

AGENDA REPORT

To: Mayor Pat Humphrey & the Clare City Commission
From: Ken Hibl, City Manager
Date: April 10, 2019
RE: Ordinance 2019-004 - Chapter 26 (Special Events)

For the Agenda of April 15, 2019

Background. Based on the City Staff's request to the City Attorney for clarification of what constitutes exempt vs. non-exempt gatherings and locations within the City in respect to permit applications and requirements, our City Attorney modified the definitions of the City's current ordinance. Additionally, per the Staff's request, the permit application period was extended from 15 days to 30 days. These changes are incorporated in Ordinance 2019-004 (*copy att'd*) for the City Commission's consideration.

All ordinance code changes or amendments require the approval of the Clare City Commission. And all ordinances require two readings and approval of the Clare City Commission subsequent to a public hearing. The required public notice (*copy att'd*) announcing the hearing has been published. Subsequent to the conduct of the hearing, the Commission has the option of allowing a First Reading of the proposed Ordinance or denying the conduct of a First Reading, thereby rejecting the proposed new ordinance.

The City Commission is asked to conduct the required public hearing and approve or deny a First Reading of the proposed ordinance.

Issues & Questions Specified. Should the City Commission hold the requisite public hearing and allow a First Reading of the proposed amendment to our Special Events ordinance?

Alternatives.

1. Hold the hearing and allow a First Reading of the proposed ordinance.
2. Hold the hearing and allow a First Reading with amendments or modifications to the proposed ordinance.
3. Hold the hearing and deny the First Reading, thereby rejecting the proposed new ordinance.
4. Set aside the decision regarding this matter to a later date.

Financial Impact. None.

Recommendation. I recommend the City Commission hold the requisite public hearing and allow a First Reading of the proposed Special Events ordinance.

Attachments.

1. Ordinance 2019-004.
2. Public Notice.

ORDINANCE NUMBER 2019-004
AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CLARE.

Chapter 41, Special Events, Code of Ordinances, City of Clare, Michigan, is hereby added as follows:

CHAPTER 41. SPECIAL EVENTS

Sec. 41-1. Purpose.

It is determined by the city that the right of all citizens to make reasonable use of the streets and sidewalks must be preserved to the greatest extent possible.

It is further found that certain areas of the city suffer from serious traffic congestion, both vehicular and pedestrian, and that in order to assure essential movement of persons and vehicles and to protect the rights of all members of the public, traffic laws and regulations have been enacted and must be enforced uniformly.

It is further found that, during rush hours, areas of the city suffer from extreme traffic congestion, requiring the strict enforcement of traffic laws and regulations in order to protect the rights of all persons to move upon the city streets.

It is further found that various groups, associations and organizations desirous of holding public parades, marches and processions wish to be exempted from complying with the laws and regulations relating to traffic controls, including but not limited to, traffic lights, traffic signals and signs, and various standard rules for the operation of persons and motor vehicles.

It is further found that such organizations, groups or associations often desire and/or require police escorts to assure clear and safe passage for the parade, march or procession.

It is further found that it is the policy of the city to permit waiver of enforcement of traffic laws and regulations relating to vehicular and pedestrian traffic in certain instances and under certain conditions where such a waiver or variance in normal procedures would not unreasonably obstruct or interfere with free ingress and egress to and from public and private property or to and from various areas of the city and will not present an unreasonable hazard to the public. It is also found that a reasonable, short-term obstruction of ingress and egress may be required for public safety on certain occasions.

It is further found that the planning for, scheduling of personnel for, and the carrying out of all the necessary preparations for, and executions of, parades, marches and processions in regard to which requests are made for waiver or variance of laws or regulations relating to pedestrian or vehicular traffic restriction of parking on the parade route, change of traffic patterns, or provision of police escorts, require advance notice to the city and require the expenditure of public funds.

It is further found that unless adequate advance preparation is made and adequate personnel are provided, it is both unsafe and impractical for parades, marches or processions to move in or about the city's streets and sidewalks unless in strict compliance with all laws and regulations relating to the movement of pedestrian and vehicular traffic.

Sec. 41-2. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Assembly shall mean any event designed, promoted or conducted in order to encourage the gathering of people upon public property at a specified location and shall include any, ceremony, show, demonstration, exhibition, street dance, pageant, party, circus, concert, sporting event, game or similar activity.

Chief of police includes any representative designated by the chief of police.

Exempt gathering.

1. Any gathering for any reason involving twelve people or less.
2. Any assembly taking place entirely on property designated as a City Park and not involving any use of alcohol or controlled substances.
3. Events for which all participants use sidewalks, observe traffic safety and safety regulations and do not interfere with the safe and orderly movement of pedestrians, vehicles or funeral processions, such as sidewalk sales.
4. Picnics or family reunions of less than fifty (50) people.

