

TITLE VI - HEALTH REGULATIONS
CHAPTER 61
NUISANCES
(Ord. No. 767, 09/15/14)

ARTICLE I. IN GENERAL

6.1. Purpose.

It is hereby found and declared that the purposes of this Article are to eliminate public nuisances within all areas of the City of Charlevoix for the protection of the health, safety, morals and general welfare of its residents; to preserve existing values of other properties within or adjacent to such areas and all other areas of the City; and to preserve the taxable value of the property within such areas and all other areas of the City. The purposes include regulating the maintenance and safety of certain buildings and structures for the benefit of the public health, safety, and welfare; to establish administrative requirements and prescribe procedures for the maintenance or demolition of certain buildings and structures; to establish remedies, provide for enforcement, and fix penalties for the violation of this ordinance.

6.2. Definitions. As used in this Article.

"Boat" means every description of watercraft used or capable of being used as a means of transportation on water, including personal watercraft and nonmotorized boats such as canoes, rowboats, and sailboats. Boat, however, does not include an air mattress, paddleboard, paddleboat, boogie board, or similar device used by one (1) or two (2) persons for floating or paddling.

"Building materials" mean lumber, bricks, concrete or cinder blocks, plumbing or heating materials, electrical wiring or equipment, shingles, mortar, concrete or cement, nails, screws, windows and window frames, molding, insulation, tyvec or any other materials used in construction of any structure.

"Dismantled" means the state of having a part or parts removed or missing that are integral to the operation of or required by any law or regulation to be present on a motor vehicle, boat, or other item to which it is normally attached.

"Dock" means a pier, platform, or other structure which, if fully operational, is designed to be extended from the shore over water.

"Dangerous Building Enforcing Agency" means the City, through the Zoning Administrator and/or such other official(s) or agency as may be designated by the City Council to enforce this ordinance. Such persons are authorized to seek advice from a person who has expertise in housing matters including, but not limited to, an engineer, architect, building contractor, building inspector, or member of a community housing organization.

"Dangerous Building Hearing Officer" or "Hearing Officer" means a person appointed by and serving at the pleasure of the City Mayor. The Dangerous Building Hearing Officer shall be a person who has expertise in housing matters including, but not limited to, an engineer, architect, building contractor, building inspector, or member of a community housing organization. An employee of the Dangerous Building Enforcing Agency, or a person whose advice is sought by the Enforcing Agency, shall not be appointed as Hearing Officer.

"Garbage" means rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that relate to the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables.

"Hoist" means a mechanical device attached permanently or temporarily to the bottomland of a lake or river and used to raise or lift a boat out of the water for the purpose of preventing or restricting the motion of the boat.

"Inoperable" means incapable of being used for the purpose or purposes for which an item is designed or normally used, either physically or by operation of law, due to dismantling, disrepair, or the lack of a currently valid Michigan license or registration. In addition, the following items shall be deemed inoperable: any motor vehicle, trailer, recreational vehicle, or snowmobile which lacks functioning tires or treads that permit motion or movement. In addition, a boat shall be deemed inoperable if there are one or more holes in its hull, it lacks any parts necessary for normal use, or the engine does not start when provided fuel.

"Junk" means items or objects that are old, discarded, or not currently being used for the purpose or purposes for which they are designed or normally used, including but not limited to used or salvaged metals and their compounds or combination; used or salvaged rope; rubber; rotting wood; scrap iron; tires and snowmobile treads; parts for motor vehicles, boats, all terrain vehicles, recreational vehicles, snowmobiles, and/or trailers; inoperable or dismantled refrigerators, stoves, dishwashers, dryers, washing machines, and furniture; and inoperable or dismantled lawn mowers, weed trimmers, snow blowers, snow plows, tractors, and any other machinery used for excavation, maintenance, or snow removal.

"Liquid industrial wastes" means any liquid brine, by-product, industrial wastewater, leachate, off-specification commercial product, sludge, grease-trap clean-out residue, used oil, or other liquid waste produced by, incident to or resulting from industrial or commercial activity except any liquid brine normally used in oil or gas extraction on a site permitted by the Michigan Supervisor of Wells.

