

MARION TOWNSHIP  
BOARD OF TRUSTEES  
REGULAR MEETING  
Thursday, August 8, 2024  
7:30 pm

THIS MEETING WILL BE HELD IN PERSON WITH ONLINE PARTICIPATION OPTIONS

Call to Order

Pledge of Allegiance

Members Present/Members Absent

Call to the Public

- 1) Approval of the Agenda
- 2) Consent Agenda
  - a. July 25, 2024 Regular Meeting Minutes
  - b. Complaint Report
  - c. DPW Report
  - d. Zoning Report
- 3) Parker Drive Maintenance SAD Public Hearing-Creating the District
- 4) Parker Drive Maintenance SAD Public Hearing-Approve the Roll
- 5) Set Date for High Meadows SAD
- 6) Crystal Wood Trees
- 7) Nuisance Ordinance
- 8) Township Maintenance Update

Correspondence and Updates

August 6, 2024 Primary Unofficial Results

Call to the Public

Adjournment

Next Board Packet will be ready after **3 pm on Monday, August 19, 2024.**

**MARION TOWNSHIP  
BOARD OF TRUSTEES  
REGULAR MEETING  
JULY 25, 2024**

**MEMBERS PRESENT:** Scott Lloyd, Greg Durbin, Bob Hanvey, Tammy Beal, Les Andersen, Dan Lowe, and Sandy Donovan

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Attorney John Gormley; Phil Westmoreland, Spicer

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**CALL TO ORDER**

Bob Hanvey called the meeting to order at 7:30 pm. The meeting is also available to attend online.

**PLEDGE OF ALLEGIANCE**

**BOARD MEMBERS PRESENT**

The board members introduced themselves.

**CALL TO THE PUBLIC**

James L. Anderson, Jr., 84 Cranbrook, Vice Chairman of the Planning Commission, said PA 233 becomes effective on 11/29/24 and the township should consider having a CREO for solar, wind and energy storage facilities.

Bree Cady, 421 Riddle, was present to ask for the township's support for the HAPRA millage.

**APPROVAL OF AGENDA**

Items #8—Sexton Road Attorney, #9—Redaction on Complaints, and #10—Language for Enforcement were added to the agenda. Les Andersen motioned to approve the agenda as amended. Scott Lloyd seconded. **Motion carried.**

**CONSENT AGENDA**

Les Andersen motioned to approve the consent agenda. Tammy Beal seconded. **Motion carried.**

**MERCIER COMPLAINT**

Marc Mercier and his attorney, Michael Wais, attended the meeting online. Mr. Wais said his client does not have a home-based business according to Section 17.32 of the zoning ordinance. He feels the complaint is an abuse of power by a board member and is frivolous. The owner is trying to get the property ready to accommodate horses and that's the excavating that's being done. Attorney John Gormley asked if the owner has a soil erosion permit; Mr. Wais said no, he wasn't aware that he needed one, but will apply. This project should be finished up by the end of summer. Dan Lowe asked how many days will be required, and he also agrees he needs a soil erosion permit and a silt fence. Bob Hanvey asked if there were any comments from the public; no response was heard.

## **SET DATES FOR PARKER DRIVE SAD MEETINGS**

Les Andersen motioned to adopt a resolution to schedule a public hearing for creation of the Parker Drive Road Maintenance Special Assessment District for August 8, 2024, at 7:30 pm. Scott Lloyd seconded. Roll call vote: Andersen, Donovan, Beal, Durbin, Lloyd, Hanvey, Lowe—all yes. **Resolution passed 7-0.**

Greg Durbin motioned to adopt a resolution to schedule a public hearing for the approval of the Parker Drive Road Maintenance Special Assessment District Roll. Les Andersen seconded. Roll call vote: Durbin, Donovan, Hanvey, Lloyd, Beal, Andersen, Lowe—all yes. **Resolution passed 7-0.**

## **NUISANCE ORDINANCE**

Draft ordinances from the attorney for nuisance and municipal civil infractions were included in the packet. Bob Hanvey asked the board members to review and submit comments by Thursday, August 1 for discussion at the next board meeting.

## **GREEN CEMETERY MAINTENANCE**

Tammy Beal motioned to approve the estimate from Duke's Tree Service for \$4,250 for work at Green Cemetery, as presented, to be paid from the Cemetery Fund. Scott Lloyd seconded. Roll call vote: Andersen, Beal, Donovan, Durbin, Lowe, Hanvey, Lloyd—all yes. **Motion carried 7-0.**

Les Andersen said he will inspect the fence at Lakeside Cemetery.

## **GENERAL TOWNSHIP MAINTENANCE**

Dan Lowe trimmed the tree in front of the office. Scott Lloyd installed the new counter in the lower level. The walking path asphalt is scheduled to be done on Monday, 7/29 and Tuesday, 7/30, weather permitting. Dan Lowe is concerned about erosion; Phil Westmoreland will take a look at the erosion.

## **SEXTON ROAD ATTORNEY**

Les Andersen said he would like John Gormley to be involved in this case; Mr. Gormley said he is.

## **REDACTION ON COMPLAINTS**

Les Andersen asked for clarification on redacting complaint forms. The board members discussed changing the forming to eliminate the complainant information.

## **LANGUAGE FOR ENFORCEMENT**

Les Andersen motioned to create an ad hoc committee to work on the job description for enforcement. The committee members are Greg Durbin, James Anderson, Bill Fenton, and Tim Ryan. Tammy Beal seconded. **Motion carried.**

## **CORRESPONDENCE & UPDATES**

Tammy Beal passed out information regarding Jonna's application to transfer the B-Line liquor license.

