

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

ORDINANCE NO. 278

AN ORDINANCE AMENDING CHAPTER 6 OF THE CHARTER TOWNSHIP OF SHELBY MICHIGAN CODE OF ORDINANCES, TO CONTROL AND REGULATE THE FEEDING OF CERTAIN SPECIES OF BIRDS AND WATERFOWL WITHIN THE TOWNSHIP LIMITS OF THE CHARTER TOWNSHIP OF SHELBY; THE SHORELINE AND THE TOWNSHIP'S LAKES AND PARKS; PROVIDING FOR REPEALER, SEVERABILITY, PENALTIES AND EFFECTIVE DATE

THE CHARTER TOWNSHIP OF SHELBY HEREBY ORDAINS:

Section 1. Chapter 6, Article II, Sections 6-70 through 6-73 of the Charter Township of Shelby Code of Ordinances is hereby created to read as follows:

Section 6-70. Finding and Purpose. The Charter Township of Shelby hereby determines that the presence of large numbers of certain species of birds and waterfowl are a nuisance and cause a probable public health problem by contaminating beaches, and nearby public and private shorelines and parks. Therefore, this Ordinance is adopted to prevent such conduct that may attract and concentrate certain species within the Township limits.

6-71. Definitions.

- a. **“Congregation” means any flock of more than five (5) waterfowl.**
- b. **“Person” means any natural person, firm, association, partnership, corporation, limited liability company, limited liability partnership, or similar legal entity or any combination of them, but does not include the Township or any other governmental agency or municipal corporation located or acting within the Township.**
- c. **“Township” shall mean the Charter Township of Shelby.**
- d. **“Shoreline” shall mean that part of the Township’s lakes where the water meets the land and which lies within the political boundaries of the Township.**
- e. **“Township Parks” shall mean any and all public parks under the jurisdiction and control of the Township.**
- f. **“Domestic Waterfowl” shall mean non-native ducks, geese and swans not native to North America and not used by a person for agricultural operations or being**

raised by a person as part of an animal husbandry program such as 4-H and similar programs.

- g. “Feed or Feeding” shall mean the act of furnishing of food or other sustenance in any form and by any means to any bird or waterfowl species regulated by this Ordinance.
- h. “Migratory Waterfowl” shall mean ducks, geese and swans native to North America.

Section 6-71. Prohibited Acts.

- a. No person shall feed, attempt to feed, cause to be fed or provide food for domestic or migratory waterfowl within the Charter Township of Shelby.
- b. No person shall create or foster any artificial condition, or allow any artificial condition to exist or continue, which is intended to, or results in, a congregation of domestic or migratory waterfowl within the Charter Township of Shelby.

Section 6-72. Song Bird Feeders. Within the boundaries of those areas identified above in Section 6-71, in which the feeding of waterfowl is prohibited, birdfeeders may be erected and maintained for species other than domestic or migratory waterfowl.

Section 6-73. Penalty. Any person who violates this ordinance shall be responsible for a municipal civil infraction

Section 2. Section 1-7 of the Charter Township of Shelby Code of Ordinances shall be amended to read as follows:

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 Section 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:

<u>CHAPTER</u>	<u>TITLE</u>	<u>SECTION</u>
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6	Animals	6-2, 6-5; <u>6-71</u>
10	Buildings and Building Regulations	Michigan Construction Code, with updates as promulgated by the Director of Consumer and Industry Services, <u>except for</u> the following sections: Building Code: 101.4.5; 110.1; 110.3; 110.4; 114.2; 115.1) Residential Code: 102.7;

		<p>110.1; 110.2; 110.4; 110.5; 114.2</p> <p>Plumbing Code: 108.5 P108.7.1; 108.7.3 .</p> <p>Mechanical Code: M108.5; 108.7.1; 108.7.3</p> <p>All sections of the Electrical Code and Property Maintenance Code remain as misdemeanors.</p>
10	Building and Building Regulations--Fences	10-318; 10-319; 10-320 through 325
<u>26</u>	<u>Fire Prevention and Protection</u>	<u>26-156; 26-1; 26-151</u> <u>International Fire Code, with updates as promulgated by the International Code Council; except for the following sections: 104.11.2; 104.11.3; 5.03.3; 507.5.(4);</u>
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) 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.

Section 3. 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 4. Repeal

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 4. Effective Date

This ordinance shall become immediately effective thirty (days) after publication.

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 introduced by the Board of Trustees of the Charter Township of Shelby at its regular meeting on the _____ day of _____ 2017.

Stanley Grot, Township Clerk

INTRODUCTION:	June 6, 2017
FIRST PUBLICATION:	June 18, 2017
ADOPTION:	June 20, 2017
SECOND PUBLICATION:	July 2, 2017
EFFECTIVE:	August 1, 2017