

CITY OF CHARLEVOIX
REGULAR CITY COUNCIL MEETING MINUTES
Monday, January 5, 2009 — 7:00 p.m.
210 State Street, City Hall, Council Chambers, Charlevoix, MI

The meeting was called to order at 7:00 p.m. by Mayor Norman L. Carlson, Jr.

I. Pledge of Allegiance

II. Roll Call of Members Present

Mayor: Norman L. Carlson, Jr.
Assistant City Attorney: Bryan Graham
City Manager: Rob Straebel
City Clerk: Carol A. Ochs
Members Present: Council members Dennis Kusina, Jill Picha, Greg Stevens, Gabe Campbell, Shane Cole, Lyle Gennett
Absent: None

III. Inquiry Regarding Possible Conflicts of Interest

Councilmember Shane Cole was on the Planning Commission at time of its public hearing on and approval of the revised sign ordinance and will need to abstain from the comments at tonight's public hearing and voting on the ordinance.

IV. Consent Agenda

The following items were approved and filed:

- A. Approval of Minutes – December 15, 2008 Regular Meeting Minutes.
- B. Accounts Payable Check Register – December 15, 2008
- C. Accounts Payable Check Register – December 16, 2008
- D. Accounts Payable Check Register – December 30, 2008
- E. Accounts Payable Check Register – December 31, 2008
- F. Accounts Payable Check Register – January 6, 2009
- G. Payroll Check Register – December 24, 2008
- H. Submariner's Plaque Presentation

John Hess presented the City with a plaque from the Michigan Submarine Veterans. Mr. Hess read the plaque, which thanked the citizens for the restoration and relocation of the USS Escolar (SS240) Submarine memorial. Additionally, Mr. Hess summarized the history of the memorial by informing Council that the Escolar was one submarine of fifty that did not come back [from World War II]. Each state was given one submarine to memorialize, and Michigan's memorial was that of the USS Escolar, here in the City of Charlevoix. Mr. Hess acknowledged Ben Gill, whose efforts had been instrumental in bringing the location of the memorial to Charlevoix. The Mayor accepted the plaque.

V. Public Hearings

A. Public Hearing on Amendments to Title V, Chapter 51, Article VII: Sign Regulations

The Mayor reminded the audience of the rules of public comment. The Mayor stated he would review the ordinance a section at a time and ask for comments on each section. The Mayor invoked the three minute limit per person for comments. The Mayor reminded the audience to direct all comments to the chair and asked them not to repeat points made by another speaker. The Mayor stated questions would be addressed after the comments were finished. The Mayor opened the public hearing at 7:05 p.m.

Comments by section:

Section 5.216 Purpose

No comments from Council or the audience.

Section 5.217 Sign Related Definitions

No comments from Council or the audience.

Section 5.218 Prohibited Signs

Tony Duerr, owner of Pine River Books commented on sub section (13) Off Premise Signs. Mr. Duerr referred to a letter written and signed by himself and other "off Bridge Street" business owners [pp. 16-18 of the packet], and would like an explanation as to why Council has not been persuaded to allow wall-mounted, pedestrian-oriented wall signs. Mr. Duerr's group is of the opinion that such signs would not be visible to motorists on Bridge Street and thus would not violate the [Michigan] Highway Advertising Act. Mr. Duerr stated that many communities in Michigan offer some off premise signs. Mr. Duerr said that some off premise signs oriented toward pedestrians are appropriate in the Central Business District to create a true downtown business district rather than a four block "strip mall." Mr. Duerr reminded Council that the Cool Cities Blueprint called for better means to locate businesses off Bridge Street. Mr. Duerr asked Council to consider the changes to allow pedestrian-oriented wall signs as requested by this group of business owners in the form of amendments to the ordinance.

The Mayor read a letter from John Yaroch in support of off premise signage, particularly in regard to businesses within the DDA

boundaries. Mr. Yaroch's letter referred to Charlevoix's embracement of the Smart Growth Initiative, which supports the creation and enhancement of "walkable communities" and the revitalization of downtowns. Mr. Yaroch disagrees that the ordinance needs to apply to the business community at large rather than just those within the Central Business District (CBD). Mr. Yaroch's letter stated that supporters of off premise signage are simply looking to increase consumer awareness of their businesses with pedestrian oriented signage, which is primarily directional in nature. Mr. Yaroch's letter concluded by stating that this is not a traffic issue, but a cost effective way to help the downtown business community to survive and accommodate growth in the side streets and alleyways. The Mayor disclosed that Mr. Yaroch is a member of the DDA and had voted in support of the directional signs.

The Mayor stated that he thought zoning ordinances needed to be looked at for the good of the whole City, not just the DDA area. The Mayor said that directional signs for pedestrians could be used through the whole City, though obviously they would be used more effectively in the downtown area where there is foot traffic. The Mayor clarified that efforts are being made to keep the zoning ordinance simpler and make an even playing field for the whole City. The Mayor stated that he is not opposed to directional signs for pedestrians on private property.

Councilmember Jill Picha inquired about the kiosks that have been discussed for the downtown area. The Mayor stated the DDA has looked at those and is working to get them in place. The Mayor clarified to the off Bridge Street business owners that the City Planner is not against that area and is open to a workable solution; the Planner just wants the solution to be fair for everyone. The Mayor stated that the Planning Department had been criticized in the past for selective zoning, and staff is trying to avoid that. The Mayor stated that Council has tried to take actions that encourage business while still maintaining the integrity of City's Master Plan goals.

Ms. Picha proposed alternative signage on public property. The Mayor stated that this ordinance was directed toward private property. The Mayor stated that the Highway Act is not geared toward pedestrian signs, but any sign that is readable from a car from the highway. The Mayor stated that, while the City is not concerned with the Highway Act enforcement, it can not endorse signage that would be in violation of the Act. The Mayor stated that the Attorney had also advised the City against putting anything in the ordinance that would refer to the Act by saying "all signage must conform to the Highways Act."

The Attorney attempted to clarify the Act. Many municipalities deal with off premises signs, but in most of those situations there is not a State highway running through their business district. Because Charlevoix has US 31 going through the downtown business district, it is subject to regulations under the Highway Advertising Act. The Highway Advertising Act basically regulates signs within the adjacent areas, the message of which is visible to the motoring public as they're driving down the road; it is not whether the sign itself can be seen, but whether the message on the sign can be seen. The statute says that a municipal ordinance can not permit a sign that would be otherwise prohibited under the Highway Advertising Act.

The Mayor provided a visual example of two inch lettering on two different pieces of paper, noting that they were both the same letter height (two inches) but that one was visible and the other not, due to the font used. Fonts make more difference in readability than letter height. Discussion points included: the local entity can not trump the Highway Act, so those types of signs, where they are suggested to be located (the south west corner building of Park Ave. and Bridge St.), would not be allowed; tickets would be given to the building owner for a non-compliant sign, not the advertiser; that sign would count toward the allowable signage for the building; the building owner would be the requestor of the permit.