Dan Lowe asked the status of the situation on High Meadows; he would like the dogs to be removed. The board members discussed having a process server deliver the notice to the property owner.

**CALL TO THE PUBLIC**

Dominic Restuccia introduced himself as a candidate for state representative.

Catherine Dyer, 2715 High Meadows, said she doesn't feel the discussion on a CREO for the township should be done in a closed session. She also said she doesn't want to see the township become a big HOA with heavy enforcement.

**ADJOURNMENT**

Les Andersen motioned to adjourn at 9:21 pm. Scott Lloyd seconded. **Motion carried.**

Submitted by: S. Longstreet

\_\_\_\_\_  
Tammy L. Beal, Township Clerk      Date

\_\_\_\_\_  
Robert W. Hanvey, Township Supervisor      Date

DRAFT

## COMPLAINT LOG

Complaint #	Complainant Name	Offender Name	Complaint Details	Action Taken	Date Violation	Show Cause Date	Resolved
#04-24	Karl Cathi Leblanc 2298 Pingree 4710-18-100-008	Mercier Trust 2320 Pingree 4710-18-100-002	Excavating HBB	Violation sent Verified by Les	7/10/2024	BOT agenda 7-25-24	

DPW Reports 2024

	JAN	FEB	MAR	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL
<b>WATER</b>													
NEW	0	5	17	4	2	6	5						39
EXISTING													
REPLACEMENT													
<b>IRRIGATION</b>													
NEW	0	3	6	4	2	4	3						22
EXISTING													
<b>SEWER</b>													
NEW	0	3	17	4	2	6	5						37
EXISTING													
<b>TOTAL</b>	<b>0</b>	<b>11</b>	<b>40</b>	<b>12</b>	<b>6</b>	<b>16</b>	<b>13</b>						<b>98</b>

2024 ZONING REPORT

	JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL
Homes	1	3	3	7	4	4	5						26
Condo Units			15			3	3						21
Accessory Bldgs.	2	2	4	3	2	2	1						14
Decks	1		2	4	6	5							18
Pools						3	1						4
Additions				1		2							3
Land Balancing													0
Other	1				1	2	1						5
<b>TOTAL LAND USES</b>	<b>2</b>	<b>5</b>	<b>24</b>	<b>15</b>	<b>13</b>	<b>21</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>91</b>
Waivers	2	8	4	3	7	5	7						36
Finals	5	10	7	4	4	9	16						55
Site Plans													0
Pre-Planning Meetings													0
Sewer Inspections	1	6	5	3	3	3	3						24



# MARION TOWNSHIP

mariontownship.com

## RESOLUTION ON PARKER DRIVE ROAD MAINTENANCE SPECIAL ASSESSMENT DISTRICT

WHEREAS, the township board of Marion Township acting in the interest the users of Parker Drive and of the proposed special assessment district described hereinafter, determined to proceed under the provisions of PA 188 of 1954, as amended, to provide road maintenance service, together with a proposed special assessment district for assessing the costs of the proposed service, and to schedule a public hearing upon the Assessment Roll, and

WHEREAS, the estimated cost and proposed special assessment district were filed with the Township Clerk for public examination and notice of the hearing upon same was published and mailed in accordance with the law and statute provided as shown by affidavits pertaining thereto on file with the Township Clerk, and

WHEREAS, in accordance with the aforesaid notices, a hearing was held on August 8, 2024 commencing at 7:30 PM and all persons given the opportunity to be heard in the matter, and

WHEREAS, the following written objections were received and filed:

Parcel Number	% Ownership	Owner Name
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WHEREAS, the written objections constitute less than twenty percent of the ownership,

WHEREAS, as a result of the foregoing, the township board believes the project to be in the best interests of the township and of the district proposed to be established therefore;

NOW THEREFORE BE IT HEREBY RESOLVED as follows:



1. That this township board does hereby approve the provision of road maintenance and total cost estimate not to exceed \$8,000.00 per year.
2. That this township board does hereby create, determine and define as a special assessment district to be known as Parker Drive Road Maintenance Special Assessment District within which the costs of such improvements shall be assessed according to the benefits, the following described area within said township:





3. That on the basis of the foregoing, this township board does hereby direct the Supervisor and Assessing Officer to make a special assessment roll in which shall be entered all the parcels of land to be assessed together with the names of the respective owners thereof, and an estimated total amount to be assessed against each parcel of land which amount shall be the relative proportion of the whole sum levied against the parcels of land in the special assessment district as the benefit to the parcel of land bears to the total benefit to all the parcels of land in the special assessment district. When the same has been completed, the Supervisor shall affix thereto his certificate stating that it was made pursuant to this resolution and that in making such assessment roll he has, according to his best judgment, conformed in all respects to the directions contained in this resolution and the applicable state statutes.
4. That the actual amount of the assessment will be annually redetermined based on actual costs and assessed without further notice. Invoices for services must be received at the township by June 15 to be included in the summer tax bill. Invoices received after June 15, 2028 will not be paid by the township.
5. That all resolutions and parts of resolutions insofar as they conflict with the provisions of the within resolutions be and the same are hereby rescinded.
6. That the Township Clerk shall schedule a hearing on the Assessment Roll for August 8, 2024 at 7:30 P.M., and provide notice as required by PA 188 of 1954.

