

ORDINANCE 2002- 826-02

An ordinance to prevent, reduce or eliminate blight or potential blight, to secure the public health, safety and general welfare, to maintain property values and to maintain and improve the aesthetic appearance of the community by prohibiting or eliminating blight or potential blight within the Village of Marion and for the establishment of enforcement procedures and penalties for violation of this ordinance.

The Village of Marion ordains:

Section 1. Name.

This ordinance shall be cited as the Village of Marion Blight Prevention Ordinance.

Section 2. Purpose; Determination.

It is determined that the unregulated storage or accumulation on private property of junk, rubbish or trash, garbage, building materials, abandoned or inoperable vehicles or the dismantling of vehicles or machinery and the existence of dangerous structures on private property is detrimental to the general welfare of the public in that such practices cause or contribute to the deterioration of neighborhoods and promote neighborhood blight; that such practices result in the reduction of the value, merchantability and maximum use and development of other properties in proximity thereto and are aesthetically offensive to the owners or occupants of other properties and to the Village at large; and further, that certain of such practices are hazardous to the public health and safety in that they create harborage for vermin and other pests, cause or contribute to the spread of diseases and constitute fire hazards, and that the public good requires that such practices be prohibited.

Section 3. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. *Building materials* means materials or remnants of materials used in the construction, improvement or renovation of buildings or structures, including but not limited to lumber, plywood, stone or brick, wiring or other electrical materials or equipment, heating or air conditioning components or equipment, plumbing fixtures or equipment, shingles or other roofing materials, mortar, concrete, cement or plastics.

2. *Code enforcement officer* means any employee of the Village so appointed by the Village Council, and the Village building official or any building inspector. Deputy code enforcement officers may be appointed at the discretion of the Village Council either on its own initiative or at the request of the Village Police Chief.

3. *Garbage* means organic refuse or rejected food wastes in the form of putrescible animal, poultry, fish, fruit or vegetable wastes resulting from the handling, preparation, cooking or consumption of foods, including animal, poultry or fish carcasses or parts thereof.

4. *Junk* means discarded materials of any kind, whether or not the materials could be put to any reasonable use, or materials which are incapable of performing the function for which they were manufactured or intended, including but not limited to parts of vehicles, machinery or parts of machines, broken or unusable furniture, furnishings, recreational equipment, stoves, air conditioners, refrigerators or other appliances or parts thereof.

5. *Person* means any natural person or any firm, copartnership, corporation, association of natural persons, incorporated or unincorporated, whether acting individually or by a servant, agent or employee. A person in violation of any of the provisions of this article, whether as owner or vendee of the premises or as an agent, servant or employee of an owner or vendee and any tenant or occupant of the premises shall be equally liable as principals, except as otherwise provided in this article.

6. *Rubbish or trash* means nonputrescible solid waste, consisting of either combustible or noncombustible materials, of the following types:

- a. *Ashes.* The residue left from burning of paper, leaves, wood, coal or other combustible materials.
- b. *Household.* Materials used or accumulated in the operation or maintenance of a household which are customarily discarded after use, including but not limited to newspapers, magazines, books, wrappings, cartons, boxes, crates, rags or sweepings or materials which are customarily discarded after becoming unusable due to wear or damage, such as clothing, bedding, floor coverings, wallpaper or articles of metal, plastic, cloth or leather.
- c. *Kitchen.* Food containers or wrappings, whether damaged or undamaged, including but not limited to cans, bottles, jars, glass crockery, bags, sacks or plastics, or paper, plastic, wood or metal cartons or boxes or other similar or like articles or materials.
- d. *Personal.* Articles or materials used for medical or hygienic purposes or for infant care.
- e. *Yard.* The products of vegetation grown on a property or which are brought onto a property, including but not limited to grass clippings, weeds, leaves, plants, tree branches, clippings from shrubs, bushes or hedges or roots or stumps.

7. *Vehicle* means an automobile, truck, bus, motor home, motorized camper, motorcycle, motor scooter, tractor, snowmobile, dune buggy or other off-road vehicle; any other device which is mechanically powered by gasoline, diesel fuel, electricity or other means except human or animal power. The term shall not include a mobile home as defined in Act No. 96 of the Public Acts of Michigan of 1987 (MCL 125.301 et seq., MSA 19.855(101) et seq.), as amended.

- a. *Abandoned vehicle* means a vehicle which has remained on private property for a period of time so as to appear to be abandoned and which remains on private property for a period of 48 hours after a code enforcement officer or a police officer has given notice as provided in this Ordinance.
- b. *Inoperable vehicle* means a vehicle which is incapable of performing the function for which it was manufactured because of damage, missing or malfunctioning parts or equipment or for any other reason. The term shall include junk vehicles and scrap vehicles. A historic motor vehicle, duly registered and certified as such as prescribed by the Michigan Motor Vehicle Code [Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.1 et seq., MSA 9.1801 et seq.), as amended] shall not be deemed an inoperable vehicle. A vehicle which is required to be licensed by law, but not licensed and insured for use upon the highways of this state shall be deemed an inoperable vehicle.

