

AGENDA REPORT

TO: Mayor Pat Humphrey & the Clare City Commission
FROM: Ken Hibl, City Manager
DATE: April 12, 2018
RE: First Reading of Ordinance 2018-004 – Taxicabs, Donation Boxes, & Zoning
Decision Appeals

For the Agenda of April 16, 2018

Background Clare's City Attorney has drafted the attached ordinance 2018-004 for consideration and adoption. The proposed ordinance incorporates changes made to state law regarding taxicabs (the State has withdrawn authority from local governments to govern/regulate taxicabs and charge fees associated with licensing of cabs and has centralized oversight and revenue collection for cabs at the state level); regulate the proliferation of charitable donation and collection boxes within the City; and designates a time period (21 days) for appeals of decisions and actions within the City in respect to zoning matters.

As two elements (donation boxes and zoning decisions) of the proposed Ordinance fall under the purview of the Planning Commission, a review of the proposed ordinance by that entity is required. The Planning Commission completed the required review at its scheduled April 11th meeting and recommended the proposed ordinance be approved (*see copy of att'd Planning Commission Resolution 2018-013pc*).

The City Commission is the approval authority of all ordinance code changes or amendments. And all ordinances require two readings and a public hearing conducted by the City Commission before the City Commission can consider an ordinance for adoption. The required public notice (*copy att'd*) announcing the hearing has been published. Subsequent to the conduct of the hearing, the Commission has the options of allowing a First Reading of the proposed Ordinance or denying the conduct of a First Reading, thereby rejecting the ordinance/zoning change.

The City Commission is asked to conduct the required public hearing, consider and discuss the proposed amendment, and direct a First Reading of the proposed Ordinance.

Issues & Questions Specified. Should the City Commission consider and discuss the proposed amendment, hold a public hearing, and approve the first reading of Ordinance 2018-004?

Alternatives.

1. Hold a public hearing and conduct a first reading of the proposed ordinance amendment.
2. Do not hold a hearing, nor direct a first reading thereby declining to amend the ordinance.
3. Set aside the decision regarding this matter to a later date.

Financial Impact. There is no immediate, direct fiscal impact.

Recommendation. I recommend that the City Commission consider and discuss the ordinance amendment, hold the requisite public hearing, and approve the First Reading of Ordinance 2018-004.

Attachments.

1. Planning Commission Resolution – 2018-013PC.
2. Public Notice.
3. Ordinance 2018-004.

RESOLUTION 2018-013PC

A RESOLUTION OF THE CITY OF CLARE PLANNING COMMISSION RECOMMENDING THAT THE CITY COMMISSION ADOPT AN AMENDMENT TO THE CITY'S ORDINANCE CODE PERTAINING TO TAXICABS, DONATION AND COLLECTION BOXES, AND APPEALS TO ZONING DECISIONS.

WHEREAS, the Clare City Attorney has drafted Ordinance 2018-004 for consideration and adoption ; and

WHEREAS, said proposed ordinance incorporates changes made to state law regarding taxicabs (the State has withdrawn authority from local governments to govern/regulate taxicabs and charge fees associated with licensing of cabs and has centralized oversight and revenue collection for cabs at the state level); regulate the proliferation of charitable donation and collection boxes within the City; and designates a time period (21 days) for appeals of decisions and actions within the City in respect to zoning matters; and

WHEREAS, the City Planning Commission has considered the elements of the proposed ordinance codes (donation boxes and appeals to zoning decision) that will modify portions of Chapter 52 of the City's Ordinance Codes and conducted a public hearing to receive comment pertaining to said proposed amendment; and

WHEREAS, subsequent to said hearing, the Planning Commission has duly considered and deliberated the portions of said Ordinance which will amend Chapter 52 of the City's Ordinance Codes and deemed it prudent to recommend approval.

NOW THEREFORE BE IT RESOLVED THAT the City of Clare Planning Commission hereby recommends that the Clare City Commission amend the City's Ordinance Codes by adoption of Ordinance 2018-004, thereby regulating the placement and size of donation and collection boxes within the City of Clare and set 21 days for appeals to zoning actions and decisions within the City of Clare

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 11th day of April 2018.

Josh Clark, Chairman



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NOTICE OF PROPOSED ORDINANCE AMENDMENT

CITY OF CLARE PUBLIC NOTICE

The City of Clare Planning Commission will hold a public hearing on Wednesday, April 11, 2018, at 5:30 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 34: Article I, Section 34-1–Donation Boxes; Chapter 48: Article II, Section 48-31 through 48-43–Taxicabs; Chapter 52: Article II, Section 52-75–Manner of Taking Appeal; Chapter 52: Article IV, Section 52-319–Moveable, Pre-constructed Storage Buildings. 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 City Commission will hold a public hearing on Monday, April 16, 2018, 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 34: Article I, Section 34-1–Donation Boxes; Chapter 48: Article II, Section 48-31 through 48-43–Taxicabs; Chapter 52: Article II, Section 52-75–Manner of Taking Appeal; Chapter 52: Article IV, Section 52-319–Moveable, Pre-constructed Storage Buildings.. 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



ORDINANCE NO. 2018 - 004

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CLARE BY amending Chapter 34 and rescinding Chapter 48, Article II, of the City Code.

