be given an opportunity to be heard, after which the Council may modify the scope of the local public improvement in such a manner as they shall deem to be in the best interest of the City as a whole; provided, that if the amount of work is increased or additions are made to the district, then another hearing shall be held, pursuant to notice prescribed in Section 1.328. If the determination of the Council shall be to proceed with the improvement, a resolution shall be passed approving the preliminary plans, assessment district, and estimates of cost, directing the Engineer to prepare construction plans and specifications, and directing the Assessor to prepare a special assessment roll in accordance with the Council's determination, and report the same to the Council for confirmation. The Council shall approve construction plans and specifications prior to the meeting to review the special assessment roll.

1.609. Deviation from Plans and Specifications.

No deviation from construction plans and specifications, as approved by the Council, shall be permitted by any official or employee of the City without authority of the Council by resolution, provided, however, that minor changes as authorized by the City Manager may be made without such approval. A copy of the resolution authorizing such changes, or deviation, other than minor changes authorized by the City Manager, shall be certified by the Clerk and attached to the original plans on file in his office.

1.610. Limitations on Preliminary Expenses.

The Council shall specify the provisions and procedures for financing a local public improvement. No contract or expenditure, except for the cost of preparing necessary plans, estimates of cost, and publication of notices, shall be made for the improvement until special assessments to defray the costs of the same shall have been levied.

1.611. Special Assessment Roll.

The Assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefited by the proposed local public improvement and assess to each lot or parcel of land the amount benefited thereby. The amount spread in each case shall be based upon the estimate of the City Manager as approved by the Council.

1.612. Assessor to File Assessment Roll.

When the Assessor shall have completed such assessment roll, he shall file the same with the Clerk for presentation to the Council for review, confirmation and certification by it.

1.613. Meeting to review special assessment roll-objections in writing.

Upon receipt of such special assessment roll, the Council, by resolution, shall accept such assessment roll and order it to be filed in the office of the Clerk for public examination; shall fix the time and place the Council will meet to review such special assessment roll, and direct the Clerk to give notice of a public hearing for the purpose of affording an opportunity for interested persons to be heard. Such notice shall be given by one publication in a newspaper published or circulated within the City and by first class mail addressed to each person having an interest in property to be assessed as shown by the last general tax assessment roll of the City, said publication and mailing to be made at least fourteen (14) full days prior to the date of said hearing. The hearing required by this section may be held at any regular, adjourned, or special meeting of the Council. At this meeting, all interested persons or parties shall present in writing their objections, if any, to the assessments against them. The Assessor shall be present at every meeting of the Council at which a special assessment is to be reviewed.

1.614. Changes and Corrections in Assessment Roll.

The Council shall meet at the time and place designated for the review of such special assessment roll and, at such meeting, or a proper adjournment thereof, shall consider all objections thereto submitted in writing. The Council may correct said roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein; or it may, by resolution, annul such assessment roll and direct that new proceedings be instituted. The same proceedings shall be followed in making a new roll as in the making of the original roll. If, after hearing all objections and making a record of such changes as the Council deems justified, the Council determines that it is satisfied with said special assessment roll, and that assessments are in proportion reciting such determinations, confirming such roll, placing it on file in the office of the Clerk, and directing the Clerk to attach his warrant to a certified copy thereof within ten (10) days, therein commanding the Treasurer to levy the various sums and amounts appearing on a special assessment roll for the full amounts or in annual installments as directed by the Council. Such roll shall have the date of confirmation endorsed thereon and shall from that date be final and conclusive for the purpose of the local public improvement to which it applies, subject only to adjustment to conform to the actual cost of the improvement, as provided in Section 1.339.

1.615. Special Assessment—When due.

All special assessments, except such installments thereof as the Council shall make payable at a future time as provided in this Chapter, shall be due and payable upon confirmation of the special assessment roll.

