

AGENDA REPORT

To: Mayor Pat Humphrey and the Clare City Commission
From: Jeremy Howard, City Manager
Date: October 12, 2023
RE: Amendment of Chapter 46 Utilities Collection-Ordinance 2023-004, Second Reading and Adoption

For the Agenda of October 16, 2023

Background. Subsequent to holding a public hearing at its October 2, 2023, regular meeting, the Clare City Commission considered and approved a first reading of a proposed amendment to Section 46-278 of the City of Clare Code of Ordinances concerning rental property security deposits for utility services. The City received no public comment regarding the proposed ordinance amendment.

Currently, the city's policy is to return deposits to renters after one year of consecutive on-time payments, but this has led to the city having to write off sizeable utility bills when rental properties are vacated without the bill being paid. The City Attorney has recommended an ordinance amendment to address this issue by eliminating the return of the security deposit until the rental agreement is terminated. At that time the security deposit will be applied to any outstanding balance of the utility bill in order to minimize these losses to the city. The ordinance amendment further clarifies that the security deposit is applicable to rental units only and not to homeowners.

The City Commission may now direct a second reading and adopt the proposed ordinance change if it determines that it is in the City's best interests to do so.

Issues & Questions Specified. Should the City Commission direct a second reading and adopt the proposed amendment to Chapter 46 of the Ordinance Codes of the City of Clare?

Alternatives.

1. Direct a second reading and adopt the ordinance amendment.
2. Direct a second reading and do not adopt the ordinance amendment.
3. Set aside the decision regarding this matter to a later date.

Financial Impact. N/A.

Recommendation. I recommend that the City Commission direct a second reading and adopt Ordinance 2023-004 (*copy attached*) by approval of Resolution 2023-083 (*copy attached*).

Attachments.

1. Proposed Ordinance 2023-004.
2. Resolution 2023-083.

ORDINANCE NO. 2023 – 004

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CLARE BY amending the City Code, Chapter 46, Utilities, Collection

Section 46 of the Clare City Code is hereby amended and restated as follows:

Sec. 46-278. Collection.

- (a) *Security deposits.* The city commission shall adopt a security deposit as set by resolution of the city commission from time to time for residential customers establishing new accounts for water, sewer and/or solid waste/recycling service. The security deposit will be held in reserve by the city until the customer has ~~made payments, without any delinquencies, for a period of one year~~ **terminated their rental agreement with the landlord**. At that point, the security deposit will be **applied to any outstanding balance due or** refunded, without interest **if no outstanding balance exists**.
- (b) *Authorization for enforcement.*
- (1) The city treasurer is hereby authorized to enforce the payment of charges for water service, sewer service and garbage service. The department may discontinue water or sewer service should the account become delinquent and in excess of the security deposit amount and after the city has taken appropriate actions to notify residents of delinquencies.
 - (2) Where service has been discontinued, the city may apply the customer's security deposit toward payment of the delinquent account. If the security deposit is not sufficient to cover the delinquent account, an action of assumpsit may be instituted by the city treasurer against the delinquent customer.
- (c) *Placement of delinquent accounts on tax roll.* The charges for water service, sewage disposal service and solid waste/recycling collection, which, under the provisions of Public Act No. 94 of 1933 (MCL 141.101 et seq.), as amended, are made a lien on the premises to which furnished, are hereby recognized to constitute such lien; and the city treasurer shall, semiannually, certify all unpaid charges for such services furnished to any premises which have remained unpaid for a period of 30 days, to the city assessor, who shall place the charges on the next tax roll of the city. Such charges so assessed shall be collected in the same manner as general city taxes.

Passed by the City Commission of the CITY OF CLARE on October 16, 2023, at its regular meeting with _____ commissioners in attendance, _____ voting aye, _____ nay. Adopted by the City Commission of the City of Clare this 16th day of October 2023.

Signed: _____, 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 16th of October 2023, 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

RESOLUTION 2023-083

A RESOLUTION OF THE CLARE CITY COMMISSION APPROVING ORDINANCE 2023-004, AN ORDINANCE TO AMEND CHAPTER 46, UTILITIES, COLLECTION OF THE ORDINANCE CODES OF THE CITY OF CLARE.

WHEREAS, Chapter 46 of the Ordinance Codes of the City of Clare City states that the Commission shall by resolution set a utility security deposit to be held in reserve by the city; and

WHEREAS, said security deposit currently is refunded following one year of consecutive on-time payments by a city utility customer; and

WHEREAS, said security deposit applies only to renters since past due utilities constitute a lien which may be placed on a homeowner's property; and

WHEREAS, the city has experienced financial loss when property rentals are vacated leaving the utility bills are left unpaid and the city is forced to write off the loss; and

WHEREAS, the City Attorney approved a recommended amendment to said Chapter 46 of the City's Ordinance Codes; and

WHEREAS, said amendment was reviewed and considered by the City Staff and subsequently recommended for adoption by said staff; and

WHEREAS, the City Commission has held a requisite public hearing and directed a First Reading of said Ordinance at its regularly scheduled public meeting on October 2, 2023; and

WHEREAS, the City Commission received no stated objections at said public hearing; has considered the recommended ordinance amendment, has directed a Second Reading of said proposed Ordinance and has subsequently determined that adoption of Ordinance 2023-004 is in the best interests of the City of Clare.

NOW THEREFORE BE IT RESOLVED THAT the City Commission of City of Clare ordains Ordinance 2023-004, thereby amending in its entirety Chapter 46 of the Ordinance Codes of the City of Clare to modify, amend, and update the current provisions of said Chapter of the City's Ordinance Codes related to the City's public Utilities Collection.

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 16th day of October, 2023.

Diane Lyon, City Clerk