

CHARTER TOWNSHIP OF SHELBY

MACOMB, MICHIGAN

ORDINANCE NO. 294

**AN ORDINANCE TO PROVIDE FOR REGULATING AND LICENSING DONATION BOXES
WITHIN THE TOWNSHIP ADDING ARTICLE IX OF CHAPTER X OF THE CODE OF
ORDINANCES PROVIDING FOR REPEALER, SEVERABILITY, PENALTIES AND
EFFECTIVE DATE**

IT IS HEREBY ORDAINED BY THE CHARTER TOWNSHIP OF SHELBY:

Section 1. Chapter X, Article IX, Section X entitled "Donation Boxes" of the Code of Ordinances, Charter Township of Shelby, Michigan, is hereby created to read as follows:

Section 10-350. Purpose:

The purpose of this ordinance is intended to be a regulatory ordinance in the public's health, safety and welfare for the protection of all citizens who use donation boxes. The intent of this ordinance is to impose restrictions and conditions on all donation boxes in the Township so that they are, and remain, clean, safe and do not create hazards to pedestrians and to vehicular traffic. The article is passed under the Township's regulatory authority pursuant to MCLA 42.15 et seq.

Section 10-351. Definitions:

Donation box means any metal container, receptacle, or similar device that is located on any parcel or lot of record within the Township and that is used for soliciting and collecting the receipt of clothing, household items, or other salvageable personal property. This term does not include recycle bins for the collection of recyclable material, any rubbish or garbage receptacle or any collection box located within an enclosed building.

Building Director means the Building Director for the Charter Township of Shelby or his or her designee.

Operator means a person who owns, operates or otherwise is in control of donation boxes to solicit collections of salvageable personal property.

Permittee means a person over 18 years of age or an entity who is issued a permit authorizing placement of donation box(es) on real property.

Planner means the Planning Director of the Planning and Zoning Department for the Charter Township of Shelby or his or her designee.

Property owner means the person who is an owner of real property where the donation box(es) are located.

Real property, property or land means a lot of record located in the Township of Shelby.

Unattended donation box means any unattended container, receptacle or similar device that is located on any property within the Township used for soliciting and collecting donations of clothing or other salvageable personal property. This term does not include recycle bins for the collection of recyclable materials governed or regulated by the zoning code.

Section 10-352. Donation box permitted districts.

No later than ninety (90) days from the effective date of this ordinance, no person shall place, operate, maintain or allow any donation box on any real property without first obtaining an annual permit issued by the Building Department to locate a donation box within the Township.

Section 10-353. Application for a permit.

Unless otherwise exempt, it shall be unlawful and a public nuisance for any property owner or operator to place, operate, maintain, or allow unattended donation boxes on real property unless the property owner first obtains a permit pursuant to this article and the donation box is placed, operated and maintained in accordance with all provisions in this article.

1. Any person desiring to secure a permit shall make an application to the Building Department.
2. A permit shall be obtained for each donation box(es) proposed. Combining fees for donationbox(es) located on a lot of record may be addressed in the fee resolution as passed by the Shelby Township Board of Trustees.
3. The application for a permit shall be upon a form provided by the Building Department and be signed by an individual who is an officer, director, member or manager of an entity applicant. The applicant shall furnish the following information:
 - a. Name, address and email of all partners or limited partners of a partnership applicant, all members of an LLC applicant, all officers and directors of a non-publicly traded corporation applicant, all stockholders owning more than five percent of the stock of a non-publicly traded corporate applicant, and any other person who is financially interested directly in the ownership or operation of the business, including all aliases.
 - b. Date of birth of individuals and date of establishment of an entity or the birthdate of an individual applicant.

- c. Whether the applicant has previously received a permit for a donation box in the Township or operates a donation box or similar type receptacle without a permit within the Township boundary lines.
 - d. The name, address, email and telephone number of a contact person for all matters relating to a donation box located in the Township.
 - e. The physical address of the real property where the donation box is proposed to be located.
 - f. A scaled drawing sufficient to illustrate the proposed location of the donation box, on the real property, the dimensions of the proposed donation box, and that the location complies with all code requirements.
 - g. If not the owner of the real property, an affidavit from the property owner providing written permission to place the donation box(es) on the property, as well as an acknowledgment from the property owner of receipt of a copy of this article, shall be provided on a form provided by the Building Director. For purposes of this subsection, the affidavit and acknowledgment may be executed by an individual who is an officer, director, member, or manager of an entity owning the property.
 - h. A nonrefundable fee in an amount established by resolution of the Township Board.
 - i. Proof of general liability insurance no less than \$1,000,000 per occurrence.
4. Within twenty-one (21) days of receiving an application for a permit, the Building Director or his/her designee shall notify the applicant whether the permit is granted or denied. If the Building Director or his/her designee denies an application, the Building Director or his/her designee shall state in writing the specific reasons for denial.
 5. No person to whom a permit has been issued shall transfer, assign or convey such permit to another person or legal entity.
 6. A person shall be issued a permit by the Building Director if the requirements of this article are satisfied.
 7. Upon inspection of the approved location of the donation boxes, the Township shall provide a permit sticker for each approved collection box. The sticker will display the Township name, the permit number, and the expiration date. Replacement stickers for damaged or lost stickers will be available at a fee established by resolution of the Township Board.