Upon roll call vote, the following voted "Aye":

The following voted "Nay"

The Supervisor declared the motion carried and the resolution duly adopted.

**MARION TOWNSHIP  
RESOLUTION TO APPROVE ROLL FOR  
PARKER DRIVE SPECIAL ASSESSMENT DISTRICT**

WHEREAS, the township board of the Township of Marion, Livingston County, Michigan, after due and legal notice, has conducted a public hearing upon a proposed assessment roll prepared by the supervisor for the purpose of defraying the costs of providing road maintenance for PARKER DRIVE;

AND WHEREAS, such public hearing was preceded by proper notice in the Fowlerville News and Views, a newspaper of general circulation in the township, and by first-class mail notice to each property owner of record within said district and upon said assessment roll;

AND WHEREAS, comments were received from those present at such public hearing concerning said assessment roll and all present were given the opportunity to be heard and file written protests on the matter;

AND WHEREAS, a record of those present to protest, and of written protests submitted at or before the public hearing was made a part of the minutes of the hearing;

Parcel Number	Max Annual Levy	Owner Name	Property Address
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AND WHEREAS, it is the opinion of the township board that no further time should be granted for consideration of the matter;

AND WHEREAS, the township board has duly inspected the proposed assessment roll and considered all comments and proposed amendments thereto and has found the proposed assessment roll to be correct, just and reasonable.

NOW THEREFORE IT BE RESOLVED AS FOLLOWS:

1. The assessment roll submitted by the supervisor shall hereafter be designated as the PARKER DRIVE SPECIAL ASSESSMENT DISTRICT and shall hereby be confirmed as the assessment roll for the PARKER DRIVE SPECIAL ASSESSMENT DISTRICT. The assessment assigned to each parcel shall remain in force for the duration of the five years. If any parcels are sold, divided, or combined, the assessment shall remain on the property as assigned in this roll.
2. The assessments in said PARKER DRIVE SPECIAL ASSESSMENT DISTRICT shall be divided into five annual installments with the first installment to be due on or before July 1, 2025 and the following installments to be due on or before the first day of the same month of each and every year thereafter for four additional years. All unpaid installments prior to their transfer to the tax roll as provided by

Michigan Public Act 188 of 1954, as amended, shall bear interest payable annually on each installment due date at the rate of five percent.

3. If any installment of a special assessment is not paid when due, then the installment shall be considered to be delinquent and there shall be collected, in addition to the interest as provided by this section, a penalty at the rate of one percent (1%) for each month, or fraction of a month, that the installment remains unpaid before being reported to the township board for reassessment upon the township tax roll, also in accordance with said PA 188.
4. The assessments made in said special assessment roll are hereby ordered and directed to be collected by the township treasurer, and the township clerk shall deliver said special assessment roll to said treasurer with her warrant attached, commanding the treasurer to collect such assessments in accordance with the direction of the township board and said PA 188.
5. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same are hereby rescinded.

The above preamble and resolution offered by \_\_\_\_\_

Second by \_\_\_\_\_

Upon roll call vote on the adoption of the resolution,

The following voted "Aye":

The following voted "Nay":

The following abstained:

The supervisor declared the resolution duly adopted.

