

**CHARTER TOWNSHIP OF SHELBY
MACOMB COUNTY, MICHIGAN**

ORDINANCE NO. 289

AN ORDINANCE AMENDING CHAPTER 1 OF THE CODE ORDINANCES, ARTICLE 1, SECTION 1-7 AMENDING THE CHART OF DESIGNATED VIOLATIONS OF THE CODE AS MUNICIPAL CIVIL INFRACTION VIOLATIONS ADDING ANTI-BLIGHT VIOLATIONS TO THE CHART AND FURTHER DEFINING COURT'S AUTHORITY TO ISSUE INJUNCTIVE RELIEF; REPEALER, SEVERABILITY, PENALTIES AND EFFECTIVE DATE.

THE CHARTER TOWNSHIP OF SHELBY HEREBY ORDAINS:

Section 1 Chapter 1 Section 1-7 of the Shelby Township Code of Ordinances shall be amended to read as follows:

- **Sec. 1-7. - General penalty; continuing violations.**
 - (a) In this section, the term "violation of this Code" means any of the following:
 - (1) Doing an act that is prohibited or made or declared unlawful, an offense, or a violation by ordinance or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, or violation by ordinance or by rule or regulation authorized by ordinance.
 - (b) Any provision of this Code that is made or declared to be a misdemeanor, civil infraction or municipal civil infraction is a violation of this Code.
 - (c) In this section, the term "violation of this Code" does not include the failure of a township officer or township employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
 - (d) It shall be unlawful and constitute a misdemeanor for any person to violate or fail to comply with any provisions of this Code, unless such violation or failure is, by state statute, declared to be a felony, or civil infraction, or is declared to be a municipal civil infraction as specified in subsection [1-7\(h\)](#) or unless specified in this Code of Ordinances. Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code that is a misdemeanor shall be punished by a fine not to exceed \$500.00, and costs of the prosecution, or by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment. However, unless otherwise provided by law, a person convicted of a violation of this Code which substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days shall be punished by a fine not to exceed \$500.00, and costs of prosecution, or by imprisonment for a period of not more than 93 days or both such fine and imprisonment.

(e) Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense. As to other violations, each violation constitutes a separate offense.

(f) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

(g) Violations of this Code that are intermittent or ongoing are a nuisance per se and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or quasi-judicial enforcement.

(h) It is unlawful and constitutes a municipal civil infraction for any person to violate or fail to comply with the following provisions of this Code:

| CHAPTER | TITLE | SECTION |
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| 6 | Animals | 6-2 , 6-5 |
| 10 | Buildings and Building Regulations | Michigan Construction Code, with updates as promulgated by the Director of Consumer and Industry Services, except for the following sections: Building Code: 101.4.5; 110.1; 110.3; 110.4; 114.2; 115.1) Residential Code: 102.7; 110.1; 110.2; 110.4; 110.5; 114.2 Plumbing Code: 108.5 P108.7.1; 108.7.3. Mechanical Code: M108.5; 108.7.1; 108.7.3 All sections of the Electrical Code and Property Maintenance Code remain as misdemeanors. |
| 10 | Building and Building Regulations—Fences | 10-318 ; 10-319 ; 10-320 through 325 |
| 42 | Nuisances | Anti- Blight 42-32 |
| 50 | Parks and Recreation | 50-33 (a) through (i), 50-34 (a), 50-34 (b), 50-34 (g)(2)(a through d), 50-34 (i) (j) (k) (l) (m) (n) (o) (q) (r) (t) (u) (v). |
| 58 | Public Works | Sidewalks 58-502 , 58-521 , 58-522 (b) and (c), 58-523 , 58-527 , 58-528 , 58-533 |
| 62 | Solid Waste | Garbage and Refuse 62-2 , 62-3 , 62-4 , 62-5 (1-5), 62-6 (1-7); 62-7 (1 through 11) Waste Haulers 62-61 , 62-62 (a), 62-68 , 62-69 (b) and (c), 62-71 (1)(2)(5)(6), 62-104 (1) |

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| | | through (4), |
| 74 | Vegetation | Weeds 74-92, 74-94 |

The sanction for a municipal civil infraction citation shall be a civil fine in the amount provided by this Code, plus any costs, damages, expenses, and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended and other applicable laws.

(1) Unless otherwise specifically provided by this Code, the fine for each violation shall be not less than \$100.00 or more than \$200.00.

(2) An increased fine may be imposed by the court for each repeat offense in accordance with the following:

a. The fine for any offense that is a first repeat offense shall be no less than \$250.00 nor more than \$400.00.

b. The fine for any second repeat offense or any subsequent repeat offense shall be no less than \$500.00.

~~(i) In addition to all other remedies, the township may commence and prosecute appropriate actions or proceedings in court to restrain or prevent any noncompliance with or violation of any of the provisions of this Code, or to correct, remedy or abate such noncompliance or violation.~~

(3) As set forth in the Revised Judicature Act of 1961, in an action for Municipal Civil Infractions, the district court may issue and enforce any judgment, writ, or order necessary to enforce the ordinance. The grant of equitable jurisdiction and authority to the district court under this subsection does not affect the jurisdiction of the circuit court to do either of the following:

(a) Hear and decide claims based on nuisance or abate nuisances under section MCL 600.2940

(b) Hear and decide actions challenging the validity or applicability of an ordinance and, in those actions, enjoin a defendant from enforcing the ordinance in the district court or in a municipal court pending the outcome of the action in circuit court. (State Law Reference MCL 600.8302)

Section 2. Severability

If any article, section, subsection, sentence, clause, phrase, or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of remaining portions of the ordinance, it being the intent of the Township that this ordinance shall be fully severable.

Section 3. Effective Date.

This ordinance shall become immediately effective 30 days following publication after adoption.

CERTIFICATION

I, STANLEY GROT, Clerk for the Charter Township of Shelby, County of Macomb, State of Michigan, certify that this is a true copy of an Ordinance adopted by the Board of Trustees of the Charter Township of Shelby at its regular meeting on the _____ day of _____ 2020.

Stanley Grot, Township Clerk

INTRODUCTION: February 18, 2020

FIRST PUBLICATIONADOPTION: February 26, 2020

SECOND PUBLICATION: March 4, 2020

EFFECTIVE DATE: April 3, 2020