

**TOWNSHIP OF SHELBY
COUNTY OF OCEANA, STATE OF MICHIGAN**

SHELBY TOWNSHIP JUNK AND INOPERABLE VEHICLE ORDINANCE

ORDINANCE #06072022-1

AN ORDINANCE PURSUANT TO PUBLIC ACT 246 OF 1945, MCL 41.181, AS AMENDED, TO REGULATE THE STORAGE OF JUNK, INOPERABLE VEHICLES, AND JUNK VEHICLES WITHIN THE TOWNSHIP OF SHELBY; TO INSURE THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THE CITIZENS OF THE TOWNSHIP OF SHELBY; AND TO PROVIDE PENALTIES AND SANCTIONS FOR VIOLATIONS THEREOF.

THE TOWNSHIP OF SHELBY ORDAINS:

1. **Section 1. Short Title.** This ordinance shall be known and may be cited as the "Shelby Township Junk and Inoperable Vehicle Ordinance".
2. **Section 2. Purpose.** The purposes of this ordinance are to:
 - a. Promote and protect the health, safety, and general welfare of the residents and property owners in the Township.
 - b. Limit the outdoor storage of junk, inoperable vehicles, and junk vehicles for the purpose of protecting property values and the health, safety, and welfare of residents of the Township.
 - c. Protect the Township's natural resources.
3. **Section 3. Authorization.** This ordinance is authorized and enacted pursuant to MCL 41.181 and other applicable laws.
4. **Section 4. Definitions.** For the purpose of this ordinance, the following terms shall have the following meanings:
 - a. "Farm" means a business enterprise engaged in agricultural production (and otherwise known as farms, ranches, dairies, nurseries, orchards) of crops, livestock, and trees, and:
 - i. Includes forty (40) or more acres of land in one ownership which is primarily

devoted to agricultural use; or

- ii. Has five (5) or more acres of land in one ownership, but less than forty (40) acres, primarily devoted to agricultural use, which has produced a gross annual income from agriculture of two hundred dollars (\$200.00) per year or more per acre; or
- iii. Has been designated by the Michigan Department of Agriculture as a specialty crop producer which has produced a gross annual income of one thousand dollars (\$1,000.00) or more from an agricultural use.

b. "Junk" means:

- i. Any manufactured goods, appliances, fixtures, tires, furniture, machinery, boat or personal property, or any part of the preceding things or any thing, whether of value or valueless, that is demolished or discarded, completely or partially dismantled, dilapidated, wrecked, scrapped, ruined, junked or so worn, deteriorated, or in such a condition as to be generally unusable or inoperable in its existing state, and shall include scrap ferrous or non ferrous material, rubber, cloth, paper, rubbish, refuse, litter, materials from demolition, waste building materials, refuse from industrial and manufacturing operations, junked, abandoned, scrapped, dismantled or wrecked (including parts of, or items held for salvaging parts) automobiles, farm equipment, boats, trailers, mobile homes, appliances, and all other machines; excluding, however, the following items:
 - (1) items being held for a customer on the premises of a lawful vehicle or equipment repair shop while parts are being sought for its repair; and (2) items and junk lawfully kept at a licensed junk yard.
- ii. Any type of solid waste consisting of waste building materials and rubble resulting from the construction, remodeling, repair and demolition of houses, commercial and industrial buildings and other structures, which includes, but is not limited to, metal, concrete, glass, brick, asphalt, and roofing materials.
- iii. Any abandoned, scrapped, dismantled, or wrecked (including parts of or items held for salvaging parts) automobiles, vehicles, boats, trailers, mobile homes, appliances, snowmobiles, all-terrain vehicles, off-road vehicles, campers, motor homes, or other machines and vehicles.

