



CITY*of* **MARION**

Trash Violations:

*Ten (10) days to correct trash violations

How to avoid trash violation:

*Before setting out large trash call Marion Utilities to schedule a large trash pick-up.

TRASH ORDINANCE

Whereas, the present ordinance entitled General Ordinance Number 13-1997 and those found in Chapter 95.60-95.66 of the Marion, IN Code of Ordinances, providing for the Abatement of Public Nuisance within the City of Marion, are in need of revision.

NOW, THEREFORE, be it ordained by the Common Council of the City of Marion, Indiana:

That General Ordinance Number 13-1997 and those found in Chapter 95.60-95.66 of the Marion, IN Code of Ordinances are hereby repealed.

That there is hereby established and adopted a revised ordinance which shall constitute a new ordinance of the Municipal Code of the City of Marion as follows:

TRASH AND PUBLIC NUISANCES

Section A - Purpose and Intent

It is hereby declared to be the purpose of this ordinance to protect the public safety, health, welfare and enhance the environment of the people of the City of Marion by making it unlawful for any person to maintain, use, create, cause, place,

deposit, leave or permit a nuisance to remain on any property and to promote the health and general welfare of the people of the City of Marion by prohibiting the throwing, casting or depositing or litter in or upon any private or public property within the City of Marion limits.

Section B - Definitions

For the purpose of this ordinance, the following terms shall have the following meanings. The word "shall" will be mandatory and not merely directory.

(1) **Authorized Employee** - An individual designated to make the necessary inspections or any individual(s) of any governmental department of the City of Marion, Code Enforcement or any other person who has been designated by the Mayor of the City of Marion to enforce this ordinance.

(2) **City** - The City of Marion.

(3) **Public Nuisance** - Whatever is injurious to health, or indecent, or offensive to the senses, or an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life or property. The following is a list of public nuisances, but does not limit, the condition constituting a nuisance under this Ordinance section:

(a) Accumulations of rubbish, trash, refuse, junk and other abandoned materials, metals, tires, and lumber;

- (b) Any condition which provides harborage of rats, mice, snakes, insects and other vermin;
- (c) Disagreeable or obnoxious odors and stenches as well as the conditions, substances or other causes which give rise to the emission or generation of those odors and stenches;
- (d) Carcasses of animals or fowls, not disposed of within a reasonable amount of time after death;
- (e) Buildings, structures of other places and locations where any violation of Federal, State or City law is conducted, maintained or performed;
- (f) Accumulations of stagnant water;
- (g) It shall be a nuisance for any person to leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under their control, in a place accessible to children, any abandoned, unattended or discarded freezer, refrigerator or other container which has an airtight door or lid, without first removing the door lid from the freezer, refrigerator or container.
- (h) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of the people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located;

(i) The unauthorized obstruction of any public street, road, alley, sidewalk or any other public thoroughfare or right-of-way;

(j) The unauthorized pollution of any public well, cistern, stream, lake, canal or body of water by sewage, dead animals, industrial waste or other substances.

(k) It shall be a nuisance to permit furniture designed for interior use or household furnishings to sit or be placed outside any structure, unless placed for refuse collections.

(4) **Governmental Property** - Real estate within the City of Marion which is owned, leased, controlled or occupied by the United States, the State of Indiana, or any political subdivision thereof.

(5) **Officer** - An employee of the Code Enforcement Department or any other governmental department of the City of Marion, so designated by the Mayor of the City of Marion having law enforcement powers to issue city ordinance violation summons in order to enforce the provisions of this ordinance.

(6) **Owner** - Shall be presumed to be any one or more of the following:

(a) The owner or owners in fee simple of a parcel of real estate including a life tenant; or

(b) The record owner or owners as reflected by the most current records in the township assessor's office of the township in which the real estate is located; or

(c) The purchaser or purchasers of such real state under any contract for the conditional sale thereof.

(7) **Private Property** - All real estate within the City of Marion except governmental property.

Section C - Application of Chapter

(1) Each department or agency of the United States, the State of Indiana, or any political subdivision thereof, shall be required to keep governmental property free from public nuisances.

Any owner of private property shall be required to keep that private property free from public nuisances.

Section D - Prohibited Activity

It shall be unlawful for any owner of private property or governmental property to allow a public nuisance to exist on that property.

Section E – Enforcement/Penalties

(1) Form of Manual/Automated Ordinance Violation Citations

For violations subject to the procedures of this article, citations shall be numbered and contain the following information:

- (a) The date and time of issuance;
- (b) The specific violation of which the citation is made;
- (c) The date and location of the violation;
- (d) The name and address of the person alleged to have committed the violation, if known or readily obtainable;
- (e) The signature of the official issuing the citation, which may be affixed manually or electronically, or the official's name and code number in computer generated form;
- (f) The badge number, of the official; and
- (g) The court date of the alleged violator to appear.

(2) Service of Citation

A citation of an ordinance violation subject to this ordinance shall be served by the issuing official upon the alleged violator; service may be as follows:

(a) If the alleged violator is present, it shall be delivered personally to the alleged violator.

