

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

**ORDINANCE NO. 283**

AN ORDINANCE AMENDING CHAPTER 6 OF THE CHARTER TOWNSHIP OF SHELBY, MICHIGAN CODE OF ORDINANCES TO REGULATE THE LICENSING, CARE, CONTROL, MAXIMUM NUMBER OF DOGS AND CATS PERMITTED BY AN OWNER; FURTHER DEFINE VISCOUS ANIMAL AND QUARANTINE AND EUTHANIZATION PROCEDURES WITHIN THE TOWNSHIP; PROVIDING FOR REPEALER, SEVERABILITY, PENALTIES AND EFFECTIVE DATE.

THE CHARTER TOWNSHIP OF SHELBY HEREBY ORDAINS:

Section 1. Chapter 6, Article III, Sections 6-3 of the Charter Township of Shelby Code of Ordinances is hereby amended to read as follows:

**Sec. 6-3. - Owning and/or keeping certain animals.**

(a) It shall be unlawful for any occupant of any premises located within a residential area to own **breed, purchase, sell, offer for purchase or sale, keep, maintain or have in possession or under his or her control** any exotic or wild animal, on or about the premises.

~~(b) Animals excluded; removal.~~

~~(1) A person who owns or keeps an exotic or wild animal on the effective date (May 2, 2002) of the section shall, within 90 days, remove the animal from the township.~~

~~(2)~~ **This** Subsections ~~(a) and (b)~~ shall not apply to the following

**1. Zoological parks and aquariums that are accredited by the American Association of Zoological Parks and Aquariums (AZA , bona fide scientific, educational, or medical research facilities/institutions, and museums .**

- ~~1. An owner, who within 90 days of the effective date of this section, obtains a veterinarian's letter stating that the animal has been examined and is being properly cared for; provided that upon its death, it may not be replaced;~~
2. Veterinary clinics treating an ailing animal;
3. Wildlife sanctuaries, nature centers and nature preserves either acknowledged by the state or permitted by the township; and,
- ~~4. Circuses inspected by the state and permitted by the township.~~

**5. Exhibition of exotic animals shall be permitted to organizations and/or entities that are accredited by the American Association of Zoological Parks and Aquariums (AZA).**

(c) **Reporting of injured animals.** Any person who, as the operator of a motor vehicle, or otherwise **strikes or** injures a domestic animal shall immediately **stop at once and render such assistance as may be possible and** shall immediately report such injury or death to the township police department and, if ascertainable, animal's owner.

(d) **Proper care and treatment of all animals.** Every owner of every animal in the township shall provide their animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

(e) **Abandonment prohibited.** No owner of an animal shall ~~abandon such animal or permit the abandonment of it.~~ **abandon an animal or cause an animal to be abandoned, in any place, without making provisions for the animal's adequate care, unless premises are vacated for the protection of human life or the prevention of injury to a human. An animal that is lost by an owner or custodian while traveling, walking, hiking, or hunting is not abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal.**

(f) **Animal bites.** The owner of any animal that bites another person shall immediately summon necessary medical assistance, secure the animal to prevent escape and notify the township police department or the animal control division of the county health department.

(g). **Maximum number of dogs and cats.** It shall be unlawful for any person or persons to keep more than three (3) dogs or three (3) cats at any one time on a lot or parcel of property within the Township, with the exception that a litter of pups or kitten, or a portion of that litter, may be kept for a period of time not exceeding five months from birth, and with the exception of the provisions set forth in subsection (h) regarding kennels and the business premises of a licensed veterinarian.

**Whenever any person does or desires to possess, harbor, shelter, keep or have custody of more than three (3) dogs or three (3) cats on the same premises in contravention of this subsection, said person or establishments shall first make written application to the Zoning Board of Appeals in accordance with the procedure set forth in the Township Zoning Ordinance section 7.16. The applicant shall be a resident of the premises where the animal is proposed to be kept. For each hearing on an application, the Zoning Board of Appeals shall request the attendance of the Animal Control Officer and shall follow statutory requirement of notification for a public hearing. The Zoning Board of Appeals shall have the authority to review the application and grant the applicant's request after consideration of the following criteria:**

**Whether the animal was one of four or more dogs or four or more cats kept on subject premises prior to the effective date of this ordinance.**

**The total number of animals required to be licensed by this ordinance which presently are kept or will be kept on the subject premises.**

**Convictions, pending violations and complaints pertaining to this ordinance or its predecessor made against the applicant or any resident of premises where the animals are proposed to be kept.**

**The reasons for and circumstances surrounding the request.**

The risk of disturbing the peace and quiet of the neighborhood if the request is granted.

The Zoning Board of Appeals shall have the authority to impose reasonable conditions upon a license for additional dogs or cats provided such conditions are designed to encourage compliance with this ordinance.