- c. "Inoperable Vehicle" means any or all of the following:
- i. Any vehicle or motor vehicle which is dismantled, in whole or in part, or which is not mechanically operable as a result of a defect, malfunction, or state of disrepair.
 - ii. Any vehicle or motor vehicle which cannot be legally operated on public streets or highways by reason of lacking the equipment required by State Motor Vehicle Code and/or other laws of the State of Michigan; or
 - iii. Any vehicle or motor vehicle which is not currently licensed, or for which the vehicle registration has expired, or which is not capable of being licensed for operation upon the public streets and highways under the provisions of the Michigan Motor Vehicle Code, 1939 PA 300, as amended, or other applicable provisions of the laws of the State of Michigan.

The definition of "inoperable vehicle" does not include any of the following:

1. Articles used to farm or conduct farm operations in accordance with generally accepted agricultural and management practices, under the Right to Farm Act, being 1981 PA93, as amended.
2. A motor vehicle in operating condition held as stock in trade by a lawful and properly licensed dealer of new and used motor vehicles or equipment held as stock in trade.
3. A vehicle or motor vehicle which is stored on the premises of a duly licensed and lawful vehicle or motor vehicle repair shop or a licensed and lawful vehicle impoundment facility which has all licenses or registrations required by the State of Michigan; provided, further, that all vehicles and motor vehicles stored on the premises of the repair shop or impoundment facility must be stored either entirely within a building or within an area completely enclosed by a fence not less than seven feet in height, and so that any vehicle or motor vehicle cannot be seen from any public right of way or from adjacent property.
 - a. A fence utilized to meet the requirements of this provision shall be well maintained and shall be constructed of materials that are designed for fencing purposes, such as chain link fence with privacy slats, a wooden fence with continuous or overlapping pickets, or a

substantial equivalent. Used or discarded materials such as concrete, railroad ties, pallets, tree stumps, trash, tires, junk, or other similar material shall not be used for fencing purposes.

- b. Notwithstanding the above requirements, a vehicle or motor vehicle that is stored on the premises of a repair shop and which is subject to

this provision may be stored outdoors, in an unenclosed area, for not more than thirty (30) total days during the course of repairing such vehicle or motor vehicle.

- d. "Junk Vehicle" means any or all of the following:

- i. Any vehicle or motor vehicle which by reason of damage resulting from an accident, dismantling, disrepair, or other cause that is incapable of being propelled under its own power, or which is missing a major component part, including, but not limited to the:

- (1) engine;
- (2) transmission;
- (3) right or left front fender;
- (4) hood;
- (5) door(s);
- (6) front or rear bumper;
- (7) right or left quarter panel;
- (8) deck lid, tailgate, or hatchback;
- (9) trunk floor pan;
- (10) cargo box of a pickup;
- (11) frame, or if the vehicle has a unitized body, the supporting structure or structures which serve as the frame;
- (12) cab of a truck;
- (13) body of a passenger vehicle; (14) window glass; (15) wheel(s).

- ii. Any vehicle or motor vehicle that is unsafe for operation in the manner for which it was designed, manufactured, or modified by reason of damage resulting from an accident, dismantling, disrepair, or other cause.

- iii. Any vehicle or motor vehicle that is unsafe for operation in the manner for which it was designed, manufactured, or modified by reason of its inability

to comply with any code, regulation, or statutes established by the State of Michigan governing the operation of such vehicle or motor vehicle.