"Marine equipment" means any item used or intended for use in conjunction with boats or water related activities, including but not limited to swimming rafts, docks, hoists, dock supports, buoys, outboard motors, oars, boat trailers, sails, rope, masts, anchors, and any other stationary or movable structure intended to support a boat.

"Motor vehicle" means any wheeled vehicle which is self-propelled or intended to be self-propelled regardless of whether the vehicle is designed for off-road use or use on public streets. A motor vehicle includes, but is not limited to cars, trucks, all terrain vehicles, mopeds, motorcycles, scooters, dune buggies and golf carts.

"Person" means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

"Recreational Vehicle" means any motor vehicle or trailer capable of being self-propelled or towed that is equipped with living space, sleeping quarters, and associated amenities, including but not limited to motor homes, fifth wheel trailers, pop-up campers, caravans, camper vans, travel trailers, and truck campers.

"Rubbish" means hazardous or non-hazardous, non-putrescible solid wastes, including but not limited to combustible waste such as paper, cardboard, brush, bags, rags, and litter of any kind and non-combustible waste such as metal containers, glass, bedding, crockery, and demolished items, objects, or materials of any kind.

"Sealed container" means a covered, closable container which is fly-proof and watertight such as garbage cans with properly fitting tops or plastic garbage bags which have been closed or twisted shut.

"Snowmobile" means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan vehicle code, being Act No. 300 of the Public Acts of 1949.

"Totally closed structure" means a building capable of being sealed on all sides such as a house, garage or storage shed with a roof, floor and walls or closable doors around its perimeter.

"Trailer" means any wheeled vehicle designed and normally towed behind a motor vehicle which is required to have a currently valid Michigan registration to be lawfully operated on a public highway.

"Vermin" means a noxious or objectionable animal, including but not limited to a mouse, rat, chipmunk, squirrel, skunk, raccoon, or porcupine.

6.3. Nuisances. The following are hereby declared to be nuisances:

- (1) The keeping or storage of building materials outside on private property unless there is in force a valid building permit from the County Building Department for construction on that property and the building materials are for use in such construction.
- (2) The keeping or storage of ashes, junk, garbage or rubbish outside of a totally enclosed structure on private property except in a sealed container designed for the purpose of holding such ashes, junk, garbage, or rubbish.
- (3) The placing of ashes, junk, garbage or rubbish on private property without the owner's permission or on public property. This provision applies regardless of whether the ashes, junk, garbage or rubbish is in a sealed container.
- (4) The keeping or storage of ashes, junk, garbage or rubbish on private property, including inside a building, in such a manner that the items, regardless of the method of containment, have become a breeding ground, food source or habitation of insects or vermin.
- (5) Intentional depositing of liquid petroleum crude oil, liquid petroleum crude oil by-products and derivatives or liquid industrial wastes on the ground.
- (6) A "dangerous building" as defined in MCL 125.539, as amended, or otherwise defined herein, which includes any building or structure, residential or otherwise, that has one or more of the following defects or is in one or more of the following conditions:
 - a. A door, aisle, passageway, stairway or other means of exit does not conform to the applicable Fire or Building Code.
 - b. A portion of the building or structure is damaged by fire, wind, flood or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and does not meet the minimum requirements of the Housing Law of Michigan, Public Act 167 of 1917, as amended, (MCL 125.401, *et seq.*), or the applicable Building Code for a new building or structure, purpose or location.