8. *Dangerous Structure* means any structure which is unsafe or which is a menace to the health, morals or safety of the public.

#### Section 4. Regulation.

Subject to the provisions of this article, it shall be unlawful for a person to place, store, accumulate or allow to be placed or stored or to be accumulated on any property within the Village the following:

1. Building materials, except in a completely enclosed building or in instances where the materials are being used or are awaiting use in the construction of a structure on the property to be completed within a reasonable time and in accordance with a valid building permit issued by the Village, and except building materials which constitute a part of the stock in trade of a business located on a property which is zoned for such business or use.
2. Ashes, household or yard rubbish or trash, except for such reasonable periods of time as such await regular, systematic removal and disposal in accordance with law. Such materials while awaiting removal and disposal shall be temporarily stored in a completely enclosed building, with the exception of yard rubbish and trash which may be temporarily stored either in an enclosed

building or at a location on the property where it is as much concealed from public view as practicable.

3. Any junk, except within a completely enclosed building and except as provided by law upon the premises of a duly licensed junk dealer, junk buyer, dealer in new or used automobiles or automobile parts or dealer in secondhand goods on a property which is zoned for such use or activity.

4. Any inoperable vehicle, except in a completely enclosed building or concealed with a securely fastened fitted cover manufactured for that purpose.

5. Any abandoned vehicle.

6. The existence of any structure or damaged part of a structure which, because of fire, wind or other natural causes or physical deterioration, is no longer habitable nor useful for any other purpose for which it was intended.

7. The existence of any vacant building, garage or outbuilding unless such buildings are kept secured or neatly boarded up and protected to prevent any entrance by vandals.

8. The existence of any incomplete structure unless that structure is in the course of construction in accordance with a valid building permit.

9. The existence of any dangerous structure.

#### Section 5. Nuisance.

Any parking, storage, accumulation, placement or operation or maintaining any dangerous structure in violation of the provisions of this Ordinance is hereby declared to be a public nuisance which may be enjoined pursuant to the governing law or for which the violator may be subjected to a suit for civil damages, as well as the fines and penalties herein provided. In addition, the following are hereby specifically declared to be public nuisances. Public nuisances include but are not limited to the specifically described items herein:

1. Unlawful dismantling of vehicles, machinery or appliances

- a. It shall be unlawful for any person to dismantle, disassemble, cut up or remove the parts from any vehicle or any machinery or appliance on private property except in a completely enclosed building. A violation of this subsection shall constitute a misdemeanor, and each day that a violation continues shall be a new or separate offense.

- b. This section shall not apply to the property of a licensed junk dealer, junk buyer, dealer in automobile parts or dealer in secondhand goods, provided the property is zoned for such use or activity; neither shall this section apply to a property of a licensed vehicle service station or vehicle repair shop, provided the property is zoned for such use or business.

2. Garbage, kitchen or personal rubbish or trash violations, emergencies; misdemeanor; expenses, lien.

The storage or accumulation on private property of garbage or of kitchen or personal rubbish or trash, except in a completely enclosed building and contained in metal or plastic containers manufactured for the temporary storage of such materials for reasonable periods of time as the materials await regular, systematic removal and disposal in accordance with law, is determined to constitute a nuisance per se and to pose a present hazard to the public health and safety so as to require either immediate or prompt removal and disposition.

3. Abandonment of refrigerators and other airtight containers.

It shall be unlawful for any person to leave outside of any building or dwelling or in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator, or any other container of any kind which has an airtight door, or lock which may not be released for opening from the inside of said icebox, refrigerator or container, without first removing the locks or doors from the icebox, refrigerator or container.

#### **Section 6. Enforcement; Notice to Owner or Occupant.**

This Ordinance shall be enforced by the Police Department or as otherwise designated by the Village Council.

The owner, if possible, and the occupant of any property upon which any of the causes of blight or blighting factors set forth in this Ordinance is found to exist shall be notified in writing to remove or eliminate such causes of blight or blighting factors from such property as follows:

1. Violations Regarding Junk Building Materials, Garbage, Junk, Rubbish or Trash, Abandoned Vehicles and Inoperable Vehicles.

The owner, if possible, and the occupant of any property upon which any of the causes of blight or blighting factors set forth in Section 4, paragraphs 1-5 above is found to exist shall be notified in writing to remove or eliminate such causes of blight or blighting factors from such property within ten (10) days after service of this notice to said owner or occupant.

Failure to comply with such notice within the time allowed said owner or occupant shall constitute a violation of this Ordinance. Failure to comply with such notice shall be punishable as described in Section 7.

In addition to the penalties set forth in Section 7, if, at the expiration of any time limit in said notice, the owner has not complied with the requirements thereof, the Village Council may carry out the requirements of said notice. The cost of such abatement shall be charged against the premises and the owner thereof in accordance with the provisions of Section 7 of this Ordinance.