(h) *Kennels.* Kennels and or dog day care uses are permitted uses in certain zoning districts as set forth by the provisions of the Charter Township of Shelby Zoning Ordinance, specifically but not limited to Sections 4.58 and 4.60, as amended. In addition, all kennels shall be comply with the rules and regulations adopted by Macomb County Animal Control and Act No. 339 of PA 1919 (MCL 287.261 et. seq., as amended). No person shall establish or maintain a regulated use in violation of the Zoning Ordinance.

(i) *Dog Licenses.* Any person owning, keeping, possession, harboring, or having custody within the Township of any dog four months (4) or older must obtain a license for such dog, pursuant to state law, from the Macomb County Animal Control for a fee to be determined by the County. No person shall keep, possess, harbor, or have custody of an unlicensed dog which is required to be licensed under this section. A person who owns or harbors a dog shall produce proof of a valid dog license upon request of a person who is authorized to enforce this chapter.

A dog which is an authorized law enforcement dog, or which is used as a guide or leader dog for a blind person, a hearing dog for a deaf or audibly impaired person, a service dog for a physically limited person is not subject to any fee for licensing. The terms used in this section shall have the meanings assigned to them by MCL 287.291.

(j) *Waste Removal.* It shall be unlawful for any person to permit any domestic animal owned or harbored by him/her to deposit fecal matter in any place other than the premises where the animal is harbored or kept, unless that fecal matter is immediately collected removed and properly disposed of.

(k) *Injury to property.* It shall be unlawful for any person owning or possessing a domestic animal to permit a domestic animal to go upon private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant shrub, tree or garden.

(l) *Unattended animals.* No animal shall be left outside in a yard or outdoor enclosure without attention for an unreasonable time. If the animal is left outdoors for an extended reasonable period of time, the animal must have access to water and shelter.

(m) *Display of Animals to Authority.* It shall be unlawful for any person to refuse to show or exhibit, at any reasonable time, any dog or cat in his or her possession or custody to any police officer, animal control officer, and code enforcement officer. Each owner of a dog or cat shall produce, upon request of a police officer, animal control officer and code enforcement officer a certificate of vaccination for such dog or cat.

Section 2. Chapter 6, Article III, Sections 6-6 of the Charter Township of Shelby Code of Ordinances is hereby amended to read as follows:

~~No owner or person with any animal in their custody shall allow it to run at large in any public or private place, except on their own property.~~

1. All domestic animals shall be kept under restraint. It shall be unlawful for any person to cause or permit any domestic animal owned, kept, possessed, or harbored by such person, or under his or her control, to run at large or unattended upon the public streets, walks, alleys, parks, public places, within the Township, or upon the premises of another, without the express permission of the owner or occupant of the private premises.

2. It shall be unlawful for any person to permit or cause to permit a domestic animal to leave, stray, roam or wander beyond the boundaries of the premises owned or occupied by its owner, unless that animal is under leash or other means of direct control by its owner or his agent.

Section 3. Chapter 6, Article III, Sections 6-9 of the Charter Township of Shelby Code of Ordinances is hereby created to read as follows

**Tethering. It shall be unlawful for any person to attach chains or tethers, restraints or implements directly to a dog without the proper use of a collar, harness or other device designed for that purpose and made from a material that prevents injury to the animal. In addition, no person shall:**

- a. **Tether a dog unless the tether is a coated steel cable specifically designed for restraining dogs and is at least three times the length of the dog as measured from the tip of its nose to the base of its tail and is attached to a harness or non-choke collar specifically designed for tethering, with a swivel attached to both ends, done in such a manner as to not cause injury, strangulation or entanglement of the dog on fences, trees, another tethered dog, or any other manmade or natural objects; or**
- b. **Tether more than one dog to a single tether or tether one dog to a single tether that would allow the dog to come within three (3) feet of another tethered dog or a property line; or**
- c. **Use a tether or any assembly or attachments thereto to tether a dog that shall weigh more than one-eighth of the animal's body weight, or due to weight, inhibit the free movement for the animal within the area tethered; or**
- d. **Tether a dog on a choke chain or in such a manner as to cause injury, strangulation, or entanglement of the dog on fences, trees, or other man made or natural obstacles; or**
- e. **Tether a dog without access to shade when sunlight is likely to cause overheating; or appropriate shelter to provide insulation and protection against cold and dampness when the atmospheric temperature falls below 40 degrees Fahrenheit, or to tether a dog without securing its water supply so that it cannot be tipped over by the tether; or**
- f. **Tether a dog in an open area where it can be teased by persons or an open area that does not provide the dog protection from attack by other animals; or**

Section 4. Chapter 6, Article III, Sections 6-90 of the Charter Township of Shelby Code of Ordinances is hereby amended to read as follows:

Section 6-90. - Definitions.

As used in this article:

- (1) “Animal” means any vertebrate animal other than human beings.