1.616. Partial Payments—When Due.

The Council may provide for the payment of special assessments in annual installments. Such annual installments shall not exceed twenty (20) in number, the first installment being due upon confirmation of the roll. On all special assessments confirmed between July 1st and December 31st of any year, the second installment shall be due on the following July 1st, and the remaining installments shall be due on July 1st of each succeeding year. On all special assessments confirmed between January 1st and June 30th of any year, the second installment shall be due July 1st of the following year, and the remaining installments shall be due July 1st of each succeeding year. Interest shall be charged on all deferred installments at a rate not in excess of that authorized by law, commencing on confirmation and payable on the due date of each installment; the full amount of all or any deferred installments, with interest accrued thereon to the date of payment, may be paid in advance of the due dates thereof. If special assessment bonds are sold, MCL Sec. 141.153 shall apply. Each owner shall have sixty (60) days from the date of confirmation to pay the full amount of said assessment, or the full amount of any installments thereof, without interest or penalty. Following said sixty (60) day period, the assessment or first installment thereof shall, if unpaid, be considered as delinquent, and the same penalties shall be collected on such unpaid assessments, or unpaid first installments thereof, as are provided in the City Charter to be collected on delinquent general City taxes. Deferred installments shall be collected without penalty until sixty (60) days after the due date thereof, after which time such installments shall be considered as delinquent and such penalties on said installments shall be collected as are provided in the City Charter to be collected on delinquent general City taxes.

After the Council has confirmed the roll, the City Treasurer shall notify by mail each property owner on said roll that said roll has been filed, stating the amount assessed and the terms of payment. Failure on the part of the City Treasurer to give said notice or of such owner to receive said notice, shall not invalidate any special assessment roll of the City or any assessment thereon nor excuse the payment of interest or penalties.

1.617. Creation of Lien.

Special assessments and all interest, penalties and charges thereon, from the date of confirmation of the roll shall be and remain a lien upon the property assessed of the same character and effect as the lien created by general law for County and school taxes, and by the City Charter for City taxes, until paid, and the lands upon which the same are a lien shall be subject to sale therefor the same as are lands upon which delinquent City taxes constitute a lien. If special assessments or installments thereof remain delinquent as of February 28th, they shall be returned delinquent, with interest, penalties and charges added, to the County Treasurer for collection in the same manner as are City, County and school taxes.

1.618. Additional Assessments, Refunds.

The City Manager shall, after the completion of each local public improvement, compile the actual cost thereof and certify the same to the Council. When any special assessment roll shall prove insufficient to meet the cost of the improvement for which it was made, the Council may make an additional pro rata assessment; provided, however, that no such additional pro rata assessment shall exceed fifteen (15%) per cent of the original assessment. If the amount of the special assessment roll for any local public improvement as confirmed by the Council proves larger than the actual cost thereof as compiled by the City Manager and certified to the Council, the Council shall make a refund thereof in accordance with section 9.4 of the City Charter, said refund to be made to the owner of the property as shown by the current tax rolls of the City on the date that the Council orders the refund.

1.619. Additional Procedures.

In any case where the provisions of this Chapter may prove to be insufficient to carry out fully the making of any special assessment, the Council shall provide by ordinance any additional steps or procedures required.

1.620. Special Assessment Accounts.

Monies raised by special assessment to pay the cost of any local public improvement shall be held in a special fund to pay such cost or to repay any money borrowed therefor. Each special assessment account must be used only for the improvement project for which the assessment was levied, except as otherwise provided in this Chapter.

1.621. Contested Assessments.

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining collection of any special assessment unless within thirty (30) days after confirmation of the special assessment roll written notice is given to the Council of intention to file such suit or action, stating grounds on which it is claimed such assessment is illegal, and unless such suit or action shall be commenced within sixty (60) days of confirmation of the roll.

1.622. Reassessment for Benefits.

Whenever the Council shall deem any special assessment invalid or defective for any reason whatever, in whole or in part, the Council shall have power to cause a new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been completed and whether any part of the assessment has been collected or not. All proceedings on such reassessment and for the collection thereof shall be made in the manner as provided for the original assessment.

If any portion of the original assessment shall have been collected and not refunded, it shall be applied upon the reassessment and the reassessment shall to that extent be deemed satisfied. If more than the amount reassessed shall have been collected, the balance shall be refunded to the person making such payment.

1.623. Combination of Projects.

The Council may combine several districts into one project for the purpose of effecting a saving in the costs; provided, however, that for each district there shall be established separate funds and accounts to cover the cost of the same.

