

TOWNSHIP OF SHELBY
COUNTY OF OCEANA, STATE OF MICHIGAN

ORDINANCE NO. 0706 2021-01

ADOPTED: July 6, 2021

EFFECTIVE: July 6, 2021

SHELBY TOWNSHIP MUNICIPAL CIVIL INFRACTION ORDINANCE

AN ORDINANCE TO ESTABLISH THE AUTHORITY AND PROCEDURES FOR THE ISSUANCE OF MUNICIPAL CIVIL INFRACTION NOTICES AND CITATIONS; TO ESTABLISH A MUNICIPAL ORDINANCE VIOLATIONS BUREAU; AND TO PROVIDE GENERALLY FOR PENALTIES AND SANCTIONS FOR MUNICIPAL CIVIL INFRACTION VIOLATIONS.

THE TOWNSHIP OF SHELBY, OCEANA COUNTY, MICHIGAN, ORDAINS:

Section 1. Title. This ordinance shall be known and may be cited as the “Shelby Township Municipal Civil Infraction Ordinance.”

Section 2. Definitions. For the purpose of the provisions of this ordinance, the following words and phrases shall be construed to have the meanings herein set forth, unless it is apparent and clear from the context that a different meaning is intended:

- a. “Act” means Act 236 of the Public Acts of 1961, MCL 600.8301 *et seq.*, as amended.
- b. “Authorized local official” means a member of the Oceana County Sheriff’s Department or any personnel of the Township authorized by this or any other ordinance of Shelby Township to issue municipal civil infraction citations or municipal civil infraction violation notices.
- c. “Bureau” means the Shelby Township Municipal Ordinance Violations Bureau as established by this ordinance.
- d. “Municipal civil infraction” means an act or omission that is prohibited by this or any other ordinance of the Township, but which is not a crime under this or such other ordinance, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961, MCL 600.8301 *et seq.*, and Act 246 of the Public Acts of 1945, MCL 41.181 *et seq.*, as amended. A municipal civil infraction is not

a lesser included offense of any violation of any other Township Ordinance that is a criminal offense.

- e. "Municipal civil infraction action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- f. "Municipal civil infraction citation" means a written complaint or notice prepared by an authorized local official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.
- g. "Municipal civil infraction violation notice" means a written notice prepared by an authorized local official, directing a person to appear at the Shelby Township Ordinance Violations Bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the Township, as authorized under Section 8396, MCL 600.8396, and 8707(6), MCL 600.8707(6), of the Act.
- h. "Township" means the Township of Shelby, Oceana County, Michigan.

Section 3. Designation of Authorized Local Officials. The following persons have the authority to issue municipal civil infraction citations and/or municipal civil infraction violation notices pursuant to this ordinance:

- a. Oceana County Sheriff's Department deputized law enforcement officers;
- b. Shelby Township Zoning Administrator;
- c. Shelby Township Supervisor;
- d. Shelby Township Ordinance Enforcement Official as designated by resolution of the Township Board.

Section 4. Municipal Civil Infraction Action; Commencement. A municipal civil infraction action may be commenced upon the issuance by an authorized local official of (1) a municipal civil infraction citation directing the alleged violator to appear in court; or (2) a municipal civil infraction violation notice directing the alleged violator to appear at the Shelby Township Municipal Ordinance Violations Bureau.

Section 5. Municipal Civil Infraction Citations; Issuance and Service. Municipal civil infraction citations shall be issued and served by an authorized local official in accordance with the provisions of Chapter 87 of the Revised Judicature Act, Act 236 of the Public Acts of 1961, as amended, MCL 600.8701, *et seq.*

Section 6. Municipal Ordinance Violations Bureau.

- a. Bureau Established: The Township hereby designates the Shelby Township Office as the Municipal Ordinance Violations Bureau as authorized under Section 8396 of the Revised Judicature Act, MCL 600.8396, to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized local officials, and to collect and retain civil fines and costs as prescribed by this or any other ordinance of the Township.
- b. Location: The Bureau shall be located at the Shelby Township Offices at 204 North Michigan Avenue, Shelby, Michigan 49455.
- c. Jurisdiction of Bureau:
 - i. The Bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice (as distinguished from a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the Bureau. Nothing in this ordinance shall prevent or restrict the Township from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction.
 - ii. The Bureau may only accept admissions of responsibility for municipal civil infractions and collect and retain fines and costs as a result of those admissions. The Bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.
- d. Municipal civil infraction violation notices: Municipal civil infraction violation notices shall be issued and served by an authorized local official under the same circumstances and upon the same persons as provided for in this ordinance and in Chapter 87 of the Revised Judicature Act, Act 236 of the Public Acts of 1961, as amended, MCL 600.8701, *et seq.*
- e. Appearance; payment of fines and costs: An alleged violator receiving a municipal civil infraction violation notice shall appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.
- f. Procedure where admission of responsibility not made or fine not paid: If an