Township Clerk \_\_\_\_\_

Proposed at Board Meeting 07-08-2024

Approved Assessment Roll for  
Parker Drive Road Maintenance

Parcel Number	Owner Name	Share	\$\$\$	Obj	Owner Address	Owner City	State	Zip	Property Address
4710-28-300-001	ASCHENBRENNER DAVID J	1.00	258.06		4719 PARKER DR	HOWELL	MI	48843	4719 PARKER DR
4710-28-300-013	BARON ANDREW L & HEIDI	0.50	129.03		3513 CEDAR POINT RD	HOWELL	MI	48843	3513 CEDAR POINT RD
4710-28-300-014	BARON ANDREW L & HEIDI	0.50	129.03		3513 CEDAR POINT RD	HOWELL	MI	48843	0 CEDAR POINT RD
4710-28-302-092	BEDEN PHILLIP	0.50	129.03		4519 CEDAR POINT	HOWELL	MI	48843	0 PARKER DR
4710-28-302-093	BEDEN PHILLIP R & KENDELL M	0.50	129.03		4539 PARKER DR	HOWELL	MI	48843	4539 PARKER DR
4710-28-302-009	BELLA CASA RENTALS LLC	1.00	258.06		7440 CLYDE	HOWELL	MI	48843	4581 PARKER DR
4710-28-302-091	BIELAK ROBERT & GINGER	1.00	258.06		4645 PARKER DR	HOWELL	MI	48843	4645 PARKER DR
4710-28-302-021	DOBBS MICHAEL E & BINEK LINDA	1.00	258.06		10716 MAPLE SPRING CV	FORT WAYNE	IN	46845-2130	4655 PARKER DR
4710-28-302-012	DOMBROWSKI JOHN & CYNTHIA	0.50	129.03		8858 WILLOW RD	WILLS	MI	48191	4595 PARKER DR
4710-28-302-055	DOMBROWSKI JOHN & CYNTHIA	0.50	129.03		8858 WILLOW RD	WILLS	MI	48191	0 PARKER DR
4710-28-302-028	FOX STEPHEN J & NANCY L	1.00	258.06		G3202 W. COURT ST.	FLINT	MI	48532	3760 SOUTHWICK DR
4710-28-302-084	GALL MARY	1.00	258.06		3644 ELON DR	HOWELL	MI	48843-8944	3644 ELON DR
4710-28-300-004	GOODRICH JEFFREY	1.00	258.06		15206 FM 400	SLATON	tx	79364	4705 PARKER DR
4710-28-302-067	HATSWELL WILLIAM G & MARY ANN	1.00	258.06		4540 PARKER DR	HOWELL	MI	48843-8943	4540 PARKER DR
4710-28-300-005	HIGHLAND III JOHN S & THERESA A	1.00	258.06		4709 PARKER DR	HOWELL	MI	48843	4709 PARKER DR
4710-28-302-097	LAW MATT K & SANDRA L	1.00	258.06		4526 HINCHEY RD	HOWELL	MI	48843	0 PARKER DR
4710-28-302-098	LIVENGOOD CHRISTINA & RONALD	1.00	258.06		19724 DEERFIELD CT	CHELSEA	MI	48118	4555 PARKER DR
4710-28-302-013	MADDICK KRISTEN MARIE & BRYSON	1.00	258.06		4605 PARKER DR	HOWELL	MI	48843	4605 PARKER DR
4710-28-300-003	MAXWELL KEN & MARIAN	0.50	129.03		4720 PARKER DR	HOWELL	MI	48843-9685	4720 PARKER DR
4710-28-300-006	MAXWELL KENNETH DONALD	0.50	129.03		4720 PARKER DR, RTE 8	HOWELL	MI	48843	4725 PARKER DR
4710-28-302-011	MCINTYRE SHANNON M	1.00	258.06		4591 PARKER DR	HOWELL	MI	48855	4591 PARKER DR
4710-28-302-096	MILLER-LEBBIN RHONDA SUE	1.00	258.06		4565 PARKER DR	HOWELL	MI	48843	4565 PARKER DR
4710-28-302-032	MITROKA STEPHEN	0.50	129.03		13907 PERRY	RIVERVIEW	MI	48193	3711 PINE ST
4710-28-302-033	MITROKA STEPHEN	0.50	129.03		13907 PERRY PLACE	RIVERVIEW	MI	48193	3721 PINE ST
4710-28-302-036	MITROKA STEPHEN A JR	0.50	129.03		PINE ST	HOWELL	MI	48843	0 PINE ST
4710-28-302-037	MITROKA STEPHEN A JR	0.50	129.03		3210 PINE ST	HOWELL	MI	48843	3210 PINE ST
4710-28-302-087	NAPPER ROBERT L & DAWN L	1.00	258.06		4609 PARKER DR	HOWELL	MI	48843	4609 PARKER DR
4710-28-302-025	O'BRIEN TERENCE & CONSTANCE	1.00	258.06		24809 WOOD ST	SAINT CLAIR SHORES	MI	48080	3731 PINE ST
4710-28-302-024	ROSE BRENDON & PAIGE	1.00	258.06		4671 PARKER DR	HOWELL	MI	48843	4671 PARKER DR
4710-28-302-099	SHARLOW TRUST DORIS H	1.00	258.06		19209 LANCASTER CT	WOODHAVEN	MI	48183	4661 PARKER DR
4710-28-302-004	TIANO PAUL J	1.00	258.06		4545 PARKER DR	HOWELL	MI	48843	4545 PARKER DR
4710-28-300-012	TURNER, TYLER & HIBNER, QUINN	0.50	129.03		4626 BENTLEY LAKE RD	HOWELL	MI	48843	3555 CEDAR POINT RD
4710-28-302-075	TURNER, TYLER & HIBNER, QUINN	0.50	129.03		4626 BENTLEY LAKE RD	HOWELL	MI	48843	0 CEDAR POINT RD
4710-28-302-015	VALDES HARRY II & SHERRI	1.00	258.06		4615 PARKER DR	HOWELL	MI	48843	4615 PARKER DR
4710-28-302-100	VARGA JOHN P JR & DIANE	0.50	129.03		8431 WILLIAM	TAYLOR	MI	48180	4685 PARKER DR
4710-28-302-027	VARGA JOHN P JR & DIANE L	0.50	129.03		8431 WILLIAM	TAYLOR	MI	48180	5456 SOUTHWICK DR
4710-28-302-090	VAUGHN ELAINE KAY TRUST	1.00	258.06		42164 BRENTWOOD	PLYMOUTH	MI	48170	4585 PARKER DR
4710-28-302-088	WHEELER JOHN P & NANCY ANN	1.00	258.06		4560 PARKER DR	HOWELL	MI	48844-2308	4560 PARKER DR
4710-28-302-030	WILTON CHARLES T III & SUSAN	1.00	258.06		7937 CHILSON	PINCKNEY	MI	48169	0 SOUTHWICK DR

Total Shares 31.00 8,000.00  
 Total Cost \$8,000.00  
 Objections 0.00

MARION TOWNSHIP RESOLUTION  
TO SCHEDULE A PUBLIC HEARING FOR THE CREATION OF THE  
HIGH MEADOWS ROAD MAINTENANCE  
SPECIAL ASSESSMENT DISTRICT

Resolution # 2024-XX  
August 8, 2024

At a meeting of the Board of Trustees for the Township of Marion, Livingston County, Michigan, held at 2877 W. Coon Lake Road, Howell, Michigan 48843, on the 8<sup>th</sup> day of August 2024, at 7:30 p.m. Eastern Standard Time.

A Resolution was offered by \_\_\_\_\_ and supported by \_\_\_\_\_.

