

## AGENDA REPORT

TO: Mayor Pat Humphrey and the Clare City Commission  
FROM: Jeremy Howard, City Manager  
DATE: May 15, 2025  
RE: Ordinance 2025-001, Chapter 10, Floodplain Management Provisions

For the Agenda of May 19, 2025

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Background. On March 19, 2025, select members of the city staff and the Clare County Community Development Building Inspector met with staff from the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division, for a review of city processes and procedures for commercial and residential development under Federal Emergency Management Agency (FEMA) guidelines.

Following that meeting, EGLE recommended the city update its 2010 Intergovernmental Agreement with Clare County Community Development (*copy att'd*) which provides building inspections and permitting services, to reflect that the Clare County Building Inspector is designated as the city's Floodplain Manager. The City Commission approved amendment to this agreement at its April 21, 2025 meeting.

In addition to updating the Intergovernmental agreement with Clare County, EGLE made a recommendation to update the city's Codes of Ordinance (*copy att'd*) to designate the Clare County Building Inspector as the city's floodplain manager, to accurately reflect the individual who is responsible for the city's floodplain management.

The City Commission is now asked to formally initiate the process to consider the proposed ordinance.

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 announcing the public hearing has been accomplished (*att'd*). 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 Ordinance 2025-001?

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. Presently indeterminable, though the addition of homes would generate tax and utility revenue.

Recommendation. I recommend the City Commission hold the requisite public hearing and allow a First Reading of the proposed Ordinance 2025-001.

Attachments.

1. Ordinance 2025-001.
2. Public Notice.

**MICHIGAN COMMUNITY RESOLUTION AND INTERGOVERNMENTAL**

**AGREEMENT TO MANAGE FLOODPLAIN DEVELOPMENT**

**FOR THE NATIONAL FLOOD INSURANCE PROGRAM**

**Community A (NFIP community:) City of Clare Community/Entity B (enforcing agency): Clare County Community Development**

**WHEREAS**, Community A

currently participates  desires to participate

in the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) by complying with the program's applicable statutory and regulatory requirements for the purposes of significantly reducing flood hazards to persons, reducing property damage, reducing public expenditures, and providing for the availability of flood insurance and federal funds or loans within its community; and

**WHEREAS**, the NFIP requires that floodplain management regulations must be present and enforced in participating communities, and utilize the following definitions which also apply for the purposes of this resolution:

1. Flood or Flooding means:
  - a. A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland or tidal waters, 2) the unusual and rapid accumulation or runoff of surface waters from any source, 3) mudflows, and
  - b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding, as defined in paragraph (a)(1) of this definition.
2. Flood Hazard Boundary Map (FHBM) means an official map of a community, as may have been issued by the FEMA, where the boundaries of the areas of flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A, M, and/or E.
3. Floodplain means any land area susceptible to being inundated by water from any source (see definition of flooding).
4. Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
5. Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power that provide standards for the purpose of flood damage prevention and reduction.
6. Structure means a walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a mobile home or manufactured unit.

**WHEREAS**, the Stille-Derossett-Hale Single State Construction Code Act", Act No. 230 of the Public Acts of 1972, as amended, (construction code act), along with its authorization of the state construction code composed of the Michigan Residential Code and the Michigan Building Code [and

its Appendices (specifically Appendix G)] contains floodplain development and management regulations that comply with the FEMA NFIP minimum floodplain management criteria for flood prone areas as detailed in Title 44 of the Code of Federal Regulations (44 CFR), Section 60.3, and

**WHEREAS**, by the action dates of this document or an existing historical agreement dated July 7, 2020, Community/Entity B affirms/agrees on behalf of Community A to function as the designated enforcing agency to discharge the responsibility of administering, applying, and enforcing the construction code act and the state construction code, specifically the Michigan Residential Code and the Michigan Building Code, and the Michigan Rehabilitation Code for Existing Buildings to all development within Community A's political boundaries, and

**WHEREAS**, Community A and Community/Entity B enforce floodplain regulations of the construction code act, and Community A wishes to ensure that the administration of that code complies with requirements of the NFIP, and

