

## AGENDA REPORT

**To:** Mayor Pat Humphrey & the Clare City Commission  
**From:** Ken Hibl, City Manager  
**Date:** April 10, 2019  
**RE:** Ordinance 2019-008 - Chapter 26 (Law Enforcement)

For the Agenda of April 15, 2019

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*Background.* With the advent of the state's new recreational marihuana laws, our City Attorney has recommended that the City incorporate a civil infractions section to the City's ordinance codes to address public marihuana use. These changes are incorporated in Ordinance 2019-008 (*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 Law Enforcement 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 Law Enforcement ordinance.

*Attachments.*

1. Ordinance 2019-008.
2. Public Notice.

ORDINANCE NO. 2019 - 008

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CLARE BY adding Chapter 26, Article IV of the City Code.

Short Title: CITY OF CLARE – ORDINANCE AMENDMENT

**Chapter 26, Article IV of the Clare City Code is hereby added as follows:**

Article IV. - Marijuana Civil Infractions

*Definitions.*

“Public place”, except as otherwise provided, means any of the following:

- A. An enclosed, indoor area owned or operated by a state or local governmental agency and used by the general public or serving as a meeting place for a public body, including an office, educational facility, home for the aged, nursing home, county medical care facility, hospice, hospital long-term care unit, auditorium, arena, meeting room, or public conveyance.
- B. An enclosed, indoor arena that is not owned or operated by a state or local governmental agency, is used by the general public, and is any of the following:
  - 1. An education facility.
  - 2. A home for the aged, nursing home, county medical care facility, hospice, or hospital long-term care unit.
  - 3. An auditorium.
  - 4. An arena.
  - 5. A theater.
  - 6. A museum.
  - 7. A concert hall.
  - 8. Any other facility during the period of its use for a performance or exhibit of the arts.
  - 9. Any public accommodation, any place that welcomes the public such as a restaurant, or a subset of the public such as a club.
- C. A place of employment.

Prohibitions against certain Marijuana activities.

- A. In conformance with Sections 4.1 and 6.2 of the of the Michigan Regulation and Taxation of Marihuana Act (the "Act"), Initiated Law 1 of 2018 (MCL §333.27951 to §333.27976):
1. No person shall transfer marihuana or marihuana accessories to a person under the age of 21;
  2. No person shall engage in the separation of plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100°F in any public place, motor vehicle, or within the curtilage of any residential structure;
  3. No person shall consume marihuana or smoke marihuana in a public place or smoke marihuana where prohibited by the person who owns, occupies, or manages the property;
  4. No person shall cultivate marihuana plants if the plants are visible from a public place without the use of binoculars, aircraft, or other optical aids or outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area;
  5. No person shall consume marihuana while operating, navigating, or being in the physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat, or smoke marihuana within the passenger area of a vehicle upon a public way;
  6. No person shall possess marihuana accessories or possess or consume marihuana on the grounds of a public or private school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12, in a school bus, or on the grounds of any correctional facility; and
- B. Violations and penalties. A person who violates or fails to comply with this Section shall be responsible for a civil infraction punishable by a fine of \$100 and forfeiture of the marihuana.
- C. This Section does not prohibit any activity that is authorized by the Act or other state or federal law.

Passed by the City Commission of the CITY OF CLARE on \_\_\_\_\_, at its regular meeting with \_\_\_\_\_ commissioners in attendance, \_\_\_\_\_ voting aye, \_\_\_\_\_ nay.  
Adopted by the City Commission of the City of Clare this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Signed: \_\_\_\_\_, Chair.

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I hereby certify that the foregoing was duly adopted by the CITY COMMISSION of CITY OF CLARE, Michigan, at its regular meeting on the \_\_\_\_\_ of \_\_\_\_\_, 2019, that of \_\_\_\_\_ members of the City Commission, \_\_\_\_\_ were in attendance and \_\_\_\_\_ voted for the adoption of the Ordinance. I further certify that the above and foregoing ordinance is recorded in Ordinances for the CITY OF CLARE.

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.

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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