- c. A part of the building or structure is likely to fall, become detached or dislodged, or collapse, and injure persons or damage property.
 - d. A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by the Housing Law of Michigan, Public Act 167 of 1917, as amended, (MCL 125.401, *et seq.*), or the applicable Building Code.
 - e. The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
 - f. The building or structure, or a part of the building or structure, is manifestly unsafe for the purpose for which it is used, or otherwise determined by the Enforcement Agency to be unsafe due to any of the following defects or because it is in any of the following conditions:
 - i. A structure, because of dilapidation, decay, damage, faulty construction, or otherwise which is unsanitary or unfit for human use;
 - ii. A structure or portion of a structure with significant decay or dilapidation due to neglect or deterioration that renders it unfit for its intended use, including damage to the roof or ceilings, walls or windows, or entrances;
 - iii. The building or structure, or a part of the building or structure, has light, air, or sanitation facilities which are inadequate to protect the health, safety, or general welfare of those who live or may live within;
 - iv. The building or structure, or a part of the building or structure, is hazardous to the safety, health, or general welfare of the people of the city by reason of inadequate maintenance, dilapidation, or abandonment;
 - v. The building or structure, or a part of the building or structure, has been damaged by fire, wind, flood, or by any other cause to such an extent as to be dangerous to the life, safety, health, or general welfare of the people living in the city;
 - vi. The building or structure, or a part of the building or structure, has become damaged to such an extent that the cost of repair to place it in a safe, sound, and sanitary condition exceeds the state equalized value of the building or structure of the structure, at the time when repairs are to be made.
 - g. The building or structure is damaged by fire, wind or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.
 - h. A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that the health officer of the City or county determines is likely to cause sickness or disease, or is likely to injure the health, safety or general welfare of people living in the dwelling.
 - i. A building or structure is vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.
 - j. A building or structure remains unoccupied for a period of 180 consecutive days or longer, and is not listed as being available for sale, lease or rent with a real estate broker licensed under Article 25 of the Occupational Code, Public Act 299 of 1980, (MCL 339.2501, *et seq.*), or is not publicly offered for sale by the owner. This subdivision does not apply to either of the following:
 - i. A building or structure as to which the owner or agent does both of the following: (1) Notifies the City Police Department that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given by the owner or agent not more than 30 days after: the building or structure becomes unoccupied or the effective date of this Ordinance provision, whichever is latest in time; AND (2) Maintains the exterior of the building or structure and adjoining grounds in accordance with this ordinance and the Housing Law of Michigan, Public Act 167 1917, as amended, (MCL 125.401, *et seq.*), or the Building Code.
 - ii. A secondary dwelling of the owner that is regularly unoccupied for a period of 180 days or longer each year, if the owner notifies the Police Department that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. An owner who has given the notice prescribed by this subparagraph shall notify the Police Department not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subparagraph, "secondary dwelling" means a dwelling such as a vacation home, hunting cabin or summer home, that is occupied by the owner or a member of the owner's family during part of year.
- (8) Except as required by law, the distributing, placing, posting, or affixing of posters, notices, or handbills on private property without consent of the owner or occupant or in a public right-of-way; provided, however, notices which do not cause a visual obstruction to traffic or pedestrians may be placed on public utility poles.
- (9) The existence of any pond, pool of water, or vessel holding stagnant water which serves as a breeding ground for insects.
- (10) The emission of fumes or gas in such quantities as to cause discomfort to a person of normal sensory acuity at an adjoining property or public place.

- (11) Any vehicle used for an illegal purpose.
- (12) Any use of public streets or public sidewalks, or both, which causes a crowd to gather and obstructs the free, lawful movement of people and vehicles along said streets and sidewalks.
- (13) Spitting on any sidewalk or on the floor or seat of any public carrier, or on the floor, wall, seat or equipment of any public place.
- (14) Keeping or housing any animals or domestic fowl within the city other than dogs, cats, birds or animals commonly classified as pets. For the purposes of this subsection the term "dog" shall include the male and female of the dog family or genus canis.
- (15) The keeping of any inoperable or dismantled icebox, refrigerator or similar airtight container having a door or access with a magnetic seal, snap latch or other locking device, in a place accessible by children without first removing the magnetic seal, snap latch or locking device or doors, or securely locking same.
- (16) Except as provided in subsections (16)(a) - (b), the keeping or storage of inoperable or dismantled motor vehicles, boats, all terrain vehicles, recreational vehicles, snowmobiles, and/or trailers outside of a totally enclosed structure on private property.
 - (a) An inoperable or dismantled motor vehicle, boat, all terrain vehicle, recreational vehicle, snowmobile, and/or trailer may be kept outside of a totally enclosed structure on private property for no more than fifteen (15) days for the purpose of being repaired or awaiting repairs. This subsection shall apply to individuals making the repairs and to gas and service stations engaged in the business of making repairs.
 - (b) An inoperable or dismantled motor vehicle, boat, all terrain vehicle, recreational vehicle, snowmobile, and/or trailer may be kept outside of a totally enclosed structure on private property for no more than fifteen (15) days for the purpose of being marketed for sale.
 - (c) For purposes of section 6.3(16)(a) & (b), a motor vehicle, boat, all terrain vehicle, recreational vehicle, snowmobile, and/or trailer that is possessed by a business which sells or repairs any of those items shall not be considered inoperable or dismantled solely because the item is unlicensed.
- (17) The keeping or storage of inoperable or dismantled marine equipment outside of a totally enclosed structure on private property.
- (18) Except as provided in subsection (18)(a), the existence of tanks, pumps lifts, jacks, air compressors or similar equipment outside of a totally enclosed structure.
 - (a) Service stations, repair shops, gas stations, construction companies, or similar businesses shall be allowed to store or keep tanks, pumps lifts, jacks, air compressors or similar equipment outside of a totally enclosed structure provided that any such item is in operable condition and is actively used for its intended purpose as part of the business.

