

TOWNSHIP OF BIRCH RUN  
SAGINAW COUNTY, MICHIGAN  
ORDINANCE NO. 1998-01

ADOPTED:  
REVISED: July 8, 2008  
REVISED: July 12, 2016

AN ORDINANCE TO ESTABLISH PROCEDURE FOR THE ISSUANCE OF MUNICIPAL CIVIL INFRACTIONS, SPECIFICALLY BY DESIGNATING TOWNSHIP OFFICIALS AUTHORIZED TO ISSUE MUNICIPAL CIVIL INFRACTIONS; BY DESIGNATING METHODS OF COMMENCING A MUNICIPAL CIVIL INFRACTION; BY DESIGNATING THE FORM OF MUNICIPAL CIVIL INFRACTION CITATIONS AND OF MUNICIPAL CIVIL INFRACTION VIOLATION NOTICES; BY ESTABLISHING A MUNICIPAL ORDINANCE VIOLATIONS BUREAU; AND BY PROVIDING FOR PENALTIES FOR FAILING TO APPEAR ON MUNICIPAL CIVIL INFRACTIONS

THE TOWNSHIP OF BIRCH RUN, SAGINAW COUNTY, MICHIGAN ORDAINS:

**Section 1: SHORT TITLE**

This Ordinance shall be known and may be cited as the “Municipal Civil Infraction Ordinance.”

**Section 2: DEFINITIONS**

For the purpose of the provisions of this ordinance, the following words and phrases shall be construed to have the meanings herein set forth, unless it is apparent from the context that a different meaning is intended:

- (A) “Act” means Act No. 236 of the Public Acts of 1961, as amended.
- (B) “Authorized Township Official” means a police officer or other personnel of the Township of Birch Run, or a person who is designated under an intergovernmental agreement entered into between the Township and another governmental agency or municipal corporation, to issue municipal infraction citation violation notices. The Authorized Township Official is hereby authorized to appear on behalf of the Township in any proceedings which are brought to enforce the municipal civil infraction citation.
- (C) “Bureau” means the Township of Birch Run Municipal Ordinance Violations Bureau as established by this ordinance.
- (D) “Municipal Civil Infraction Action” means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- (E) “Municipal Civil Infraction Citation” means a written complaint or notice prepared by an authorized Township Official, directing a person to appear in

court regarding the occurrence or existence of a municipal civil infraction by the person cited.

- (F) “Municipal Civil Infraction Violation Notice” means a written notice prepared by an authorized Township Official, directing a person to appear at the Township of Birch Run Municipal Ordinance Violations Bureau and pay fine and costs, if any, prescribed for the violation by the schedule of fines adopted by the Township, as authorized under Sections 8396 and 8707 (6) of the Act.

### **Section 3: DESIGNATION OF AUTHORIZED TOWNSHIP OFFICIALS**

The following personnel of the Township of Birch Run have the authority to issue municipal civil infraction citations and municipal civil infraction violation notices pursuant to this ordinance:

- (A) Police officers
- (B) Chief Inspector
- (C) Assistant Chief Inspector
- (D) Supervisor of Inspections
- (E) Building Inspector
- (F) Plumbing Inspector
- (G) Electrical Inspector
- (H) Mechanical Inspector
- (I) Housing Inspector
- (J) Supervisor
- (K) Clerk
- (L) Code Enforcement Officer
- (M) Code Enforcement Aide
- (N) Fire Chief
- (O) Fire Marshall
- (P) Fire Inspector

### **Section 4: MUNICIPAL CIVIL INFRACTION ACTION; COMMENCEMENT**

A municipal civil infraction action may be commenced upon the issuance of an authorized Township official of (1) a municipal civil infraction citation directing the alleged violator to appear in court; or (2) a municipal civil infraction notice directing the alleged violator to appear at the Township of Birch Run Municipal Ordinance Violations Bureau.

### **Section 5: MUNICIPAL CIVIL INFRACTION CITATIONS; ISSUANCE AND SERVICE**

Municipal civil infraction citations shall be issued and served by authorized Township officials as follows:

- (A) The time for appearance specified in a citation shall be within a reasonable

- time after the citation is issued.
- (B) The place for appearance specified in a citation shall be the district court.
  - (C) Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The citation shall be retained by the Township and issued to the alleged violator as provided by Section 8705 of the Act.
  - (D) A citation for a municipal civil infraction signed by an authorized Township official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official; "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief."
  - (E) An authorized Township official who witnesses a person commit a municipal infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
  - (F) An authorized Township official may issue a citation to a person if;
    - (1) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal infraction; or
    - (2) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the Township attorney approves in writing the issuance of the citation.
  - (G) Municipal civil infraction shall be served by an authorized Township official as follows:
    - (1) Except as provided by Section 5 (G) (2), an authorized Township official shall personally serve a copy of the citation upon the alleged violator.
    - (2) If the municipal civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building or structure at the owner's last known address.

**Section 6: MUNICIPAL CIVIL INFRACTION CITATIONS; CONTENTS**

- (A) A municipal ordinance citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.
- (B) Further, the citation shall inform the alleged violator that he or she may do one of the following:
  - (1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by a time specified for appearance.
  - (2) Admit responsibility for the municipal civil infraction "with explanation"

by mail by the time specified for appearance or, in person, or by representation.