WHEREAS, the Township of Marion has received a request to create a Special Assessment District for HIGH MEADOWS ROAD MAINTENANCE and

WHEREAS, Michigan Public Act 188 of 1954 requires a public hearing prior to creating a Special Assessment District, therefore;

NOW, THEREFORE, BE IT HEREBY RESOLVED as follows:

1. To schedule a public hearing for the proposed creation of a Special Assessment District for HIGH MEADOWS ROAD MAINTENANCE on September 12, 2024 at 7:30 pm.
2. BE IT FURTHER RESOLVED that the clerk is instructed to give the proper notice of such hearing by mailing and publication in accordance with law and statute provided.
3. BE IT FURTHER RESOLVED that all resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution are hereby rescinded.

Upon roll call vote the following voted "Yes":

The following voted "No:"

The supervisor declared the motion \_\_\_\_\_

MARION TOWNSHIP  
COUNTY OF LIVINGSTON  
STATE OF MICHIGAN

I, the undersigned, the duly qualified and acting clerk for the Township of Marion, Livingston County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Board of Trustees at a meeting held on the 8<sup>th</sup> day of August 2024, and further certify that the above Resolution was adopted at said meeting.

\_\_\_\_\_  
Tammy L. Beal, Marion Township Clerk

**From:** Cathy Hulett <[hulettcathy@gmail.com](mailto:hulettcathy@gmail.com)>

**Sent:** Sunday, July 28, 2024 5:34 PM

**To:** [supervisor@mariontownship.com](mailto:supervisor@mariontownship.com)

**Subject:** Re: Crystal Wood II Trees

Hello Mr. Hanvey,

Unfortunately, I missed the meeting as I was out of state. I did check with all of the appropriate residents for the tree placements. Attached is a copy of the map provided me at the July 11th meeting. It has the marks of the location requested by the residents' involved.

As noted on the attachment, here are the following requests:

Lot 1 - would like his 2 trees (Cleveland Ornamental Pear trees) planted on the boulevard - Crystal Crossing and Wood Ct

Lots 2, 3, 4 - would like 3 (Cleveland Ornamental Pear trees) planted in the circle of Wood Ct

Lot 29 - would like 2 Emerald Green Arborvitae to border against the condos

Lot 37 - the developer planted their trees in the front yard when the house was built

I hope this helps and if you need me to attend the next meeting, please let me know. The residents are very thankful for your assistance in resolving this issue.

Sincerely,

Cathy Hulett

HOA Board Member

Crystal Wood tree request – received August 6, 2024

Hello,

After speaking to the affected residents, this is what they have asked for:

- 1 Ornamental Cherry tree and 2 Japanese Lilac trees in the cul de sac
- 2 Okame Ornamental Cherry Trees on the Wood Ct/Crystal Crossing boulevard
- 2 of the arborvitaes that was previously requested on Crystal Wood Cir (side of the yard to the condos)

I will be at the township meeting this week as well.

Thank you so much for all of your help with this continued issue.

Sincerely,

Cathy Hulett





MEMO

To: Marion Township Board  
From: Bob Hanvey  
Subject: Nuisance Ordinances  
Date: ~~January 11, 2024~~

JULY 25

I received the attached draft ordinances from Attorney Gormley with this comment:

*As I mentioned yesterday, I have revised the nuisance Ordinance to avoid some of the issues we were dealing with at the last meeting. Since that Ordinance discusses MCI tickets, I also drafted a Penalty Ordinance. You cannot have MCI tickets without the language in the penalty ordinance, in my opinion.*

*These are rough drafts. Take a look at them and we can talk.*

Let's discuss them at the Board meeting ~~January 11, 2024~~.

JULY 25

DRAFT

STATE OF MICHIGAN  
COUNTY OF LIVINGSTON  
TOWNSHIP OF MARION  
LIVINGSTON COUNTY, MICHIGAN  
MARION TOWNSHIP NUISANCE ORDINANCE NO. \_\_\_\_\_

**Section 1: Title:**

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

**Section 2: Purpose**

The purpose of this ordinance is to secure public health, safety and general welfare and to deter loud noises and disturbances of the peace, quiet and comfort of the residents and property owners of the township by any person, their possessions, or owned animal.

**Section 3: Definition:**

The word "nuisance" as used in this ordinance means any act or acts or omission to act on the part of any person which creates or permits the existence of a situation which annoys, injures, or endangers the peace, welfare, order, health, or safety of the public in their persons or property, as determined by the Township in its sole reasonable judgment. As defined herein, a nuisance includes, but is not limited to, conditions which render persons insecure in the use and enjoyment of their property, such as effects and emanations from noise, glare, lights, vibration, dust, smoke, odor, gas, steam, fly-ash, soot, acids, chemicals, fumes, cinders, worms, insects, rodents, flies, decaying matter, whether such effects and emanations are natural or result from human or mechanical alteration or manipulation of materials, as determined by the Township in its sole reasonable judgment. A nuisance also includes residues or leaching from deposits of matter which seep into water on the surface or in the ground thereby making it unfit or unpalatable for human consumption, or for use by domestic animals, as determined by the Township in its sole reasonable judgment. A nuisance includes a condition which is indecent, obnoxious, or offensive to the senses, as determined by the Township in its sole reasonable judgment.

#### **Section 4: Abatement:**

If the Township finds a Nuisance, as defined above in its sole reasonable judgment, it shall be the duty of the person who creates, causes, allows, suffers, or permits the existence of a nuisance, to abate the same.