6.4. Inspection.

City representatives shall have the duty and the right to inspect property or buildings to determine violations of or compliance with this Article. City representatives may exercise this right of inspection by consent of the person having the possession of the property or building or by an administrative search warrant issued by a court of competent jurisdiction.

6.5. Prohibition.

No person shall commit, create, or maintain any nuisance. No person shall knowingly permit the existence of a nuisance on the property owned or possessed by such person. It shall be unlawful for any owner or agent thereof to keep or maintain any building or part thereof which is a dangerous building as defined in Section 6.3(6).

6.6. Industrial Usage.

The storage or keeping of salvageable metal or wood shall not be prohibited on property on which is located a factory engaged in manufacturing, assembling or machining as long as the salvageable metal or wood is for resale or reuse by the occupant of the property.

6.7. Separate Court Action, Nuisance Per Se.

Nothing in this Ordinance shall prohibit the City or any interested party from seeking such other relief as may be permitted in law or in equity regarding the existence of a nuisance. A violation of this Article is deemed to be a nuisance per se.

6.8. Notice of Dangerous Building; Hearing; Order.

The provisions of this Section are intended to be consistent with the Housing Law of Michigan, MCL 125. 521 *et seq*, and shall be interpreted accordingly.

- (1) **Notice Requirement.** Notwithstanding any other provision of this ordinance, if a building or structure is found to be a dangerous building as defined in Section 6.3(6) of this Ordinance, the Dangerous Building Enforcing Agency may issue a notice that the building or structure is a dangerous building. The notice shall state the grounds for the Enforcing Agency's determination that the building or structure is a dangerous building.
- (2) **Parties Entitled to Notice.** The notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records of the City.
- (3) **Contents of Notice.** The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building and state that the person to whom the notice is directed shall have the opportunity at the hearing to show cause why the Hearing Officer should not order the building or structure to be demolished, otherwise made safe, or properly maintained.
- (4) **Service of Notice.** The notice shall be in writing and shall be served upon the person to whom the notice is directed either personally or by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records. If a notice is served upon a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least 10 days before the date of the hearing included in the notice.

6.9. Dangerous Building Hearing Officer; Duties; Hearing; Order.

- (1) **Filing Dangerous Building Notice with Hearing Officer.** The Dangerous Building Enforcing Agency shall file a copy of the notice of the dangerous condition of any building with the Hearing Officer.
- (2) **Hearing Testimony and Decision.** At the hearing, the Hearing Officer shall take testimony of the Dangerous Building Enforcing Agency, the owner of the property, and any interested party. Not more than five days after completion of the hearing, the Hearing Officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained, and where applicable shall fix a time for the owner, agent, or lessee to comply with the order. The Hearing Officer shall make factual findings supporting its conclusions.
- (3) **Noncompliance with Hearing Officer Order/Request to Enforce Order.** If the owner, agent or lessee fails to appear or neglects or refuses to comply with the Hearing Officer order, the Hearing Officer shall file a report of the findings and a copy of the order with the City Council not more than five days after noncompliance by the owner and request that necessary action be taken to enforce the order. A copy of the findings and order of the Hearing Officer shall be served on the owner, agent or lessee in the manner prescribed in Section 6.8(D) of this Article.