- iv. Any vehicle or motor vehicle which has been so damaged or dismantled so as to be a total loss.
 - v. Any component part of a vehicle or motor vehicle, including tires and wheels, which by reason of disrepair, damage, or other cause is incapable of functioning or being operated in the manner for which it was designed, manufactured, or modified.
 - vi. The definition of “junk vehicle” does not include any item excluded from the definition of “inoperable vehicle” under Section 4 of this ordinance.
 - e. “Person” means an individual, partnership, corporation, limited liability company, voluntary association or other entity.
 - f. “Total Loss” means where the cost to fully repair a damaged or dismantled vehicle or motor vehicles exceeds the fair market value for such vehicle. Fair market value may be determined by using any nationally-recognized appraisal book or method.
 - g. “Township” means the Township of Shelby, Oceana County, Michigan.
 - h. “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a street or highway, excepting devices moved by human power.
5. **Section 5. Unlawful or Prohibited Acts.** No person, property owner, property occupant, or tenant shall cause, allow, or permit the accumulation, storage, abandonment, or discarding of Junk, Inoperable Vehicles, or Junk Vehicles on a parcel of land except under the following circumstances:
- a. The parcel of land is a licensed commercial junkyard permitted under all applicable laws and regulations; or
 - b. Where all of the following conditions exist for the parcel of land:
 - i. There are no more than two (2) of any combination of Inoperable Vehicles, Junk Vehicles, large items of Junk, or the equivalent in volume – abandoned, scrap, dismantled or wrecked (including parts of) automobiles, farm equipment, trailers, mobile homes, and all other machines, etc. – on

the parcel of land. For the purposes of this Section, a large item of Junk consists of either a single piece of Junk, such as a wrecked trailer or refrigerator, or several pieces of Junk of a combined size of no more than three (3) cubic yards;

- ii. Such Inoperable Vehicle, Junk Vehicle, or Junk is stored within an enclosed building or, alternatively, is stored in manner that it is not visible from a public right-of-way or adjacent parcels;
- iii. Such Junk, Inoperable Vehicle, or Junk Vehicle is consolidated on one part of the parcel; and
- iv. Such Junk, Inoperable Vehicle, or Junk Vehicle does not constitute a nuisance.

6. **Section 6. Farm Exclusion.** Section 5 of this Ordinance shall not apply to a farm, provided that the storage of Inoperable Vehicles, Junk Vehicle, or Junk on the farm meets all of the following standards:

- a. Any Junk, Inoperable Vehicle or Junk Vehicle is of such character that it is being kept on site for future use and application for the farm, and the Inoperable Vehicle, Junk Vehicle, or Junk has been utilized previously on the farm;
- b. Any Inoperable Vehicle, Junk Vehicle, or Junk is stored within an enclosed building or, alternatively, is stored in manner that it is not visible from a public right-of-way or from adjacent parcels;
- c. The depositing, storage, or maintenance of the Junk, Inoperable Vehicle or Junk Vehicle does not constitute a violation of Part 115 of the Natural Resources and Environmental Protection Act (NREPA), MCL 324.11501 *et seq.*, and does not constitute a violation of any other federal, state, or local law or regulation; and d. Any Junk, Inoperable Vehicle, or Junk Vehicle does not constitute a nuisance.

7. **Section 7. Persons Authorized to Enforce This Ordinance and to Issue Municipal Civil Infraction Citations.** The following persons are authorized to enforce this Ordinance and to issue municipal civil infraction citations under this Ordinance pursuant to MCL 600.8701-8735, as amended, of the Revised Judicature Act:

- a. Township Ordinance Enforcement Officer;

- b. Township Zoning Administrator;
- c. Oceana County Sheriff Deputies;
- d. Township Supervisor and all other persons authorized by Resolution of the Shelby Township Board; and
- e. Any other person authorized to enforce Township ordinances under the Shelby Township Civil Infraction Ordinance

8. **Section 8. Municipal Civil Infraction Enforcement and Penalties.**

- a. **Municipal Civil Infraction.** A violation of this ordinance is a municipal civil infraction, for which the fine shall be determined as set forth in the Shelby Township Municipal Civil Infraction Ordinance. Each day that a violation occurs shall constitute a separate offense.
- b. **Nuisance *per se*.** Any violation of this ordinance shall be declared a nuisance *per se* and subject to injunctive relief and abatement by order of a court of competent jurisdiction. In addition, the court may enter an order permitting the Township to enter the property in violation of this Ordinance and abate the nuisance. Such costs incurred by the Township with respect to such abatement shall be assessed against the defendant(s) and shall become a lien against the property in violation pursuant to this Ordinance and/or the Shelby Township Municipal Civil Infraction Ordinance.
- c. **Injunctive relief.** In addition to any remedies available at law, the Township may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this ordinance.
- d. **Lien to Enforce Fines, Costs, and Penalties.**
 - i. If a defendant does not pay a civil fine, costs, or assessment or an installment ordered under this Ordinance or MCL 600.8727 within 30 days after the date on which payment is due under MCL 600.8727 in a municipal civil infraction action brought for a violation involving the use or occupation of land or a building or other structure, the Township may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fines, costs, and assessment with the Oceana County Register of Deeds. The lien shall be effective