- 4.1 The term "abate" or "abatement" shall include demolition removal, repair, maintenance, construction, reconstruction, replacement and reconditioning of structures, appliances, appurtenances or equipment; and it shall also include removal, transportation, buying, disposal and treatment of refuse, manure or other substance or media capable of causing obnoxious odors or of attracting or breeding flies, and the application of chemicals insecticides or other substances or the use of mechanical means to control, eradicate and eliminate the nuisance conditions, including screening by vegetation and/or fences.
- 4.2 The Township shall determine in its sole reasonable judgment if the actions taken by a person who creates, causes, allows, suffers, or permits the existence of nuisance are sufficient to abate same.

#### **Section 5: Procedure:**

When a nuisance occurs, the following procedure shall be followed:

A) Offended party shall peaceably contact the offender to discuss/inform of the issue. If the offended party is unwilling/unable to contact the offender or there is no resolution then,

B) The Offended party shall notify the Township by filing a written complaint (containing information about who, what, when, where). The Township may provide a standardized form for collecting such complaints. The Township will then independently view the alleged nuisance contained in the written report to make an independent determination as to the existence of the nuisance in its sole reasonable judgment:

- B1) If the Township determines no nuisance exists, then it shall close the complaint and write a letter to the Offended party advising them of same;
- B2) If the Township determines that a Nuisance does exist, in its sole reasonable judgment, then the Township staff will attempt to resolve the issue with the Offending party,

C) In case there is no reasonable resolution, after a possible site visit by township staff, a further resolution may be attempted by the Township Supervisor taking one of the following administrative steps:

- C1) Scheduling a Board of Trustees show cause hearing for the Offending party,
- C2) Contacting Township Attorney to take legal action against the Offending party under this or any other legal ordinance of the Township,
- C3) Contacting other government agencies relating to the situation and issues involved and requesting assistance in resolving same, or
- C4) Take no further action.

**Section 6: Violation, Enforcement, and Penalties:**

Violation of this ordinance shall constitute a municipal civil infraction, subject to the penalties stated herein. The Supervisor is hereby authorized to enforce this ordinance, and he/she may delegate the enforcement to any administrative official, employee, or contractor of the Township, including the Township Attorney. The Township may, also, seek abatement of a nuisance and such other relief as may be obtained by civil proceedings in court, if the Offending Party is issued 3 or more Municipal Civil Infraction Tickets for the same nuisance offense in any sixty (60) day period. The penalties for each Municipal Civil Infraction Ticket shall be set forth as established in a Municipal Civil Infraction Ordinance of the Township.

**Section 7: 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 8: 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 9: 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.

9.1 This Ordinance repeals and replaces Ordinance 19-01 in its entirety.

The Marion Township Nuisance Ordinance No. \_\_\_\_\_ 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 \_\_\_\_\_, supported by \_\_\_\_\_. Motion carried \_\_\_\_\_.

Tammy L. Beal, MMC  
Marion Township Clerk

Date adopted by the Township Board:  
Date published by the newspaper:  
Name of the newspaper: Fowlerville News & Views  
Effective date:  
Date filed with the Livingston County Clerk:  
Date recorded in Township's Ordinance Book:

DRAFT

STATE OF MICHIGAN  
COUNTY OF LIVINGSTON  
TOWNSHIP OF MARION  
LIVINGSTON COUNTY, MICHIGAN  
MARION TOWNSHIP MUNICIPAL CIVIL INFRACTION  
ORDINANCE NO. \_\_\_\_\_

**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 not designated a misdemeanor or a civil infraction (traffic) shall be adjudged responsible for a municipal civil infraction as set forth below. Each and every day such violation continues beyond any permissible grace period, constitutes a separate municipal civil infraction violation for which an additional ticket may be written to the person.
  - 4.3.1 The sanction for a 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 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.
- ii. For a second or repeat offense or any subsequent repeat offense shall not be less than \$500.00, plus costs and other sanctions.

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).

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

- i.
- ii.
- iii.
- iv.

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 unless only money damages are 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 Nuisance Ordinance No. \_\_\_\_\_ 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 \_\_\_\_\_, supported by \_\_\_\_\_. Motion carried \_\_\_\_\_.

Tammy L. Beal, MMC  
Marion Township Clerk

- Date adopted by the Township Board:
- Date published by the newspaper:
- Name of the newspaper: Fowlerville News & Views
- Effective date:
- Date filed with the Livingston County Clerk:
- Date recorded in Township's Ordinance Book:

# Municipal Civil Infraction Citations: Ten Tips for Code Enforcement

*Municipalities and their residents want to ensure that ordinances are enforced to promote the general welfare of the community. The process of prosecuting most ordinance violations in court involves civil infraction citations and is statutorily provided for in the Revised Judicature Act, Chapter 87. In this month's E-Letter, we present ten tips for code enforcement in district court that are sure to help guide municipalities through the process of prosecuting civil infraction citations in district court.*

## Code Enforcement

Municipalities throughout Michigan leverage their broad authority to regulate activities and land use to promote the public health, safety, and welfare of the community by enacting a wide variety of ordinances—regulating everything from fireworks to blight. The benefits of these ordinances, however, is directly related to the ability to enforce their terms. In other words, what good is a well-crafted ordinance if a municipality is unable to effectively prosecute those who routinely violate them?