Bob Timms suggested that one solution might be for off Bridge Street businesses to rent space in store windows. The Planner confirmed that would be an available option under a certain square footage. The Planner stated that the changes to the ordinance are actually to allow business owners more flexibility. The Planner reminded those present that the City's downtown is complicated by the State highway that runs through the business district; the State will not give definitive answers regarding what is or is not readable from the highway. The Planner stated that, preceding his hiring, the State had come to the City once and declared that the existing Harsha House sign on the same southwest corner of Park and Bridge was in violation of the Act; the letters on that sign vary in height between 2-3 inches. That particular sign is about 20 feet from the corner. The Planner stated that it is a tough position for Council and Staff to defend an ordinance that benefits downtown businesses, who some feel have an advantage by being downtown due to foot and vehicular traffic, but then tell someone outside the CBD that they can't have the same type of sign. The Planner stated that the City wants to see all businesses succeed, regardless of where they're located in the City; off Bridge Street or on, downtown or not. The Planner stated that zoning ordinances do treat things differently: residential areas are regulated differently than commercial and industrial. But in theory all restaurants should be treated the same, all retail shops the same, etc.; zoning ordinances traditionally do that. The Planner stated Ann Arbor allows off premise signage, while Traverse City, Boyne City, East Jordan, Petoskey, and Harbor Springs do not. A lot of those communities don't have to deal with state highways. The Planner encouraged Council to make the decision they feel is right based on the comments, but asked that if they allow off premise signage, to make it fair for everyone and not to pass an ordinance that would subject property owners to potential fines and violations. The Planner does not know the penalties for violations of the State Highway Advertising Act. The Planner stated that he does know that the State contracts their enforcement out to a company in Gaylord.

Council continued to discuss kiosks with the Planner. The Planner thinks kiosks would help a lot with way finding and that the State has actually recommended kiosks. The Planner stated that he would like to see a larger kiosk in East Park that would list all the businesses and places of interest in town. In order for the kiosks to list all the businesses, the Downtown Development Authority (DDA) can not fully fund the expense. Councilmember Picha concurred that the kiosks were important and suggested that the expense might be split between the City and the DDA. The Planner stated that, regardless of what Council decides regarding off premise signage, the plans for kiosks are moving forward. The Mayor explained for the audience that DDA funds can only be used for the DDA area, and used the recent map made by the DDA for circulation at area hotels as an example, which featured only DDA businesses. Joint arrangements can be made between the DDA and the City to fund projects including businesses and points of interest outside the DDA. The Mayor expects it to come up at the next DDA meeting, which will be the budget meeting.

The Mayor asked the Attorney if the City would be liable if it permitted a sign, but stated that of course it would need to conform to any State, County, or federal rules. The Attorney stated that the only rule the City is dealing with for an off premise sign along the adjacent area is the Highway Advertising Act; it literally only affects a sign visible from Bridge Street (US 31). The statute defines the adjacent area as area measured from the right-of-way 3000 feet perpendicular to the highway. Off premise signs within that adjacent area are subject to the Highway Advertising Act. Municipalities have a right to enact ordinances that deal with signs that are outside the scope of the Highway Advertising Act. The State has used up all of its Highway Advertising Permits, so one can not go to the State now and get a permit for an off premise sign that would fall within the Highway Advertising Act. In order to have an off premise sign [within the adjacent area], there would need to be language that guarantees the sign to be outside the scope of regulation of the Highway Advertising Act. In order to do that, the visibility issue must be dealt with—whether the message on the sign is visible to the motoring public. Referring to the visual example made by the Mayor, the Attorney confirmed that regulations should not be written in terms of lettering size because font has an impact on visibility. The language for a local ordinance would need to mirror the State statute, which refers to visibility, not size. Such an ordinance would put the Planner in a bad administrative situation, because he would need to make subjective calls on what is “visible” from the highway; font, location, and lettering size would all factor into the decision. The decisions are then subject to an appeal to the ZBA and the City could ultimately wind up in circuit court based on those kinds of decisions. Although the City is not liable if they would permit such a sign, the City can not legally permit a sign that is prohibited by the State Statute.

Tony Duerr pointed out that the existing Harsha House sign is not the only sign visible under the Highway Advertising Act. Mr. Duerr stated that he would be amicable to an ordinance allowing the Planner to make decisions regarding visibility in order to allow off premise signage. He would be willing to comply with the Planner’s requested changes to limit visibility from the Highway.

Raechel Wright, owner of the Alcove Café on Park Ave., made a comparison to other resort communities that face the same issue and made reference to Ann Arbor, Midland, and Grand Rapids, all of which allow off premise signs. Ms. Wright proposed mirroring Ann Arbor’s language. Ms. Wright stated that part of the issue is being friendly from the visitors’ point of view. Although window signs are a good idea, they are not the friendliest way to provide information. Ms. Wright expressed concerns that kiosks have been discussed for a couple years and are not yet available. Ms. Wright says the off Bridge Street businesses need something in the mean time, and an off premise sign could serve that purpose. Council member Dennis Kusina asked for clarification regarding Ann Arbor and some of the other cities mentioned by Ms. Wright. The Planner confirmed that none of those towns have a highway running through them. Mr. Kusina stated that was the crux of the whole problem. The Mayor confirmed that the DDA is trying to get kiosks in place soon. The Mayor clarified that he holds two positions: that of the Mayor as a DDA member, and that of Mayor at City Council. When he is at DDA meetings, he wears his DDA hat, and makes decisions based in the best interest of the DDA—the businesses that fund it and their DDA dollars. When he is at Council meetings, he looks at the City as a whole, and what is in the best interest for the whole City and all its businesses. The Mayor stated that he didn’t think anyone on Council is against off premise signs, but that they are trying to look at it in terms of what is best for the whole City. The Mayor would like to make sure the Planner/Zoning Administrator feels comfortable in being able to enforce regulations regarding off premise signage, if allowed, and to make sure that the Attorney is comfortable that the ordinance can be enforced fairly. The Mayor expressed concerns that people would be upset if signs are allowed and put up and then either MDOT says the sign is in violation or the City decides they no longer want the signs.

Council continued to discuss the use of off premise signs. Allowance of off premise signs would not guarantee business owners a place on someone else’s building. The Planner stated that the State would not consider a directional highway-style sign with the wording “RETAIL BUSINESSES” a violation of the Act. The Act is triggered when specific business names are listed. Council also discussed whether language could be developed that would not be difficult for the Planner to enforce. The Planner asked that if Council wishes to allow off premise signs, to have a standard that is clear to everyone, including him. The Planner reminded Council that his concerns were also subjecting business owners to state fines or penalties. He confirmed that he would prefer not to be put into a position where he would have to determine if something is visible or not. The Planner cautioned that decreasing the letter size also gets to the point where it’s also not visible to pedestrians, especially 30 feet from the corner.