6.10. Enforcement Hearing Before the City Council.

The City Council shall fix a date not less than 30 days after it receives the request for action and shall give notice to the owner, agent or lessee in the manner prescribed in Section 6.8(D) of this Article of the time and place of the hearing. At the hearing, the owner, agent or lessee shall be given the opportunity to show cause why the order should not be enforced. The City Council shall either approve, disapprove or modify the order. If the City Council approves or modifies the order, the City Council shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent or lessee shall comply with the order within 60 days after the date of the hearing under this section. In the case of an order of demolition, if the City Council determines that the building or structure has been substantially destroyed by fire, wind, flood or other natural disaster and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this section.

6.11. Implementation and Enforcement.

- (1) **Implementation of Order by City.** In the event of the failure or refusal of the owner or party in interest to comply with the decision of the City Council as applicable, the City Council may, in its discretion, contract for the demolition, making safe or maintaining the exterior of the building or structure or grounds adjoining the building or structure.
- (2) **Reimbursement of Costs.** The costs of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure, incurred by the City to bring the property into conformance with this ordinance shall be reimbursed to the City by the owner or party in interest in whose name the property appears. The **cost** of demolition includes, but is not limited to, fees paid to hearing officers, **costs** of title searches or commitments used

to determine the parties in interest, recording fees for notices and liens filed with the county register of deeds, demolition and dumping charges, court reporter attendance fees, and **costs** of the collection of the charges authorized under MCL 125.541.

- (3) **Notice of Costs.** The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the City assessor of the amount of the costs of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure, by first class mail at the address shown on the City records.
- (4) **Lien for Unpaid Costs.** If the owner or party in interest fails to pay the costs within 30 days after mailing by the assessor of the notice of the amount of the cost, in the case of a dwelling, the City shall have a lien for the costs incurred by the City to bring the property into conformance with this ordinance. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. The lien for the costs shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, Public Act 206 of 1893, as amended, (MCL 211.1, *et seq.*).
- (5) **Court Judgment for Unpaid Costs.** In addition to other remedies under this ordinance, the City may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. A judgment in an action brought pursuant to this Article may be enforced against assets of the owner other than the building or structure. The City shall have a **lien** on the property for the amount of a judgment obtained under this subsection. The **lien** provided for in this subsection shall not take effect until notice of the **lien** is filed or recorded as provided by law. The **lien** does not have priority over prior filed or recorded **liens** and encumbrances.

ARTICLE II. NOISE CONTROL

6.20. Excessive noise declared nuisance.

All loud or unusual noises or sounds and annoying vibrations which offend the peace and quiet of persons of ordinary sensibilities are hereby declared to be public nuisances.

6.21. Specific offenses.

Each of the following acts is declared unlawful and prohibited, but this enumeration shall not be deemed to be exclusive, namely:

- (1) *Animal and Bird Noises.* The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person.
- (2) *Construction Noises.* The erection (including excavating therefor), demolition, alteration or repair of any building, and the excavation of streets and highways, on Sundays, and other days, except between the hours of 7 o'clock A. M. and 6 o'clock P.M., unless a permit be first obtained from the City Manager.
- (3) *Sound Amplifiers.* Use of any loud speaker, amplifier or other instrument or device, whether stationary or mounted on a vehicle for any purpose except one which is non-commercial in character and when so used shall be subject to the following restrictions:
 - (a) The only sounds permitted are music or human speech.
 - (b) Operations are permitted for four (4) hours each day, except on Sundays and legal holidays when no operations shall be authorized. The permitted four (4) hours of operation shall be as designated by the Chief of Police.
 - (c) Sound amplifying equipment mounted on vehicles shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten (10) miles per hour except when said truck is stopped or impeded by traffic.
 - (d) Sound shall not be issued within one hundred (100) yards of hospitals, schools or churches.
 - (e) The volume of sound shall be controlled so that it will not be audible for a distance in excess of one hundred (100) feet from the sound amplifying equipment and so that the volume is not unreasonably loud, raucous, jarring, disturbing, or a nuisance to persons within the area of audibility.
- (4) *Engine Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle except through a muffler or other device which effectively prevents loud or explosive noises therefrom.
- (5) *Handling Merchandise.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