In the past, we have provided broad overviews of the different ways in which a municipality can enforce its ordinances and ultimately obtain compliance. A municipality can issue warning letters, municipal civil infraction notices, or seek voluntary compliance without the need to file anything in district court. These avenues provide for a cost-effective and largely efficient way to obtain compliance. If you are interested in a broad overview of the topic, please refer to two of our prior E-Letters that address some of those avenues of obtaining compliance: [Getting the Most Out of Civil Infractions: Violation Notices, Informal Hearings, Warning Letters and Consent Judgments](#) and [Ten Strategies for Effective Ordinance Enforcement](#).

This E-Letter addresses the situation where a municipality has considered (or attempted) different ways to obtain ordinance compliance and is ready to pursue legal action in district court. It offers ten tips for municipalities to resolve ordinance violations efficiently.

## Ten Tips

- 1. KNOW THE DISTRICT COURT.** A municipality must understand how its district court handles civil infraction citations. Experience has taught us that each district court has a different preference for what information should be included on a civil infraction citation, how a district court will facilitate prosecution of civil infraction citations, among other things. Some relevant administrative questions to ask district court staff includes whether there are specific requirements for information for the civil infraction citation (beyond the statutorily required information) and how multiple violations should be alleged (i.e., on the same ticket or separate tickets). The district court will likely be able to provide any other information that is pertinent in that conversation. The goal is to ensure that the civil infraction citations are being filed properly and that a municipality understands the process ahead. Last, be sure not to discuss the merits of any specific case when attempting to understand administrative requirements for a particular court. All conversations related to the merits or specifics of a case should generally always include the defendant.

2. **PROPERLY SERVE THE DEFENDANT.** Serving a defendant a civil infraction citation is provided for by statute and the requirements depend on the nature of the violation. Generally, a civil infraction citation may always be personally served on the alleged violator. MCL 600.8707(3). Alternatively, if a civil infraction citation involves the use or occupancy of land/building/structure, a copy of the citation may be posted on the land/building/structure and mailed by first-class mail to the owner of the land/building/structure at the owner's last known address. MCL 600.8707(4). Failing to properly serve a civil infraction citation can result in the dismissal of the action altogether.

3. **UNDERSTAND THE BURDEN OF PROOF.** Civil infraction citations are required to be proved by a preponderance of the evidence, which means that a municipality must demonstrate that it is more likely than not a violation occurred. MCL 600.1133) Evidence can include photographs, witness testimony, and any other documentation that is relevant. The most effective and efficient way to prove most violations is through photos that were taken on the same day the citation was issued or when the violation occurred. Other relevant evidence can include complaints received by a municipality, testimony of the code enforcement officer or other similar municipal officials, testimony of the defendant, and testimony of interested residents who have personal knowledge of the violations. Needless to say, if a municipality cannot prove its case by a preponderance of the evidence, it should not bring the case to begin with.

4. **ADEQUATLY DESCRIBE THE VIOLATION.** Civil infraction citations include a "description" section where a code enforcement officer should explain the alleged violations of the ordinance at issue. There are two main parts of the description of a civil infraction citation: (1) the ordinance violated, and (2) the conditions or activities that create the violation. The information that is included in this description section is critical because the civil infraction citation serves as the complaint. See MCR 4.101(A)(1); MCL 600.8705(1)(a). That means whatever is listed on the civil infraction citation will be what the district court uses to determine what the defendant has been charged with doing. This is especially important to district courts especially considering the constitutional requirement of "due process," that requires notice of violations and an opportunity to be heard. See *By Lo Oil Co v Dep't of Treasury*, 267 Mich App 19 (2005). It is advised that municipalities include the specific sections of the ordinance that was violated along with the activities or conditions that violated the ordinance. To the extent that there are multiple sections of an ordinance being violated, those should be referenced as well.

5. **CONSIDER SETTLEMENT.** Even after a municipality has exhausted other means of obtaining compliance such as issuing warning letters and municipal civil infraction notices, voluntary compliance is still possible even after the filing of a civil infraction citation. In our experience, a looming court date oftentimes has a way of motivating a defendant to comply more so than the issuance of warning letters or municipal civil infraction notices. A municipality can use this to their advantage in most instances by entering into a consent judgment to resolve the matter. A consent judgment is an agreement that can be enforced as a court order. The most typical type of consent judgment we advise clients to enter into provides for a certain period of time for the defendant to comply with the ordinance. If the defendant complies, the consent judgment dictates the case will be dismissed and fines related to the civil infraction are waived. If the defendant does not comply, however, the consent judgment provides the defendant must pay the fines and the municipality can abate the existing violations at the cost of the defendant. The upside of settling a case includes limiting the risk of an unfavorable ruling at a hearing, reducing the legal fees necessary to prosecute the case, and ensuring that compliance. **PRACTICE NOTE:** District courts often times have different procedures for settling a case. Before presenting a district court with a consent judgment, we advise reaching out to the district court to learn how they generally handle the resolution of civil infraction citations. Again, be sure to not discuss the specifics or merits of a particular case with a court without the defendant.

6. **DECIDE BETWEEN AN INFORMAL OR FORMAL HEARING.** An informal hearing is generally conducted by a magistrate with relaxed rules of evidence and procedure. MCL 600.8719(1). There are no attorneys allowed for either side. MCL 600.8719(2). In contrast, a formal hearing is conducted by the judge and both parties are allowed to be represented by an attorney. MCL 600.8721(1)-(2). The default is that civil infraction citations will be handled through informal hearings. However, either party can request a formal hearing so long as that is done at least ten days prior to the hearing date. MCL 600.8717(1). A municipality should decide which is best suited for each specific case. As a general rule, more simplistic and straightforward cases are better suited for informal hearings. **PRACTICE NOTE:** If a municipality is unsuccessful at an informal hearing, it can appeal through the formal hearing process. MCL 600.8719(5).

