

CHARTER TOWNSHIP OF SHELBY

MACOMB, MICHIGAN

ORDINANCE NO. 298

AN ORDINANCE TO AMEND CHAPTER 26, ARTICLE I TO PROVIDE FOR PERIODIC FIRE SAFETY INSPECTIONS; ARTICLE III TO AMEND EMERGENCY COST RECOVERY PROCEDURES; CHAPTER VI TO REGULATE PIGEON LOFTS WITHIN THE TOWNSHIP AND CHAPTER 46 TO PROVIDE PENALTIES FOR FALSE CRIME REPORTS, FOR REPEALER, SEVERABILITY PENALTIES AND EFFECTIVE DATE

IT IS HEREBY ORDAINED BY THE CHARTER TOWNSHIP OF SHELBY:

Section 1. Article I, Chapter 26, Section 26-63 of the Code of Ordinances, Charter Township of Shelby, Michigan, is hereby created to read as follows:

Sec. 26-63. – Periodic fire safety inspections.

(a) Buildings shall be classified according to the occupancy classifications as defined and referenced in the National Fire Protection Act Section 1730 (NFPA). Periodic fire safety inspections by the fire marshal, or his/her designee, may be conducted in buildings annually, every two years, or every three years, depending on either the building's occupancy risk classification as provided below or whether a building is equipped with a suppression system. Except as otherwise provided, the occupancy risk classifications specified below include all groups within the IFC occupancy classification. Where multiple use groups apply to a building, the applicable period for inspection for the entire building will be the period applicable to the risk classification that comprises the greatest percentage of the total square footage of the building.

(1) High risk occupancy classifications requiring annual inspections:

a. Assembly Group A.

b. High Hazard Group H.

c. Factory Industrial Group F (Occupancies exceeding the threshold quantities of hazardous material related to Michigan Firefighter Right-to-Know).

d. Residential Group R (Group R-1 and Group R-2, only, as specified below).

e. Residential Group R-1: Hotels, motels, and transient boarding houses, only.

f. Residential Group R-2: Senior living complexes, apartment buildings and multi-family residential buildings with more than two family units. (Common areas only).

g. Other high-risk occupancies, not defined in the IFC (Critical Infrastructure, City Buildings, Public Safety Buildings).

h. Suppressed building, sprinkle or kitchen system.

(2) Medium risk occupancy classifications requiring inspections every two years:

a. Factory Group F (Occupancies not exceeding Firefighter Right-to-Know Hazardous Material thresholds).

b. Mercantile Group M (Occupancies using or offering for sale hazardous materials)

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c. Storage Group S (Occupancies with hazardous materials).

(3) Low risk occupancy classifications requiring inspections every three years:

a. Business Group B.

b. Mercantile Group M (Occupancies without hazardous materials).

c. Storage Group S (Occupancies without hazardous materials).

d. Miscellaneous Group U.

Use Group E and Group I occupancies are regulated and inspected by the State of Michigan Bureau of Fire Services and are not subject to periodic fire inspections by the Township Fire Prevention Bureau. Single-family dwellings and the dwelling units in two-family and multiple-family dwellings also are not subject to periodic fire inspections.

(4) The fire marshal, or his/her designee, shall have the authority to enter a building at any reasonable time to conduct an inspection required under this section and as provided in sections 104 and 106 of the IFC.

a. If the building is occupied, permission to enter will first be requested.

b. If the building is unoccupied, a reasonable effort will be made to locate the owner or other person having charge or control of the building to request permission to enter.

c. If entry is refused or permission cannot otherwise be reasonably obtained, the fire marshal may employ any legal means to obtain authorization to enter, including, but not limited to obtaining a search warrant from a court of competent jurisdiction.

(5) Fees for permits and re-inspection.

The fee for inspections shall be as established pursuant to a resolution by the Township Board and as amended.

Any owner who fails to pay the fee for any inspection and or reinspection is a violation of this article.

(6) Violations; authority of enforcement.

Violations of this article shall be municipal civil infractions. Enforcement of this article may be by the Township fire chief, the fire marshal, fire inspectors. Such enforcement officers shall have the authority to issue municipal civil infraction citations and municipal civil infraction violation notices, pursuant to section 1-18 of the Code of Ordinances.

