

**STATE OF MICHIGAN  
COUNTY OF LIVINGSTON  
TOWNSHIP OF MARION  
LIVINGSTON COUNTY, MICHIGAN  
MARION TOWNSHIP PENALTY ORDINANCE  
ORDINANCE NO.#24-02**

**Section 1: Title:**

This ordinance shall be known and cited as the Marion Township Penalty Ordinance.

**Section 2: Purpose**

The purpose of this ordinance is to provide a procedure for handling different types of penalties for violation of Ordinances of the Township of Marion.

**Section 3: Definition:**

- 3.1 The words “municipal civil infraction” means an act or omission that is prohibited by Ordinance of the Township of Marion, but which is not a crime under any other Ordinance of the Township, 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, as amended. [MCL 600.8701, *et seq*] A municipal civil infraction is not a lesser included offense of a violation of this Ordinance that is a criminal offense.
  - 3.1.1 Unless a violation of a Township Ordinance is specifically designated a misdemeanor, then the Violation shall be a municipal civil infraction.
  - 3.1.2 For the purpose of this Ordinance any reference to a person violating a municipal civil infraction ordinance shall mean a person, firm, corporation, or legal entity
  - 3.1.3 The word "violation" includes any act prohibited or made or declared to be unlawful or an offense, by a Township Ordinance, including any omission or failure to act where the act is required by a township ordinance.
- 3.2 Misdemeanors. A person convicted of a violation of any Township Ordinance not designated a civil infraction, a nuisance per se, or a municipal civil infraction shall be guilty of a misdemeanor.
- 3.3 Civil infraction. Civil infractions involving traffic or parking violations are governed by the Michigan Motor Vehicle Code and the Michigan Uniform Traffic Code.
- 3.4 Criminal action of nuisance per se. Except as otherwise provided by law or designated by other Township Ordinance, a use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered, razed, or converted in violation of a zoning ordinance or regulation adopted under the Zoning Enabling Act can be a criminal action of nuisance per se.
- 3.5 Civil Action of Public Nuisance. All claims by the Township based on or to abate a public nuisance is defined as an unreasonable interference with a common right enjoyed by the general public. The term “unreasonable interference” shall include conduct that (1) significantly interferes with the public’s health, safety, peace, comfort, or convenience,

(2) is prohibited by law, or (3) is known or should have been known by the actor to be of a continuing nature that produces a permanent or long-lasting, significant effect on those rights.

#### **Section 4: Penalty provisions.**

- 4.1 Misdemeanors. A person convicted of a violation of any Township Ordinance not designated a civil infraction, a nuisance per se, or a municipal civil infraction shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 and the cost of prosecution, or by imprisonment for not more than 90 days, or by both such fines and costs, and imprisonment. Each act of violation and every day upon which such violation shall occur shall constitute a separate offense.
- 4.2 Civil infraction. Civil infractions involving traffic or parking violations are governed by the Michigan Motor Vehicle Code and the Michigan Uniform Traffic Code, both of which are or could be adopted by reference by ordinance of the Township of Marion, including the appropriate fees and costs.
- 4.3 Municipal civil infraction. Any person violating any provision of a Township ordinance designated a municipal civil infraction as set forth below in Paragraph 4.3.6. Each and every day such violation continues beyond any permissible grace period, constitutes a separate municipal civil infraction violation for which an additional ticket maybe written to the person.
  - 4.3.1 The sanction for a municipal civil infraction shall be a fine in the amount provided by this section, plus costs, damages, expenses, equitable relief and other sanctions, authorized under Chapter 87 of Act No. 236 of the Public Acts of Michigan of 1961, as amended, and other applicable law (MCL 600.8701 et seq.).
  - 4.3.2 Unless otherwise provided in a township ordinance, the fine for a municipal civil infraction violation shall not be less than \$50.00, plus costs and other sanctions.
  - 4.3.3 Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of a Township ordinance. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision:
    - i. Committed by a person within a six-month period (unless some other period is specifically provided by a Township ordinance); and
    - ii. For which the person admits responsibility or is determined to be responsible.
  - 4.3.4 Unless otherwise provided in a Township ordinance, the increased fine for a repeat offense shall be as follows:

- i. For a first repeat offense shall not be less than \$250.00, plus costs and other sanctions or relief as provided by statute.
- ii. For a second or repeat offense or any subsequent repeat offense shall not be less than \$500.00, plus costs and other sanctions or relief as provided by statute.

4.3.5 The Township Supervisor, Township Code Enforcement Officer, Township Zoning Administrator, Township Police Officer (including a contract police officer or force), and/or Township building inspector shall each have the authority to issue municipal civil infraction citations applicable to a Township ordinance, after an investigation and upon authorization by the Township attorney, pursuant to MCL 600.8702(2).

4.3.5.1 Only the Township Zoning Administrator shall issue municipal civil infraction tickets for violations of the Township Zoning Ordinance.