- (6) *Blowers.* The discharge into the open air of noise from a compressor, blower or power fan unless the noise from such compressor, blower or fan is muffled sufficiently to deaden such noise.
- (7) *Hawking.* The hawking of goods, merchandise, or newspapers in a loud and boisterous manner.
- (8) *Horns and Signal Devices.* The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching, apparently out of control, or to give warning of intent to get under motion, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
- (9) *Radio and Musical Instruments.* The playing of any radio, television set, phonograph, or any musical instrument in such a manner or with such volume, particularly during the hours between 11 o'clock P.M. and 7 o'clock A.M., or the making of any such noise at any time so as to annoy or disturb the quiet, comfort, or repose of persons in any school, place of worship, or office, or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.
- (10) *Shouting and Whistling.* Yelling, shouting, hooting, whistling, or singing or the making of any other loud noise on the public streets between the hours of 11 o'clock P.M. and 7 o'clock A.M., or the making of any such noise at any time so as to annoy or disturb the quiet, comfort, or repose of persons in any school, place of worship, or office, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.
- (11) *Whistle or Siren.* The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire or danger.

6.22. Exceptions.

None of the terms or prohibitions of section 6.21 shall apply to or be enforced against:

- (1) *Emergency Vehicles.* Any police or fire vehicle or any ambulance, while engaged upon emergency business.
- (2) *Highway Maintenance and Construction.* Excavations or repairs of bridges, streets, or highways by or on behalf of the City or the State of Michigan, during the night, when the public safety, welfare, and convenience renders it impossible to perform such work during the day.

6.25—6.29 Repealed. (Ord. No. 658, 03-06-00).

ARTICLE III. VIOLATIONS

6.30. Violations.

A violation of Section 6.21(9) or Section 6.21(10) shall be a misdemeanor. A violation of any other provision of this Chapter, including failing or refusing to comply with an order approved or modified by the City under Article I, shall be a municipal civil infraction subject to a civil fine of not more than \$500.00 plus costs, which may include all direct or indirect expenses to which the City has spent in connection with the violation. Each day a violation of this Chapter continues to exist constitutes a separate violation.

(Ord. No. 658, §45, 03-06-00)

CHAPTER 62
LITTER
(Ord. No. 767, 09/15/14)

6.41. Definitions.

In the interpretation of this Chapter the following definitions shall apply, except where the context clearly indicates that another meaning is intended:

- (1) "Private premises" shall mean any lot or parcel of land owned or occupied by any person whether or not improved with any dwelling, house, building, or other structure, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to any dwelling, house, building or other structure erected thereon.
- (2) "Public place" shall mean any and all streets, sidewalks, boulevards, alleys, or other public ways and any and all public parks, squares, spaces, grounds and buildings.
- (3) "Garbage" shall mean decaying animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- (4) "Refuse" shall mean all decaying and nondecaying solid wastes including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, junk and solid market and industrial wastes.
- (5) "Rubbish" shall mean nondecaying solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.
- (6) "Litter" shall mean garbage, refuse, and rubbish as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

6.42. Litter in Public Places.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the City except in public receptacles, in authorized private receptacles for collection, or in official City dumps.

6.43. Use of Waste Receptacles.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

6.44. Sweeping Litter into Gutters.

No person shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

6.45. Merchants' Duty to Keep Sidewalks Clean.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot. Persons owning or occupying places of business within the City shall keep the sidewalk in front of their business premises free of litter.