Section 2. Article III, Chapter 26, Section 22-136 of the Code of Ordinances, Charter Township of Shelby, Michigan, is hereby amended to read as follows:

Sec. 22-136. - Charge for costs.

The costs associated with an emergency response shall be a charge against the responsible person. The charge shall constitute a debt of that person to the township and be collectible by the township in the same manner as an obligation under an expressed or implied contract. **Additionally, the 41-A Judicial District Court is authorized to collect the above-described debt for the Township and may charge a service fee for such collection in an amount mutually agreed upon the court and the township.**

Section 3. Article III, Chapter 26, Section 22-137 of the Code of Ordinances, Charter Township of Shelby, Michigan, is hereby amended to read as follows:

Sec. 22-137. - Statement of costs.

The chiefs of the involved departments, or their respective designated representatives, ~~shall~~ **may** submit a statement for the costs associated with an emergency response to the responsible person by first class mail or personal service. This statement shall require payment in full within 15 days from the date of the statement.

Section 4. Article III, Chapter 26, Section 22-138 of the Code of Ordinances, Charter Township of Shelby, Michigan, is hereby amended to read as follows:

Sec. 22-138. - ~~Commencement of suit to recover costs.~~ Failure to pay; procedure to recover costs.

Any failure by ~~if~~ the person responsible for the costs associated with an emergency response ~~fails~~ to pay the statement submitted within 15 days of the date of the statement **shall be**

considered to be in default. The failure to pay may be further considered a violation of probation if the payment was ordered by the court at the time of sentencing. The township may commence legal action to recover the costs, together with all court costs and actual attorney's fees incurred in connection with such action.

Section 5. Article V, Chapter 6, Section 22-137 of the Code of Ordinances, Charter Township of Shelby, Michigan, is hereby created to read as follows:

Sec. 6-100 - Pigeon lofts.

(1) Definitions.

(a) Loft shall mean a separate detached structure constructed for the sole purpose to house carrier pigeons and constructed in compliance with the Township of Shelby's building code regulations and zoning ordinance regulations regarding accessory structures.

(b) Carrier pigeon shall mean homing and racing pigeons which have the name of the owner stamped upon the wing or tail or are banded upon the leg with the name or initials of the owner or with an identification or registration number stamped on the band.

(c) Racing pigeon shall mean a pigeon registered with a national racing organization and used as a game competitive bird. Pigeons are not to be identified or classified as fowl when raised and used in the sport and hobby of racing carrier pigeons.

(d) Department shall mean the building department of the Township of Shelby and shall include the head of such department or any designated agent acting in his/her stead on behalf of the Township of Shelby.

(2) New lofts. Any new pigeon loft established, constructed, and operated within the Township shall comply with the following requirements:

(a) It shall be unlawful to establish, construct and operate a new pigeon loft within the Township without first obtaining a permit therefor.

(b) A permit application shall be filed in the form provided by the Building Department, which shall be accompanied by a drawing showing the size and location of the loft which shall be submitted to the building department of the Township for approval.

(c) A permit shall be valid for one (1) year from the date of issuance. The permit fee shall be established by resolution of the board of trustees.

(d) A pigeon loft shall not be located nearer than fifty (50) feet from any structure, and not less than two hundred (200) feet from a school, church, or place of public assembly. It shall also be located in accordance with any applicable zoning ordinance of the Township.

(e) It shall be unlawful to have on the same premises more than one (1) pigeon loft.

(f) It shall be unlawful to harbor or raise pigeons or allow the congregation of pigeons unless permitted by the township.

(3) All owners of pigeon lofts within the Township shall comply with the following requirements:

(a) By June 1, 2024, an owner of a loft which validly existed prior to the effective date of this section shall obtain a permit for each such loft which shall be valid for one (1) year from the date of issuance. The permit fee shall be established by resolution of the Board of Trustees.

(b) All lofts shall be subject to random inspection by the department and if not maintained in a reasonably clean and orderly manner and in a condition comparable to the neighboring buildings, shall be subject to discontinuance at the order of the department. In the event the department revokes or discontinues a permit under this section, the owner, upon written request with ten (10) days to the township clerk shall be entitled to a hearing before the township board of trustees to show cause why such permit should not be discontinued or revoked.

