

## AGENDA REPORT

TO: Mayor and City Commission  
FROM: Ken Hibel, City Manager  
DATE: December 16, 2009  
RE: Revision of Chapter 52 (Zoning) of the Ordinance Codes of the City of Clare

For the Agenda of December 21, 2009

---

Background. The Zoning Board of Appeals recently granted a requested variance related to a sign setback requirement. But in approving the variance request, the ZBA concurrently recommended (*see copy of att'd ZBA Resolution*) that the City consider amending its zoning ordinance to change the currently required 10-foot sign setback requirement to three feet.

The Planning Commission was scheduled to consider the ZBA recommendation at its December 9<sup>th</sup> meeting, but the meeting was cancelled due to weather and road conditions. The Planning Commission is required to review the proposed ordinance and make a formal recommendation to the City Commission prior to adoption of the ordinance amendment.

As we've already noticed (*see copy of att'd public notice*) the proposed zoning ordinance change (*copy att'd*) and the required public hearing to solicit comments regarding the proposed change for the December 21<sup>st</sup> City Commission meeting, I ask the Commission to proceed with the required (and already noticed) public hearing and approve the first reading. We will subsequently reschedule this matter to be considered by the Planning Commission at its January 13<sup>th</sup> meeting and then schedule a second reading of the proposed ordinance amendment for the City Commission's January 18<sup>th</sup> scheduled meeting, thereby providing the City Commission an opportunity to consider the formal recommendation of the Planning Commission prior to make a final decision regarding the proposed amendment and concurrently ensuring compliance with our set process to amend zoning ordinances.

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

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. ZBA Resolution 2009-003.
2. Public Notice.
3. Proposed Ordinance 2009-005.

**ZBA RESOLUTION 2009-003**

**A RESOLUTION OF THE CITY OF CLARE ZONING BOARD OF APPEALS DENYING A VARIANCE REQUEST OF CLARK PODIATRY CLINIC.**

**WHEREAS**, the City has received a dimensional variance request from Mr. Tom Clark, who is representing Clare Podiatry Clinic, to erect a new sign three feet from the property line adjacent to City right-of-way at 125 Dwyer Street in the City of Clare; and

**WHEREAS**, said property lies within a Commercial-1 zoning district; and

**WHEREAS**, the zoning codes of the City of Clare require 10-foot sign setback; and

**WHEREAS**, the Zoning Board of Appeals, subsequent to holding an appropriately noticed public hearing, considered said request; and

**WHEREAS**, based on review of said request and after consideration of the established standards of the City of Clare in determining variance requests, a copy of said standards attached to this resolution, the Zoning Board of Appeals has determined that the existing ordinance codes mandating a 10-foot sign setback is unreasonable and not in the best interests of the City of Clare and its business community; and

**WHEREAS**, the Zoning Board of Appeals has further determined that the City should consider changing its current ordinance codes mandating said sign setback requirement.

**NOW THEREFORE BE IT RESOLVED THAT** the Zoning Board of Appeals hereby approves the requested dimensional variance request of Clark Podiatry Clinic to allow said entity to erect a sign not closer than three feet from the Dwyer Street right-of-way of the City of Clare.

**BE IT FURTHER RESOLVED THAT** the Zoning Board of Appeals recommends that the City of Clare amend Section 52-441 of the Zoning Codes of the City of Clare to require that the sign setbacks be established to be a minimum of three feet from any public or private street right-of-way or access drive vice the ten feet presently mandated in said Section of the Ordinance Codes of the City

**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 Board Member Bret Cook and supported by Board Member Cheryl Yesney. The Resolution declared adopted by the following roll call vote:**

**YEAS:** Bret Cook, Amy Kunse, and Cheryl Yesney

**NAYS:** None

**ABSENT:** None

Resolution approved for adoption on this 30<sup>th</sup> day of October 2009.