The Attorney stated that the problem lies in that in order for the City regulation to be lawful, it has to be outside the scope of the Highway Advertising Act. The Highway Advertising Act does not have objective criteria to determine whether something is inside or outside the scope of its regulation; they use vague concepts of visibility, which is subjective depending on who's looking at it. The Planner and MDOT may have different opinions on what is visible from the highway. The Attorney stated that it creates an administrative nightmare: the Planner could approve a sign that MDOT later comes to town and says the sign is visible and thus in violation of the Act; the Planner then would need to enforce a violation of a sign under the Act that he had previously approved as being outside the scope of the Act.

Council member Lyle Gennett proposed coming up with a standard sign, with the understanding from business owners that if MDOT were to come to town and decide the sign was in violation, the sign would need to be removed without holding the City responsible. The Planner pointed out that both the Planning Commission and the DDA had similar discussions and tried to work and be fair regarding off premise signs and still not be in violation of the Act. Both groups were unsuccessful in doing that. Mr. Gennett thinks there should be a way to come up with a compromise. The Planner stated that right now the zoning ordinance does not regulate signs in business windows; he does not know if the Highways Act does.

Section 5.219 Signs Excluded from Permits

No comments from Council or the audience.

Section 5.220 Certain Temporary Signs – Permit Exemptions and Additional Exemptions

Council generally agreed to amend subsection (8) to allow for recommended changes from the Attorney regarding delegation or approval to the Zoning Administrator, not the City Manager, and to allow for treating non-profits and for profits equally. The Planner and Attorney clarified that these banners are in the right-of-way (not in the adjacent area) and temporary, and therefore not subject to the Highway Advertising Act.

Toni Duerr spoke against approving these large clearly visible signs while disallowing the off premise signs. The Mayor and Attorney stated that such signs are allowable because they are not prohibited by the Act: they are in the right-of-way and regulated by a separate statute.

Section 5.221 Sign Standards for All Signs

Council generally agreed to proposed changes from the Attorney, mainly regarding formatting, and also to amend subsection (4)(b) to read "Indirect lighting shall be directed either downward or upward onto the sign face and shielded so that it illuminates only the sign face and does not shine directly into a public right-of-way or residential premises." No comments from the audience.

Section 5.222 Standards for Portable Signs

No comments from Council or the audience.

Section 5.223 Sign Standards for Specific Uses

Council generally agreed to proposed changes from the Attorney dividing subsection (2) into two sub-subsections (a) and (b). After some discussion, Council generally agreed to amend subsection (2)(a) to allow for the sign advertising the price of gasoline or fuel to be an electronic sign face. The Attorney provided appropriate language, which is provided in the final version of the ordinance. Councilmember Lyle Gennett expressed concerns that if gas stations were allowed to use these types of signs, others would want them. Other Council members stated that the ordinance already allows gas stations a different type of sign for prices; this would just allow them to be digital. The Planner stated that other people had brought up the same concerns as Councilmember Gennett and that it was true other people might want them; but that it was important to note that all gas stations would be treated the same.

Section 5.224 Table of Use Districts

No comments from Council or the audience.

Section 5.225 Nonconforming Signs

No comments from Council or the audience.

Section 5.226 Permit Required for Signs

No comments from Council or the audience.

Section 5.227 Unsafe Signs

No comments from Council or the audience.

Section 5.228 Abatement of Dangerous Signs

No comments from Council or the audience.

Section 5.229 Interpretation

No comments from Council or the audience.

The Mayor read a letter from Dan Barron, regarding the deletion of the sign variance section of the sign ordinance, which may require some revisions to the variance general standards of Section 5.286(4)(a) regarding the need for the requested variance "...is not due to the applicant's personal or economic situation" which could prevent a sign variance from ever being approved, due to the inherent nature of a sign being for economic benefit. The Attorney stated that it was important that the variance general standards remain general, and not single out sign variances. The Attorney proposed additional ZBA training, and a possible legal amendment at a later date. ZBA member Mary Eveleigh stated that as the ZBA, they are told not to look at financial circumstances; they are looking at it because a variance is not in compliance with the ordinance. The Attorney confirmed that was correct, that the ZBA needs to address variances in terms of what variances do to the unique characteristics of the land, not individual circumstances. Staff will review and possibly clarify the language of Section 5.286(4)(a) for all variances at a future date.

The Mayor directed discussion back to off premise signs.

Mary Eveleigh asked how something vague, like the language of the State Highway Advertising Act, could be enforced. The Attorney stated that the courts uphold judgments on language that we may consider vague. One such example would be disturbing the peace, which the courts have upheld as being sufficiently clear to prosecute. The Attorney stated that he could draft language that would be lawful, but would put the Planner in a bad administrative position to enforce.

Councilmember Gennett stated that there was no size that could be the standard safe size. The Planner stated that we might all agree that two inches was safe, but the State has been here and said that it's not.

The Clerk stated that, regardless of any agreement between business owners and the City that a sign be permitted based on the Planner's opinion of visibility and removed if the State objects without ramifications to the City, legislation could not be based on those same business owners always being there or the same Planner always being there. She stated she thought it was a bad position to put staff in and that the City needs to really press forward with the kiosks and get them done.

Bob Timms stated that if the signs are for pedestrians, lettering could be as small as a half inch, which certainly couldn't be read from the highway.

Discussion continued regarding off premise signs including the possibility of positioning signs so they would not be visible from the road (difficult because of the close proximity to the right-of-way on Bridge Street) and enforcement of the State statute (contracted out to a company in Gaylord).

Raechel Wright stated that they had gone to the ZBA to seek an interpretation, not a variance, that the Zoning Enabling Act requires a public hearing be set in response to a written request for interpretation or an ordinance or an appeal, and that an amendment should be made to the Zoning Ordinance to accommodate that requirement. The Planner clarified that was part of the reasoning for taking it out of the Sign Ordinance, so it falls back on the Zoning Ordinance requirement, which provides for interpretation.

The Mayor closed the public hearing to the audience at 8:54 p.m.

Council continued to discuss off premise signs. Council generally agreed they didn't want to put the Planner in a bad position. The Planner clarified for the public that what Council really meant was not to put the City in a bad spot; vague regulations subject the City to liability, regardless of who the Planner/Zoning Administrator is. Council members also commented that the Attorney also does not feel comfortable amending the ordinance to include off premise signage. No action was taken to amend the ordinance regarding off premise signs.