(c) All pigeons and pigeon lofts must be kept free from odors and free from any insect or rodent breeding.

(d) All pigeon droppings shall be removed from the pens at least twice weekly and placed and disposed of according to all applicable health regulations established by the Macomb County Health Department.

(e) All pigeons shall be confined to the loft, except for reasonable but limited periods necessary for exercise, training and competition; and at no time shall be allowed to perch or linger on the buildings or property of others.

(f) All pigeons shall be fed within the confines of the loft.

(g) No one may have more than ten (10) pigeons.

(4) All pigeon lofts shall meet the specifications established by Shelby Township.

(5) The owner of every pigeon(s) shall be responsible for the removal of any excreta deposited by his pigeon(s) on public walks, recreation areas or private property.

(6) Violations. The department may revoke or discontinue any permit if any section is violated. Appeals on revocations or discontinuances may be made pursuant to the provisions of subsection (3)(b) of this section.

(7) Penalty. Any person who violates any provision of this section shall be responsible for a municipal civil infraction and upon a finding of responsible, be fined as provided in section 1-17 of the Code of Ordinances.

Section 6. Article V, Chapter 46, Section 46-363 of the Code of Ordinances, Charter Township of Shelby, Michigan, is hereby created to read as follows:

FALSE CRIMES, REPORTS TO POLICE OFFICERS; PENALTIES.

(A) A person who intentionally makes a false report of the commission of a misdemeanor crime, or intentionally causes a false report of the commission of a misdemeanor crime to be made, to a police officer of the Township, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive reports of a crime, knowing the report is false, is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days or a fine of not more than \$500, or both.

(B) As part of the sentence for a conviction under this section, in addition to any other penalty authorized by law, the court may order the person convicted to reimburse the Township for expenses incurred in relation to the incident, including but not limited to expenses for an emergency response and expenses for prosecuting the person. The expenses for which reimbursement may be ordered under this section include all of the following:

(1) The salaries or wages, including overtime pay, of law enforcement personnel for time spent responding to the incident from which the conviction arose, arresting the person convicted, processing the person after the arrest, preparing reports on the incident, investigating the incident, and collecting and analyzing evidence, including, but not limited to, determining bodily alcohol content and determining the presence of and identifying controlled substances in the blood, breath, or urine.

(2) The salaries, wages, or other compensation, including overtime pay, of fire department and emergency medical service personnel, including volunteer fire fighters or volunteer emergency medical service personnel, for time spent in responding to and providing firefighting, rescue, and emergency medical services in relation to the incident from which the conviction arose.

(3) The cost of medical supplies lost or expended by fire department and emergency medical service personnel, including volunteer fire fighters or volunteer emergency medical service personnel, in providing services in relation to the incident from which the conviction arose.

(4) The salaries, wages, or other compensation, including, but not limited to, overtime pay of prosecution personnel for time spent investigating and prosecuting the crime or crimes resulting in conviction.

(C) The amount ordered to be paid under this section shall be paid to the clerk of the court, who shall transmit the appropriate amount to the Township. If not otherwise ordered by the court, the reimbursement ordered under this section shall be made immediately. However, the court may require that the person make the reimbursement ordered under this section within a specified period or in specified installments.

(D) If the person convicted is placed on probation, any reimbursement ordered under this section shall be a condition of that probation.

(E) An order for reimbursement under this section may be enforced by the Township in the same manner as a judgment in a civil action.

Section 7. SEVERABILITY

If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion of this Ordinance, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section .8 REPEAL

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

Section 9. EFFECTIVE DATE

This Ordinance shall be effective immediately upon publication hereof.

CERTIFICATION

I hereby certify the foregoing is a true and complete copy of Ordinance No. 298 duly adopted by the Board of Trustees of the Charter Township of Shelby at a Regular Meeting held on February 6, 2024, pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting were kept and will be made available as required by said Act.

STANLEY T. GROT, Clerk

Introduction Date: January 16, 2024

First Publication Date: January 24, 2024

Adoption Date: February 6, 2024

Second Publication Date: February 21, 2024

Effective Date: February 21, 2024