

WEST BRANCH TOWNSHIP
OGEMAW COUNTY, MICHIGAN

Ordinance #41

An ordinance to protect the public health, safety and welfare of the citizens and visitors of West Branch Township by the regulation, licensing and control of solicitors, peddlers, and transient merchants conducting business within the Township.

The Township of West Branch, Ogemaw County, Michigan hereby ordains:

SECTION 1: DEFINITIONS

Peddler: any person traveling either by foot or conveyance from place to place, carrying goods, wares or merchandise, and offering the same for sale, or making sales and delivering articles to purchasers, or offering to provide services either immediately or in the future. Peddler also includes the driver of any conveyance used for or associated with peddling and shall also include the terms hawker and huckster.

Solicitor: any person traveling either by foot or conveyance from place to place, who solicits, asks for or invites donations of money or goods, or who takes or attempts to take orders for the sale of goods, wares or merchandise for future delivery, or for services to be furnished or performed in the future. The term solicitor also includes the driver of any conveyance used for or associated with soliciting and shall include the term canvasser.

Solicit: To make petition, to approach with a request or plea, to urge, entice or lure as in selling, begging, or to try to obtain by asking for; to travel about with wares for sale, to sell from place to place or to retail in small quantities.

Person: the word person as used in this ordinance shall include an individual, business, firm, corporation, partnership, club, society, association or other organization or entity.

Transient merchant or vendor: is defined as any person whether as owner, agent, consignee or employee, who engages in a temporary business of selling and delivering goods, wares and merchandise within the township and who, in the furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, box car, trailer or boat, public room in hotels, lodging houses, apartments, shops or any street, alley, parking lot space, or other place within the township, for the exhibition and sale of such goods, wares and merchandise either privately or at public auction.

SECTION 2: PERMIT REQUIREMENTS

Permit Required: Except as otherwise provided in this ordinance, it shall be unlawful for any solicitor, peddler or transient merchant or vendor whether a person, firm or corporation to solicit, Peddle, or engage in business within West Branch Township without first having secured a permit to conduct such business from the Township. The agents or other representatives of a permittee doing business in the Township shall be responsible for compliance with this ordinance by their principals and by the businesses they represent.

Application for Permit: Application for a permit for a solicitor, peddler, transient merchant or vendor shall be made to the West Branch Township Zoning Administrator or his/her designee. The applicant shall provide all of the following information on the application designated and approved by the Township Board:

1. Name of the applicant(s), including date of birth, and driver's license number.
2. Permanent home address and mailing address if applicable.
3. A brief description of the nature of the business and the goods to be sold.
4. If employed, the name and address of the employer.
5. The place(s), length of time, and hours of operation for which the right to do business is requested.
6. A photograph of the applicant, no less than two inches by two inches, taken within 60 days prior to the date of the filing of the application.
7. A letter that includes the date, signature, and phone number from the owner of the property to be used, giving permission to use said property for the purpose stated on the application.
8. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense, and the punishment or penalty assessed therefore.
9. If the applicant proposes to handle or sell any food or other item for human consumption, the applicant shall provide proof of any required health permit issued by the Ogemaw County Health Department or Michigan Department of Agriculture.
10. A site plan showing the location and size of buildings, structures, signs, roads, driveways, and parking areas.

Permit Fees: All solicitors, peddlers, transient merchants, or vendors within the legal limits of the Township shall pay to the Township a permit fee, established by the Township Board, to engage in that business. The permit fee is \$10.00 per day of activity. Permit fees are non-refundable.

Permit Duration: Permits are approved for a 14 day period only and not less than 14 days shall elapse between the end of one permit and the beginning of another permit for the same location.

SECTION 3: EXEMPT PERSONS

Exempt Persons: The following shall be exempt from the permit requirements of this ordinance but shall be subject to the other provisions hereof:

1. Any person under 18 years of age, when engaged in soliciting or selling on foot under the direct supervision of a school or a recognized charitable or religious organization, when such soliciting is solely for the benefit of their respective school, classes, activity groups, athletic teams or charity. Children under the age of 14 must be accompanied by a parent or adult. Accompaniment requires a physical presence within 100 feet of said child by the parent or adult.
2. Members of churches, synagogues, mosques and other religious organizations when such soliciting is solely for the benefit of the respective religious organization.
3. A person soliciting exclusively to canvass or petition for a public official, political candidate, public policy or initiative being promoted for purposes of public referendum,

initiative, or election. These persons shall remain subject to the other provisions of this ordinance.

4. Persons soliciting at private homes for the purpose of soliciting or obtaining orders for the sale of goods or merchandise, if such persons are on the premises of such homes because of prior invitation by the owner or resident.
5. Any person who is exempt from such license under the terms of state or federal law. These persons shall remain subject to the other provisions of this ordinance except as to those provisions which may be preempted by state or federal law.

SECTION 4: REVIEW OF APPLICATION, APPROVAL/DENIAL, ISSUANCE

Review of Application: Upon receipt of an application, the Zoning Administrator shall determine if all of the permit requirements have been submitted and the permit fees are paid. If there is any information missing, or the fees have not been paid, the Zoning Administrator shall notify the applicant via phone or first class mail. Applications missing information or unpaid permit fees will not be reviewed until corrected.

Approval: Applications will be approved, if determined by the Zoning Administrator or his/her designee that all required contents of the application have been submitted and the permit fee has been paid. If after investigation the applicant and application are found to be satisfactory for purposes of issuing a permit under the provisions of this ordinance, such approval shall be endorsed on the application by the Zoning Administrator or his/her designee.