**NOW THEREFORE**, to maintain eligibility and continued participation in the NFIP,

1. Community A and Community/Entity B agree that Community/Entity B's officially designated enforcing agency for the construction code act, Clare County Community Development's Building Official, be directed to administer, apply, and enforce on Community A's behalf the floodplain management regulations as contained in the state construction code (including Appendix G) and to be consistent with those regulations, by:
  - a. Obtaining, reviewing, and reasonably utilizing flood elevation data available from federal, state, or other sources pending receipt of data from the FEMA to identify the flood hazard area, and areas with potential flooding, and
  - b. Ensuring that all permits necessary for development in floodplain areas have been issued, including a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality under the floodplain regulatory provisions of Part 31, "Water Resources Protection," of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and
  - c. Reviewing all permit applications to determine whether the proposed building sites will be reasonably safe from flooding. Where it is determined that a proposed building will be located in a flood hazard area or special flood hazard area, Community/Entity B shall implement the following applicable codes according to their terms:
    - i) All appropriate portions and specifically the floodplain management regulation portions and referenced codes and standards of the current Michigan Residential Code.
    - ii) All appropriate portions and specifically the floodplain management regulation portions and referenced codes and standards of the current Michigan Building Code.
    - iii) Appendix G of the current Michigan Building Code.
    - iv) All appropriate portions and specifically the floodplain management regulation portions and referenced codes and standards of the current Michigan Rehabilitation Code for Existing Buildings.
  - d. Reviewing all proposed subdivisions to determine whether such proposals are reasonably safe from flooding and to ensure compliance with all applicable floodplain management regulations.
  - e. Assisting in the delineation of flood hazard areas; provide information concerning uses and occupancy of the floodplain or flood-related erosion areas, maintain flood proofing and lowest floor construction records, and cooperate with other officials, agencies, and persons for floodplain management.
  - f. Advising FEMA of any changes in community boundaries, including appropriate maps, and

- g. Maintaining records of new structures and substantially improved structures concerning any certificates of floodproofing, lowest floor elevation, basements, floodproofing, and elevation to which structures have been floodproofed.
- 2. Community A and Community/Entity B assure the Federal Insurance Administrator (Administrator) that they intend to review, on an ongoing basis, all amended and revised FHBMs and Flood Insurance Rate Maps (FIRMs) and related supporting data and revisions thereof and revisions of 44 CFR, Part 60, Criteria for Land Management and Use, and to make such revisions in its floodplain management regulations as may be necessary to assure Community A's compliant participation in the program.
- 3. Community A further assures the Administrator that it will adopt the current effective FEMA Flood Insurance Study (FIS), FHBMs, and/or the FIRMs by reference within its Floodplain Management Map Adoption Ordinance or similarly binding ordinance documentation.

**FURTHER BE IT RESOLVED**, both communities declare their understanding that, until this resolution is rescinded or Community A makes other provision to enforce the construction code act:

- 1. Community/Entity B must administer and enforce the construction code act in accordance with the terms and the conditions contained herein, and
- 2. For Community A to continue its participation in the NFIP, the construction code act must be administered and enforced according to the conditions contained herein.

**Community A:** City of Clare Date Passed: April 21, 2025

Officer Name: Patrick Humphrey Title: Mayor

Signature:  Date: April 22, 2025

Witness Name: Diane M. Lyon Title: Clare City Clerk

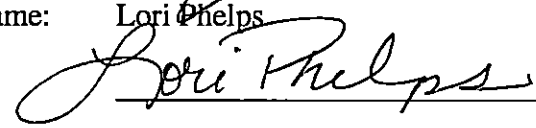
Signature:  Date: April 24, 2025

**Entity B:** Clare County Community Development Date Passed: Passed in 2010 as Flood Plain Management Entity.

Officer Name: Mark Fitzpatrick Title: Building Official/ Flood Plain Manager

Signature:  Date: 4-8-25

Witness Name: Lori Phelps Title: County Administrator

Signature:  Date: 4-8-25

ORDINANCE NO. 2025 – 001

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CLARE BY amending the City Code, Chapter 10, Floodplain management provisions

An ordinance amendment to affirm an enforcing agency to discharge the responsibility of the CITY OF CLARE located in CLARE County, and to designate regulated flood hazard areas under the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended.

**Section 10 of the Clare City Code is hereby amended and restated as follows:**

Sec. 10-37.

- (a) *Agency designated.* Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building ~~Official~~ **Inspector** of the ~~City~~ **County** of Clare is hereby designated as the enforcing agency to discharge the responsibility of the City of Clare under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The ~~City~~ **County** of Clare assumes responsibility for the administration and enforcement of said Act throughout the corporate limits of the community adopting this section.
- (b) *Code appendix enforced.* Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the City of Clare.
- (c) *Designation of regulated floodprone hazard areas.* The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled *Clare County, Michigan (All Jurisdictions)* and dated December 3, 2010, and the Flood Insurance Rate Map(s) (FIRMS) ~~panel number(s) of 26035C, 0433C, 0434C, 0450C, and 0475C and dated~~ **contained on index panel number(s) 26035CIND0A, effective** December 3, 2010, are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "flood hazards" section of Table R301.2(1) of the Michigan Residential Code.

Passed by the City Commission of the CITY OF CLARE on \_\_\_\_\_, 2025 at its regular meeting with \_\_\_\_\_ commissioners in attendance, \_\_\_\_\_ voting aye, \_\_\_\_\_ nay. Adopted by the City Commission of the City of Clare this \_\_\_\_\_ day of \_\_\_\_\_ 2025.

\_\_\_\_\_  
Mayor

I hereby certify that the foregoing was duly adopted by the CITY COMMISSION of the CITY OF CLARE, Michigan, at its regular meeting on the \_\_\_\_ of \_\_\_\_\_2025, 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.

Ordinance Effective Date: \_\_\_\_\_, 2025.

This Ordinance shall take effect thirty (30) days following the 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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Clare City Clerk