

TOWNSHIP OF BIRCH RUN
SAGINAW COUNTY, MICHIGAN
ORDINANCE NO. 2020-01

ANTI-BLIGHT ORDINANCE

ADOPTION: May 12, 2020

PUBLISHED: May 20, 2020

EFFECTIVE: June 20, 2020

An ordinance to prevent, reduce or eliminate blight, blighting factors or causes of blight within the Township of Birch Run, Saginaw County, Michigan; to prohibit the storage or accumulation of trash, rubbish, junk, junk vehicles, abandoned vehicles, building materials and the maintenance of blighted structures upon any private property within the Township of Birch Run all of which tends to result in blighted and deteriorated neighborhoods, the spread of vermin and disease and the increase of criminal activity; to provide for the elimination thereof and for the enforcement of the aforesaid purposes; and to provide penalties for the violation hereof; to provide the Township's ability to recoup costs and fees in the enforcement hereof; and to promote the health, safety and general welfare. Pursuant to the Township's general police power, the General Law Township Act, and the enacting authority therefore provided by Public Act 344 of 1945, as amended, the Blighted Area Rehabilitation Act (MCL 125.71, *et seq.*).

The Township of Birch Run Ordains:

Section 1. Short Title:

This ordinance shall be known as "The Township of Birch Run Anti-Blight Ordinance."

Section 2. Definitions:

The following words or terms when used herein shall be deemed to have the meaning set forth below:

- (a) The term "abandoned vehicles" shall include, without limitation any vehicle or trailer which has remained on private property for a period of forty-eight (48) continuous hours or more, without the consent of the owner or occupant of the property or for a period of forty-eight (48) continuous hours or more after the consent of the owner or occupant of the property has been revoked.
- (b) The term "blighted structure" shall include, without limitation, any dwelling, mobile home used as a legal dwelling, travel trailer, recreational vehicle, 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 occurrence, physical deterioration, neglect or intentional act is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended, or otherwise which creates or tend to create an obnoxious condition by sight, smell or sound.
- (c) The term "building materials" shall include, without limitation, lumber, brick, concrete, steel, metal, wood or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails screws or any other materials used in constructing any structure.
- (d) The terms "dismantled motor vehicles" and "partially dismantled motor vehicles" mean motor vehicle(s) from which some part(s) which are ordinarily component(s) of such motor vehicle(s) have been removed or are missing.

- (e) The term “dwelling” means any house, building, structure, or trailer which is occupied in whole or in part as a home, residence, living or sleeping place, or which is intended to be occupied by one or more human beings, either permanently or transiently.
- (f) The term “inoperable motor vehicle” means a motor vehicle which by reason of dismantling, disrepair, neglect, or other cause is incapable of being propelled under its own power.
- (g) The term "junk" shall include, without limitation, discarded materials of any kind (regardless of whether the discarded material could be put to any reasonable use), machines or parts of machines, motor vehicles or parts thereof, recreational vehicles or parts thereof, travel trailer, broken or unusable furniture, furnishings, recreational equipment, stoves, refrigerators, air conditioners, or other appliances or parts thereof, remnants or scraps of wood, metal, plastic or any other cast-off material of any kind whether or not the same could be put to any reasonable use, and second hand or used materials, as well as all other materials which are incapable of performing the function for which they were manufactured or intended or any other materials which create or tend to create an obnoxious condition by sight, smell or sound.
- (h) The term "junk motor vehicles" or “junk trailer” shall include, without limitation, any motor vehicle or trailer which is not licensed and/or registered and/or the registration for which has expired for more than 30 days for use upon the highways of the State of Michigan and, whether licensed or not, any motor vehicle which is inoperable for any reason for a period in excess of thirty (30) days. Exterior storage of junk motor vehicles is prohibited on any private property in the Township except upon the premises of a properly zoned, legally operating and approved auto parts dealer, auto repair garage, or wrecker business. Available alternatives include storage within a completely enclosed building, offsite storage in an approved storage facility, or disposal at an approved facility.
- (i) “Motor vehicle” shall mean any automobile, truck, bus, motor home, motorized camper, motorcycle, motor scooter, tractor, or snowmobile, dune buggy or other off-road vehicle, or any other vehicle that is propelled in whole or in part by a motor or any gas, diesel, liquified petroleum, propane, mechanical or other artificial means or is being pushed or towed by the same.
- (j) The term "person" shall include all-natural persons, firms, co-partnerships, corporations, companies and all associations of natural persons, incorporated or unincorporated, whether acting by himself or herself or by 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, except as herein otherwise provided, be equally liable as principals.
- (k) The terms "trash" and "rubbish" shall include any and all forms of debris not herein otherwise classified. The terms “trash” and “rubbish” shall also include: Refuse or rejected food wastes in the form of putrescible animal, poultry, fish, fruit or vegetable wastes resulting from the handling, preparation, cooking, discarding or consumption of foods, including animal, poultry or fish carcasses or parts thereof; Materials used or accumulated in the operation or maintenance of a household which are customarily discarded after use, including but not limited to newspapers, magazines, books, wrappings, cartons, boxes, crates, rags, or sweepings, or materials which are customarily discarded after becoming unusable due to wear or damage, such as clothing, bedding, floor coverings, wallpaper, or articles of metal, plastic, cloth or leather; The residue left

