

The Charlevoix City Council met on Monday, October 16, 2023, with Mayor Lyle Gennett presiding. All Council Members were present. The following is an excerpt from the official records of said meeting:

**CITY OF CHARLEVOIX  
ORDINANCE NO. 841 of 2023**

AN ORDINANCE TO AMEND AND ADD SECTION WORK IN ENVIRONMENTALLY IMPAIRED AREA TO THE CHARLEVOIX CITY CODE

**THE CITY OF CHARLEVOIX ORDAINS:** The City of Charlevoix Code is hereby amended by adding a section, to be titled Work in Environmentally Impaired Area which shall read as follows:

**SECTION 1. § \_\_\_\_\_ DEFINITIONS.**

For the purpose of this subchapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

**CITY.** The City of Charlevoix.

**IMPACT AREA.** The property located within the city and described as follows:

<b>Table 1 Properties Requiring ICs Requiring Notification and Mitigation for Intrusive Activities</b>	
<b>Parcel ID</b>	<b>Address</b>
Area A	
052-270-253-50	201 Garfield Avenue W
052-270-251-00	203 Garfield Avenue W
052-270-250-00	205 Garfield Avenue W
052-270-249-00	207 Garfield Avenue W
052-270-248-00	209 Garfield Avenue W
052-270-247-00	211 Garfield Avenue W
052-270-246-00	213 Garfield Avenue W
052-270-198-00	200 Lincoln Avenue W
052-270-199-00	204 Lincoln Avenue W
052-270-192-00	205 Lincoln Avenue W
052-270-191-00	207 Lincoln Avenue W
052-270-200-00	208 Lincoln Avenue W
052-270-190-00	209 Lincoln Avenue W
052-270-201-00	210 Lincoln Avenue W
052-270-202-00	214 Lincoln Avenue W
052-270-253-00	707 State Street
052-227-026-10	801 State Street
Area B	
052-362-006-10	100 Hurlbut Avenue W
052-362-005-00	102 Hurlbut Avenue W
052-362-006-00	701 Bridge Street
052-362-007-00	703 Bridge Street
Area C	
052-270-013-00	228 Antrim Street
052-270-013-50	230 Antrim Street
052-270-014-50	302 Antrim Street
052-270-014-00	401 Grant Street
052-290-000-00	305 Hurlbut Avenue W
052-270-070-50	230 Newman Street

Impact Area also includes the following road right of ways:

- The intersection of Newman Street and Grant Street and adjacent roadways
- A portion of Hamilton Place
- Portions of West Lincoln Avenue
- Portions of West Garfield Avenue
- A Portion of McLeod Place from its intersection with West Garfield Avenue to beyond its intersection with West Lincoln Avenue

(1) In the City of Charlevoix, Charlevoix County, Michigan:

**EGLE.** The Michigan Department of Energy, Great Lakes and the Environment, or its successor agency.

**USEPA.** The United States Environmental Protection Agency.

**OSHA** Occupational Safety and Health Administration.

**§ \_\_\_\_ ECAVATION OF SOILS PROHIBITED; EXCEPTIONS.**

No person, firm, association, corporation or any other entity shall excavate or engage in intrusive activities within the impact area, unless they first contact the USEPA prior to undertaking intrusive activities anywhere within the identified impacted area and ensure the mitigation of risks to construction workers (including municipal employees) with appropriate measures as required by OSHA.

**§ \_\_\_\_ WORK WITHIN ROAD RIGHT OF WAY.**

No person, firm, association, corporation or any other entity shall excavate or engage in intrusive activities within the road right of ways within the impact area, unless they first contact the USEPA prior to undertaking intrusive activities anywhere within the identified impacted area and ensure the mitigation of risks to construction workers (including municipal employees) with appropriate measures as required by OSHA.

**§ \_\_\_\_ ISSUANCE OF PERMITS WITHIN IN THE IMPACT AREA.**

The City will proof of compliance with this chapter before issuing any construction or building permits within the impacted area.

**§ \_\_\_\_ NOTIFICATION TO USEPA AND EGLE.**

If the city ever intends to amend or repeal this chapter, it shall notify the USEPA and EGLE, or their successors, of its intentions no less than 30 days before such amendment or repeal is enacted.

**§ \_\_\_\_ NUISANCE PER SE.**

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

**§ \_\_\_\_ COURT ACTION FOR ABATEMENT OF NUISANCES.**

The city may take civil action requesting injunctive relief against any person, firm, association, corporation or other entity found to be in violation of this subchapter. This abatement action shall be in addition to any penalty imposed by § 52.99(C) of this chapter.

**§ \_\_\_\_ PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating § 52.11 of this chapter shall, upon conviction thereof, be punished as prescribed in § 10.99 of this code of ordinances.

(C) Any person, firm, association, corporation or other entity who violates any provision of §§ 52.25 through 52.31 of this chapter shall be responsible for a municipal civil infraction, as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being M.C.L.A. §§ 600.101 through 600.9939, and shall be subject to a fine of not more than \$100. Each day §§ 52.25 through 52.31 of this chapter is violated shall be considered as a separate violation. Any action taken under this division (C) shall not prevent civil proceedings for abatement or termination of the prohibited activity permitted under § 52.31 of this chapter.

**SECTION 2. 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 3. Effective Date.**

This Ordinance shall become effective thirty (30) days after its enactment.

Ordinance No. 841 was adopted on the 16th day of October 2023 A.D., by the Charlevoix City Council as follows:

Motion by Hagen, seconded by Kalbfell to approve the proposed ordinance amendment to the add the section Working in Environmental Impaired Areas Ordinance to the City Code.

Yeas: Spring, Hagen, Knapp, Kalbfell, Parr

Nays: None

Absent: None

**Motion carried.**

State of Michigan }  
City of Charlevoix } §

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Sarah J. Dvoracek

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City Clerk

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Lyle Gennett

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City Mayor

CERTIFICATION

I, the undersigned, City Clerk of the City of Charlevoix, Charlevoix County, Michigan, do hereby certify that the foregoing is a true and complete copy of Ordinance No. 841 of 2023 adopted by the City Council of the City of Charlevoix, County of Charlevoix, State of Michigan, at a regular meeting held on October 16, 2023 and published in the *Charlevoix Courier* on October 20, 2023, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267 of the Michigan Public Acts of 1876.

Dated: October 17, 2023

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Sarah J. Dvoracek, City Clerk