

AGENDA REPORT

TO: Mayor & City Commission
FROM: Ken Hibl, City Manager
DATE: March 31, 2010
RE: Proposed Ordinance Amendment – ORV Use



For the Agenda of April 5, 2010

Background. By adoption of its Resolution 2010-014 (*copy att'd*), the City Commission approved the restriction of use and operation of Off-Road Recreational Vehicles in the City. Based on that decision, the City Attorney drafted an amendment (*copy att'd* – Ordinance 2010-001) to Chapter 44 (Traffic & Vehicles) of the City's current ordinance codes, thereby formalizing the City Commission's decision.

We have noticed (*see copy of att'd public notice*) the proposed ordinance change and the required public hearing to solicit comments regarding the proposed ordinance amendment; to date we have received no written comment.

The City Commission is asked to hold the required public hearing and allow a first reading of the proposed ordinance change to facilitate the process of amending the current ordinance codes to proceed.

Issues & Questions Specified. Should the City Commission hold the required public hearing and approve a first reading of the proposed ordinance amendment?

Alternatives.

1. Hold the hearing and allow a first reading.
2. Hold the hearing and insignificantly change the proposed ordinance revision.
3. Do not hold the hearing and first reading, thereby essentially disapproving the proposed ordinance revision in its current form.
4. Set aside decision regarding this matter to a later date.

Financial Impact. There is no immediate fiscal impact to the City other than the administrative costs of publishing the public notice.

Recommendation. I recommend that the City Commission, by appropriate motion, conduct a public hearing and allow a first reading of the proposed ordinance revision.

Attachments.

1. Resolution 2010-014.
2. Proposed Ordinance 2010-001.
3. Public Notice.
4. Resolution 2010-024. **Note: this resolution should not be considered or adopted until a second reading has been accomplished, which is tentatively scheduled for the City Commission meeting of April 19, 2010.**

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 Bill Horwood supported by Commissioner Jean McConnell. The Resolution declared adopted by the following roll call vote:

YEAS: Bill Horwood, Tom Koch, Pat Humphrey, and Jean McConnell

NAYS: John Koch

ABSENT: None

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

Diane Schmidt, City Clerk

ORDINANCE NUMBER 2010- 001

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CLARE.

Chapter 44, Article I, Section 44-5 of the Code of Ordinances, City of Clare, Michigan, is hereby added as follows:

Section 44-5

No person may operate an ORV on a City street except as provided by State law being MCL 324.81101 et seq., being part 811 of the Natural Resources Environmental Protection Act. This section permits:

1. Crossing a public highway at a right angle to get from one legal operation area to another, if it can be done safely and consistent with normal traffic regulations involving stopping and yielding before the crossing.
2. Operation on a public street for a special event of limited duration by prearrangement and with a permit.
3. In connection with farm operations.

An ORV shall be defined as a motor driven off road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV or vehicle includes, but is not limited to, a multi-track or multi-wheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. A golf cart as defined by State law (MCL 257.25b) being a four-wheel motor vehicle whose speed attainable in one mile is more than twenty miles per hour but not more than twenty-five miles per hour on a paved level surface is defined as an ORV in accordance with MCL 324.81101.

Effective Date

This Ordinance shall take effect thirty (30) days following date of publication as required by law. All Ordinances or part Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Adopted by the City Commission of the City of Clare this _____ day of _____, 2010.

Diane Schmidt, Clerk



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

PUBLIC NOTICE

The City of Clare Commission will hold a public hearing on Monday, April 5, 2010 at 6:00 p.m. at Clare City Hall, 202 W Fifth Street, to receive public comments pertaining to revisions to the City of Clare Code of Ordinances, Chapter 44, Section 44-5, Traffic and Vehicles. A copy of the proposed Ordinance is available for review in the Clerk's office, Monday through Friday, 8 am to 5 pm. The City Commission will accept comments at the hearing or in writing if the written comments are received by the City Clerk not later than 5 p.m. on the date of the hearing.

Diane Schmidt
City Clerk

Publication Date: 03/12/2010

2010-024

A RESOLUTION OF THE CLARE CITY COMMISSION APPROVING A REVISION TO CHAPTER 44 (TRAFFIC AND VEHICLES) OF THE ORDINANCE CODES OF THE CITY OF CLARE.

WHEREAS, the City Commission held a public hearing to consider comment related to said Ordinance and receiving none, approved the first reading of said proposed Ordinance, and

WHEREAS, the City Commission approved a second reading of said proposed Ordinance at a scheduled meeting and subsequently considered said Ordinance and determined that adoption served the best interests of the City of Clare and its citizens.

THEREFORE IT IS HEREBY RESOLVED by the Clare City Commission that Ordinance 2010-001, an Ordinance governing the use of Off-Road Recreational Vehicles within the geographical boundaries of the City of Clare, is hereby adopted, the effective date of said Ordinance being fifteen days from this date.

ALL RESOLUTIONS AND PARTS OF RESOLUTIONS INsofar AS THEY CONFLICT WITH THE PROVISIONS OF THIS RESOLUTION BE AND THE SAME ARE HEREBY RESCINDED.

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

YEAS:

NAYS:

ABSENT:

Resolution approved for adoption on this 19th day of April 2010.

Diane Schmidt
City Clerk