

**TOWNSHIP OF WEST BRANCH
OGEMAW COUNTY, MICHIGAN
NOXIOUS WEEDS AND GRASS ORDINANCE NO. 50**

At a meeting of the Township Board of West Branch Township, Ogemaw County, Michigan, held at the West branch Township Hall on March 10th, 2021, at 6:00 p.m., Township Board Member Jeremy Hickmott moved to adopt the following Ordinance, which motion was seconded by Township Board Member Michael Dufsee :

An Ordinance adopted pursuant to Public Act 359 of 1941, as amended, and Public Act 246 of 1945, as amended, to secure the public health, safety and welfare of the residents and lot owners of West Branch Township, by the control, regulation and eradication of noxious weeds, grasses and uncultivated vegetation on lots located within West Branch Township; to set forth the duty of lot owners to destroy noxious weeds and cut grasses; to establish recovery of costs by West Branch Township and allow liens on lots; to establish civil infraction penalties for violation of the Ordinance, and to repeal all ordinances or parts of ordinances in conflict with the provisions of this Ordinance.

WEST BRANCH TOWNSHIP OF OGEMAW COUNTY, MICHIGAN ORDAINS:

SECTION 1: TITLE.

This Ordinance shall be known and cited as the West Branch Township Noxious Weeds and Grass Ordinance.

SECTION 2: PURPOSE.

The Township hereby finds that tall grass and noxious weeds can have a blighting effect on neighborhoods and can provide a refuge for vermin and insects. The purpose of this Ordinance is to secure the public health, safety and general welfare of the residents and lot owners of West Branch Township by regulating noxious weeds and the height of grass.

SECTION 3: DEFINITIONS.

- A. *Noxious Weeds*: This term shall mean Canada thistle or other thistle; dodders; mustards; milkweed; wild carrot; perennial sowthistle; hoary alyssum; ragweed; poison ivy; poison sumac; or any other noxious weed as designated by the Public Act 359 of 1941, as amended.

SECTION 4: GROWTH PROHIBITED.

- A. It shall be the duty of all owners and occupants of lots on which noxious weeds are found growing, including:
1. Any lots with a building within platted subdivisions;
 2. Any vacant lots within platted subdivisions in which buildings have been erected upon sixty (60) percent or more of the lots included in that subdivision; and

3. On lots along all improved streets to a depth of 100 feet or the depth of the ownership, whichever is less,

to eradicate and destroy noxious weeds and prevent their regrowth or prevent them from becoming a detriment to public health in accordance with this Ordinance and Public Act 359 of 1941, as amended.

- B. No owner, occupant, or any person in control of any lot subject to this Section shall permit or maintain on any such lot within West Branch Township, any grass or other vegetation that have grown to a height greater than eight (8) inches.

SECTION 5: EXEMPTIONS.

- A. The following areas of any lot shall be excluded from regulation under this Ordinance:
 1. Land used for agricultural purposes, including weeds in fields devoted to growing any small grain crops such as wheat, oats, barley or rye;
 2. Land that is used for flower gardens, ornamental grass, shrubbery, or vegetable gardens;
 3. Naturally wooded lands, meadows, regulated wetlands, or native plants controlling shoreline erosion; and
 4. Land designated as preserved for open space.

SECTION 6: ENFORCEMENT.

- A. **Commissioner of Noxious Weeds.** The West Branch Township Board creates the office of the Commissioner of Noxious Weeds, which shall be fulfilled by the Township Ordinance Enforcement Officer. The Commissioner of Noxious Weeds shall hold office for a term of two years and until a successor is appointed and qualified. The Commissioner of Noxious Weeds shall have duties and responsibilities and be subject to the provisions of Act No. 359 of the Public Acts of Michigan of 1941, as amended. The Commissioner of Noxious Weeds shall also have the duty of enforcement of this Ordinance. The Commissioner of Noxious Weeds, designee, and/or an authorized contractor are hereby empowered to enter with due and just cause upon any lot in West Branch Township for the purpose of enforcing this Ordinance.
- B. **Notice of Violation.** If an owner or occupant fails to comply with this Ordinance, the Township is hereby authorized and empowered to notify the owner or occupant of the violation and to direct the owner or occupant to remove the noxious weed or noncompliant grass. A notice of violation shall be in writing, addressed to the owner as appears on the latest property tax assessment roll, and shall inform the owner or occupant:
 1. The nature of the violation;
 2. Methods of treating and eradicating the noxious weeds or noncompliant grass;

3. The time in which the lot must be brought into compliance, which shall not be less than ten (10) days from the date of the notice;
4. The Township may act to remedy the violation if it is not remedied within the time allowed in the notice of violation;
5. If the Township mows, cuts, or otherwise remedies the violation, the cost, plus an administrative fee, shall be assessed as a lien against the lot until paid; and
6. Refusal to remedy or allow the Township to remedy a violation may result in further enforcement actions.