The Mayor closed Council discussion regarding the ordinance at 9:00 p.m.

VI. Reports

- A. The Manager proposed several dates for a budget work session. Council generally agreed that Tuesday, January 27, at 5:00 p.m. would work best.
- B. The Manager reviewed a request received from the Charlevoix Public Library regarding flying a flag in East Park celebrating the 100th anniversary of the local library. The flag would fly for about a month starting in mid-May. Council proposed and agreed to fly the flag under, not instead of, one of the flags currently displayed.
- C. The Manager stated he had discussed the feasibility study for Fire/EMS service consolidation with Charlevoix Township Supervisor Dale Glass. Supervisor Glass will meet with Township officials later this month to see if they are willing to take that first step for a

study which would determine if consolidation is economically favorable.

VII. Requests, Petitions and Communications and Actions Thereon

A. Cost of Service Studies – Electric, Sewer & Water

Mark Beauchamp and Dawn Lund of Utility Financial Solutions (UFS) were available to present the study. Mr. Beauchamp recommends the following adjustments: Electric – single year 3% increase, with latitude to adjust the individual rate classes + or – 2%, meaning no one would see a change of more than 5% or less than 1%; Water – 4% increase per year 2010-2013; Wastewater – 6% increase per year 2010-2013. The increases are designed to keep up with inflation and to help move the City toward actual cost of service. Rates are also designed to handle future capital purchases which were known at the time of the study. Council agreed with the recommended increases as presented by UFS. Mr. Beauchamp will take that information back and design the rate structure.

The Mayor called a recess at 10:10 p.m.

Council reconvened at 10:14 p.m.

B. Consideration to Approve Inspection and Engineering Fees for Trout Stream

The Manager reviewed the item for Council. Landscape architect Richard Hitz, from this point forward, is waiving his fees on the rest of the project. Performance Engineers is also charging less per hour for their inspections on the trout stream than they did on the rest of the park project.

Motion by Councilmember Lyle Gennett, seconded by Councilmember Greg Stevens, to approve the inspection and engineering fees for the trout stream by Performance Engineers, as outlined on p. 143 of the packet.

Yeas: Council members Kusina, Picha, Stevens, Campbell, Cole, Gennett

Nays: None

Absent: None

C. Charter Cable – Letter of Understanding

The Attorney reviewed that this is a standard item and has been reviewed by Jim Young, who recommends its approval.

Motion by Councilmember Gabe Campbell, seconded by Councilmember Greg Stevens, to approve the letter of understanding with Charter Communications.

Yeas: Council members Kusina, Picha, Stevens, Campbell, Cole, Gennett

Nays: None

Absent: None

D. Discussion and Prioritization of Infrastructure Projects for Federal Economic Stimulus Grant Dollars

The Mayor thanked the Manager for catching this opportunity to apply for these grants. Council generally agreed to the projects as presented by the Manager in his agenda item presentation memo on p. 148 of the packet. The fiber optic improvements, not listed in the Manager's memo would be item 8. Councilmember Kusina asked how the City budget looked if it needed to provide match funding for all of these projects. The Treasurer stated that the projects are in the budget. The Manager stated that they will monitor the situation and try to make sure match funds are available.

VIII. Introduction and Initial Actions Relating to Ordinances or to Resolutions That Require Publication or Hearings Prior to Final or Further Action

None.

IX. Resolutions

None.

X. Ordinances

A. Amendments to Title V, Chapter 51, Article VII: Sign Regulations

City Council passed the following ordinance as amended from the Planning Commission recommendation. [A copy of the ordinance, as passed by the Planning Commission, is on file in the office of the Charlevoix City Clerk.]

**CITY OF CHARLEVOIX
Ordinance No. 736 of 2009**

AN ORDINANCE TO AMEND TITLE V, CHAPTER 51: ZONING, ARTICLE VII: SIGN REGULATIONS OF THE CODE OF THE CITY OF CHARLEVOIX

THE CITY OF CHARLEVOIX ORDAINS:

SECTION 1. Repeal Article I, Section 5.11: Sign-Related Definitions.

Chapter 51, Article I, Section 5.11: Sign-Related Definitions is hereby repealed in its entirety.

SECTION 2. Amendment of Article VII: Sign Regulations

Chapter 51, Article VII: Sign Regulations is hereby revised in its entirety as follows:

ARTICLE VII. SIGN REGULATIONS

5.216 PURPOSE

The purpose of this article is to regulate signs, designed to be visible to the public, in a manner which does not restrict the content thereof while:

- (1) Recognizing the mass communications needs of both businesses and other parties.
- (2) Protecting property values and neighborhood character.
- (3) Creating a more attractive business climate.
- (4) Promoting pedestrian and traffic safety by reducing sign distractions, obstructions, and other hazards.
- (5) Promoting pleasing community environmental aesthetics.
- (6) Discouraging visual competition among businesses.

5.217 SIGN RELATED DEFINITIONS

- "Awning": A permanent shelter constructed on a supporting framework, projecting from and supported by the exterior wall of a building.
- "Airborne Devices": A sign supported by aerodynamic forces or propelled through the air by force, including but not limited to air filled balloons, signs animated by forced air, and lighter than air signs.
- "Awning Sign": A sign painted, printed, attached flat against, or integrated within the surface of an awning.
- "Banner": A sign made of a non-rigid material; however, not including pennants or flags.
- "Billboard-Highway Advertising Sign": An off-premises sign owned by a person, corporation or other legal entity that engages in the business of utilizing and/or selling the space on that sign for advertising. See "Off-Premises Sign."
- "Building Elevation": All of that part of a building facade(s) which would be included in an elevational view rendering of the building drawn parallel to and for the entire length of a lot line.
- "Business Center Sign": An on-premises sign which identifies or gives direction to a business complex or group of contiguous stores which may contain the names of the individual stores, businesses, institutions, or other organizations located within the complex or group. See "On-Premises Sign."
- "Canopy (Building)": A permanent rigid structure covered with fabric, metal, shingles, or other material and supported by a building at one or more points.
- "Canopy (Freestanding)": A permanent, rigid structure covered with fabric, metal, or other material and supported by columns, posts, or other forms of support not a part of a building.
- "Canopy Sign": A sign affixed or applied to or a part of a canopy.
- "Construction Sign": An on-premises sign erected during a construction project which identifies the project, the owner or developer of the site, the architect, engineer, contractor and subcontractors working on the project, and any funding sources for the project, but which does not act to advertise a product or service.