2. Violations Regarding Buildings.

The owner of any property upon which any of the causes of blight or blighting factors set forth in Section 4, paragraphs 6, 7, 8 and 9 above is found to exist shall be notified in writing, specifying in what respect said structure is a nuisance and requiring said owner to alter, repair, tear down or remove the same within such reasonable time, not exceeding sixty (60) days as may be necessary to do or have done the work required by said notice. Said notice shall serve as condemnation of the property and provide the owner with an opportunity for a public hearing.

If, at the expiration of any time limit in said notice, the owner has not complied with the requirements thereof, the Village Council may carry out the requirements of said notice. The cost of such abatement shall be charged against the premises and the owner thereof in accordance with the provisions of Section 7 of this Ordinance.

Failure to comply with such notice within the time allowed said owner or occupant shall constitute a violation of this Ordinance. Failure to comply with such notice shall be punishable as described in Section 7.

3. Manner of Notice.

All notices required regarding any violation of this Ordinance, the expense of which if performed by the Village, may be assessed against the premises under applicable Village Ordinances shall be served:

- a. By delivering the notice to the owner personally or by leaving the same at his residence, office or place of business with some person of suitable age and discretion, or
- b. By mailing said notice by certified or registered mail to such owner at his last known address, or

- c. If the owner is unknown, by posting said notice in some conspicuous place on the premises at least five (5) days before the act or action concerning which the notice is given is required or is to occur.

No person shall interfere with, obstruct, mutilate, conceal, or tear down any official notice or placard posted by the Police Department, the Village Council or any other designee thereof, unless permission is given by said person to remove said notice.

#### Section 7. Penalty.

Every person convicted of a violation of any provision of this Ordinance or any rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine of not more than five hundred (\$500) dollars and costs of prosecution or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of this Ordinance whether or not such penalty is re-enacted in the amendatory Ordinance.

In addition to the imposition of the foregoing fines, penalties and other legal remedies, the Police Department and such other officers of the Village Council may designate within fourteen (14) days written notice, may cause any blight or blighting factors found in violation hereof to be removed from the premises, impounded and destroyed or sold for junk, at the discretion of the Police Department, Village Council or the designee of the Village. The cost of said removal shall be assessed against the owner of such vehicle or the premises on which same is located. Any sums realized on the sale may be retained by the Village to reimburse it for costs incurred in said removal and sale to the extent of such costs. Any balance of any such sums remaining after such reimbursement shall be paid to the owner of such vehicle or parts thereof.

#### Section 8. Storage of Recreational Vehicles, Mobile Homes, Boats, Snowmobiles and Trailers.

Storage of Recreational Vehicles, Mobile Homes, Boats, Snowmobiles and Trailers must comply with the following conditions to be stored or occupied for periods exceeding 72 hours:

1. Mobile Homes, as defined, must be located within a licensed Mobile Home Park or within a designated (properly zoned) area, such as a mobile home district.
2. Storage is limited to those Recreational Vehicles, Boats, Snowmobiles and Trailers owned by the owner of record, renter or legal occupant of property.
3. Recreational Vehicles, Boats, Snowmobiles and Boat Trailers shall be kept and stored in a good repair and sightly condition.

4. A Recreational Vehicle, Mobile Home, Boat, Snowmobile or Trailer which is stored as provided for in this Section shall not be inoperable as defined in Section 3, Subparagraph (7)(b).

5. Recreational Vehicles, Boats, Snowmobiles and Boat Trailers shall be stored or parked within the confines of the rear yard and/or side yard areas with a three (3) foot set back from side and/or rear lot lines. Where this rear storage is not possible, these vehicles may be parked in side and front yard areas whereas not to obstruct Public Right of Way and/or create a hazardous situation. On lake front property, the yard abutting the lake shall be considered as the rear yard for the enforcement of this section of the Code.

6. All recreational vehicles and campers shall not be connected to sanitary facilities or permanent water connections, and shall not be occupied for a period to exceed seventy-two (72) hours.

7. The Chief of Police, the Village Council or another designee of the Village Council may upon written request, grant a one-time extension of seventy-two (72) hours renewal for occupancy, if upon an inspection he finds the vehicle not obstructing Public Right of Way nor creating a hazardous situation.

8. The enforcement of this section shall be as provided for in Section 6.

#### **Section 9. Construction.**

This Ordinance shall apply to any other junk yards, salvage yards, garages, body or paint shops operating within the Village except when exempt by special written agreement from the Village Council and shall be in addition to and not in conflict with all other laws and ordinances, respecting junk, junk vehicles and blight.

#### **Section 10. Saving Clause.**

Provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable, for any reason by a court of competent jurisdiction, the remaining portions of said Ordinance shall remain in full force and effect.

#### **Section 11. Effective Date.**


This Ordinance shall take effect August 26, 2002.



October 7, 2013

Amendment to Anti-Noise and Public Nuisance Ordinance to change Penalties  
Clause from misdemeanor to civil infraction.

Amendment to be effective October 27, 2013.

  
Marsha Turner, Clerk