1.624. Single Lot Assessments.

When any expense shall have been incurred by the City upon or in respect to any single premises, which expense is chargeable against said premises and the owner thereof under the provisions of this Code and Section 9.2 of the City Charter and is not of that class required to be pro-rated among the several lots and parcels of land in a special assessment district, an account of the labor, material and services for which such expense was incurred with a description of the premises upon or in respect to which the expense was incurred, and the name of the owner, if known, shall be reported to the Treasurer, who shall immediately charge and bill the owner, if known. The Treasurer at the end of the quarter shall report to the City Council all sums so owing to the City and which have not been paid within thirty (30) days after the mailing of the bill therefor. The Council may, at such time as it may deem advisable direct the Assessor to prepare a special assessment roll covering all such charges reported to it together with a penalty of ten (10%) percent. As an alternative, the Council may allow property owners to pay a single lot assessment on an installment basis as described in Section 1.337, provided the terms and interest rate of the installment program are specified in the resolution directing the Assessor to prepare the special assessment roll. The special assessment roll shall be filed with the Clerk who shall advise the Council of the filing of the same and the Council shall thereupon set a date for the hearing of objections to such assessment roll.

CHAPTER 9

WARDS*

1.701. **Ward Boundaries.** The several boundaries of the three (3) wards of this City as provided for in Article I, Section 1.2, shall be described as follows:

- (1) First Ward: All that territory embraced within the corporate limits of the City of Charlevoix lying Northerly and Easterly of the following described line:

BEGINNING at the North extension of the centerline of Grant Street at the shore of Lake Michigan (on the North side of Pine River Channel); thence Southerly along the extended centerline of Grant Street to the centerline of Park Avenue; thence Southwesterly along the centerline of Park Avenue to the centerline of Sherman Street; thence South along the centerline of Sherman Street to the centerline of Hurlbut Avenue; thence East along the centerline of Hurlbut Avenue to the centerline of Bridge Street; thence North along the centerline of Bridge Street to the centerline of Mason Street; thence East along the Easterly extension of Mason Street to the shore of Round Lake; thence Northeasterly to a point in the middle of Round Lake at the intersection of the Southerly extension of Nettleton Street with the Easterly extension of Clinton Street; thence Southeasterly to the centerline of the Upper Pine River Channel (Southerly of Park Island) with Round Lake; thence Southeasterly along said centerline of said Upper Channel to Lake Charlevoix being the Point of Ending.

- (2) Second Ward: All that territory embraced within the corporate limits of the City of Charlevoix contained within the following described boundary:

Commencing at the North extension of the centerline of Grant Street at the shore of Lake Michigan (on the North side of Pine River Channel); thence Southerly along the extended centerline of Grant Street to the centerline of Park Avenue; thence Southwesterly along the centerline of Park Avenue to the centerline of Sherman Street, being the **POINT OF BEGINNING** of this description; thence South along

the centerline of Sherman Street to the centerline of Hurlbut Avenue; thence East along the centerline of Hurlbut Avenue to the centerline of Bridge Street; thence South along the centerline of Bridge Street to the centerline of St. Mary's Drive; thence West along the centerline of St. Mary's Drive to the centerline of State Street; thence South along the centerline of State Street to the centerline of Carpenter Avenue; thence West along the centerline of Carpenter Avenue to the West corporate limits of the City of Charlevoix; thence North along said corporate limits to the centerline of Park Avenue; thence Northeasterly along the centerline of Park Avenue to the Point of Beginning.

- (3) Third Ward: All that territory embraced within the corporate limits of the City of Charlevoix lying Southerly and Easterly of the following described line:

BEGINNING at Sheridan Street at the corporate limit; thence East along the centerline of Carpenter Street to the centerline of State Street; thence North along the centerline of State Street to the centerline of St. Mary's Drive; thence East along the centerline of St. Mary's Drive to the centerline of Bridge Street; thence North along the centerline of Bridge Street to the centerline of Mason Street; thence East along the Easterly extension of Mason Street to the shore of Round Lake; thence Northeasterly to a point in the middle of Round Lake at the intersection of the Southerly extension of Nettleton Street with the Easterly extension of Clinton Street; thence Southeasterly to the centerline of the Upper Pine River Channel (Southerly of Park Island) with Round Lake; thence Southeasterly along said centerline of said Upper Channel to Lake Charlevoix being the Point of Ending.

(Ord. 420, 12/06/82; Ord. 595, 04/06/92; Ord. 672, 02/18/02; Ord. 750, 07/18/11)

1.702. Alteration of boundaries.

The city council shall, from time to time, as is in accordance with the provisions of PA 1909, No.279, Section 27(a), added by PA 1966, No. 182, Section 1, alter the boundaries of the several wards of the city to insure that said wards are as nearly of equal population as is practicable and contiguous and compact.

1.703. City charter.

A copy of this chapter and any amendments hereto shall be annexed to Article I, Section 1.2 of the Charter for the City of Charlevoix.