from burning of paper, leaves, wood, coal or other combustible materials; food containers or wrappings (whether damaged or undamaged) including but not limited to cans, bottles, jars, glass, crockery, bags, sacks or plastics, or paper, plastic, wood, or metal cartons or boxes, or other similar or like articles or materials; articles or materials used for medical or hygienic purposes or for infant care; the products of vegetation grown on a property, or which are brought onto a property, including but not limited to grass clippings, weeds, leaves, plants, tree(s) or parts thereof, branches, clippings from shrubs, bushes or hedges, or roots and stumps.

- (l) The term "vehicle" as used in this Ordinance, is defined to include any automobile, truck, bus, motor home, motorized camper, motorcycle, motor scooter, tractor, snowmobile, dune buggy or other off-road vehicle, motor vehicle(s), trailer, recreational vehicle, travel trailer and/or a so-called mobile home being used as a dwelling, and which mobile home may not meet the minimum requirements of the Township of Birch Run Zoning Ordinance pertaining to a legal dwelling.
- (m) The term "large articles" in this Ordinance, is defined, but not limited to, motor vehicles, machinery, farm equipment, boats, trailers, buildings, building materials, etc.
- (n) The term "small articles" in this Ordinance is defined, but not limited to, small appliances, bicycles, lawn and garden equipment, lawn ornaments, auto parts, fixtures, etc.

Section 3. Restrictions:

- (a) It is hereby determined that the storage or accumulation of trash, rubbish, junk, second-hand materials, junk vehicle(s), abandoned vehicle(s), dismantled motor vehicle(s), partially dismantled motor vehicle(s), inoperable motor vehicle(s), building materials and/or the maintenance and/or existence of blighted structure(s) upon any private property within the Township of Birch Run results in and/or tends to result in blighted and deteriorated neighborhoods, the spread of vermin and disease, the increase in criminal activity and therefore is contrary to the public peace, health, safety and general welfare of the community, and thus, is strictly prohibited.
- (b) It shall be unlawful for any person to store or accumulate, or to permit the storage or accumulation of trash, rubbish, junk, second-hand materials, junk vehicles, abandoned vehicle(s), dismantled motor vehicle(s), partially dismantled motor vehicle(s) or inoperable motor vehicle(s) or to abandon any of same on any private property in the Township except within a completely enclosed building or upon the premises of a properly zoned and legally operating, licensed and approved junk dealer, junk buyer, dealer in used auto parts, dealer in second hand goods or junk, operator of an automobile repair garage and/or automobile wrecker business.
- (c) It shall be unlawful for any person to keep or maintain any blighted structure or vacant structure, dwelling, garage, outbuilding, factory, shop, store or warehouse (or other similar structure) unless the same is kept securely locked, the windows kept glazed or neatly boarded up, and otherwise protected to prevent entrance thereto by unauthorized persons or unless such structure is in the course of construction in accordance with a valid building permit issued by the Township of Birch Run, and unless such construction is completed within the permitted time.
- (d) It shall be unlawful for any person to store or accumulate or permit the storage or accumulation of building materials on any private property except in a completely enclosed building or in instances where such materials are being used or are awaiting use in the construction of a structure on the property to be completed within a reasonable time and in

accordance with a valid building permit issued by the Township, and except building materials which constitute a part of the stock in trade of a business located on a property which is zoned for such business or use.

