

Item #: 58

Moved by: WHALEY

Prepared by: Larry J. Smith

Seconded by: TURNER

Reviewed by: Robert Rolwing
Assistant County Attorney

ORDINANCE NO. 536

ORDINANCE TO AMEND THE SHELBY COUNTY CODE OF ORDINANCES, CHAPTER 42, ARTICLE 11, DIVISION 3, SECTION 42-118, TO BE NO LESS STRINGENT THAN STATE STANDARDS, PURSUANT TO TENNESSEE CODE ANNOTATED, SECTION 69-10-101 et seq. SPONSORED BY COMMISSIONER VAN D. TURNER, JR.

WHEREAS, The Shelby County Health Department is authorized to enforce the provisions of Chapter 42, Article 11, Division 3, of the Shelby County Code of Ordinances pertaining to water quality control (which includes water wells) within the County, excluding incorporated municipalities; and

WHEREAS, Shelby County Health Department on behalf of Shelby County was previously granted a Certificate of Exemption from supervision by the State of Tennessee ("State") regarding the regulation of water wells in Shelby County in 2003; and

WHEREAS, In order to maintain the Certificate of Exemption, it is necessary to adopt regulations that are no less stringent than State standards; and

WHEREAS, Tennessee Code Annotated, Section 69-10-112, provides that, "any county operating under a county charter form of government, may enact, by ordinance or resolution respectively, enforceable requirements not less stringent than the standards adopted by the state pursuant to this chapter."; and

WHEREAS, Tennessee Code Annotated, Section 69-10-112, further provides that, such counties may petition the commissioner of environment and conservation to

be exempted from this chapter, except for the well driller licensing and license fee provisions that shall remain as a state function, and the certificate of exemption shall be granted if the commissioner determines that a county has enacted provisions not less stringent than the state standards and that such enactments are being, or will be, adequately enforced; and

WHEREAS, Chapter 42, Article 11, Division 3, Section 42-118 of the Shelby County Code of Ordinances is not as stringent as the State standard pertaining to fines for violations; and

WHEREAS, Pursuant to Tennessee Code Annotated§ 69-10-110(d}, any person who violates or fails to comply with any provision shall be subject to a civil penalty of not less than fifty dollars (\$50.00) nor more than five thousand dollars (\$5,000.00) per day for each day of violation, and each day such violation continues is a separate violation; and

WHEREAS, It is the intent of Shelby County to prevent the need for State control of water wells in Shelby County subject to these controls, it is now necessary to amend Chapter 42, Article II, Division 3, Section 42-118 of the Shelby County Code of Ordinances to enact penalties for violations not less stringent than the State standard.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That Chapter 42, Article I, Division 3, Section 42-118, of the Shelby County Code of Ordinances is hereby amended by deleting "\$25.00 nor more than \$50.00" and inserting instead "fifty dollars (\$50.00) or other penalty allowed under state law."

BE IT FURTHER ORDAINED, That, if any section, subsection, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be

affected by such invalidity.

BE IT FURTHER ORDAINED, That this Ordinance shall become effective in accordance with the Shelby County Charter, Article 11, Section 2.06(C).





Lee Harris
County Mayor

Date: 4/18/2022

ATTEST.



Clerk of Commission

FIRST READING: February 28, 2022

SECOND READING: March 21, 2022

THIRD READING: April 11, 2022

SUMMARY SHEET

I. Description of Item

Ordinance to amend the Shelby county code of ordinances, chapter 42, article II, Division 3, Section 42-118, the ordinance pertaining to water quality control, including water wells, to be no less stringent than state standards, pursuant to Tennessee Code Annotated § 69-10-101 et seq.

Pursuant to Tennessee Code Annotated § 69-10-110(d), any person who violates or fails to comply with any provision shall be subject to a civil penalty of not less than fifty dollars (\$50.00) nor more than five thousand dollars (\$5,000) per day for each day of violation, and each day such violation continues is a separate violation.

In order to maintain Shelby County's Certificate of Exemption, and prevent the need for State control of water wells in Shelby County, it is necessary to amend Section 42-118 of the Shelby County Code of Ordinances to enact penalties for violations not less stringent than the State standard, by deleting "\$25.00 nor more than \$50.00" and inserting "fifty dollars (\$50.00) nor more than five thousand dollars (\$5,000) per day for each day of violation. Each day such violation continues is a separate violation."

II. Source and Amount of Funding

N/A

III. Communicate How the Ordinance Affects:

A. **Subawards** - N/A

B. **Personnel** - N/A

C. **Equipment** - N/A

D. **Contracts** - N/A

IV. Additional Information Relevant to Approval of this Item

Administration recommends approval of this item.