- "Development Identification Sign": An on-premises sign that contains the name of the development or neighborhood or residents residing on the premises where located.
- "Directional Sign": An on-premises sign, which directs visitors or customers to a particular land use on the premises where located. See "On-Premises Sign."
- "Electronic Sign Face": That portion of a sign face capable of changing its message or image electronically.
- "Flag": A sign made of non-rigid material having a distinctive size, color, and design used as a symbol or emblem.
- "Flashing Sign": Any illuminated sign on which the artificial light is not at all times stationary or constant in intensity and color.
- "Ground Sign": A sign supported by one (1) or more uprights, poles, braces, or some other structure, placed in the ground surface and not attached to any building.
- "Home Occupation Sign": A non-illuminated, on-premises sign announcing a home occupation or professional service. See "On-Premises Sign."
- "Identification Sign": An on-premises sign that identifies the type of business and contains the name and/or street address.
- "Illuminated Sign": A sign that includes artificial light by either emission, reflection, or refraction.
- "Informational Sign": A non-advertising sign used to identify architectural features of a land use such as building entrances, drop boxes, restrooms, handicapped ramps, and similar features.
- "Ingress-Egress Sign": A directional sign located adjacent to the entrance or exit drives of a development to identify the points of vehicular ingress and egress.
- "Internally Lighted Sign": A sign having an internal lighting source which allows light to be visible through the sign face.
- "Marquee": A permanent structure of rigid materials supported by and extending from, or above the facade of a building.
- "Marquee Sign": Any sign attached to or supported by a marquee.
- "Non-Commercial Speech Sign": Legal speech, in written form, by an individual or group of individuals expressing thoughts, ideas, opinions, etc. to the public.
- "Off-Premises Sign": A sign which contains a message related to a business or profession or to a commodity, service, or activity sold or offered for sale on property other than the premises where such sign is located.
- "On-Premises Sign": A sign which contains a message related to a business or profession or to a commodity, service, or activity sold or offered for sale on the property where such sign is located.
- "Pennant": A small, often triangular, flag used in multiples as a device to call attention to a land use or activity.
- "Political Sign": A sign relating to the election of a person to public office, to a political party, or to a proposition to be voted on at a scheduled election.
- "Portable Sign": A freestanding sign, usually having a changeable message, not permanently anchored or secured to either a building or the ground.
- "Projecting Sign": A sign which is affixed to any building or structure other than a marquee or canopy and projects in such a way that the sign face is not parallel to the wall to which it is attached.
- "Real Estate Development Sign": A sign placed on the premises of a subdivision or other real estate development to indicate the proposed start of the development project or to inform the public that property within the development is available.
- "Real Estate Sign": A sign containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent.
- "Roof Sign": Any sign or any part of a sign, which is erected on or as a part of the roof of a building.

- "Sign": A structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs, or trademarks by which any message or image is afforded public visibility from outdoors on behalf of or for the benefit of any product, place, activity, individual, firm, corporation, institution, profession, association, business, or organization.
- "Sign Face": That portion of a sign excluding its base, foundation, and erection supports on which identifications, descriptions, illustrations, displays or devices are placed pertaining to an idea, opinion, product, use, occupancy, function, service, or activity.
- "Streamers": A long narrow wavy strip resembling or suggesting a banner floating in the wind.
- "Temporary Sign": A sign, banner or advertising display, with or without a structural frame, intended for a limited period of display, including displays for holidays or public events.
- "TOD Sign" – "TODS": Michigan Tourist Oriented Directional Sign Program sign.
- "Wall Sign": A sign which is attached directly to or painted upon a building wall, the exposed face of which is essentially in a plane parallel to the building wall or structure.
- "Window Sign": A sign, picture, symbol, or combination thereof, designed to communicate information about any idea, activity, business, commodity, event, sale, or service that is placed on a window pane or glass with the intent to be visible from the outdoors.

5.218 PROHIBITED SIGNS

ALL ZONE DISTRICTS: The following signs shall not be allowed in any district:

- (1) Signs that are not consistent with the standards of this chapter.
- (2) Signs that are not clean, i.e. are covered with materials that obscure the message, in whole or in part. Signs that are not in good repair, i.e. having broken foundation, base, or support structures, lighting fixtures, etc., and/or having a faded appearance.
- (3) Signs that are not securely affixed to a substantial structure that will hold the sign in a fixed position under normal weather conditions.
- (4) Signs that are attached to any natural growth, such as trees, shrubs, or other natural foliage.
- (5) Signs, which by reason of their location, shape, size, or color appear to regulate, warn, or direct the movement of traffic on public thoroughfares or interfere with or resemble an official traffic sign, signal, or device.
- (6) Signs other than utility company signs affixed to power utility poles or other utility structures or fixtures.
- (7) Signs located so as to interfere with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads. (See Section 5.185. Intersection Visibility)
- (8) Signs in public rights-of-way other than those allowed by the City Highway Banner Program.
- (9) External neon signs other than in the C-1, CBD, or M-H Districts where the wording specifically states "Open," "Closed," "Vacancy," or "No Vacancy." These specific signs shall be no larger than two (2) square feet.
- (10) All types of flags, banners (except those authorized under Section 5.220(8)), pennants, streamers, and airborne devices attached to the ground or buildings ("Over Highway Banners" are allowed only by the City Highway Banner Program by permit from the City Manager and MDOT.
- (11) Billboard-Highway Advertising Signs
- (12) Internally Lighted Signs
- (13) Off Premise signs
- (14) Roof signs

(15) All types of signage on sidewalks, roads or ground

(16) Sign containing an electronic sign face

5.219 SIGNS EXCLUDED FROM PERMITS

The following signs are permitted in any district without a Sign Permit, but shall conform to the applicable requirements of this chapter and the applicable building codes.

- (1) One (1) identification sign not exceeding two and a half (2.5) square feet in sign face area used to identify a residential or non-commercial use.
- (2) Signs not exceeding two-and-one-half (2.5) square feet in sign face area on mailboxes or newspaper tubes, or posted on private property relating to private parking or warning the public against trespassing or danger from animals.
- (3) Signs erected by, on behalf of, or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, street signs, historical markers, traffic, directional, and regulatory signs, public displays for holidays and public events.
- (4) Official signs of a noncommercial nature erected by public utilities.
- (5) Flags or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
- (6) Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.
- (7) Signs directing and guiding traffic on private property that do not exceed four (4) square feet each and that bear no advertising matter.
- (8) Informational signs not exceeding one-and-one-half (1.5) square foot in sign face area.
- (9) Any sign wholly located within a building and not visible from outside the building.
- (10) Window signs less than or equal to six (6) square feet. Window signs, whether inside or outside of a building, exceeding 6 square feet are considered wall signs and are subject to this chapter.
- (11) Non-commercial speech signs placed on private property, outside of any street right-of-way, not exceeding four square feet in sign face.
- (12) External neon signs no larger than two (2) square feet in sign face area in the C-1, CBD, or M-H Districts, which specifically state "Open," "Closed," "Vacancy," or "No Vacancy."
- (13) Public signs or signs sanctioned by a public body on public land are not subject to this chapter.