immediately upon recording of the court order with the Oceana County Register of Deeds.

- ii. The court order recorded with the Oceana County Register of Deeds shall constitute notice of the pendency of the lien. In addition, a written notice of the lien shall be sent by the Township by first-class mail to the owner of record of the land, building, or structure at the owner's last known address.
- iii. The lien may be enforced by the Township in the manner prescribed by the General Property Tax Act, Public Act 206 of 1893, MCL 211.1 to 211.57, or by an ordinance duly passed by the Township Board. However, property is not subject to sale under the General Property Tax Act, 1893 PA 206, MCL 211.1 to 211.57, for nonpayment of a civil fine, costs, or assessment or an installment ordered under MCL 600.8727 unless the property is also subject to sale under the General Property Tax Act for delinquent property taxes.
- iv. A lien created under this section has priority over any other lien unless 1 or more of the following apply:
 - (1) The other lien is a lien for taxes or special assessments.
 - (2) The other lien is created before May 1, 1994.
 - (3) Federal law provides that the other lien has priority.
 - (4) The other lien is recorded before the lien under this section is recorded.
- v. The Township may institute an action in a court of competent jurisdiction for the collection of the judgment imposed by a court order for a municipal civil infraction. However, an attempt by the Township to collect the judgment by any process does not invalidate or waive the lien upon the land, building, or structure.
- vi. A lien provided for by this section shall not continue for a period longer than 5 years after a copy of the court order imposing a fine, costs, or assessment is recorded, unless within that time an action to enforce the lien is commenced.

e. **Shelby Township Municipal Civil Infraction Ordinance.** In addition to the enforcement provisions and penalties provided herein, this Ordinance may be enforced pursuant to and in any manner authorized by the Shelby Township Municipal Civil Infraction Ordinance.

9. **Section 9. Severability.** This Ordinance and the various parts, sections, sub-sections, phrases, sentences, paragraph, and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, sub-section, phrase, or clause is adjudged unconstitutional or invalid, it shall not affect the remainder of the Ordinance.
10. **Section 10. Repeal.** All resolutions, ordinances, orders or parts thereof in conflict in whole or in part with any of the provisions of this ordinance are, to the extent of such conflict, hereby repealed.
11. **Section 11. Effective Date.** This Ordinance shall be effective 30 days after the date of publication pursuant to MCL 41.184.

We, Marilyn Glover, Township of Shelby Clerk, and Richard Raffaelli, Township of Shelby Supervisor, do hereby certify that the above and foregoing Ordinance, known as Ordinance No. 06072022-1 of the Township of Shelby, Oceana County, Michigan, was introduced and passed at a regular meeting of the Township Board, held on June 7, 2022, by an affirmative vote of the majority of the Township Board members.

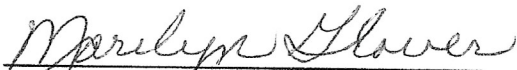
Motion made by Marilyn Glover, seconded by Becky Griffin to approve.

Ayes: 4
Nays: 0
Absent: Scott Meyers

Date: _____, 2022


Richard Raffaelli, Supervisor

Date: 6/13, 2022


Marilyn Glover, Clerk

Introduced: June 7, 2022
Adopted: June 7, 2022
Published: June 23, 2022
Effective: July 22, 2022