7. **CONSULT WITH AN ATTORNEY.** Seeking legal advice from a qualified attorney who regularly handles code enforcement cases can significantly help a municipality navigate the process in district court. From ensuring that a civil infraction citation is appropriately filled out, served on the defendant, filed with the court, and prosecuted, legal advice can help a municipality navigate the legal landscape. **PRACTICE NOTE:** The process of prosecuting civil infraction citations in the Revised Judicature Act, Chapter 87, specifically contemplates a process, an informal hearing, in which neither the municipality nor the defendant is able to have an attorney present. See MCL 600.8719(1)-(2). That, however, is not to say that an attorney cannot be involved in helping a municipality prepare for an informal hearing such as by: (1) preparing outlines for the prosecution to prove their case; and (2) providing proposed orders if they are successfully at providing ordinance violations. To the extent that a municipality is uncertain about how to prosecute a case at an informal hearing, we encourage a municipality to seek legal counsel.

8. **EXPLAIN THE HARM.** Some individuals may look at code enforcement cases from the perspective of “so what?” For example, a technical violation may be proved such as proving that there is blight on a property, but one may wonder what the practical issue is from the perspective of the municipality. A municipality should be prepared to explain the harm resulting in the community, complaints they have received, and the public’s interest in enforcing the ordinance at issue. In addition, demonstrating that harm is ongoing and unresolved tends to help demonstrate the importance of an issue. Put simply, it is one thing for there to be four bags of trash in someone’s front yard for a day, and it is another thing if the same bags of trash have been sitting there for a month.

9. **REQUEST INJUNCTIVE RELIEF.** Michigan law empowers district courts with injunctive authority in limited circumstances including when an injunctive order is “necessary to enforce [an] ordinance.” MCL 600.8302. An injunction is an order from the court prohibiting a party from performing actions (e.g., having blight) or ordering a party to perform certain actions (e.g., cleaning up blight). In many instances, fines may not be enough to obtain compliance. For instance, if a defendant has several dozen junk cars on his property, it may be less expensive for him to continue to pay fines than it would be to pay to have all of the junk cars removed. A municipality is likely seeking compliance should be certain to request injunctive relief. **PRACTICE NOTE:** Some district courts are hesitant to award injunctive relief. To maximize the chance that injunctive relief will be ordered, we encourage municipalities to: (1) indicate on the civil infraction citation that they are seeking injunctive relief and the authorizing statutory provision above; and (2) prepare a proposed order requesting injunctive relief to present to a court at a hearing.

10. **REQUEST COSTS.** A municipality is able to recover some of its costs incurred in prosecuting a civil infraction citation. MCL 600.8727(3) provides that when a defendant is found responsible for a civil infraction citation, the district court shall “determine the

costs of the action, which are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the municipal civil infraction, up to the entry of judgment ... [the] costs shall be payable to the general fund of the plaintiff." The amount a district court can order, however, is only up to \$500.00 per violation. See MCL 600.8727(3). A municipality should be certain to seek the recovery of costs in an action to offset some of the costs that it incurs in pursuing code enforcement, even if the entire cost of the action is greater than \$500.00. **PRACTICE NOTE:** If a municipality prevails in a civil infraction action, it should request a court to enter an order allowing it to collect further actual attorney fees if it needs to enforce an order. This allows a municipality to no longer be bound by the initial \$500.00 cap.

By: David Szymanski

***This publication is intended for educational purposes only. This communication highlights specific areas of law and is not legal advice. The reader should consult an attorney to determine how the information applies to any specific situation.***

Fahey Schultz Burzych Rhodes PLC, Your Township Attorneys, is a Michigan law firm specializing in the representation of Michigan townships. Our lawyers have more than 150 years of experience in township law and have represented more than 150 townships across the state of Michigan. This publication is intended for our clients and friends. This communication highlights specific areas of law and is not legal advice. The reader should consult an attorney to determine how the information applies to any specific situation.

## CONTACT

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## MEMO

To: Marion Township Board  
From: Bob Hanvey  
Subject: Ordinance Violation, Show Cause Hearing Procedure  
Date: March 14, 2024

Both our Zoning Ordinance and our proposed Nuisance Ordinance mention a "Show Cause Hearing" as part of the enforcement process. Neither ordinance describes the process for conducting the hearing.

Below is a suggestion for conducting the hearing that was made up of articles on the internet.

At a show-cause hearing, the complaining party must **produce evidence** demonstrating "probable cause" that the defendant committed the crime.

In our case, there has been a complaint made about something happening in the township that someone thinks is a violation of an ordinance. Somebody from the township has gone to the site and has reason to believe that the complaint is valid and there has been a violation.

At this point the township becomes the complaining party and notifies the property owner of the complaint. The first notice often is informal and sometimes results in correction of the complaint.

If there is no compliance resulting from the informal notice, a formal complaint is issued. If there is still no compliance, a show cause hearing is scheduled with the appropriate notice to the property owner.

At the show cause hearing, the township presents evidence of the violation to the Township Board. The property owner will be given an opportunity to explain the situation to the Township Board.

The Township Board can:

Decide that there is no violation and the complaint is dismissed.

Decide there is a violation and prescribe a solution to allow time to correct the violation.

If the violator resists the solution, the Township Board turns the case over to the Township Attorney for action.