

## TOWNSHIP OF WEST BRANCH

### OGEMAW COUNTY

#### ORDINANCE NO. 34

An ordinance to prevent and eliminate blight within the Township of West Branch:

Section 1: Purpose: The purpose of this ordinance is to prevent, reduce or eliminate blight or potential blight within the Township of West Branch by the prevention or elimination of certain environmental causes of blight or blighting factors which exist or which may in the future exist in the Township.

Section 2: Definitions: For the purpose of this ordinance, the following terms are defined as follows:

- (1) The term “junk” shall include, without limitation, parts of machinery or motor vehicles, un-mounted motor vehicle tires, broken and unusable furniture, unusable stoves, refrigerators, or other appliances stored in the open, remnants of wood, metal, cast off household items and fixtures, broken toys and bicycles, broken lawn furniture, or other material of any kind, whether or not the same could be put to any reasonable use.
- (2) The term “junk motor vehicle” shall include, without limitation, any vehicle which is not licensed for use upon the highways of the State of Michigan for a period in excess of 60 days and shall also include, whether licensed or not, any vehicle which is inoperable for any reason for a period in excess of 30 days. The following are excepted from this term:
  - a. Vehicles kept as the stock in trade of a regularly licensed and established new or used automobile or other motorized vehicle dealer;
  - b. Vehicles may remain upon the premises of a licensed motor vehicle repair garage for a period of 60 days rather than 30 days, with extension of additional 30 day periods upon presentation of written proof the offending vehicle is involved in insurance claim litigation or a similar matter and additional time is required for settlement before a vehicle can be moved.
  - c. Recreational vehicles, travel trailers, “fifth wheels” and other similar vehicles that are normally used for travel purposes and that are licensed either annually or during the period of use which are kept in repair and parked in the driveway or parallel to the side of a residence or in the back yard.

- (3) The term “blighted structure” shall include, without limitation, any dwelling, garage, or outbuilding, or any factory, shop, store, office building, warehouse, or any other structure or part of a structure, which, because of fire, wind, other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended.
- (4) The term “building materials” shall include, without limitation, plywood, press board, siding of any type, lumber, brick, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, cement, nails, screws or any other materials used in constructing any structure.
- (5) The terms “trash” and “rubbish” shall include garbage, household waste and any and all forms of debris not herein otherwise classified.
- (6) The term “owner” shall include all natural persons, firms, co-partnerships, corporations, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this ordinance, whether as owner, occupant, lessee, agent, servant, or employee, shall, be equally liable as principals.

Section 3: Causing, maintaining prohibited: It shall be unlawful for any person to cause, permit, maintain, or allow creation or maintenance of blight or blighting factors within the limits of the Township of West Branch.

Section 4: Illustrative enumeration: The maintaining, using, placing, depositing, leaving or permitting to be let or remain on any public or private property of any of the following items, conditions or actions is hereby declared to be and constituted blight or blighting factors; provided, however, this enumeration shall not be deemed nor construed to be conclusive, limiting or restrictive:

- (1) Developed Residential and Commercial Property: Noxious weeds or overgrown vegetation; for the purpose of this ordinance, overgrown vegetation is determined to be plants or grass over 8 inches in height within an established yard in a developed residential or commercial lot, unless part of a flower/vegetable garden. Wild flower gardens are limited to an area not to exceed 25% of open area within a developed residential or commercial lot.

Pursuant to subsection 2 of Act No. 118 of the Public Acts of 2010, the township may, after providing ten (10) days notice to the lot owners that the condition of the property violates the noxious weeds provision of this ordinance, enter upon the lot and cut or destroy the noxious weeds. The cost of same may be added as a special assessment and lien to the lot owners next real property tax bill or collected by other lawful means.

- (2) Storage upon any property of building materials unless there is in force a valid building permit issued by the Township or County for construction upon such property and the building materials are intended for use in connection with such construction. Exceptions to this section shall be:

Building materials stored within an enclosed structure,  
Building materials that are the stock or trade of an established retail outlet for such material;

- (3) Storage upon any property of junk vehicles unless stored in a completely enclosed building.
- (4) Storage or accumulations of junk, trash, rubbish or refuse of any kind, except domestic refuse stored in such a manner so as not to create a nuisance;
- (5) Existence of any blighted structure;
- (6) Existence of any vacant building, garage, or other out-building unless such buildings are kept securely locked, entrance doors kept serviceable, street side windows glazed, other windows and doors can be neatly boarded or otherwise protected to prevent entrance by vandals, rodents, and vermin;
- (7) Existence of any incomplete structure unless the structure is in the course of construction in accordance with a valid building permit issued by the Township/County and unless such construction is completed within one year. A one year extension may be granted for reasonable cause.
- (8) Existence of large amounts of lumber and/or timber. An accumulation of this type of material is allowed as a designated wood pile under the following conditions:
- a. Woodpile area to be located within the back yard.
  - b. Wood to be stacked orderly, with no random piles
  - c. Woodpile is to be maintained in such a manner so as not to allow harborage for rodents, snakes or other vermin. Woodpiles must be maintained so as not to endanger the safety of others or tend to depreciate the value of the property of others.
- (9) Any condition which provides harborage of rats, mice, snakes, and other vermin.

