

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

ORDINANCE NO. 285

AN ORDINANCE AMENDING THE CHARTER TOWNSHIP OF SHELBY, MICHIGAN CODE OF ORDINANCES BY AMENDING CHAPTER 1, ARTICLE III, CHAPTER 14, ARTICLE VII, CHAPTER 42, ARTICLE II AND CHAPTER 50, DIVISION 2 PROVIDING FOR THE HURON CLINTON METROPOLITAN POLICE OFFICERS AUTHORITY TO ENCFORCE THE CODE OF ORDINANCES WITHIN THE BOUNDARIES OF STONY CREEK METROPOLITAN PARK, REVISE APPLICABLE REGULATIONS WITHIN THE PARK AND REVISE THE DEFINITION OF SMOKING LOUNGE AND REVISE NOTIFICATION REQUIREMENT FOR BLIGHT VIOLATIONS FOR REPEALER, SEVERABILITY, PENALTIES AND EFFECTIVE DATE.

THE CHARTER TOWNSHIP OF SHELBY HEREBY ORDAINS:

Section 1. Chapter 1, Article III, Sections 1-18 of the Charter Township of Shelby Code of Ordinances is hereby amended to read as follows:

Sec. 1-18. - Authority to issue municipal civil infraction notices and citations.

The township supervisor, township engineer, building official, code enforcement official, police officers, park rangers and such other officers, **Huron Clinton Metropolitan Authority Officer within the boundaries of Stony Creek Metropolitan Park**, employees and other public servants designated by the township supervisor are authorized to issue and serve municipal civil infraction notices and citations as authorized by Public Act 236 of 261, as amended.

Section 2. Chapter 1, Article III, Sections 1-19 of the Charter Township of Shelby Code of Ordinances is hereby amended to read as follows:

Sec. 1-19. - Authority to issue appearance tickets.

The township supervisor, township engineer, building official, code enforcement official, police officers, Macomb County Animal Officer, **Huron Clinton Metropolitan Authority Officer within the boundaries of Stony Creek Metropolitan Park** and such other officers, employees and other public servants designated by the township supervisor are authorized to issue and serve appearance tickets as provided by Section 9c and 9f of Chapter IV of Act No. 175 of the Public Acts of 1927, as amended.

Section. Chapter 50, Division 2, Section 50-62(a) of the Charter Township of Shelby Code of Ordinances is hereby amended to read as follows:

Hours. No person shall use the facilities of Stony Creek Metropolitan Park except between the posted hours of ~~sunrise and sunset~~ operation or by written permit issued by the authority.

Section 3. Chapter 50, Division 2, Section 50-63(c) (3)(a) of the Charter Township of Shelby Code of Ordinances is hereby amended to read as follows:

The provisions of this subsection shall not be applicable to a dog which is used as a guide dog or leader dog for a blind person, a hearing dog for a deaf or audibly impaired person, or a service dog for a physically limited person when being used as such.

Section 4. Chapter 50, Division 2, Section 50-63(f) of the Charter Township of Shelby Code of Ordinances is hereby amended to read as follows:

Traffic control. Every driver of a vehicle in Stony Creek Metropolitan Park shall obey all authorized signs indicating speed limits, forbidden turns, stop streets, parking or other traffic controls.

(1) No person shall park a vehicle on Main Park Road or off road or outside designated parking areas at any time except when directed to do so by a police officer or when making necessary emergency repairs. The word "park" means standing or stopping a vehicle, whether occupied or not.

(2) No person shall drive a vehicle within the Park across the turf shoulder from any access road except at such entrances and exits as are established by the authority.

(3) No person shall operate a motor vehicle at a speed in excess of the posted speed limit signs within the park.

(4) No person shall operate a motor vehicle at a speed in excess of 15 miles per hour in any parking area.

(5) No motor vehicle shall be operated on any ice surface at the park.

(6) No person shall drive a vehicle in restricted areas marked with signage or blocked off by barricades.

(7) Every driver of a vehicle is required to comply with Shelby Township Police officers, Metro Park Police Officers or Sheriff Deputies directing traffic within Stony Creek Metropolitan Park.

(8) No person shall drive a motor vehicle in violation of the Michigan Vehicle Code or the Uniform Traffic Code within the boundaries of the Park and the Metro Parks Police Officers shall enforce the Michigan Vehicle Code and Uniform Traffic Code within the boundaries of the Park.

Section 5. Chapter 50, Division 2, Section 50-64 of the Charter Township of Shelby Code of Ordinances is hereby created to read as follows:

Sec. 50-64. - Tents, canopies, structures.

No person shall erect, use or maintain any tent, canopy, lean-to, another similar type of appliance of any structure larger than 10 feet by 10 feet in size, within Stony Creek Metropolitan Park within the Township, without the permission of the Stony Creek Metropolitan Park Manager or an authorized designee. All tents, canopies, structures, or similar type of appliance of any size may not be staked into the ground without written permission, and only in areas designated by the Manager or an authorized designee.