6.46. Litter on Occupied Private Property.

No person shall throw or deposit litter on any private premises within the City whether owned by such person or not, except that the owner or person in control of occupied private premises may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

6.47. Persons to Maintain Premises Free of Litter.

The owner, occupant, or person in control of any private premises shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.
(Ord. No. 658, §16, 03-06-00)

6.48. Enforcement.

The chief of police or his designee is hereby charged with the enforcement of this Chapter. No person being the owner, occupant, or person in control of any private premises shall accumulate or permit the accumulation of any litter on the private premises owned, controlled or occupied by such person in a manner prohibited by the provisions of this Chapter.
(Ord. No. 658, §17, 03-06-00)

6.49. Nuisance Per Se.

A violation of this Chapter is hereby declared to constitute a nuisance per se. Upon application to any court of competent jurisdiction, the court may order the nuisance abated and/or the violation restrained and enjoined. Relief sought pursuant to this section shall not operate to preclude the enforcement of this Chapter pursuant to Section 1.12 or A of this Code.
(Ord. No. 658, §18, 03-06-00)

**CHAPTER 63
WEED CONTROL***

(Ord. No. 630, 12-04-95) (Ord. No. 767, 09/15/14)

6.71. Weed Growth Prohibited.

No person owning and/or occupying any premises in the City of Charlevoix shall permit or maintain on any such premises any growth of noxious weeds; nor any growth of grass or any growth of grass or other rank vegetation to a greater height than twelve (12) inches on the average; nor any accumulation of dead weeds, grass or brush. "Noxious weeds" shall include Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), Wild Carrot (*Daucus Carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*Ambrosia elatior 1*), poison ivy (*Rhus toxicodendron*) and poison sumac (*Toxicodendron vernix*). The term "person," as used in this chapter, means an individual, partnership, corporation, limited liability company or any other legal entity.

6.72. Duty of Occupant or Owner.

It shall be the duty of the occupant as well as the owner of every premises within the city to cut and remove or destroy by lawful means all such noxious weeds and grass, as often as may be necessary to comply with the provisions of section 6.71; provided, that the cutting, removing or destroying of such weeds and grass at least once in every three (3) weeks between June 1 and September 15 of each year shall be deemed to be compliance with this chapter.

6.73. When City to Do Work.

If there is not compliance with the provisions of sections 6.71 and 6.72, the city manager shall notify the occupant or owner of such premises to comply with the provisions of said sections within ten (10) days after service of such notice. Notice shall be given in accordance with section 1.11 of this Code. If there is no compliance with such notice within the specified time, the city manager shall cause such weeds, grass and other vegetation to be removed or destroyed and the actual cost of such cutting, removal or destruction including supervision and overhead costs shall be a lien against the premises and collected in the manner prescribed in Act 359 of the Public Acts of 1941, as amended. The city manager shall be commissioner of noxious weeds of the city and shall serve as such without additional compensation.

6.74. Alternative Publication.

In lieu of the notice required by section 6.73, the city manager may publish a notice in a newspaper of general circulation in the city during the month of March. The notice shall state that vegetation not cut by June 1 of that year will be cut by the city. It shall also state the continuing obligation of a person to comply with this chapter and that the owner of the property may be charged with the cost of compliance pursuant to section 6.73. The notice shall also contain such other information as is required by Act 359 of the Public Acts of 1941, as amended.

CHAPTER 64
MASS GATHERINGS*
(Ord. No. 767, 09/15/14)

(Ord. No. 598)

***Editor's note**—Ordinance No. 598 did not specifically amend the Code; hence, inclusion of §§1-3 as Ch. 64, §§ 6.91-6.63, was at the discretion of the editor.

Cross reference(s)--Parks and public grounds, Tit. III; streets and sidewalks, Tit. IV; licenses, Ch. 71; police regulations, Tit. IX.

6.91. Definitions.

The following terms, as used in this chapter, are hereby defined to mean:

- (1) *City* shall mean the City of Charlevoix.
- (2) *City Manager* shall mean the person appointed by the city pursuant of Article III, Section 3.3 of the City Charter for the City of Charlevoix or his or her designee.
- (3) *Licensee* shall mean any person to whom a license is issued pursuant to this Ordinance.
- (4) *Mass gathering* shall mean an organized outdoor event of two thousand (2,000) people or more held at a single location on either public or private land within the city.
- (5) *Sponsor* shall mean any person who organizes, promotes, conducts, or causes to be organized, promoted or conducted a mass gathering.