The Township shall provide notice in one of the following ways:

1. By delivering the notice to the owner personally or by leaving the same at his or her residence, office or place of business with some person of suitable age and discretion;
2. By mailing such notice by regular first-class mail, with proof of mailing to the owner, agent, or occupant at his or her last known address;
3. If the owner is unknown, by posting such notice in some conspicuous place on the lot for five (5) days before the action concerning which notice is given; or
4. By any other lawful means pursuant to Public Act 359 of 1941.

Failure to receive notice does not constitute a defense to an action to enforce the payment of a fine provided for or debt created by this Ordinance.

C. Right of Entry and Removal by the Township. If, after notification, the owner(s) of any lot in violation of this Ordinance fails, neglects, refuses to completely bring the lot into compliance, or otherwise permits the violation to continue, West Branch Township, or its authorized contractor or other designee(s) is authorized and empowered to enter onto the lot to mow and cut as necessary to bring the lot into compliance. The Township shall keep accurate record of all expense incurred with respect to each lot entered upon in carrying out the provisions of this Ordinance.

D. Collection From Lot Owner(s). All expenses incurred in connection with the cutting or removal of noxious weeds or grass, plus an administrative fee, shall be paid by the owner of the lot and shall be a lien against the lot and collected in the manner prescribed by Act No. 359 of the Public Acts of 1941 MCL 247.61, et seq., as amended. If the Township should elect to cut and remove noxious weeds and grass, such action will not preclude enforcement of this Ordinance by the issuance of a Township civil infraction as provided in this Ordinance or other legal proceedings authorized by law.

SECTION 7: DECLARATION OF NUISANCE. Any violation of any provision of this Ordinance is hereby declared to be a nuisance per se and the Township may seek enforcement of the Ordinance by suit for damages or injunction and other appropriate legal action under MCL

600.2940(3) at the expense of the owner including reasonable attorney fees. Any such civil action shall be in addition to any prosecution for violations of this Ordinance as a civil infraction. The commencement of any such proceedings shall not constitute an election of remedies.

SECTION 8: PENALTY. In the event that noxious weeds or grasses are allowed to grow in a manner in violation of this Ordinance, the Township may, in its discretion, request that a civil infraction citation be issued against the owner(s). The maximum penalty for the civil infraction shall be \$500.00 plus all costs. During the civil infraction proceeding, the Township may also seek entry of any order necessary to compel compliance with this Ordinance.

SECTION 9: SEVERABILITY. The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section, or provision is hereafter declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

SECTION 10: REPEAL. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed, including, but not limited to, Section 4.1 of Ordinance 34.

SECTION 11. SAVING CLAUSE. Nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

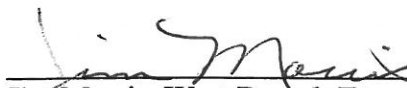
SECTION 12: ENACTMENT AND EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days after publication as required by law.

YEAS: Hickmott, Philbrick, Selinski, Duffee, Morris

NAYS: NONE

ABSENT/ABSTAIN: NONE

ORDINANCE DECLARED ADOPTED



Jim Morris, West Branch Township Supervisor

CERTIFICATION

I, Jeremy Hickmott, Clerk of West Branch Township, do hereby certify that the foregoing is a true and accurate copy of Ordinance No. 50 adopted by West Branch Township on the 10th of March, 2021. A summary of the Ordinance was duly published in the Ogemaw County Herald newspaper, a newspaper that circulates within West Branch Township, on March 25th, 2021. Within 1 week after such publication, I recorded the Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted. I filed an attested copy of the Ordinance with the Ogemaw County Clerk on March 25th, 2021.


Jeremy Hickmott, West Branch Township Clerk