

TOWNSHIP OF BIRCH RUN
SAGINAW COUNTY, MICHIGAN
ORDINANCE NO. 2019-07

ORDINANCE TO AMEND BIRCH RUN TOWNSHIP BUSINESS COMMENCEMENT,
CONTINUATION, AND DISCONTINUATION LICENSING ORDINANCE

ADOPTION: September 10, 2019
PUBLISHED: September 18, 2019
EFFECTIVE: October 18, 2019

An Ordinance to amend Sections 2, 4, 5, 6, 8, 9, 10, 11 and 12 of Birch Run Township's Business Commencement, Continuation, and Discontinuation Licensing Ordinance being Ordinance No. 2001-01, adopted May 12, 2001; to add the definition of "Home Occupation" and to modify the definition of "Business"; to amend the "Multiple Businesses" sub-section of section IV; to amend the application fees; to permit the licensing agent to designate another Township official to conduct an inspection; to preserve the Township's right to pursue any particular remedy or cause of action that may be appropriate under the circumstances in regard to a violation of said Ordinance; to provide for severability; to provide for the repeal of conflicting ordinances; to provide for an effective date; to permit necessary publication of said Ordinance; and to secure the public health, safety and general welfare of the residents and property owners of Birch Run Township, Saginaw County, Michigan by the regulation of businesses within said Township and to prescribe the sanctions for the violation of said Ordinance.

The Township of Birch Run hereby ordains:

Sec. I. Section 2 of the Birch Run Township Business Commencement, Continuation, and Discontinuation Licensing Ordinance, entitled "*Definitions*," is hereby amended to read as follows:

SECTION II: *DEFINITIONS*

As used in this ordinance

BUSINESS means any trade, occupation, profession, work, commerce or other activity owned or operated for profit by any person within the Township excluding political, charitable, religious or agricultural establishments. A "Home Occupation" as defined herein does not constitute a business for purposes of this Ordinance and is not subject to the licensing requirements of this Ordinance.

HOME OCCUPATION means any business carried on by one or more members of a family residing on the premises, providing that said business is/does: (1) Operated in its entirety within the principal dwelling; (2) Not have a separate entrance from outside the building; (3) Not involve alteration or construction not customarily found in dwellings; (4) Not using any mechanical equipment except that which is used normally for purely domestic or household purposes; (5) Not using more than 25% of the total actual floor area of the dwelling; and (6) Not displaying or creating outside the structure of the dwelling any external evidence of the operation of the home

occupation except for one non-animated, non-illuminated wall sign having an area of not more than one square foot.

LICENSING AGENT means the Township Clerk, such other Township official(s) or employee(s) as designated by resolution of the Township Board, or a person who is designated under an intergovernmental agreement which is entered into between the Township and another governmental agency or municipal corporation to administer the provisions of this ordinance, including the enforcement thereof.

PERSON means any individual, partnership, association, company or corporation.

TOWNSHIP means the Township of Birch Run

Sec. II. Section 4 of the Birch Run Township Business Commencement, Continuation, and Discontinuation Licensing Ordinance, entitled “*Licensing Requirements*,” is hereby amended to read as follows:

SECTION IV: *LICENSING REQUIREMENTS*

1. **License Required.** No person may commence, continue, or discontinue a business within the Township without having first obtained a Township license and without maintaining such license in current effect during any business operation, activity, continuation, or discontinuation.
2. **Compliance with Township Ordinances.** No license shall be issued or renewed until the Applicant has complied with all Township ordinances and has paid in full all fees and charges required under the Township ordinances and personal property taxes as assessed by the Township.
3. **Multiple Businesses.** The granting of a license to any person operating a business, trade or profession which also contains within itself, or is composed of, business(es), trades or professions which are required to be licensed under this Ordinance, shall not relieve the person to whom the license or permit is granted from the necessity of securing individual licenses for each such business, trade or profession.

Sec. III. Section 5 of the Birch Run Township Business Commencement, Continuation, and Discontinuation Licensing Ordinance, entitled “*Business License Application*,” is hereby amended to read as follows:

SECTION V: *BUSINESS LICENSE APPLICATION*

1. **Application Required.** No license to commence, continue, or discontinue a business shall be issued until the owner or operator submits an application to the Licensing Agent on a form provided by the licensing agent. No person shall make any false statement or representation in connection with any application for a license under this ordinance.
2. **Application Fee.** A fee of \$60.00 shall accompany the original application and a fee of \$40.00 for each annual application. The fees under this Ordinance shall be subject to

modification by resolution of the Township Board. Upon the filing of a properly completed application and upon payment of the fee, the Licensing Agent shall issue a license to the person to commence or continue the business designated if the business complies with the terms of this ordinance.

3. **Business Discontinuation License.** Any business desiring to discontinue its operation within the Township must apply for a business discontinuation license at least thirty (30) days before its expected date of discontinuation or closing within thirty (30) days of the expiration of its lease term.

4. **Display.** The license shall be prominently displayed to public view in the licensed business.