(b) If the alleged violator is not present, it shall be served on the owner or other person in possession of the premises either in person or by first class mail.

(1) **Citation for Violation** - If the officer finds that a public nuisance exists on private property that officer is directed to issue a Citation for Violation of a City Ordinance to be issued to the offending property owner. Any person who violates any provisions of this Code Section shall be deemed to have committed an ordinance violation and upon conviction, shall be fined not less than Fifty Dollars (\$50.00) and not more than Twenty-five Hundred Dollars (\$2,500.00). Three or more separate violations at the same property within 12 months will be determined to be Public Nuisance-Level Two. Fines for this violation shall not be less than Two Hundred and Fifty Dollars (\$250.00) and not more than Twenty-five Hundred Dollars (\$2,500.00). Five or more separate violations within 24 months will constitute a Public Nuisance-Level Three. Fines for this violation shall not be less than Five Hundred Dollars (\$500.00) and not more than Twenty-five Hundred Dollars (\$2,500.00). The court may order the City to abate the violation and shall impose costs as incurred and calculated under Section F(3). Each day a violation continues after an

action has been commenced to abate the nuisance that nuisance shall constitute a separate ordinance violation. No additional notice under this Code section shall be required to initiate these separate actions once an action has been commenced against the person violating this Code section.

(2) Abatement by City on Private Property - In addition to the issuance of a citation for the Violation of a City Ordinance under Section F(1), the officer may bring a civil action in any court of record and obtain an order allowing the City to abate the public nuisance and recover costs pursuant to this Ordinance, which shall include: costs of removal of the public nuisance, administrative fees not to exceed One Hundred Dollars \$100.00 per charge, and all recording fees, together with any other reasonable fees actually incurred in abating the public nuisance, including costs of collection and attorney fees. In addition, the officer may seek to enjoin the public nuisance through application to the proper court.

(3) Responsibility of Offender for Costs of Enforcement - The Code Enforcement Department shall make a statement of the costs incurred in eliminating the public nuisance, administrative fees, attorney fees if court ordered enforcement is necessary and all recording fees associate with their collection the outstanding balances.

(4) The following fees shall be charged:

(a) Administrative Fees \$100.00

These fees would cover such administrative tasks as inspecting the property to determine the violation, to determine compliance, determining ownership and preparing and mailing notices.

(b) Labor and Fees

The following labor fees per person, per hour or fraction thereof, for labor necessary to abate a public nuisance.

Operator/Driver/Laborer w/o CDL	\$20.00
Operator/Driver/Laborer w/CDL	\$25.00
Supervisor	\$35.00

(c) Equipment Fees

The following equipment fees per machine, per hour or fraction thereof, for the use of each piece of equipment necessary to abate the public nuisance.

Pick-up Truck	\$25.00
Tractor/Bush Hog	\$35.00
Backhoe	\$45.00
Dump Truck	\$55.00
Packer	\$75.00
Loader	\$75.00

- (d) Any land filling fees actually incurred to dispose of litter and waste products removed.
- (e) Any other reasonable fees actually incurred in abating a public nuisance. Said statement shall be delivered to the property owner by 1st Class Mail. The owner shall pay the amount noted to the City of Marion within ten (10) days after receipt, which shall be deposited in the Weed Account Non reverting.
- (5) **Failure to Pay** - If the owner fails to pay the amount within ten (10) days after receiving the statement, the City of Marion and Code Enforcement Department may institute action necessary to collect the debt through a Court of Record.

Section F - Property Owner Right to Object to Complaint.

Upon receipt of a "Notice to Abate", the property owner or their duly authorized representative may notify the Code Enforcement Department of an intent to object to any "Notice to Abate".

This correspondence shall be in writing and shall specify the street address involved, as well as the current mailing address and phone number of the property owner or their representative. Any such correspondence must be received by Code Enforcement Department within the amount of time set out in the "Notice to Abate".

Upon receipt of such correspondence, the Code Enforcement Department shall provide copies of same to the City Attorney and to the officer involved in the violation, who shall cause the objection to be investigated. If the officer determines that the violation has not been corrected, he shall file the cause in the Marion City Court as an ordinance violation or any other court of record. No other action concerning the property in question shall be pursued against the owner to abate the environmental public nuisance until resolution of the objection thereto.

Section G - Severability

If any provisions of this ordinance or any application thereof, is held invalid, the invalidity shall not effect other applications of the provisions or terms of this ordinance which reasonable can be given effect without the invalid provision or term or the application thereof.

Notwithstanding any provision of this ordinance, this ordinance shall not be construed to repeal any former ordinance as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred or any right accrued or claim arising under the former ordinance.

That this ordinance shall be in force and effect from and after its passage and any and all necessary approval by the Mayor and due publications

PASSED AND APPROVED by the Common Council of the City of Marion,
Indiana, this ____ day of _____, 2016.

X

President, Marion Common Council

ATTEST: _____

PRESENTED by me to the Mayor of the City of Marion, Indiana.
this ____ day of _____, 2016.

X

City Clerk

APPROVED by me as Mayor of the City of Marion, Indiana this
____ day of _____, 2016.

X

Mayor, City of Marion, Indiana