Section 6. Chapter 50, Division 2, Section 50-65 of the Charter Township of Shelby Code of Ordinances is hereby created to read as follows:

Sec. 50-65. - Off-the-road vehicles.

(a) **No person shall operate or have in his possession within the boundaries of Stony Creek Metropark or any other authority park any off-the-road motor-driven vehicle, including, by way of example but not by way of limitation, any minibike, motorcycle, dune mobile, snowmobile, converted snowmobile, all-terrain vehicle, amphibious vehicle or similar motorized device.**

(b) **No person shall, without specific permission in writing, operate or have in his or her possession or control within the boundaries of Stony Creek Metropark a moped, motor-driven cycle, or motor vehicle except on the surfaced area of a roadway (excluding any roadway posted for use of authorized vehicles only) or designated parking area.**

Section 7. Chapter 50, Division 2, Section 50-66 of the Charter Township of Shelby Code of Ordinances shall be created to read as follows:

Sec. 50-66. - Preservation of property and natural resources.

(a) **No person shall injure, deface, disturb, befoul nor in any manner destroy or cause to be destroyed any portion of Stony Creek Metropark or any facility building, sign, structure, equipment, utility or other property found in the park.**

(b) **No person shall dig for, remove, injure or destroy any tree, flower, shrub, plant or growing thing or any wildlife, except as otherwise provided by law, or any rock, mineral, artifact or other material within the boundaries of Stony Creek Metropark without written permission from the authority.**

Section 8. Chapter 50, Division 2, Section 50-67 of the Charter Township of Shelby Code of Ordinances shall be created to read as follows:

Sec. 50-67. - Unlawful fires.

(a) No person shall start or maintain a ground fire on authority property within the township except in public stoves, fireplaces or spaces provided for such purpose.

(b) No person shall dump any burning material or hot ashes into any trash container on authority property within the township unless the container shall be marked as a receptacle for such materials.

Section 9. Chapter 50, Division 2, Section 50-68 of the Charter Township of Shelby Code of Ordinances shall be created to read as follows:

Sec. 50-68. – Musical instruments, radios, record or tape players and sound amplifying devices

No person shall operate or play any musical instrument, radio, mechanical record, disc or tape player, loudspeaker, public address system or sound amplifying equipment of any kind within the boundaries of Stony Creek Metropark in such a manner that is plainly audible as to cause the sound emanating to exceed a loudness of 75 decibels when measured on the 70 db scale at a distance of 15 feet from the sound source without a written permit issued by the authority and only in areas designated by the authority. Such a permit shall be issued upon a showing that there will be compliance with all laws and ordinances and that the proposed activity will not unduly disturb the peace.

For purposes of this section, the phrase *PLAINLY AUDIBLE* means any sound that can be detected by a person using his or her unaided hearing faculties. The enforcing officer need not determine the title of a specific sound, specific words, or the performing artist, and the detection of the rhythmic bass component of music is sufficient to constitute a plainly audible sound.

Section 10. Chapter 50, Division 2, Section 50-69 of the Charter Township of Shelby Code of Ordinances shall be created to read as follows:

Any person utilizing or taking advantage of any facility, service, privilege or license offered by the authority or its licensees within the boundaries of Stony Creek Metropark, who violates any posted or printed rule or regulation relating to the use of that facility, service privilege or license may be denied use of that particular facility due to a violation set forth above, shall be requested to vacate Stony Creek Metropark and prohibited from re-entry for a minimum time period of twenty -four (24) hours.

Section 11. Chapter 14, Article VII, Section 14-532 of the Code of Ordinances, Charter Township of Shelby, Michigan shall be amended to read as follows:

Chapter 14, Article VII, Section 14-532 of the Code of Ordinances, Charter Township of Shelby, Michigan shall be amended to read as follows:

The following words, terms and phrases, when used in this article, shall have meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cigar shall mean any roll of tobacco weighting three (3) or more pounds per 1,000 which roll has a wrapper or cover consisting of tobacco.

Cigar bar shall mean an establishment or area within an establishment that is open to the public and is designated for the smoking of cigars that has a State issued exemption certificate.