Exempted property shall mean public property where no assembly or parade permit is required. In the city, exempted property means: the exterior of city hall and the city-owned land adjacent to city hall; and the police/public safety building, but not including any public park. Such use shall avoid, to the degree possible, disruption of other normal or scheduled activities at those facilities.

Parade shall mean a procession of any kind, having a common purpose or goal, which moves from place to place upon public property along a specified route and shall include any march, race, walk-a-thon, bike-a-thon, demonstration, or similar activity. The following processions are not included in the definition of "parade":

1. Processions composed wholly of the military or naval forces of the United States or the state;
2. Processions incidental to a funeral;
3. Processions composed of one or more governmental officials or candidates accompanied by security personnel to which such

officials or candidates are entitled by virtue of their office or candidacy.

Public property shall mean any street, alley, sidewalk, park, or parking lot owned, controlled or managed by the city, including without limitation government owned lands and facilities such as the airport, vacant farmland, train depot, recreation complex and so forth.

Sponsor shall mean the person who has applied for a permit under this article. The sponsor shall be the person to whom the permit is issued.

Sec. 41-3. Permit required; procedure.

(a) Any person desiring to sponsor an assembly or parade on any street of the city shall first obtain a permit from the city. Applications shall be submitted to the City Manager via the City Clerk's office.

(1) Written application for any assembly or parade shall be made at least 30 days in advance in order to insure timely appeal of a denial of the application and to allow time for permit processing.

(2) All applications for permits shall be processed, so long as they are received at least 30 working days in advance of the proposed date of the event, unless time frames are waived by the city.

(3) However, when the proposed event designates a route which passes through a business district, extends over an area which involves more than five intersections (not including alleys) anticipates a number of participants exceeding 250, the sponsor shall apply at least 30 days in advance of the proposed date.

(4) The city may grant a permit to a sponsor who applies less than 30 days but at least 5 working days in advance if the city determines that the permit application requires no substantial investigation or preparation of the route.

(b) Application shall be made on a form provided by the clerk and shall include:

(1) The name, business address, home address, business phone number and home phone number of the sponsor, the sponsor of the assembly or parade, and the assembly or parade organizer (the person responsible for managing and organizing the details of the assembly or parade);

(2) The information related to the person filling out the application, identity, phone number, e-mail address;

(3) Proof of the person filling out the application's authority to act on behalf of the sponsor;

(4) A description of the route of the event;

(5) The names of all of the streets to be used;

(6) The number of participants anticipated;

(7) The starting time and expected finishing time of the event; and

(8) Any other information requested in order to enable the city to verify the information required in the subsection.

(c) Application for a permit shall be accompanied by a fee, as set by the City Commission by resolution from time to time.

(d) The city may issue a permit immediately upon approval of the permit application and execution and receipt of the indemnification agreement required by section 41-8.

(e) The city manager shall, as appropriate, transmit copies of any special event permit issued to the mayor's office, the fire department, the department of public works, the finance department, the legal department, and any other effected departments.

Sec. 41-4. Exceptions.

(a) The time limitations prescribed above for the filing of a permit application may be waived by the city if the sponsor can show that the proposed assembly or parade is for the purpose of spontaneous communication of topical ideas that could not have been foreseen in advance of the required application period or that circumstances beyond the control of the sponsor prevented timely filing of the application unless closure of a state trunkline is required.

(b) No permit shall be required if an assembly is an exempted gathering pursuant to Section 41-2.

(c) First amendment protected or electoral related activities are exempt from the permit requirement and restrictions imposed by this ordinance.

Sec. 41-5. Criteria for issuance.

The city shall issue an assembly or parade permit when, from consideration of the application and from such other information as may otherwise be obtained, it appears that:

(1) The conduct of the assembly or parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to the assembly or parade;

(2) The conduct of the assembly or parade will not require the diversion of so great a number of police officers to properly police the assembly or parade and the areas contiguous thereto as to prevent normal police protection to the city;

(3) The conduct of the assembly or parade will not prevent normal ambulance service to portions of the city other than that to be occupied by the assembly or parade and contiguous areas;

(4) The conduct of the assembly or parade will not interfere with the movement of firefighting equipment;

(5) The conduct of the assembly or parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create a disturbance;

(6) The assembly or parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route; and

(7) The sponsor and the person filling out the application on behalf of the sponsor for a permit, the sponsor of the event, and the event organizer and any additional event organizers have not violated the terms of any previous assembly or parade permit, have not caused undue traffic congestion and/or police problems under any previous assembly or parade permit, and are current on any fees charged in conjunction with any previous assembly or parade permit.

(8) The sponsor and the person filling out the application on behalf of the sponsor for a permit, the sponsor of the event, and the event organizer and any additional event organizers have provided the evidence of sufficient insurance to meet the standard set by the City, by resolution, from time-to-time.

Sec. 41-6. Notice of denial; appeal.

(a) If the city manager denies an application for an assembly or parade permit, notice of denial shall be mailed to the sponsor. Such notice shall state the reasons for denial of the permit.