authorized local official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the Bureau, or if the Bureau can not accept an admission of responsibility, or can not collect the fine as provided in subsection (c)(ii) above, a municipal civil infraction citation may be filed with district court and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator(s) last known address.

Section 7. Penalties and Sanctions.

- a. Unless provided otherwise in a specific ordinance, and except as provided in subsection b, below, for fines for municipal civil infraction violation notices paid at the Bureau, the sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided below, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of the Revised Judicature Act, Act 236 of the Public Acts of 1961, as amended [MCL 600.8701, *et seq*], and other applicable laws.
 - i. Unless otherwise specifically provided for a particular municipal civil infraction violation by any other Township ordinance, the civil fine for a violation shall be not less than \$150.00, plus costs, reasonable attorney fees, and other applicable sanctions, for each municipal civil infraction for which the defendant has been adjudicated as or otherwise found responsible.
 - ii. Increased civil fines may be imposed for repeat offense by a person of any requirement or provision of this or any other Township ordinance. As used in this section, a “repeat offense” means a second (or any subsequent) municipal infraction violation of the same requirement or provision (i) committed by a person within any twelve-month period (unless some other period is specifically provided by this or any other Township ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this or any other Township ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:
 - (1) The fine for any offense, which is a repeat offense, shall be no less than \$250.00, plus costs, reasonable attorney fees, and other applicable sanctions.
 - (2) The fine for any offense, which is a second repeat offense or any subsequent repeat offense, shall be no less than \$500.00, plus costs, reasonable attorney fees, and other applicable sanctions.

- b. Schedule of civil fines for municipal civil infraction violation notices payable at the Bureau.
 - i. Where a municipal civil infraction violation notice is issued, unless otherwise specifically provided for a particular municipal civil infraction violation by any other Township ordinance, the civil fine (including costs) for the violation payable at the Bureau shall be \$100.00.
 - ii. Where a municipal civil infraction violation notice is issued for the second or repeat offense of the same ordinance, unless otherwise specifically provided for a particular municipal civil infraction violation by any other Township ordinance, the civil fine (including costs) for the violation payable at the Bureau shall be \$200.00.
 - iii. Where a municipal civil infraction violation notice is issued for the third or subsequent offense of the same ordinance, unless otherwise specifically provided for a particular municipal civil infraction violation by any other Township ordinance, the civil fine (including costs) for the violation payable at the Bureau shall be \$300.00.
- c. A violation includes any act which is prohibited by this ordinance or any other Township ordinance. A violation also includes any omission or failure to act where the act is required by this ordinance or any other Township ordinance.
- d. Each day on which any violation of this ordinance or any other Township ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- e. 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 or any other Township ordinance.
- f. 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.

Section 8. Prior Ordinances. All prior ordinances, or parts thereof, in conflict with the terms of this ordinance are deemed rescinded.

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.

Section 10. Effective Date. This ordinance shall be effective 30 days after the date of publication pursuant to MCL 41.184.

AYES: 4 Members: Marilyn Glover, Scott Meyers, Cindy Rapes, Richard Raffaelli

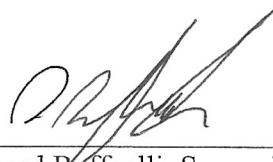
NAYS: 0 Members: _____

ABSENT: Members: Becky Griffin

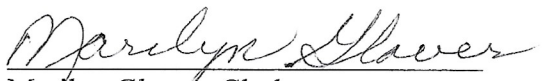
ORDINANCE DECLARED ADOPTED.

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. 0706 2021-1 of the Township of Shelby, Michigan, was introduced and passed at a regular meeting of the Township Board, held on July 6, 2021, by an affirmative vote of the majority of the Township Board members.

Date: July 6, 2021


Richard Raffaelli, Supervisor

Date: July 6, 2021


Marilyn Glover, Clerk