Disqualifying criminal act shall mean any of the following misdemeanor or felony offenses under any of the following statutes, as amended, for which less than seven (7) years elapsed since the date of the conviction or the date of release from confinement for the conviction, whichever is the later date:

Michigan Penal Code, Chapter X, Arson and Burning;

Michigan Penal Code, Chapter XI, Assaults, except MCL 750.81(1) and (2);
Michigan Penal Code, Chapter XVII, Bribery and Corruption;
Michigan Penal Code, Chapter XXII, Compounding Offenses;
Michigan Penal Code, Chapter XXVA, Criminal Enterprises;
Michigan Penal Code, Chapter XXVIII, Disorderly Persons;
Michigan Penal Code, Chapter XXXI, Embezzlement;
Michigan Penal Code, Chapter XXXIII, Explosives, Bombs and Harmful Devices
Michigan Penal Code, Chapter XXXIV, Extortion;
Michigan Penal Code, Chapter XLIII, Frauds and Cheats;
Michigan Penal Code, Chapter XLIV, Gambling;
Michigan Penal Code, Chapter XLV, Homicide;
Michigan Penal Code, Chapter XLVIII, Indecency and Immorality;
Michigan Penal Code, Chapter LVIII, Mayhem;
Michigan Penal Code, Chapter LXVII, Prostitution;
Michigan Penal Code, Chapter LXVIIA, Human Trafficking;
Michigan Penal Code, Chapter LXXVI, Sexual Conduct;
Michigan Penal Code, Chapter LXXVIII, Robbery,
Michigan Penal Code, Chapter LXXXIII-A, Michigan Anti-Terrorism Act;
Michigan Compiled Laws, 333, Part 74, Controlled Substances – Offense and Penalties;
Michigan Compiled Laws Section 205.27, Taxation-Prohibited Acts, including tax evasion;

Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or

Any offense enumerated in the Township Code of Ordinances which substantially corresponds to one of the foregoing state offenses; or

Any offense in another jurisdiction that, had the predicate act(s) been committed in Michigan, would have constituted any of the foregoing offenses.

Influential interest shall mean any of the following:

Actual power to operate or control the operation, management, or policies of a current to prospective business; including the manager of the prospective business, or

Ownership of a financial interest in the business, or ownership of an interest that is ten percent (10%) or more of the total interest of a current or prospective business, including such business entities as a firm, partnership, limited partnership, association, limited liability company, or corporation, or

Holding an office, such as, e.g., president, vice president, secretary, treasurer, managing member, managing director, etc., in a legal entity which operates a current or prospective business.

Loitering shall mean any act of standing or idling about, whether done by an individual or group of individuals, which hinders or impedes, or tends to hinder or impede, the passage of vehicles or pedestrians, or which is done for the purpose of doing any of the acts prohibited by any provision of this Code or state statute.

Minor shall mean any person under eighteen (18) years of age.

Non-tobacco smoking product or substances shall include any product or substance that can be consumed by smoking such as, but is limited to: e-cigarettes, bidis, kreteks, clove cigarettes, herbal cigarettes, electronic and herbal hookah, steam stones, smoking gels or other smoked product.

Premises shall mean the location for which a smoking lounge establishment operates under a State issued exemption certificate and includes the land, and all improvements located thereon, including the primary building and all accessory and out-buildings, and is not limited to the smoking area.

Sale shall mean, the exchange, barter, traffic, furnishing, or giving away of tobacco products and non-tobacco smoking products and substances which is regulated by the State of Michigan and pursuant to this article.

Smoking lounge shall mean an establishment, which has a **is required to obtain a State issued smoking ban exemption certificate, and that allows smoking of tobacco products on the premise, excluding cigar bars and tobacco specialty stores.** ~~or non-tobacco products or substances on the premises.~~ The term “smoking lounge” includes, but is not limited to, facilities

commonly described as ~~tobacco retail specialty stores, cigar bars and lounges, hookah cafes and lounges, tobacco bars and lounges, tobacco clubs, or 0% nicotine establishments.~~

State shall mean the State of Michigan.

State issued exemption certificate shall mean a valid exemption certificate issued by the State of Michigan for the premises, from the Public Act 188 of 2009 smoking in public ban which allows indoor smoking on the premises in compliance with the Act.

Tobacco product shall mean a product that contains tobacco and is intended for human consumption, including, but not limited to, cigarettes, non-cigarette smoking tobacco or smokeless tobacco as defined by the Tobacco Products Act, MCL 205.422.

Tobacco specialty retail store shall mean an establishment that has a State issued exemption certificate and for which the primary purpose is the retail sale of tobacco products, non-tobacco smoking products and substances, and smoking paraphernalia.

Section 12. Chapter 42, Article II, Section 42-34(a) of the Code of Ordinances, Charter Township of Shelby, Michigan shall be amended to read as follows:

Notification. The owner, if possible, and the occupant of any property upon which any of the causes of blight or blighting factors set forth in this article is found to exist shall be notified in writing to remove or eliminate such causes of blight or blighting factors from such property within ~~ten days~~ **a stated time frame as set forth within the notice and** after service of the notice upon him. Such notice may be served personally or by mail.

Section 13. 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 14. Repeal

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

Section 15. 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 _____ day of _____ 2019.

Stanley Grot, Township Clerk

INTRODUCTION: February 5, 2019
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