(b) Denial of an application for an assembly or parade permit may be appealed to the city commission. The appeal shall be filed within five business days after the notice of denial is received. The city commission shall consider such appeal and may either concur in the action of the city manager or overrule such action and order that the permit be approved. If the city orders that a permit be approved, it shall have the authority to impose only such conditions as are recommended by the city department heads.

Sec. 41-7. Payment of city services.

(a) The sponsor of an assembly or parade who accepts a permit thereby consents to the formation of a contract between the sponsor and the city for payment of costs for city services and equipment as set forth in this section.

(b) Within 21 days of the conclusion of the assembly or parade, the city will send the sponsor a bill for the actual amount of the direct and reasonable costs incurred by the city to provide additional police and public works services for the assembly or parade.

(c) Within 14 days after the date of the bill, the sponsor shall pay to the city the direct and reasonable costs incurred by the city to provide additional police and public works services for the assembly or parade.

(d) The fees under this section shall not apply to parades conducted for the primary purpose of public-issue speech protected by the First Amendment of the U.S. Constitution.

Sec. 41-8. Indemnification agreement.

The sponsor of the event, and the event organizer shall sign an indemnification agreement with terms established by the legal department.

Sec. 41-9. Revocation of permit.

(a) The city manager may revoke an assembly or parade permit if an emergency arises which makes it impossible to assign the necessary personnel to the event and still provide the personnel required elsewhere to protect the public, or if information is received after the permit is issued from which the chief of police reasonably concludes that the permit should not have been approved.

(b) If participants violate any conditions contained in an assembly or parade permit, the city manager, chief of police or the police officer assigned by the chief of police as the officer in charge of overseeing personnel necessary to police the event may, after warning the participants and providing them with an opportunity to follow the permit conditions, revoke the permit.

Sec. 41-10. Unlawful to sponsor or participate in an assembly or parade without a permit.

It shall be unlawful for any person to sponsor an assembly or parade unless a permit has been issued for the event, or for any person to participate in such an event with the knowledge that the sponsors of the event have not been issued the required permit or with the knowledge that a permit has been issued and subsequently revoked.

Sec. 41-11. Penalty.

A violation of this article shall be prosecuted as a misdemeanor offense.

Chapter 41, Public Events Involving Alcohol, Code of Ordinances, City of Clare, Michigan, is hereby added as follows:

Sec. 41-20. Purpose.

PUBLIC EVENTS INVOLVING ALCOHOL

(a) Scope of regulation. This section applies to all public gatherings in the City located both on any public property, including exempted property, pursuant to Section 41-2.

(b) Required. The City ordains that any person, group or organization which has sought a permit or permission to hold any public assembly, event, demonstration, parade or other gathering may make application to the City for permission to have or serve alcohol in connection with the event. The application shall be made to the City Manager, and shall include documentation reflecting an applicable Liquor License from the Michigan Liquor Control Commission that will permit such service and the sponsor shall have in place liability coverage as specified by the City from time to time naming both the City of Clare and its staff and officials as additional insureds.

(c) Purpose. The purpose for such permit and registration is to simply allow the City to make reasonable regulations for the presence of alcohol in connection with the event. The permit, if granted, will allow the City to implement public safety measures, such as allocation of public safety personnel and equipment to assure the safety of the public. The City shall protect itself from all responsibility of any harmful activity engaged in or any injury sustained during the event permitted. The full responsibility for the event and the use of alcohol at the event and its consequences shall belong in the hands of the organization designated on the registration form.

(d) Fee. The City shall set a fee for this permit by resolution from time to time.

(e) The City shall retain the right and is obligated under its police powers to impose reasonable regulations for the safety of the public if circumstances make it necessary. The City's primary concern is the time, place and safety of

the public. The City retains the right to take whatever actions are necessary to protect the public.

(f) Any costs incurred by the City may be billed to the event consistent with Section 41.7.

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 _____, 2019.

Diane Lyon, Clerk

NOTICE OF PROPOSED ORDINANCE AMENDMENTS

CITY OF CLARE PUBLIC NOTICE

The City of Clare City Commission will hold a public hearing on Monday, April 15, 2019, at 6:00 p.m. at Clare City Hall, 202 W. Fifth Street, to receive public comments pertaining to an amendment of the City of Clare Code of Ordinances regarding Chapter 22, Article III, Sections 22-50 & 22-51, Fireworks; Chapter 26, Article IV, Marihuana Civil Infractions; Chapter 28, Article V, Section 124 & 28-125, Disorderly Intoxication and Section 28, Article VII, Section 209, Consumption of alcoholic beverages in public; Chapter 30, Article III, Section 30-75, Camping in Pettit Park; Chapter 41, Special Events, Sections 41-1, thru 41-11 and 41-20; . A copy of the proposed Ordinance amendment 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. The City of Clare is an equal opportunity employer and provider.

Diane Lyon
Clare City Clerk