---

Diane Schmidt, City Clerk



# CITY OF CLARE

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

[www.cityofclare.org](http://www.cityofclare.org)

## CITY HALL

Ph 989/386-7541  
Fx 989/386-4508  
[www.cityofclare.org](http://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 City Commission will hold a public hearing on Monday, December 21, 2009 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 52, Zoning, Article IX; Section 52-441, Sign Ordinance Amendment. A copy of the proposed Ordinance revision 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.**

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

**Chapter 52, Article IX, Section 52-441 of the Code of Ordinances, City of Clare, Michigan, is hereby added as follows:**

**Sec. 52-441. General standards for permitted signs.**

Signs which are permitted as accessory uses serving a commercial or informational purpose may be permitted subject to the requirements of this article; provided, that no such sign shall be erected or altered until approved by the building official/city manager and until a sign permit has been issued pursuant to this chapter.

(a) *Sign setbacks.*

1. All signs, unless otherwise provided for, shall be set back a minimum of three feet from any public or private street right-of-way line or access drive in all districts. This distance shall be measured from the nearest edge of the sign, measured at a vertical line perpendicular to the ground to the right-of-way.
2. Side yard setbacks for signs shall be the same as that required for the main structure or building, provided that all nonresidential signs shall be set back at least 100 feet from any residential district.

(b) *Location.* Sign location to assure adequate sight distance. In order to ensure adequate sight distance for motorists, bicyclists and pedestrians, a minimum clear vision area shall be maintained between a height of 24 inches and six feet within a triangular area measured 25 feet back from intersection of public right-of-way lines. Furthermore, signs shall not be permitted where they obstruct motorist vision of regulatory signs, traffic-control devices or street signs. Within the discretion of the traffic control board or committee of the City of Clare, greater restrictions than are contained within this section may be imposed in order to protect minimum clear vision area or adequate line of sight. Such sight and condition respective requirements shall be within the sole discretion of the committee or board having authority over traffic control.

(c) *Design and construction.* Signs, as permitted in the various zoning districts, shall be designed to be compatible with the character of building materials and landscaping to promote an overall unified and aesthetic effect in accordance with the standards set forth herein. Signs shall not be constructed from materials that are remnants or manufactured for a different purpose.

(d) *Illumination.*

1. Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign or internal to it.

2. Use of glaring undiffused lights or bulbs shall be prohibited.
3. Lights shall be shielded so as not to project onto adjoining properties or thoroughfares.
4. Underground wiring shall be required for all illuminated signs not attached to a building.

(e) *Maintenance and construction.*

1. Every sign shall be constructed and maintained in a manner consistent with the building code provisions and maintained in good structural condition at all times. All signs shall be kept neatly painted, stained, sealed or preserved including all metal, wood or other materials used for parts and supports.
2. All signs erected, constructed, reconstructed, altered or moved shall be constructed in such a manner and of such materials so that they shall be able to withstand wind pressure of at least 20 pounds per square foot or 75 mph.
3. All signs, including any cables, guy wires, or supports shall have a minimum clearance of four feet from any electric fixture, street light, or other public utility pole or standard.

(f) *Measurement.* Measurement of allowable sign area:

1. The allowable area for signs shall be measured by calculating the square footage of the sign face and any frame of other material or color forming an integral part of the display or used to differentiate it from the background against which it is placed as measured by enclosing the most protruding points or edges of a sign within a parallelogram or rectangle.
2. When a sign has two or more faces, the area of all faces shall be included in calculating the area of the sign except that where two such faces are placed back to back, only the larger face shall be considered, provided that both faces are part of the same structure, contain the same message and are separated by no more than two feet.
3. For purposes of calculating sign area allowed as a wall sign, the wall sign square footage shall be determined by measuring a parallelogram (box) which includes the portion of the canopy which contains a message, symbol and/or logo.
4. When a sign consists solely of lettering or other sign elements printed, painted or mounted on a wall of a building without any distinguishing border, panel or background, the calculation for sign area shall be measured by enclosing the most protruding edges of the sign elements within a parallelogram or rectangle.

**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 \_\_\_\_\_, 2009.

---

Diane Schmidt, Clerk