

ORDINANCE NO. C-622-B

**CHARTER TOWNSHIP OF WEST BLOOMFIELD,
OAKLAND COUNTY, STATE OF MICHIGAN**

AMENDMENT TO THE CODE OF ORDINANCES

An Ordinance to amend Chapter 15, Section 15-51 of the Code of Ordinances, of the Charter Township of West Bloomfield, Michigan, to add provisions to allow for the deferral of proceedings and placement of accused on probation for first time offenders of domestic violence; to provide for proceedings upon violation of probation; to provide for conditions of probation; imprisonment; adjudication of guilt and subsequent proceedings; discharge and dismissal to be consistent with state law provisions.

THE CHARTER TOWNSHIP OF WEST BLOOMFIELD ORDAINS

SECTION 1.

That Chapter 15, Section 15-51 of the Code of Ordinances, Charter Township of West Bloomfield Michigan, is hereby amended in the entirety to read as follows:

Sec. 15-51. Assault and assault and battery; domestic assault; deferral of proceedings.

(a) It shall be unlawful for any person to commit an assault, or an assault and battery, on any person.

(b) An individual who assaults or assaults and batters his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, is guilty of a misdemeanor punishable by imprisonment for not more than ninety-three (93) days or a fine of not more than five-hundred (\$500.00), or both.

(c) This section does not apply to an individual using necessary reasonable physical force in compliance with Section 1312 of the Revised School Code, 1976 PA 451, MCL 380.1312.

(d) As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between two (2) individuals in a business or social context.

(e) When an individual who has not been convicted previously of an assaultive crime pleads guilty to, or is found guilty of, a violation of this ordinance, and the victim of the assault is the offender's spouse or former spouse, an individual who has had a child in common with the offender, an individual who has

or has had a dating relationship with the offender, or an individual residing or having resided in the same household as the offender, the court, without entering a judgment of guilt and with the consent of the accused and of the prosecuting attorney in consultation with the victim, may defer further proceedings and place the accused on probation as provided in this section. However, before deferring proceedings under this subsection, the court shall contact the department of state police and determine whether, according to the records of the department of state police, the accused has previously been convicted of an assaultive crime or has previously availed himself or herself of deferred proceedings under MCL 769.4a or a local ordinance substantially corresponding. If the search of the records reveals an arrest for an assaultive crime but no disposition, the court shall contact the arresting agency and the court that had jurisdiction over the violation to determine the disposition of that arrest for purposes of this section.

(f) Upon a violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided.

(g) An order of probation entered under subsection (1) may include any condition of probation authorized under section 3 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3, including, but not limited to, requiring the accused to participate in a mandatory counseling program. The court may order the accused to pay the reasonable costs of the mandatory counseling program. The court also may order the accused to participate in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082. The court may permit day parole as authorized under 1962 PA 60, MCL 801.251 to 801.258. The court may permit a work or school release from jail.

(h) The court shall enter an adjudication of guilt and proceed as otherwise provided in this chapter if any of the following circumstances exist:

(1) The accused commits an assaultive crime during the period of probation.

(2) The accused violates an order of the court that he or she receive counseling regarding his or her violent behavior.

(3) The accused violates an order of the court that he or she have no contact with a named individual.

(i) Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(j) There may be only 1 discharge and dismissal under this section with respect to any individual. The department of state police shall retain a nonpublic record of an arrest and discharge and dismissal under this section. This record shall be furnished to a court or police agency upon request pursuant to subsection (1) or

to an office of prosecuting attorney or local prosecuting attorney for the purpose of showing that a defendant in a criminal action under section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a local ordinance substantially corresponding to section 81 of that act has already once availed himself or herself of this section or for the purpose of determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings by a drug treatment court under section 1076(5) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(k) As used in this section:

(a) "Assaultive crime" means 1 or more of the following:

(i) That term as defined in 1927 PA 175, MCL 770.9a.

(ii) A violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g.

(iii) A violation of a law of another state or of a local ordinance of a political subdivision of this state or of another state substantially corresponding to a violation described in subparagraph (i) or (ii).

SECTION 2.

All Ordinances or parts of Ordinances in conflict with this Ordinance are repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 3.

Should any section, subdivision, clause, or phrase of this Ordinance be declared by a Court of competent jurisdiction to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

SECTION 4.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they commenced.

SECTION 5.

This Ordinance as ordered shall take effect immediately after its adoption and upon publication.

SECTION 6.

The Township Clerk shall publish this ordinance in the manner required by law and a copy of this Ordinance may be inspected or purchased at the Township Clerk's office between the hours of 8:00 a.m. and 4:30 p.m. on regular business days.

CERTIFICATION

It is certified that the Ordinance set forth above was duly adopted by the Board of Trustees of the Charter Township of West Bloomfield at a meeting duly called and held on February 19, 2008, to be effective upon publication as provided by law.

CHARTER TOWNSHIP OF WEST BLOOMFIELD

By: 
Sharon A. Law, Clerk

INTRODUCED: 02/04/08
ADOPTED: 02/19/08
EFFECTIVE: 02/25/08
PUBLISHED: 02/24/08