4.3.6 Violations of the following Township Ordinances are designated as municipal civil infractions:

- i. NUISANCE Ordinance No. #24-01
- ii. BOAT Ordinance
- iii. CEMETERY Ordinance No. 06-01
- iv. LITTER Ordinance (adopted July 11, 1978)
- v. PARKS AND RECREATION Ordinance No. 07-02
- vi. Triangle Lake Boat Ordinance No. WC-47-97-001

4.4 Nuisance per Se.

4.4.1 Criminal action of nuisance per se. Except as otherwise provided by law or designated by other Township Ordinance, a use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered, razed, or converted in violation of a zoning ordinance or regulation adopted under the Zoning Enabling Act can be a criminal action of nuisance per se. The court shall order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for maintaining a nuisance per se. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, mobile home, or land shall be adjudged guilty of maintaining a nuisance per se. Anyone violating any of the provisions of this Ordinance shall upon conviction thereof be subject to a fine of not more than "as per council resolution" and the costs of prosecution thereof,

by imprisonment in the county jail for a period not to exceed 30 days, or both. Each day that a violation is permitted to exist from the time of formal citation by the township shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of any other Township Ordinance.

- 4.5 Civil action of nuisance. Pursuant to MCL 600.2940, the Township may bring a civil public nuisance cause of action in the circuit court to abate the repeated violation of any Township Ordinance:
- 4.5.1 All claims based on or to abate nuisance may be brought in the circuit court. The circuit court may grant injunctions to stay and prevent nuisance.
  - 4.5.2 When the Township prevails on a claim based on a public nuisance, the Township may have judgment for damages and may have judgment that the nuisance be abated and removed unless the judge finds that the abatement of the nuisance is unnecessary.
  - 4.5.3 Repeated violations shall mean any repeat violation of the same Township Ordinance within six (6) months of the original or last violation.
- 4.4.3 If the judgment is that the public nuisance shall be abated, the court may issue a warrant to the proper officer, requiring him to abate and remove the nuisance at the expense of the defendant, in the manner that public nuisances are abated and removed. The court may stay the warrant for as long as six months to give the defendant an opportunity to remove the nuisance, upon the defendant giving satisfactory security to do so.
- 4.4.4 The expense of abating and removing the public nuisance pursuant to such warrant, shall be collected by the officer in the same manner as damages and costs are collected upon execution, excepting that the materials of any buildings, fences, or other things that may be removed as a nuisance, may be sold by the officer, in like manner as goods are sold on execution for the payment of debts. The officer may apply the proceeds of such sale to defray the expenses of the removal, and shall pay over the balance thereof, if any, to the defendant upon demand. If the proceeds of the sale are not sufficient to defray the said expenses, he shall collect the residue thereof as before provided.
- 4.4.5 Actions under this section are equitable in nature, although money damages may be claimed.
- 4.4.6 The Township Supervisor, Township Code Enforcement Officer, or the Township Zoning Administrator shall each have the authority to authorize the issuance of civil public nuisance charge and the Township Police shall have the authority to authorize the issuance of a criminal nuisance per se charge. In both cases, the

issuance shall be for a violation of an applicable Township Ordinance, after an investigation and upon the additional authorization by the Township Attorney.

**Section 5: Miscellaneous.**

- 5.1 The penalties provided in this Ordinance, unless another penalty is expressly provided in an Ordinance adopted subsequent to this Ordinance, shall apply without the necessity of providing for a penalty in any future Ordinance making the revision.
- 5.2 Notwithstanding subsection 4 above, the Township may also bring a civil action for an injunction or other process against a person to restrain, prevent, or abate any violation of any Township Ordinance
- 5.3 The remedies and penalties provided herein are cumulative and in addition to any other remedies provided by law.

**Section 6: Saving Clause:**

If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Township of Marion declares that it would have passed this Ordinance and each section, subsection, clause, or phrase hereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, and phrases be declared unconstitutional.

**Section 7: Effective Date of Ordinance:**

That this Ordinance and the related rules, regulations, provisions, requirements, orders, and matters established shall take effect one day after publication, except any penalty provisions which shall take effect thirty (30) days after publication, pursuant to MCL 41.184 (2) (a) and (b).

**Section 8: Repealer:**

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

The Marion Township Penalty Ordinance No. #24-02 can be purchased, examined, or inspected at the Marion Township Hall, 2877 Coon Lake Road, Howell, MI 48843, Monday through Thursday between the hours of 9:00 A.M. and 5:00 P.M.

Motion by Tammy Beal, supported by Les Andersen. Motion carried 6-1.

Tammy L. Beal, MMC  
Marion Township Clerk

Date adopted by the Township Board:	September 12, 2024
Date published by the newspaper:	September 22, 2024
Name of the newspaper:	Fowlerville News & Views
Effective date:	October 22, 2024
Date filed with the Livingston County Clerk:	September 18, 2024
Date recorded in Township's Ordinance Book:	September 16, 2024