


AGENDA REPORT

TO: Mayor & City Commission
FROM: Ken Hibl, City Manager 
DATE: February 24, 2009
RE: Operation of Off-Road Vehicles (ORVs) Within City Limits

For the Agenda of March 1, 2010

Background. In 2008 the State of Michigan lifted the restriction of using and operating Off-Road Vehicles (ORVs) on local streets and left this matter to the discretion of local governments in “up north” governmental entities (essentially all counties north of the Isabella/Clare County line). At the time the ORV restriction was lifted, the City of Clare opted to continue the practice of prohibiting the use and operation of these vehicles within the geographical boundaries of Clare.

The City recently received a request to reconsider this prohibition. The City Attorney offered the City Commission an opinion (*copy att'd*) regarding the matter, and the City Commission conducted a preliminary discussion and referred the matter for study to its Parks & Recreation Advisory Board and its Traffic & Safety Committee.

The Parks & Recreation Advisory Board discussed the matter at its scheduled meeting on February 18th but due to a lack of quorum (three appointed members were present; four appointed members are required for quorum of this advisory body), the Board could not provide a formal recommendation. However, the consensus of the three members present was that the prohibition of ORVs in Clare should not be lifted.

The Traffic & Safety Committee held a scheduled meeting (*see copy of att'd notice*) to discuss the matter on February 23rd. Approximately 15 community members (including residents and non-residents) attended the meeting and offered comment. Generally speaking, the majority of non-residents present at the meeting offered comment to encourage lifting the current prohibition, and the majority of City residents present at the meeting offered comment to retain the prohibition. The Committee unanimously (five of seven appointed committee members were present) recommended that the prohibition remain in place. In formulating this recommendation, the Committee took into consideration safety factors (*see copy of att'd ORV Reports*) and the fact that that ORV access into the City for non-residents from the south, east, and north would be legally prohibited (*see copy of att'd map*) due to the restriction imposed by law (no ORVs can travel state or federal highways or roadways and ORVs are not legally permitted on any roadway in Isabella County).

The City has received written comment (*copy att'd*) from Clare Public Schools supporting the current policy of prohibition.

The City Commission is now asked to formally act on this matter.

Issues & Questions Specified. Should the Clare City Commission continue the prohibition of ORVs on City streets, pathways, sidewalks, roadways, and other publicly owned or controlled public property?

Alternatives.

1. Continue the prohibition.
2. Direct the prohibition be lifted in its entirety.
3. Direct the prohibition be partially lifted, e.g., allow only certain types of ORVs; allow ORV operations only in designated areas of the City; etc.
4. Set the matter aside for consideration at a later-scheduled commission meeting.

Financial Impact. Currently indeterminable.

Recommendation. I recommend that the Clare City Commission continue the present prohibition by adoption of Resolution 2010-014 (*copy att'd*). But regardless of the course of action decided, I believe it is imperative that the course of action be converted to ordinance form to allow us a better vehicle to enforce the decision of the Commission.

Attachments.

1. City Attorney Correspondence.
2. Notice of Meeting.
3. ORV Reports.
4. Map.
5. CPS Letter.
6. Resolution 2010-014.

JAYNIE SMITH HOERAUF, P.C.
ATTORNEY AT LAW

601 Beech Street / P.O. Box 67 / Clare, Michigan 48617
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E-mail / hoerauf@sbcglobal.net

January 25, 2010

Mr. Ken Hibl
City of Clare
202 West Fifth
Clare MI 48617

RE: Operating ORVs

Dear Ken:

Per your request I have looked at the question of operating ORVs on city streets. In 2008, the legislature made substantial changes to local regulation of ORVs, which took effect in 2009. Under that scheme, the City of Clare (because it is in an "eligible county" – meaning that we are "up north") may adopt an ordinance that will permit the operation of ORVs on city streets. Here is the scope of the City's authority:

- The City's action must be by ordinance. A resolution or other simpler, more flexible action will not suffice.
- The ordinance may authorize the operation of ORVs on the maintained portion of streets within the City, but need not authorize operation on all streets.
- If the ordinance is adopted, ORVs may be operated as follows:
 - With the flow of traffic
 - On the far right of the maintained portion of the road or street
 - Not more than 25 mph or a lower posted ORV speed limit
 - And not so as to interfere with traffic on the road or street

- A driver's license is required if the ORV is registered as a motor vehicle and is more than 60 inches wide or a three wheeler
 - ORVs must travel single file unless overtaking and passing another ORV
 - If operated when visibility is reduced by weather, a headlight and taillight must be on
 - No operation by a person under 18 years old unless the person has a valid driver's license or is under the direct supervision of a parent or guardian and has a valid ORV safety education certificate in his or her possession.
 - No operation by any person 12 and under
 - If involved in a collision with a motor vehicle, the ORV driver is essentially presumed to be at fault
- Violations of the ordinance are municipal civil infractions carrying a \$500 fine plus restitution for damage to the environment, road, or public property.
- Governmental immunity (the normal type, excluding gross negligence) is extended to the City for claims for injury related to operation of ORVs

In the absence of an ordinance, and outside the parameters of a valid ordinance, ORVs that are not registered as motor vehicles (most of them) cannot be operated on a public highway, street or right of way except:

- To cross a public highway at right angles to get from one legal operation area to another, if it can be done safely. (Normal traffic regulations involving stopping and yielding before the crossing applies.)
- May be operated on a public street for a special event of limited duration (parades and such) by prearrangement and with a permit.
- In connection with farm operations.