5.220 CERTAIN TEMPORARY SIGNS - PERMIT EXEMPTIONS AND ADDITIONAL EXEMPTIONS

The following signs, related to temporary land uses, are permitted in any district without a Sign Permit. However, such signs shall conform to the requirements set forth herein as well as all other applicable requirements of this chapter.

- (1) Construction Signs. One (1) construction sign not to exceed twenty (20) square feet is permitted. In the place of one large sign, a maximum of four (4) individual smaller signs may be erected, one along each street frontage upon which the property faces on the site, upon the condition that each smaller sign shall not exceed four (4) square feet in sign face area per sign.
- (2) Political Signs. Political signs are allowed in connection with elections or political campaigns. Such signs shall be removed within three (3) days following the election or conclusion of the campaign. No such sign may exceed eight (8) square feet in sign face area or be placed in any public street right-of-way.
- (3) Real Estate Development Signs. One (1) real estate development sign is permitted for each street frontage upon which the property

faces. Such sign(s) may be present only for the duration of the development's construction. Such duration is limited to developer having majority ownership in saleable lots.

- (4) Real Estate Signs. One (1) real estate listing sign is permitted for each street frontage upon which the property faces. Such sign(s) shall be removed within ten (10) days after sale, lease, or rental.
- (5) Special temporary events. One (1) sign not exceeding twenty-four (24) square feet in sign face area indicating a special temporary event such as a carnival, circus, festival, or similar event, is permitted on the lot where the activity is to take place. Such signs may be erected not sooner than one (1) month before the event and must be removed not later than three (3) days after the event.
- (6) Yard sales and similar events. Signs for yard sales or other similar temporary activities not covered in the foregoing categories are permitted. Not more than one (1) sign may be located on any lot. No sign may exceed four (4) square feet in sign face area. Signs may be erected not more than three (3) days prior to the event and shall be removed immediately following the event.
- (7) Other temporary signs. Temporary signs not listed in Section 5.219 shall be regarded and treated in all respects as permanent signs.
- (8) Temporary banners are only allowed in two (2) specific locations within the City, adjacent to the city golf course and near the intersection of M-66 and US-31. Banners advertising community events may be placed in those locations by non-profit or for-profit businesses or entities when the zoning administrator determines that those events will provide a substantial benefit to the City of Charlevoix and the event will not create any unfair competition among local businesses. Banners shall not exceed 30 square feet in area, may be erected not more than two (2) weeks before the event, and must be removed within two (2) days after the event.

5.221 SIGN STANDARDS FOR ALL SIGNS

- (1) Number and square footage requirements
 - (a) Each business shall be allowed a maximum of two (2) types of signs per any single building elevation that has public frontage as specified in Section 5.224, Table of Use Districts. (For example a business may have a wall sign and a ground sign for each frontage, but cannot have two of the same type of signs on one elevation.)
 - (b) For the purpose of determining the number of signs, where graphic material is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign. A number of small signs randomly placed on a wall cannot be construed to be a single sign.
 - (c) A two-sided or multi-sided sign shall be regarded as one (1) sign so long as the interior angle of a "V" type sign does not exceed thirty (30) degrees and the two (2) sides are at no point separated by a distance that exceeds five (5) feet; and the distance between the backs of each face of a double-faced (back-to-back) sign does not exceed three (3) feet.
 - (d) Canopy signs and Marquee signs are allowed the same square footage as a wall sign.
 - (e) All signs in the US 31 highway right of way are regulated by the Michigan Department of Transportation (MDOT) at locations approved by and installed in accord with the State of Michigan TODS program
 - (f) Window signs are allowed provided they do not exceed 25% of the total area of each window pane and do not exceed 6 square feet.
 - (g) A development identification sign shall contain no other advertisement display.
 - (h) An identification sign shall contain no other advertisement display, except that the identification sign for a business may identify the type of business being conducted on the premises.
- (2) Computation of sign area.
 - (a) The sign face area of a sign shall be computed by including the entire area within a single, continuous perimeter of a circle, triangle, rectangle, or parallelogram enclosing the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.
 - (b) If the sign consists of more than one (1) section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign face area.

- (c) Subject to the provisions of Section 5.221(1)(c), the sign face area of two-sided, multi-sided, or three-dimensional signs shall be computed by including the total of all sides designed to attract attention or communicate information that can be seen at any one time by a person from one vantage point.
- (3) Height, setback, and projection requirements.
- (a) No sign may extend above any parapet or be placed upon any roof surface, except that for purposes of this chapter, roof surfaces constructed at an angle of seventy-five (75) degrees or more from horizontal shall be regarded as wall space. This subsection shall not apply to displays, including lighting, erected in connection with the observation of holidays on the roofs of residential structures.
 - (b) No wall sign attached to a building may project more than twelve (12) inches from the building wall. In those instances, where a wall sign is affixed to the wall of the structure, which lies on a right-of-way line, the bottom of the wall sign may be no closer than eight (8) feet from the ground.
 - (c) No part of a ground sign may exceed a height of sixteen (16) feet, measured from ground level.
 - (d) No part of a ground sign may be closer than four (4) feet to the right-of-way line.
 - (e) No part of a projecting sign may extend more than eight (8) feet over private property or a public right-of-way nor be less than eight (8) feet from ground level.
 - (f) Except for awning signs hanging entirely over private property, no part of an awning sign may be closer than eight (8) feet from ground level.
- (4) Illumination/ lighting
- (a) All electrical wiring to the sign shall be placed underground.
 - (b) Signs must be lighted indirectly and not internally. Indirect lighting shall be directed either downward or upward onto the sign face and shielded so that it illuminates only the sign face and does not shine directly into a public right-of-way or residential premises.
 - (c) No sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity.
- (5) Sign Materials
- (a) Sign Materials shall be constructed of durable materials.
 - (b) Natural or natural-like materials are encouraged. Earth tone colors are to be encouraged.
 - (c) It is recommended that the sign be constructed of materials compatible with the existing structure.

5.222 STANDARDS FOR PORTABLE SIGNS

- (1) Shall be not more than forty eight (48) inches in height and thirty (30) inches in width, and cannot exceed six (6) square feet in sign face area;
- (2) Shall be located on private property;
- (3) Shall not block pedestrian access;
- (4) Shall be constructed of durable materials and be clearly portable in terms of size, weight, and placements; and
- (5) Shall only be displayed between the hours of 7:00 am and 12:00 am;

5.223 SIGN STANDARDS FOR SPECIFIC USES

- (1) All signs must comply with Table 5.224, unless otherwise provided.