- (2) “Animal control officer” means an animal warden, a peace officer, or any other person designated by the township to enforce and administer the provisions of this article.
- (3) “Cat” means an animal of the species *Felis catus*.
- (4) “Dangerous animal” means either of the following:
- (a) ~~A dog or another animal that bites or attacks a person, or a dog or another animal that bites or attacks and causes serious injury or death to another animal while such animal is on the property or under the control of its owner.~~ **A dog or another animal that bites or attacks a person;**
  - (b) **A dog or animal that bites or attacks and causes serious injury or death to another dog or another animal while on public or private property where the injured person or other animal is legally entitled to be, including the property of the dog’s or animal’s owner or custodian.**
  - (c) **An animal that is intentionally trained or conditioned to fight or guard, except for animals trained for law enforcement or service purposes while engaged in the activities for which they were trained, shall be considered a dangerous animal.**
  - (d) **An animal which behaves or behaved in such a manner that the owner knows or should have known that the animal had tendencies to bite or attack persons or other animals.**
  - (e) **An animal that has been bitten by any animal known to have been afflicted with rabies.**

Under this article, a dangerous animal does not include:

- (i) An animal that bites or attacks a person who is knowingly trespassing on the property of the animal's owner; or
  - (ii) An animal that bites or attacks a person who knowingly provokes or torments the animals; or
  - (iii) An animal that is responding in a manner that an ordinary and reasonable person would conclude is designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault.
- (b) Any wild or exotic animal, **including those animals defined in section 6-1 of this Chapter**, which is not naturally tame or gentle but is of a wild nature of disposition and which, because of its size,

vicious nature or other characteristics would constitute a danger to persons or property.

(5) “Dog” means an animal of the species *Canis familiaris*.

(6) ~~“Owner” means a person having a right of property ownership in an animal, who keeps or harbors the animal or has the animal in his or her care of custody, or who permits the animal to remain on or about any premises occupied by the person.~~

**Owner shall mean:**

- i. every person having a right of property ownership in an animal;**
- ii. an authorized agent of the person having a right of property in an animal;**
- iii. every person who keeps or harbors an animal or has it in his or her care, custody or control;**
- iv. every person who permits an animal to remain on or about the premises occupied by him or her;**
- v. every person who has the apparent authority to have a right of property in an animal;**
- vi. any person having control or purporting to have control over an animal;**
- vii. the person named in the licensing records of any animal as the owner;**
- viii. the occupant of the premises where the animal is usually kept if such premises are other than the premises of the owner as shown on the licensing records;**

**The parent or guardian of an owner under 18 years of age shall be deemed the owner as defined in this section. If an animal has more than one owner, all such persons are jointly and severally liable for the acts or omissions of an owner, even if the animal was in the possession of or under the control of a keeper at the time of the offense.**

(7) “Person” means an individual, partnership, corporation, cooperative, association, or other legal entity.

(8) **“Vicious Dog” any dog which, when unprovoked, in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation**



on public or private property, or any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.

However, notwithstanding the above, a dog shall not be deemed vicious if any injury or damage is sustained by a person who, at the time of such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime. Further, no dog shall be considered or deemed vicious if any injury or damage was sustained by a domestic animal which, at the time of such injury or damage, was teasing or tormenting, abusing or assaulting the dog. Additionally, no dog shall be considered vicious or deemed vicious if the dog was protecting or defending a human being within the immediate vicinity from an unjustified attack or assault by human or animal.

Section 5. Chapter 6, Article III, Sections 6-93 of the Charter Township of Shelby Code of Ordinances is hereby created to read as follows:

#### **Quarantine of Dangerous Animals.**

Every animal that has bitten/scratched a person/animal shall be quarantined for a period of not less than 10 days. Such quarantine shall be at the Animal Shelter, a veterinary office, or a place designated by the Chief Animal Control Officer. The owner shall surrender the dog or animal to the Chief Animal Control Officer upon request. Should the owner refuse to cooperate, the Chief Animal Control Officer may seek a court order or warrant to enforce the quarantine..

The Chief Animal Control Officer may further declare any animal that is known to have bitten a person or other animal as dangerous animal as defined by this ordinance.

If it is the intent of the Chief Animal Control Officer to euthanize the dangerous animal, the Chief Animal Control Officer shall give written notice to the owner of his determination that the animal has been declared a dangerous animal and whether it is his or her intent to petition a court of competent jurisdiction for authorization to euthanize or otherwise dispose of the animal. The owner shall then have 48 hours to respond before the petition is filed.

If a hearing is then held, a court of competent jurisdiction shall determine whether the dog is dangerous and subject to forfeiture and euthanization.

#### **Section 6. 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 7. Repeal

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

Section 8. Effective Date

This ordinance shall become immediately effective thirty (30) 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 adopted by the Board of Trustees of the Charter Township of Shelby at its regular meeting on the 19<sup>th</sup> day of June 2018.

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Stanley Grot, Township Clerk

INTRODUCTION: June 5, 2018

FIRST PUBLICATIONADOPTION: June 13, 2018

SECOND PUBLICATION: June 27, 2018