Sec. IV. Section 6 of the Birch Run Township Business Commencement, Continuation, and Discontinuation Licensing Ordinance, entitled “*Conditions of License*,” is hereby amended to read as follows:

SECTION VI: *CONDITIONS OF LICENSE*

1. **License Term.** The license issued under this ordinance shall be effective until January 1st of the succeeding year with renewals of the same to be issued upon application and payment of the fee in the same manner as set forth for the original issuance of the license.

2. **Compliance with Laws.** The Licensing Agent shall issue no license where the existing or proposed business would be illegal under any law or ordinance of the United States of America, the State of Michigan, Saginaw County, or Birch Run Township.

3. **Assignment of License.** The holder shall not transfer a license to any other person except upon prior approval of the Township Board. The Licensing Agent shall have the right of the inspection of the business premises to assure compliance with this Ordinance. The licensing agent may designate another Township official, such as the Township Code-Enforcement Officer, to conduct said inspection.

4. **Revocation of License.** In the event of any noncompliance after a license has been issued, the license may be revoked by order of the Licensing Agent until the noncompliance has been corrected.

5. **Appeal.** The licensee may appeal a revocation of a license(s) to the Township Board, which, for cause shown, may uphold the revocation or reinstate the license after giving the licensee reasonable notice and after holding a hearing at which the licensee shall have an opportunity to be heard.

Sec. V. Section 8 of the Birch Run Township Business Commencement, Continuation, and Discontinuation Licensing Ordinance, entitled “*Penalty Clause*,” is hereby amended to read as follows:

SECTION VIII: *PENALTY CLAUSE*

1. **Late Fee.** There shall be a \$20.00 late fee assessed to a business licensee who does not pay its license fee within thirty (30) days of the annual renewal due date.
2. **Civil Infraction.** Any violation of this ordinance shall be a civil infraction. In addition, the Township specifically reserves the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this ordinance. Additionally, the Township expressly reserves the right to pursue any particular remedy or cause of action that may be appropriate under the circumstances.
3. **Lien on Ad Valorem Taxes.** If any licensed business discontinues its business operation in the Township without first obtaining a business discontinuation license, the Township will be permitted to levy any taxes or assessments against the business and/or the business owner without notice or demand to the extent permitted under Michigan law. The Township may order the Treasurer to attach this levy to the personal and/or real property tax statement of the violating business and/or business owner. Alternatively, the Township may pursue an in-personam claim against the business or business owner to recover the levied amounts. Interest will accrue on all levied amounts at the maximum allowable rate. The business and/or business owner will also be liable for all costs of collection incurred by the Township, including reasonable attorney's fees and court costs.

Sec. VI. Section 9 of the Birch Run Township Business Commencement, Continuation, and Discontinuation Licensing Ordinance, entitled "*Severability Clause*," is hereby amended to read as follows:

SECTION IX: SEVERABILITY CLAUSE

Should any section, clause or provision of this Ordinance be declared to be invalid, unconstitutional, illegal or of no force and effect by a court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any other part thereof other than the parts so declared to be invalid. The Birch Run Township Board of Trustees hereby declares that it would have enacted this Ordinance even without whatever provision may be declared invalid by a court of competent jurisdiction.

Sec. VII. Section 10 of the Birch Run Township Business Commencement, Continuation, and Discontinuation Licensing Ordinance, entitled "*Repeal of Conflicting Ordinances*," is hereby amended to read as follows:

SECTION X: REPEAL OF CONFLICTING ORDINANCES

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Sec. VIII. Section 11 of the Birch Run Township Business Commencement, Continuation, and Discontinuation Licensing Ordinance, entitled "*Effective Date*," is hereby amended to read as follows:

SECTION XI: EFFECTIVE DATE

This Ordinance shall take effect thirty-days (30 days) following publication, following adoption.

Sec. IX. Section 12 of the Birch Run Township Business Commencement, Continuation, and Discontinuation Licensing Ordinance, entitled “*Township Publication*,” is hereby amended to read as follows:

SECTION XII: TOWNSHIP PUBLICATION

The Township Clerk is hereby ordered and directed to cause this Ordinance to be published, either in full or in the form of a legally-permitted summary, in a newspaper of general circulation within Birch Run Township.

Sec. X. Ratification and Confirmation The remaining provisions of Ordinance 2001-01 as amended are hereby ratified and confirmed.

Sec. XI. Severability The sections and provisions of this Ordinance are declared to be severable and any portion which is declared inoperative or invalid for any reason by a court of competent jurisdiction shall in no way affect the remaining section or provisions of this Ordinance.

Sec XII. Effective Date This Ordinance shall take effect 30 days from the date of its adoption and publication, and all ordinances or any part of any ordinance in conflict with this ordinance shall be repealed.

Sec XIII. Inspection A true copy of this Ordinance may be inspected or obtained at the Birch Run Township Governmental Office, located at 8425 Main St., Birch Run, MI 48415, during regular business hours.

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 10th day of September, 2019.

YEAS: Sheridan, Totten, Trinklein, Letterman, Parlberg

NAYS: None

ABSTAIN: Kiessling

ABSENT: Moore

TOWNSHIP OF BIRCH RUN:

By:

RAY LETTERMAN, Township Supervisor

By:

COREY TRINKLEIN, Township Clerk

Date of Publication: September 18, 2019

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 September, 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 11th day of September, 2019.

Corey Trinklein, Clerk
Birch Run Township