Section 10-354. Donation box requirements.

1. LOCATION; Donation boxes shall:
 - a. Not be permitted on any land zoned or used for residential purposes other than land zoned residential used as a church or school with a paved parking lot with completely contiguous parking for at least 75 vehicles.
 - b. Not be permitted on any unimproved parcel, nor where the principal use of the land has been closed or unoccupied for more than thirty (30) days.
 - c. Not be less than 1,000 feet from another donation box as measured along a straight line from one box to the other. Notwithstanding this separation requirement, up to two donation boxes on a single lot of record are permitted if the two donation boxes are side by side and are no more than one foot apart;
 - d. Not exceed seven (7) feet in height, six (6) feet in width and six (6) feet in depth;
 - e. Not cause a visual obstruction or safety hazards to vehicular or pedestrian traffic;
 - f. Not be placed other than on a concrete or asphalt, dust-free surface, in an accessible location at least twenty-five (25) feet from a front property line and no closer than ten feet from: (i) a public or private sidewalk except that this provision does not apply to a private sidewalk as long as the private sidewalk maintains a five-foot clearance; (ii) a public right-of-way; (iii) a driveway; or (iv) a side or rear property line of adjacent property used for residential purposes;
 - g. Not cause safety hazards with regard to a designated fire lane or building exit;
 - h. Not: (i) interfere with an access drive, off-street parking lot maneuvering lane and/or required off-street parking space to an extent which would cause safety hazards and/or unnecessary inconvenience to vehicular or pedestrian traffic; (ii) encroach upon an access drive, off-street parking lot maneuvering lane and/or required off-street parking space; and
 - i. Only one collection box shall be permitted for parcels one acre or less with a maximum of two (2) collection boxes per site for parcels greater than one acre.
2. MAINTENANCE; The permittee shall operate and maintain; or cause to be operated and maintained, all collection boxes located in the Township for which the permittee has been granted a permit as follows:
 - a. Collection boxes shall be metal and be maintained in good condition and appearance with no structural damage, holes or visible rust and shall be free of graffiti.
 - b. Donation boxes shall be locked or otherwise secured in such a manner that the

contents cannot be accessed by anyone other than those responsible for the retrieval of the contents.

- c. Donation boxes shall have, at minimum, one-half-inch type visible from the front of each donation box the name, address, email, website, and phone number of the operator, as well as whether the donation box is owned and operated by a for profit company or a not-for-profit company. The donation box shall not have information, advertising, or logos other than those relating to the operator.
- d. Donation boxes shall be serviced and emptied as needed, but at least every thirty (30) days.
- e. The permittee and property owner shall maintain, or cause to be maintained, the area surrounding the donation boxes, free from any junk, debris or other material. The property owner shall be responsible to the extent provided by law for the Township's cost to abate any nuisance, in accordance with the Township Code of Ordinances.

Section 10-355. Term of permit and renewal of permit.

1. The permit year shall begin on January 1 in each year and shall terminate on December 31 of the same calendar year. An annual permit issued between December 1 and December 31 of any year shall expire on December 31 of the calendar year next following issuance thereof.
2. A donation box permit shall be renewed annually. The application for renewal must be filed not later than thirty (30) days before the permit expires. The application for renewal shall be upon a form provided by the Building Department.
3. The Building Director or his/her designee shall either approve or deny the renewal of a permit within twenty one (21) days of receipt of the complete renewal application and payment of the renewal fee.
4. A permit renewal fee as set by resolution of the Township Board shall be submitted with the application for renewal.
5. Prior to expiration of the permit, the permittee may voluntarily cancel the permit by notifying the Building Director in writing of the intent to cancel the permit. The permit shall become void upon the Building Director's receipt of a written notice of intent to cancel the permit.
6. The Building Director or his/her designee shall approve the renewal of a permit if the Director/designee finds that no circumstances existed during the term of the permit which would cause a violation to exist, and that at the time of submission of the application for renewal, there were not circumstances inconsistent with any finding required for approval of a new permit. Any permittee whose permit has

been revoked shall be denied renewal of the permit for the subsequent calendar year.

7. If the permit expires and is not renewed, the donation box(es) must be removed from the real property within a maximum of ten (10) days after expiration of the permit.

8. No person to whom a permit has been issued shall transfer, assign or convey such permit to another person or legal entity.