(Ord. No. 598, §1, 05-04-92; Ord. No. 599, §1, 08-17-92; Ord. No. 658, 03-06-00)

6.92. License.

- (a) *Required.* A person shall not sponsor, maintain, conduct, promote or permit a mass gathering in the city without first obtaining a license from the city for each mass gathering
- (b) *Application.* No later than twenty (20) days before the proposed mass gathering, the sponsor(s) of the mass gathering shall submit in writing an application for a mass gathering license to the city manager on such forms and in such manner as the city manager prescribes. The application shall contain:
 - (1) The name(s), address(es) and telephone number(s) of the proposed mass gathering sponsor(s);
 - (2) The date(s) and estimated hours of the proposed mass gathering;
 - (3) A description of the kind, character and type of mass gathering proposed;
 - (4) The address of location of the site at which the proposed mass gathering will be held, including a written statement from the property owner consenting to the use of his or her property for the proposed mass gathering; and
 - (5) An estimate of the maximum number of people expected to attend the proposed mass gathering.
- (c) *Application fee.* Each application for a mass gathering license shall be accompanied by a nonrefundable fee in an amount established, from time to time, by the city council by resolution.
- (d) *Action on application.* After receiving an application for a mass gathering license and the appropriate fee, the city manager shall consider the information contained in the application and shall, if necessary, investigate or cause to be investigated the circumstances surrounding the proposed mass gathering, the number of people anticipated to attend, whether there is a conflict with other uses of the site, the increased demands on the city's police and fire department resources, and the sponsor's plans to provide adequate food and water facilities, bathroom facilities, disposal of solid waste and garbage and vehicle parking and access to the site. Within fifteen (15) days after receiving an application for a mass gathering license, the city manager shall approve the application and issue the mass gathering license, unless after considering the above factors,

he or she finds by a preponderance of the evidence that holding the mass gathering as proposed in the application would be detrimental to the public health, safety and welfare of the city. If the city manager denies a mass gathering license, he or she shall send written notice of the denial, including the reasons for the denial, to the sponsor(s) by certified mail within five (5) days of the denial decision.

(Ord. No. 598, §1, 05-04-92)

6.93. Nuisance Per Se.

A violation of Section 6.92(a) is hereby declared to be a nuisance per se and any action and violation thereof may be immediately enjoined in the Charlevoix County Circuit Court. Enforcement of this Section shall not preclude enforcement for violation of this Chapter pursuant to Section 1.12 of this Code.

(Ord. No. 598, 05-04-92, Ord. No. 658, 03-06-00)

**CHAPTER 65
LEAF AND BRUSH PICKUP**

6.100. Definitions.

As used in this Chapter, the following definitions shall apply:

- (a) "Acceptable Vegetative Materials" shall mean leaves, branches of vegetative material not exceeding 12 inches in diameter or not exceeding 6 feet in length which are untreated by any chemical, perennial cuttings, grass clippings and any of the foregoing items that are chipped into pieces up to, but not exceeding 12 inches in either diameter or length;
- (b) "Prohibited Materials" shall mean any material or object, organic or man-made that is not an Acceptable Vegetative Material. This includes, but is not limited to the following specific materials: concrete, bricks, asphalt, dirt, soil, sod piles, root balls, stumps, treated lumber, railroad ties, rocks, stones, any building or remodeling materials from interior or exterior construction or demolition projects and vegetative material of any type that is over 12 inches in diameter or over 6 feet in length.

6.101. Interpretation.

If any material can be classified as an Acceptable Vegetative Material as well as a Prohibited Material and the material is specifically listed as a Prohibited Material, then the material shall be deemed to be a Prohibited Material.

6.102. Prohibition.

No person shall place on private property or the public right of way Prohibited Materials for pick up or disposal by the City of Charlevoix.

6.103. Violation – Municipal Civil Infraction.

A violation of section 6.102 shall be a municipal civil infraction.

(Ord. No. 765, 06-02-14)