- (2) Signs relating to automobile gasoline service stations, including any business selling gasoline.
 - (a) In addition to the signs allowed by Section 5.221, automobile gasoline service stations, including any business selling gasoline, may display one (1) other sign, with a sign face not exceeding eighteen (18) square feet, for the purpose of advertising the price of gasoline or other accessory products sold on the premises, including information regarding accepted credit cards. For purposes of this subsection, the sign advertising the price of gasoline or fuel may be an electronic sign face. Signs on pump canopies may be considered secondary to a station's primary sign should the primary sign, for example, be a ground sign.
 - (b) Directional signs or lettering displayed over individual entrances or service bays shall be permitted, provided they consist only of the words, "washing," "lubrication," "repairs," "mechanic on duty," or similar words directly relating to motor vehicle services offered on the premises. Not more than one (1) such sign per bay shall be permitted and each sign shall not exceed four (4) square feet in total sign face.
- (3) Home Occupations may have one (1) wall sign no larger than two (2) square feet.
- (4) Except for the signs permitted under Sections 5.219 and 5.220, no other signs are permitted in residential areas in a PUD Zone District, but are allowed in the commercial areas in the PUD Zone District.
- (5) Multi-tenant, Business Center Sign. Notwithstanding Section 5.221(1)(a), in the case of a shopping center or other integrated group of stores or commercial buildings one (1) freestanding business center sign may be erected. The maximum area for such sign face shall be equal to one-half (0.5) square foot of sign face area for each foot of building frontage, or sixty (60) square feet, whichever is less.

5.224 TABLE OF USE DISTRICTS

Sign face in Square footage/ Setback from Right of Way/ Height

ZONING DISTRICT	AWNING	GROUND	PROJECTING	WALL & WINDOW	DIRECTIONAL	INGRESS/EGRESS	CONSTRUCTION	REAL ESTATE	REAL EST DEV	TEMPORARY	BUSCT.	INFO SIGN	POLITICAL	DEVELOPEMENT	IDENTIFICATION
R-1, R-2, R-2A, SR	0	16/4/16	0	5.222 (3)	4/4/8	2/4/4	20/4/8	8/0/8	36/4/8	6/4/8	0	1.5/4/0	8/0/4		2.5
R-3	0	16/4/16	0	0	4/4/8	2/4/4	20/4/8	8/0/8	36/4/8	6/4/8	0	1.5/4/0	8/0/4		2.5
R-4	0	16/4/16	0	0	4/4/8	2/4/4	20/4/8	8/0/8	36/4/8	6/4/8	0	1.5/4/0	8/0/4		2.5
PUD +	0	16/4/16	36/0/10	5.220 (5)	4/4/8	2/4/4	20/4/8	8/0/8	36/4/8	6/4/8	0	1.5/4/0	8/0/4	20/4/8	
C-1	16/0/8	16/4/16	36/0/10	5.220 (5)	4/4/8	2/4/4	20/4/8	8/0/8	36/4/8	6/4/8	5.220 (1)	1.5/4/0	8/0/4		
MU	16/0/8	16/4/16	36/0/10	0	4/4/8	2/4/4	20/4/8	8/0/8	36/4/8	6/4/8	5.220 (1)	1.5/4/0	8/0/4		
CBD	16/0/8	16/4/16	16/0/10	5.220 (5)	4/4/8	2/4/4	20/4/8	8/0/8	36/4/8	6/4/8	5.220 (1)	1.5/4/0	8/0/4		
PO	16/0/8	16/4/16	36/0/10	5.220 (5)	4/4/8	2/4/4	20/4/8	8/0/8	36/4/8	6/4/8	5.220 (1)	1.5/4/0	8/0/4		
I	16/0/8	16/4/16	36/0/10	5.220 (5)	4/4/8	2/4/4	20/4/8	8/0/8	36/4/8	6/4/8	5.220 (1)	1.5/4/0	8/0/4		
MC	16/0/8	16/4/16	36/0/10	5.220 (5)	4/4/8	2/4/4	20/4/8	8/0/8	36/4/8	6/4/8	5.220 (1)	1.5/4/0	8/0/4		
MCS	16/0/8	16/4/16	36/0/10	5.220 (5)	4/4/8	2/4/4	20/4/8	8/0/8	36/4/8	6/4/8	5.220 (1)	1.5/4/0	8/0/4		
CS	16/0/8	16/4/16	36/0/10	0	4/4/8	2/4/4	20/4/8	8/0/8	36/4/8	6/4/8	5.220 (1)	1.5/4/0	8/0/4		
MH	0	16/4/16	36/0/10	5.220 (5)	4/4/8	2/4/4	20/4/8	8/0/8	36/4/8	6/4/8	0	1.5/4/0	8/0/4		

5.225 NONCONFORMING SIGNS

- (1) Subject to the remaining restrictions of this Section, nonconforming signs that were otherwise lawful on the effective date of this chapter may be continued, repaired, and maintained as is necessary to keep in a sound condition.
- (2) No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. In addition, no person may add illumination.
- (3) A nonconforming sign may not be moved or replaced except to bring the sign into greater conformity with this chapter.
- (4) If a nonconforming sign is destroyed to the extent it is impractical to be restored using a majority of its existing major components, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this chapter, and the remnants of the former sign structure shall be cleared from the land.
- (5) The message of a nonconforming sign may be changed so long as this does not create any new non-conformity.

5.226 PERMIT REQUIRED FOR SIGNS

- (1) Except as otherwise provided in Sections 5.219 (Signs Excluded from Permits) and 5.220 (Certain Temporary Signs-Permit Exceptions and Additional Exemptions), no sign may be constructed, erected, moved, enlarged, illuminated, or otherwise altered unless a sign permit has been issued in accordance with the provisions of this chapter. Repainting or changing the message of a sign shall not in and of itself be considered an alteration.
- (2) Application for a sign permit shall be submitted to the Zoning Administrator on appropriate forms supplied by his/her office. Said application shall contain the following information:
 - (a) Name, address, and telephone number of applicant.
 - (b) Written permission of property owner on which the sign will be located.
 - (c) Type of sign as defined in this chapter.
 - (d) Scaled drawing showing sign size, height, type of support (if applicable), zone district in which the sign will be located, location of sign on property including front and side yard setback distances, and any other information required herein.
 - (e) Street address of the property upon which the sign will be located.
 - (f) The name of the sign contractor, who shall erect the sign and/or sign structure.
- (3) No permit shall be issued for the erection of any sign or signs until such sign(s) have been reviewed and approved by the Zoning Administrator and without first having paid a permit fee as established by the City Council.
- (4) Any person aggrieved by a decision of the Zoning Administrator may appeal that decision to the Zoning Board of Appeals.