- (e)** It shall be unlawful for any person to store or accumulate or permit the storage or accumulation of ashes, household or yard rubbish or trash, except for such reasonable periods of time as the ashes, household or yard rubbish or trash await regular, systematic removal and/or disposal in accordance with law. Such materials while awaiting removal/disposal shall be temporarily stored in a completely enclosed building, with the exception of yard rubbish and trash which may be temporarily stored either in an enclosed building or at a location on the property where it is as much concealed from public view as practicable.
- (f)** It shall be unlawful for any person to store or accumulate or permit the storage or accumulation of any junk, except within a completely enclosed building, and except as provided by law upon the premises of a duly licensed junk dealer, junk buyer, dealer in new or used automobiles or automobile parts, or dealer in secondhand goods, on a property which is zoned for such use or activity.
- (g)** It shall be unlawful for any person to store or accumulate or permit the storage or accumulation of any inoperable vehicle, except in a completely enclosed building.
- (h)** It shall be unlawful for any person to store or accumulate or permit the storage or accumulation of any abandoned vehicle.
- (i)** A person shall be permitted to place for sale a maximum of two large articles and a maximum of three small articles for sale upon any private property within the Township of Birch Run for no more than 30 consecutive days, twice a year.
- (j)** It shall be unlawful for any person to park, store or accumulate or permit or allow the parking, storage, or accumulation of any item not usable for the purposes for which it was manufactured or intended, or parts or components thereof for the following items:

 - 1) Non-motorized vehicles or conveyances;
 - 2) Appliances, televisions or furniture;
 - 3) Mobile Homes and/or trailer/travel trailers that do not meet the minimum standards for inhabitation by humans;
 - 4) Watercrafts and the accompanying trailers;
 - 5) Fences, barriers, containment structures and the like;
- (k)** A violation of the provisions of this Section shall be a Municipal Civil Infraction for the first violation and shall be a misdemeanor for any subsequent violation. If, upon inspection, the Township Building Inspector, Zoning Administrator, Ordinance/Code Enforcement Officer, any Township Police Officer, Deputy Sheriff, Fire Inspector, Health Officer, Township Manager or Supervisor or County Health Officer, or any authorized person appointed by the Township, finds that any property within the Township is being used in violation of this Ordinance, the owner and/or occupant of said property shall be notified of such violation which may be given by first class mail to the owner or occupant as it appears on the tax rolls of the Township of Birch Run or by service upon any occupant personally by a process server, court officer or official or personnel member of the Township of Birch Run or the Saginaw County Health Department, or as the Township Board shall otherwise provide. Said notice shall provide that the violation be abated by repair or removal within ten (10) days (or other shorter or longer time as the Township

Code-Enforcement Officer and/or Board deem appropriate). If, in the sole judgment of the Township, the violation represents a public-health emergency or other serious condition, which must be immediately abated, the ten (10) day abatement period may be waived by the Township, and the Township may proceed immediately with legal action to abate the violation and to obtain such other relief as available or permitted at law.

- (1) If the owner and/or occupant of the subject property/premises does not cause the violation of this Ordinance to be abated or removed within the time prescribed in the notice, the Township may proceed to secure compliance with this Ordinance in any manner permitted by law. Further, the Township may institute an appropriate court action seeking an injunction, mandamus, abatement or other appropriate writ, order or proceedings to prevent, enjoin, abate or remove any violation(s) of this Ordinance.

Section 4. Penalty and Responsibility for Abatement Fees and Costs:

If the owner and/or occupant of the property/premises at which the violation has occurred/is occurring fails to remove, eliminate, abate or correct the violation within 10 days of the mailing of the notice described in this Ordinance (or sooner based on a finding of emergency or other serious situation contemplated herein), then Township may initiate a court action seeking authorization to abate the violation by removing, eliminating, or correcting it. The owner and/or occupant shall be liable for the entire cost of the Township's removal/elimination/abatement efforts, including any attorney's fee or court costs that the Township incurs related to the violation. Further, when the Township is forced to remove/eliminate/abate the violation, the owner and/or occupant shall be billed for the actual cost of the work plus an administrative fee of twenty percent (20%) of the actual cost. The cost and the fee shall be in addition to fines and costs assessed upon a finding of responsibility for a municipal civil infraction or misdemeanor.

When the Township has taken action pursuant to this Ordinance to remove/eliminate/abate the violation, the actual cost thereof (plus the administrative fee), as well as the entirety of the costs and attorney's fees incurred by the Township in connection with the violation, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the Township, and said charge shall be due and payable by said owner at the time of receipt of such bill.