Mr. Ken Hibl

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January 25, 2010

I would think that, if the City Commission is considering whether to permit operation of ORVs on City streets, it would solicit the following information:

- A traffic study that would indicate areas where operators would be safe or unsafe.
- Input on the impact on the City's investment in streets and curbs.
- The experience with ORV operation in other jurisdictions with similar traffic volume.

I will include with this missive, some additional resources. As always, I remain at your service.

Sincerely,

JAYNIE SMITH HOERAUF, P.C.

BY _____
JAYNIE SMITH HOERAUF

JSH/ss
Attachments



CITY OF CLARE

202 West Fifth Street • Clare, Michigan 48617-1490
989/386-7541 • Fax 989/386-4508

www.cityofclare.org

CITY HALL

Ph 989/386-7541
Fx 989/386-4508
www.cityofclare.org

DEPARTMENT OF PUBLIC WORKS

Ph 989/386-2182
Fx 989/386-3445

W/WWT PLANT

Ph 989/386-2321
Fx 989/386-2387

POLICE DEPT.

Non-emergency
Ph 989/386-2121
Fx 989/386-0440

FIRE DEPT. NON-EMERGENCY

Ph 989/386-2151
Fx 989/386-3020

PARKS & RECREATION

Ph 989/386-7541
Fx 989/386-4508

AIRPORT

Ph 989/386-0445
Fx 989/386-4508

MAIN STREET MANAGER

Ph 989/386-9190
Fx 989/386-9190

CITY OF CLARE PUBLIC NOTICE

The City of Clare Traffic and Safety Committee will be holding a meeting on February 23, 2010, 7:00 p.m., at the Public Safety Building located at 207 W. Fifth St., Clare, to discuss and consider whether ORV operation within City limits should be permitted. The public is welcome and encouraged to attend to provide input.