Short Title: CITY OF CLARE – ORDINANCE AMENDMENT

Chapter 34, Article I, Section 34-1 of the Code of Ordinances, City of Clare, Michigan, is hereby added as follows:

ARTICLE I. – IN GENERAL

Sec. 34-1. Donation boxes.

Definitions: Donation Box – Any enclosed receptacle or container, located outside of a building, designed and intended for the donation and temporary storage of clothing or other materials.

Regulations: Donation boxes:

- (1) No person or other legal entity shall cause or permit the installation or placement of a donation box upon any property within the City, whether public or private, except in accordance with this section.
- (2) Donation boxes are permitted within the City upon compliance with all of the following:
 - (a) All proceeds are dedicated to the use of an entity which is qualified by the Internal Revenue Service as a 501(c)(3) charitable institution, or is a governmental entity.
 - (b) The donation box is placed upon the premises of an entity which is located in the C2 (General Commercial) Zoning District or is qualified by the Internal Revenue Service as a 501(c)(3) charitable institution, or is a governmental entity.
 - (c) The donation box is no more than six (6) feet high, with a ground footprint of not more than twenty-five (25) square feet.
 - (d) No more than two (2) donation boxes shall be located on any parcel.
 - (e) The donation box shall be located so as not to interfere with any sight triangles and on-site circulation. The donation box shall be located at least fifteen feet from any building, twenty feet from the front property

line, and five feet from the side and rear property lines. The donation box shall not be located so as to block the view of any business signage on any parcel.

- (f) The donation box shall be placed upon a concrete or asphalt surface.
 - (g) The donation box shall be emptied with such frequency and regularity as to ensure that it does not overflow, and materials do not accumulate outside the donation box.
 - (h) The donation box shall not be used as a receptacle for any hazardous or potentially hazardous waste.
 - (i) The issuance of a permit pursuant to subsection 3 below.
- (3) The zoning administrator shall issue a permit, annually, for a compliant donation box upon receipt of an annual permit fee in an amount to be established from time to time by resolution of the City Commission; and of an application containing all of the following:
- (a) Proof of the applicant's status as a charitable institution or as a governmental entity.
 - (b) A site plan indicating the placement of the donation box, in compliance with all the above siting requirements.
 - (c) The name, address, telephone number and e-mail address of the applicant and of the owner of the donation box, if different than the applicant.
 - (d) The name, address, telephone number and e-mail address of the person who will be available during regular business hours and will be responsible for compliance.
 - (e) A photograph of the donation box to be installed.
 - (f) The signed and dated consent of the property owner, consenting to the location of the box.

Chapter 48, Article II, Section 48-31 through 48-43 of the Code of Ordinances, City of Clare, Michigan, is hereby rescinded.

Chapter 52, Article IV, Section 52-75 of the Code of Ordinances, City of Clare, Michigan, is hereby amended as follows:

Sec. 52-75. - Manner of taking appeal.

Notice of appeal. A demand for a zoning appeal can be filed by:

- (a) A person aggrieved, or
- (b) An officer, department, board, or bureau of the state or local unit of government,
- (c) Appeal requests for ordinance interpretation may be filed by written notice of appeal with the city on forms established for that purpose and accompanied by such information as is necessary to decide such request. At a minimum, six copies of the information required to be submitted for a land use permit (or a site plan) in article VII shall be submitted. Upon receipt of a notice of appeal, the city shall promptly transmit the records concerning the appealed action, as well as any related information to the chairperson of the zoning board of appeals.
- (d) All appeals shall be filed not later than twenty-one days after the decision, order, requirement, permit, or refusal made by the Zoning Administrator or by any other official or by the Planning Commission in administering or enforcing the provisions of this chapter.

Chapter 52, Article IV, Section 52-319 of the Code of Ordinances, City of Clare, Michigan, is hereby added as follows:

Sec. 52-319. Movable, pre-constructed storage buildings.

Storage buildings not to exceed ten feet by twelve feet in size and not having a permanent foundation such as the movable storage barns purchased from others are permitted in any residential district or any commercial district subject to the setbacks set forth in that district.

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 _____, 2018.

Signed: _____
PAT HUMPHREY, Mayor

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 _____, 2018, 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.

Diane Lyon, Clerk