5.227 UNSAFE SIGNS

- (1) No person, corporation, business organization, or other legal entity shall own or maintain any sign or advertising device that is structurally unsafe. For purposes of this section, the term "structurally unsafe" shall mean being in a state of disrepair or being designed and/or constructed so as to pose a likely threat of a total or partial collapse.
- (2) The Zoning Administrator and/or other officials designated by the Zoning Administrator shall have the right to inspect signs and advertising devices to determine whether they are structurally unsafe. The Zoning Administrator and/or other officials designated by the Zoning Administrator may exercise this right of inspection by consent of the owner of the sign or advertising device and the owner of the property on which the sign or advertising device is located or by administrative search warrant.
- (3) If the Zoning Administrator finds that a sign or advertising device is structurally unsafe, he or she shall serve on the owner of the sign or advertising device and the owner of the property on which the sign or advertising device is located a written notice, which specifies all of the following:
 - (a) The location of the sign or advertising device that is structurally unsafe.
 - (b) The nature of the unsafe condition.
 - (c) The date, no less than twenty (20) days after the written notice was served, before which the owner of the sign or advertising device or the owner of the property on which the sign or advertising device is located shall remedy the unsafe condition.
 - (d) A statement that if the owner of the sign or advertising device or the owner of the property on which the sign or advertising device is located fails to remedy the unsafe condition within the time specified in the written notice, the City may enter onto the property to remedy the unsafe condition and charge the costs of such action, including reasonable attorney fees, to the owner of the sign or advertising device and/or the owner of the property on which the sign or advertising device is located.
 - (e) A statement that the owner of the sign or advertising device and the owner of the property on which the sign or advertising device is located has the right before the expiration of the deadline contained in the written notice to request a hearing before the City Council regarding whether the sign or advertising device is structurally unsafe.

The service required by this subsection shall be personal service or service by certified mail, restricted delivery, return receipt requested. For purposes of this section, the phrase "remedy the unsafe condition" shall mean repairing the sign or advertising device so that it does not pose a serious threat of a total or partial collapse or removing the sign or advertising device from the property.

- (4) If the owner of the sign or advertising device or the owner of the property on which the sign or advertising device is located requests a hearing before the City Council as provided in this section, the City shall take no action to remedy the unsafe condition until, after notice and hearing, the City Council finds that the sign or advertising device is structurally unsafe. A notice of the time, date, and place of the hearing before the City Council shall be served on the owner of the sign or advertising device and on the owner of the property on which the sign or advertising device is located no less than fourteen (14) days before the scheduled hearing. The service of this notice may be made by first class mail. The owner of the sign or advertising device or the owner of the property on which the sign or advertising device is located may appeal an adverse decision by City Council to the circuit court as provided by law.
- (5) In exercising its right under this section to remedy the unsafe condition, either with or without a hearing before the City Council, the City shall remove the sign or advertising device from the property if the repairs necessary to remedy the unsafe condition exceeds fifty (50) percent of the value of the sign or advertising device.
- (6) The costs of remedying the unsafe condition by the City, including reasonable attorney fees, may be collected in a lawsuit against the owner of the sign or advertising device or the owner of the property on which the sign or advertising device is located.

5.228 ABATEMENT OF DANGEROUS SIGNS

- (1) To protect the health, safety, and general welfare of the inhabitants of the City of Charlevoix, the City Manager is hereby authorized and empowered to order city officials to enter onto private property to remove, repair, or otherwise make safe any dangerous sign or advertising device without notice to the owner of the sign or advertising device or the owner of the property on which the sign or advertising device is located. For purposes of this section, the phrase "dangerous sign or advertising device" means a sign or advertising device that is in such a state of disrepair or has such a design and/or construction flaw that it poses an imminent threat of total or partial collapse such that following the procedures of Section 5.227 would result in a substantial likelihood of injury to persons or property.
- (2) If the City Manager exercises the authority granted in subsection (1) above, he or she shall cause a written notice of such action to be served on the entity who benefits from the sign or advertising device and on the owner of the property on which the sign or advertising device is located as soon as possible after the action is taken. The service required by this subsection shall be by personal service or by first class mail. Service shall be deemed completed when the notice is mailed. Acceptance of the certified mail is not required.
- (3) The costs incurred by the City in removing, repairing, or otherwise making a dangerous sign or advertising device safe under this section, including reasonable attorney fees, may be collected in a lawsuit against the owner of the sign or advertising device or the owner of the property on which the a sign or advertising device is located.

5.229 INTERPRETATION

If these regulations relating to signs conflict with any other City ordinance, then, the provisions of this Article shall control.

SECTION 3. Severability.

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

SECTION 4. Effective Date.

This Ordinance shall become effective thirty (30) days after its enactment by the City Council.

ENACTED this 5th day of January, 2009.

Ordinance No. 736-2009 was adopted as amended on the 5th day of January, 2009, by the Charlevoix City Council as follows:

Motion by: Councilmember Gabe Campbell
Seconded by: Councilmember Dennis Kusina

Yeas: Kusina, Picha, Stevens, Campbell, Gennett

Nays: None
Absent: None
Abstain: Cole

STATE OF MICHIGAN)
) ss
CITY OF CHARLEVOIX)

XI. Miscellaneous Business

Councilmember Jill Picha expressed concerns with the way the trout stream bids were handled. Ms. Picha stated that she does not want to rescind the bid award. She is not happy that the subcontractors listed in the bid proposal haven't been committed to. She would be upset if Site Planning picks subcontractors whose workers aren't Charlevoix people. The Manager reminded Council that the City's contract is with Site Planning and Development, not with the subcontractors. City staff based their decision on the information submitted by Site Planning, though the proposed subcontractors had not yet been confirmed. Ms. Picha stated that she thinks the process was shoddy and unethical. She thinks it will affect the quality of bidders the City gets in the future. Ms. Picha wants to be involved in all stages of the bid process and contractor meetings in the future in order to make informed decisions. Councilmember Lyle Gennett and the Mayor stated that Council does not have a right to dictate the subcontractors. The Mayor stated that as long as the contractor gets the job done properly using qualified subcontractors, Council can not dictate who the contractor can or can not use. The Mayor stated that he thought the bid award was handled properly by the City Manager and his staff. Councilmember Greg Stevens stated that a lot of contractors have people they work with who will give them bids for subcontracts. If that particular subcontractor is busy when it comes time to do the job, he uses another subcontractor; the contractor knows the figures will be similar. No action was taken by Council.

XII. Audience - Non-agenda Input (written requests take precedent)

None.

XIII. Adjourn

The Mayor stated if there were no objections, the meeting would adjourn.
There were no objections.
Meeting adjourned at 10:33 p.m.

Carol A. Ochs

City Clerk

Norman L. Carlson, Jr.

Mayor