- (3) Deny responsibility for the municipal civil infraction by doing either of the following:
  - (a) Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the Township.
  - (b) Appearing in court for a formal hearing before a judge with the opportunity of being represented by an attorney.
- (C) The citation shall also inform the alleged violator the following:
  - (1) That if the violator desires to admit responsibility “with explanation” in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for appearance.
  - (2) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
  - (3) That the hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the township.
  - (4) That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without opportunity of being represented by an attorney.
  - (5) That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.
- (D) The citation shall contain a notice in boldface type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

## **Section 7: MUNICIPAL ORDINANCE VIOLATIONS BUREAU**

- (A) **Bureau Established.** The Township hereby establishes a Municipal Ordinance Violations Bureau (“Bureau”) as authorized under Section 8396 of the Act to accept admissions responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized Township officials, and to collect and retain civil fines and costs as prescribed by this Code or any ordinance.
- (B) **Location; supervision; employees; rules and regulations.** The Bureau shall be located in the Township Hall and shall be under the control of the Township Clerk. The Township Clerk, subject to approval of the Township

- Board, shall adopt rules and regulations for the operations of the Bureau.
- (C) **Disposition of violations.** The Bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice (as compared to a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the Bureau. Nothing in this chapter shall prevent or restrict the Township from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. The unwillingness of any person to dispose of any violation at the Bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection according to the law.
  - (D) **Bureau limited to accepting admission of responsibility.** The scope of the Bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The Bureau shall not accept payment of a fine from any person who denies having committed the offense or admits responsibility with explanation, and in no event shall the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter related to an alleged violation.
  - (E) **Municipal civil infraction violation notices.** Municipal civil infraction violation notices shall be issued and served by authorized Township officials under the same circumstances and upon the same persons as provided for citations as provided in Sections 5(F) and (G) of this chapter. In addition to any other information required by this Code or other ordinance, this notice of violation shall indicate the time by which an alleged violator must appear before the Bureau, the methods by which an appearance may be made, the address and telephone number of the Bureau, the hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.
  - (F) **Appearance; payment of fines and costs.** An alleged violator receiving a municipal civil infraction violation notice shall appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.
  - (G) **Procedure where admission of responsibility not made or fine not paid.** If an authorized Township official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and civil fine and costs, if any, prescribed by the schedule of fines for violations are not paid at the Bureau, a municipal civil infraction may be filed with the district court and a copy of the citation may be served by first-class mail upon the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by Sections 8705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

**Section 8: FAILURE TO APPEAR; PENALTY**

A person served with a municipal civil infraction citation as provided in Section 5(G) who fails to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is guilty of a misdemeanor, punishable by a fine of not more than five hundred (\$500.00) dollars or imprisonment for not more than ninety (90) days, or to both such fine and imprisonment in the discretion of the Court. Failure to appear will also result in the entry of a default on the municipal civil infraction.

**Section 9: MUNICIPAL CIVIL INFRACTION PENALTY**

- (A) The first violation of a Birch Run Township Ordinance which ordains that the penalty is in accordance with this Ordinance, is responsible for a municipal civil infraction and is subject to a civil fine of not less than \$50.00, plus costs.
- (B) The second violation of a Birch Run Township Ordinance which ordains that the penalty is in accordance with this Ordinance, is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than \$100.00, plus costs.
- (C) The third violation of a Birch Run Township Ordinance which ordains that the penalty is in accordance with this Ordinance, is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than \$200.00, plus costs.
- (D) The fourth violation of a Birch Run Township Ordinance which ordains that the penalty is in accordance with this Ordinance is responsible for a municipal civil infraction and subject to payment of a civil fine of not less than \$500.00, plus costs.
- (E) Each subsequent violation of a Birch Run Township Ordinance which ordains that the penalty is in accordance with this Ordinance, is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than \$1,000.00, plus costs.

**Section 10: SEVERABILITY**

If any Section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

**Section 11: SAVINGS**

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force at the time they are commenced.

**Section 12: REPEALER**

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

**Section 13: EFFECTIVE DATE**

This ordinance shall take effect thirty (30) days after publication thereof.

This Ordinance is declared to have been adopted by the Township Board of the Township of Birch Run, County of Saginaw, Michigan, at a regular meeting held on the 12<sup>th</sup> day of July, 2016.

**BIRCH RUN TOWNSHIP**

By: \_\_\_\_\_  
RAY LETTERMAN  
Its: Supervisor

By: \_\_\_\_\_  
COREY TRINKLEIN  
Its: Clerk

Adopted:  
Revised: July 12, 2016  
Aye: Moore, Magnus, Letterman, Parlberg, Totten, Trinklein  
Nay: None

STATE OF MICHIGAN)  
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 13<sup>th</sup> day of July, 2016, the original of said meeting was given to and in compliance with Act 267, Public Acts of Michigan, 1976.

IN WITNESS WHEREOF, I have hereunto fixed my official signature on this 13<sup>th</sup> day of July, 2016.

\_\_\_\_\_  
Corey Trinklein, Clerk  
Birch Run Township