Section 5: Outdoor merchandise: The outdoor or open storage of any salable material, equipment, or merchandise on any property, where such open storage is permitted, shall be placed, stored or stacked in such a manner that it is not

dangerous to human life or otherwise hazardous to the general public safety or welfare. If such hazardous conditions exist, they are hereby deemed to be blight.

Section 6: Enforcement: This ordinance shall be enforced by such person who shall be designated by the Township Board. When any property is in violation of this ordinance, the enforcing officer, or his authorized representative, shall notify the owner, person in control, or occupant of such private premises to correct the violation (with the exception of Section 4 “Noxious weeds....”) within thirty (30) days after being put on notice of said violation. Such notice shall be served in one of the following manners:

- a. by delivering the notice to the owner and/or person in control 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 and/or person in control at his last know address, or
- c. If the owner, person in charge, or occupant of any premises is notified to abate a nuisance resulting from a violation of the provisions of this ordinance shall fail to abate the same within the 30 days from being on notice of a violation, additional avenues of enforcement will be pursued.

Any person violating any provisions of this Ordinance shall be responsible for a civil infraction. The penalty for the first offense shall be \$50.00, plus costs, and for the first “repeat offense”, \$150.00, plus costs. As used in this Section “repeat offense” means a second (or any subsequent) municipal civil violation of the same ordinance committed by a person within 3 years and for which the person admits responsibility or is determined to be responsible. For any second or subsequent repeat offense, the fine shall be no more than \$500, plus costs. It shall be the duty of the Township Blight Officer of the Township of West Branch, or authorized representative to enforce the provisions of this Ordinance. If after investigation, the Township Blight Officer, or authorized representative, determines that a violation of this ordinance exists, he shall be authorized to issue a municipal civil infraction citation to any person, firm, or corporation that is responsible for violating the provisions of this Ordinance. Service of said civil infraction citation or civil infraction notice shall be made in accordance with MCL 600.8707, Public Act 12 of 1994.

Permitting a violation of the Ordinance on private premises is hereby declared to constitute a nuisance per se. Upon application to any court of competent jurisdiction, the Court may order the nuisance abated and/or the violation restrained and enjoined. The enforcement of the Ordinance by abatement of any nuisance by the enforcing officer or by application to any court

of competent jurisdiction for abatement by judicial decree or writ shall not preclude enforcement of the Ordinance by the issuance of a municipal civil infraction and the imposition of fine plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.

Section 7. Prima Facie Proof: In any litigation arising under this ordinance testimony, that any furniture, machinery, appliance, or parts thereof have been observed in the same place on at least two separate dates of at least four days apart within any calendar month shall constitute prima facie proof that such machinery, appliance or part thereof, unused or unusable as defined in Section 2 above.

Section 8: Repealer: All ordinances or parts of ordinance in conflict herewith are repealed only to the extent necessary to give this Ordinance full force and effect. The adoption of this ordinance will repeal in full, Ordinance # 24, and #24a , "LITTER ORDINANCE" WEST BRANCH TOWNSHIP OGEMAW COUNTY MICHIGAN, adopted May 13, 1998, and effective 12-2-01, respectively.

Section 9: Severability: Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

Section 10: Effective Date: This Ordinance shall become effective in the Township of West Branch, following adoption by the Township Board and two weeks after publication. Any condition which would constitute a violation of this ordinance is not excused or permitted by the fact that the condition may have existed prior to the adoption of the ordinance.

I hereby certify that the foregoing is a true and complete copy of Ordinance 34 of the Board of West Branch Township, County of Ogemaw, Michigan at a regular meeting held on September 8, 2010, 2010, and that said meeting was conducted and public notice of said meeting was

given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meetings were kept and will be or have been available by said Act.

Margaret Winslow  
Margaret Winslow, Clerk

ADOPTED: 9-8-10

PUBLISHED: 9-23-10

EFFECTIVE: 10-7-10