Section 10.356. Revocation of permit, removal of donation boxes and liability.

1. The Building Director or his/her designee shall have the right to revoke any permit issued hereunder for a violation of this ordinance. Any of the grounds upon which the Building Director or his/her designee may refuse to issue an initial permit shall also constitute grounds for such revocation. In addition, the failure of the permittee to comply with the provisions of this ordinance or other provisions of this Code or other law shall also constitute grounds for revocation of the permit. The Building Director or his/her designee shall provide a written notification to the permittee and property owner stating the specific grounds for a revocation and a demand for correction and abatement. The notice shall allow a maximum of twenty (20) days from mailing of the notice to correct or abate the violation. Upon failure to make the correction or abatement, the permit shall be revoked by the Building Director or his/her designee and, thereafter, the permittee shall not be eligible for a permit on the property for the subsequent calendar year.
2. Upon revocation, the donation box shall be removed from the real property within ten (10) days and, if not so removed within the ten (10) day time-period, the Township may remove, store, or dispose of the donation box at the expense of the permittee and/or real property owner. All costs and administrative fees associated with the removal of the donation box incurred by the Township, or the Township's contractor shall be the responsibility of the property owner. If such obligation is not paid within thirty (30) days after mailing of a billing of costs to the property owner, the Township may place a lien upon such real property enforceable as a tax lien in the manner prescribed by the general laws of this state against the property and collected as in the case of general property tax with the same penalties and interest. If the same is not paid prior to the preparation of the next assessment roll of the Township, the amount shall be assessed as a special tax against such premises on the next assessment roll and collected thereunder.
3. Unpermitted collection boxes may also be removed in the same manner as (2). Revoked and unpermitted donation boxes may be disposed of by the Township thirty (30) days after appeal is completed, or thirty (30) days after revocation in no appeal or improper appeal occurs. Disposal after thirty (30) days may occur for unpermitted collection boxes.
4. A permit for a donation box may be revoked if any governmental authority or agency determines that the donation box has violated the Michigan Consumer Protection Act and/or the Charitable Organizations and Solicitations Act.

Section 10-357. Appeal to Zoning Board of Appeals

Any person aggrieved by the decision rendered by the Building Director or his/her designee, in granting or denying an application for a permit under this ordinance or in revoking a permit issued under this ordinance, may appeal the decision to the Zoning Board of Appeals. The appeal shall be made by filing a written notice thereof with the Zoning Board of Appeals setting forth the grounds for the appeal not later than ten days after receiving notice of the decision of the Building Director or his/her designee. The Zoning Board of Appeals may grant relief if the applicant presents clear and convincing evidence that there was an error in the decision of the Building Director or his/her designee.

Section 10-358. Penalty and remedies.

1. In addition to revocation of permit, any person violating the provisions of this ordinance is responsible of a municipal civil infraction in accordance with Section 1-7 of the Code of Ordinances. The municipal civil infraction chart shall be amended to add that a violation of Chapter 10, Section 10-358 is a municipal civil infraction as follows:

Chapter	Title	Section
10	Donation Box	10-358

2. In addition to the penalty provided in subsection (a) of this section, any condition caused or permitted to exist in violation of the provisions of this ordinance, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.
3. Nothing in this ordinance shall prevent the Township from pursuing any other remedy provided by law in conjunction with or in lieu of prosecuting persons under this section for violation of this ordinance.
4. The real property owner and permittee shall be jointly and severally liable for each violation and for payment of any fine and costs of abatement.
5. No fines shall be imposed for a violation of this ordinance until ninety (90) days after its effective date. All donation boxes existing at the effective date of the article shall apply for a permit as required herein within thirty (30) days of the effective date. Any donation boxes not in compliance with this ordinance after ninety (90) days of the effective date shall be subject to all remedies for violation as provided herein.

Section 2. Repeal.

All ordinance or parts of ordinances in conflict herewith are repealed only to the extent necessary to give this ordinance full force and effect.

Section 3. Severability.

Should any word, sentence, phrase or any portion of this Ordinance be held in a manner invalid by any court of competent jurisdiction or by any state agency having authority to do so for any reason whatsoever, such holdings shall be construed and limited to such work, sentence, phrase, or any portion of the Ordinance held to be so invalid shall not be construed as affecting the validity of any of the remaining words, sentences, phrases or portions of this Ordinance.

Section 10-359. Effective Date.

This Ordinance shall be effective 30 (thirty) days from the date of publication hereof.

CERTIFICATION

I hereby certify the foregoing is a true and complete copy of Ordinance No. 294 duly adopted by the Board of Trustees of the Charter Township of Shelby at a Regular Meeting held on July 19, 2022, 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: June 21, 2022
First Publication Date: July 13, 2022
Adoption Date: July 19, 2022
Second Publication Date: July 27, 2022
Effective Date: August 26, 2022