Where the full amount due the Township is not paid by such owner within sixty (60) days after the date of billing as provided for in the preceding paragraphs, then the Township shall cause to be recorded in the appropriate Register of Deeds Office, a sworn statement showing the total costs incurred by the Township to remove/eliminate/abate the violation, the date any work was done, and the location of the property. The sworn statement shall constitute a lien on the subject property which shall remain in full force and effect for the amount due in principal and interest, plus any court costs for collection, until final payment has been made. The Township may also take action to obtain a lien on any other real or personal property located in the State of Michigan, in which the owner of the violative property has an interest. Said lien(s), costs and expenses shall be collected in the manner fixed by law for the collection of general property taxes. The Township may also commence a civil action against the property owner/occupant for seeking to collect any monies owed. In the civil action contemplated in the preceding sentence, the property owner/occupant shall be liable for the entirety of the attorney's fees and costs incurred by the Township, regardless of the result of the civil action.

Any violation of this Ordinance or any failure to comply with the provisions of this Ordinance on the first offense shall be deemed a municipal civil infraction punishable by a fine not to exceed \$250.

Any further violation of, or any failure to comply with the provisions of, this Ordinance shall be deemed a misdemeanor and shall be punishable by a fine not to exceed \$500 or by imprisonment not to exceed 90 days or both. Each day that a violation of this Ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable, upon conviction, in the manner prescribed in this

section; provided, no person shall be imprisoned for a single, but continuing violation of this Ordinance for a period of longer than 90 days.

Section 5. Neighbor Disputes:

The Code Enforcement Department is charged with enforcement of all Township Ordinances that have been adopted to promote the health, safety and welfare of the community. On occasion, this office is called upon to resolve disagreements between residents and their neighbors. Unfortunately, it is often the case that complaints received by this office that are the result of neighbor disputes have no basis in law or are civil matters over which the Township has no jurisdiction.

While it is the Township's responsibility to ensure compliance with Township ordinances, there is no clear obligation for the Township to get involved in civil disputes or cases where neighbors simply do not get along. Though the Township makes every reasonable effort to assist or advise residents who call upon the Township office concerning such matters, it is often necessary to advise the person that he or she should seek professional consultation. If you are in doubt as to whether the Township can assist you with your complaint, you are encouraged to direct your inquiry to the Code Enforcement Officer at the Birch Run Township Offices.

Section 6. Inconsistent Ordinances:

All other Ordinances of the Township inconsistent with the provisions of this Ordinance are, to the extent of such inconsistency, superseded by this Ordinance. Provided, however, said repeal shall not abate any action now pending under or by virtue of the Ordinance or any parts thereof herein repealed, nor shall said repeal discontinue, abate, modify, or alter any penalty accrued or to occur or affect the rights of any person, firm or corporation, or waive any rights of this Township under any section or provision of the Ordinance, or any part thereof, herein, repealed existing at the time of the passage of this Ordinance.

Section 7. Invalidity:

If any section, paragraph, sentence, clause, phrase or part of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect and to this end, the provisions of this Ordinance are hereby declared to be severable. The Township Board hereby declares that it would have enacted and adopted this Ordinance without the provision(s) or part(s) thereof that have been deemed invalid.

Section 8. Publication:

Pursuant to the General Law Township Act, MCL 41.186 as amended, the Birch Run Township Clerk be and hereby is directed to forthwith and cause publication as required by law.

Section 9. Pending Proceedings Not Affected:

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 as cited in Section X of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 10. Repeal:

All ordinances of the Township inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 11. Effective Date:

This Ordinance shall become effective the 30th day from summary publication after adoption.

This Ordinance is declared to have been adopted and amended by the Township Board of the Township of Birch Run, County of Saginaw, Michigan, at a regular meeting held on the 12th day of May, 2020.

YEAS: Sheridan, Totten, Trinklein, Moore, Parlberg

NAYS: Kiessling, Letterman

ABSENT: None

TOWNSHIP OF BIRCH RUN:

By:

RAY LETTERMAN, Township Supervisor

By:

COREY TRINKLEIN, Township Clerk

Date of Publication: May 20, 2020

Newspaper: Birch Run / Bridgeport Herald

CERTIFICATION

STATE OF MICHIGAN)
) SS
COUNTY OF SAGINAW)

I, the undersigned, the fully qualified and acting Clerk of the Township of Birch Run, Saginaw County, Michigan, do hereby certify that the foregoing is a true and complete copy of an ordinance adopted at a regular meeting of the Township Board of the Township of Birch Run, Michigan, held on the 10th day of December, 2019, was recorded in full in the Minutes of the Meeting of the Township Board of Trustees on said date, notice of said meeting was given and said meeting was held in compliance with Act 267, Public Acts of Michigan, 1976. The Ordinance was signed by the Supervisor and Clerk of the Township.

IN WITNESS WHEREOF, I have hereunto fixed my official signature on this 13th day of May, 2020.

Corey Trinklein, Clerk
Birch Run Township