Denial: The applicant shall be notified in writing that the permit request has been denied and the reason for such denial. Applications will be denied by the Zoning Administrator or his/her designee for the following reasons:

1. Misleading or false information on the application.
2. Prior history or conduct which may be detrimental to the health, safety and welfare of the citizens of the Township.
3. Any conviction of a licensee of any felony or misdemeanor that may jeopardize public health, safety and/or welfare of the residents or visitors of the Township.
4. Any other reasons the Zoning Administrator or his/her designee determines necessary to protect the safety or health of the public consistent with the purposes of this ordinance.
5. The absence of any required documentation or the failure to pay permit fees.
6. Failure to comply with municipal civil infractions or ordinance violations issued by West Branch Township or other municipalities.

Issuance: Upon approval, a permit will be issued by the Zoning Administrator or his/her designee to the applicant. Upon issuance of a permit, each person actively soliciting, peddling or engaging in sales activity shall have a copy of the endorsed permit in their possession or readily available for proof.

Section 5: Prohibited Acts and Practices

Prohibited Conduct:

1. Entering a private residence under pretenses other than for soliciting or peddling.
2. Remaining in a private residence or on the property after the owner or occupant has requested any such person to leave.

3. Entering a private residence to solicit or peddle when the owner or occupant has displayed a "No Soliciting" or "No Peddling" sign on the property.
4. Soliciting or peddling at a private residence prior to 10:00 a.m. or after 8:00 p.m. or at any time on a Sunday.
5. No solicitors, peddlers, transient merchants or vendors shall conduct any business within any Township park or upon any property owned or controlled by the Township, without prior approval of the Township Board, separate from this ordinance.
6. No person covered by this Ordinance shall shout or cry out his goods or merchandise, nor blow any horns, or use any other similar device to attract the attention of the public.
7. Transient merchants or vendors selling food, whether prepared on site or off site, are prohibited from locating within 500 feet and/or on adjacent property to other establishments selling food.

Obstruction of Public Ways and Areas: No person covered by this Ordinance shall, in the sale of goods, wares and merchandise obstruct any street, alley, sidewalk or driveway, or remain, barter, sell, offer, or expose for sale any goods, wares, or merchandise in front of, or at the side of any property against the wish or desire of the property owner, tenant, or occupant of such property. No person covered by the Ordinance shall engage in peddling on any street, alley or public place after having been requested to desist by the Zoning Administrator or his/her designee.

Curb Service Prohibited: No person covered by this Ordinance shall operate or maintain any stand, vehicle, store, place of business on or near any highway in such a manner that people occupy or congregate within the limits of any street, highway or public place within the Township. No person covered by this Ordinance shall be permitted to use the streets, alleys or public places of the Township for the service of customers or for the transaction of business, or to use any stands, stores or other places of business in any manner that shall require the customer, when transacting the business, to stand within the limits of the streets, highways, alleys, or public places of the township.

SECTION 6: VIOLATIONS AND PENALTIES

Violation: Violation of any of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a Municipal Civil Infraction.

Penalty: Upon determination of responsibility, the person, corporation, firm or other entity shall pay a fine as described in the West Branch Township Municipal Civil Infraction Ordinance. If a determination of responsibility is made by the Court, the Court may impose costs as provided for by law in addition to the fines called for above. Each day during which a violation continues shall be deemed a separate offense. The imposition of a fine shall not exempt an offender from compliance with the provisions of this Ordinance. Nothing herein contained shall prevent the Township Board, public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this Ordinance.

SECTION 7: PERMIT SUSPENSION AND/OR REVOCATION

Suspension/Revocation: The Zoning Administrator shall have the power to suspend or revoke any permit issued under this Ordinance for a violation of this Ordinance, any other Township Ordinance, any condition or regulation under which the license was granted, or any federal or state or county law or regulation.

The Zoning Administrator shall report all suspensions and revocations to the Township Board, which may, for cause shown, revoke or reinstate the license after giving the licensee reasonable notice and an opportunity to be heard. No Person whose license has been revoked or suspended shall receive another license under this Ordinance for a period of one year hereafter. In the event of revocation or suspension, the license fee shall not be refunded.

SECTION 8: SEVERABILITY

Should any section, clause, paragraph or provision of this Ordinance be declared by any court to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so determined to be invalid.

SECTION 8: REPEAL

All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 9: ADOPTION DATE, PUBLICATION DATE, AND EFFECTIVE DATE

Adoption Date: This Ordinance was adopted by the West Branch Township Board by roll call vote on April 23, 2014.

Publication Date: A summary of this Ordinance was published in the May 1, 2014 edition of the Ogemaw Herald.

Effective Date: This Ordinance becomes effective 30 days after publication on May 31, 2014.

Ordinance offered by: **WINSLOW**

Ordinance seconded by: **HODGINS**


Roll Call Votes: Yea: **HODGINS, VEEDER, WINSLOW, & HUGHEY**

Nay: **NONE**

Absent: **PHILBRICK**

Supervisor declared the Ordinance: **ADOPTED**

I hereby certify that the foregoing Ordinance is a true copy of the Ordinance adopted by the West Branch Township Board on the **23rd day of April, 2014** and that it was published in the Ogemaw County Herald on **May 1, 2014**. This Ordinance becomes effective thirty (30) days after publication on **May 31, 2014**.



Margaret Winslow
West Branch Township Clerk