Diane Schmidt
City Clerk

ORV – County Reports

05-01-2009 through 12-31-2009

Clare County

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
0	36	2

Gladwin County

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
0	5	0

Roscommon County

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
0	6	0

Osceola County

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
0	17	0

05-01-2008 through 12-31-2008

Clare County

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
1	23	1

Gladwin County

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
0	7	0

Roscommon County

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
0	6	0

Osceola County

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
0	16	1

ORV - City Reports

05-01-2009 through 12-31-2009

Harrison City

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
0	2	0

Gladwin City

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
0	0	0

Roscommon City

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
0	0	0

Ewart City

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
0	0	0

05-01-2008 through 12-31-2008

Harrison City

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
0	0	0

Gladwin City

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
0	0	0

Roscommon City

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
0	0	0

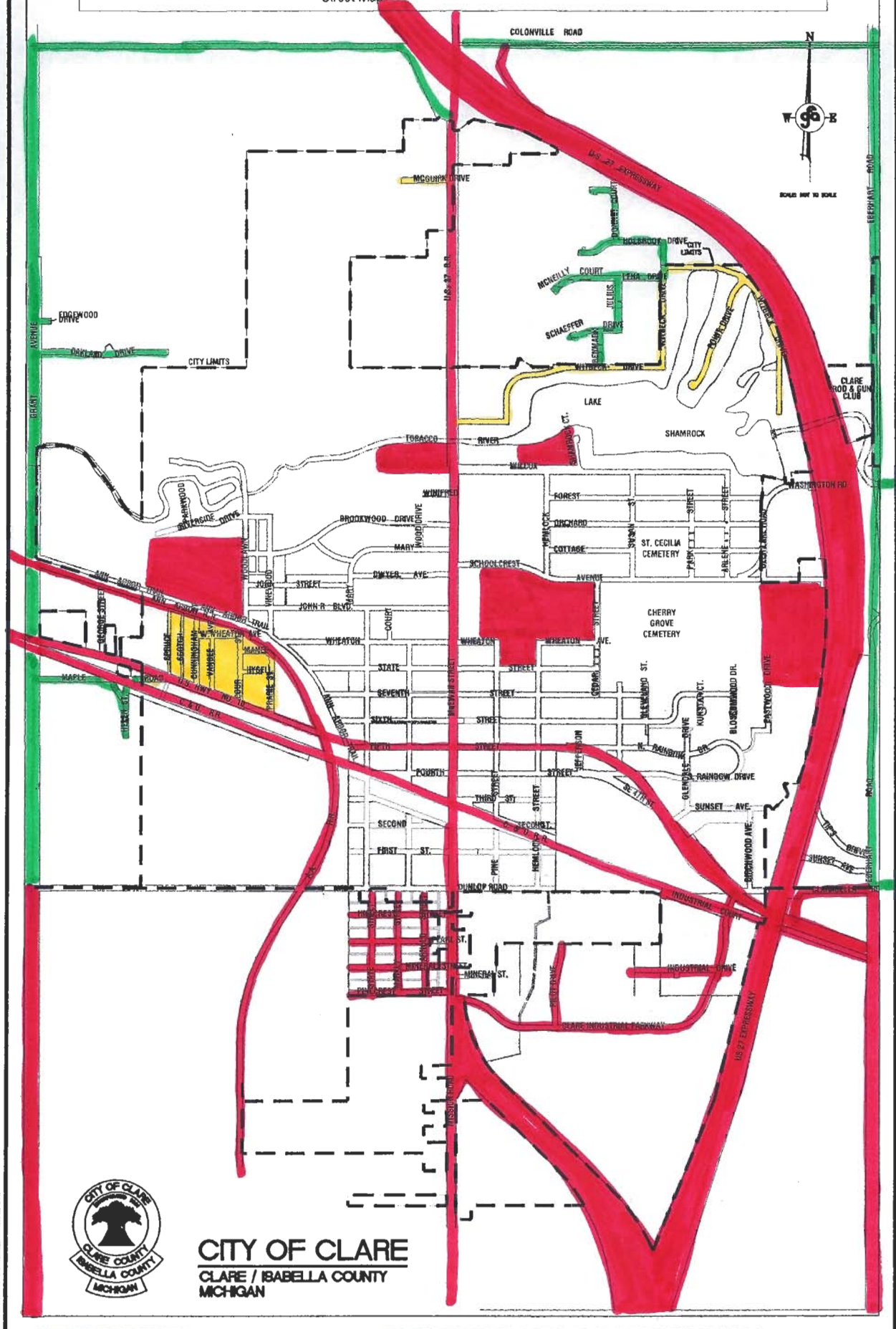
Ewart City

Total Crashes		
Fatal Crashes (Crashes involving a fatality)	Injury Crashes (Crashes involving an injury)	Property Damage Crashes (No fatalities or injuries)
0	0	0

City of Clare

Street Map

gfa Gourdie-Fraser



CITY OF CLARE
CLARE / ISABELLA COUNTY
MICHIGAN

PROHIBITED

ALLOWED BY
COUNTY OR TOWNSHIP

LANDLOCKED

UNOFFICIAL UNEDITED COPY OF PUBLIC STREET MAPS (ISSUED 12/14/14)



Pioneers In
Education

Clare Public Schools

201 East State Street
Clare, Michigan 48617


February 18, 2010

Mr. Ken Hibl
Clare City Manager
202 W. Fifth
Clare, Michigan 48617

Dear Mr. Hibl:

Clare Public Schools supports the City of Clare in their current policy to prohibit (ORV's) Off Road Vehicles from use on city or school district property.

Sincerely,


Gregory McMillan
Superintendent of Schools

GM:lch

c: City of Clare file

RESOLUTION 2010-014

A RESOLUTION OF THE CLARE CITY COMMISSION RESTRICTING THE USE AND OPERATION OF OFF-ROAD VEHICLES.

WHEREAS, the State of Michigan approved legislation in 2008 allowing local governments of “up north” governmental entities to determine whether they desired to allow the use and operation of Off-Road Vehicles (ORVs) on their local and major streets; and

WHEREAS, the City Commission of the City of Clare opted not to adopt legislation to allow the use of said vehicles within Clare’s geographical boundaries; and

WHEREAS, the City received a recent request to reconsider said prohibition of ORVs within Clare; and

WHEREAS, the Clare City Commission directed that a study be conducted to determine whether said prohibition should be lifted; and

WHEREAS, the City’s Parks & Recreation Board and Traffic & Safety Committee considered said matter and have recommended that the prohibition of ORVs within Clare continue.

NOW THEREFORE BE IT RESOLVED THAT the Clare City Commission hereby endorses the recommendations of the City’s Traffic & Safety Committee and the Parks & Recreation Advisory Board to continue the prohibition of the use and operation of ORVs on City streets, pathways, sidewalks, roadways, and other publicly owned or managed property within the geographical boundaries of the City of Clare.

BE IT FURTHER RESOLVED THAT the Clare City Commission directs its City Staff to create an ordinance for its consideration formally prohibiting said use and operation of ORVs within Clare.

The Resolution was introduced by Commissioner _____ supported by Commissioner _____. The Resolution declared adopted by the following roll call vote:

YEAS:

NAYS:

ABSENT:

Resolution approved for adoption on this 1st day of March 2010.

Diane Schmidt, City Clerk