

BIRCH RUN TOWNSHIP  
SAGINAW COUNTY, MICHIGAN  
ORDINANCE NO. 2018-02  
ZONING ORDINANCE AMENDMENT (Article 13, Section 13.03)

ADOPTED: July 10, 2018  
PUBLISHED: July 18, 2018  
EFFECTIVE: July 26, 2018

**AN ORDINANCE TO AMEND THE BIRCH RUN TOWNSHIP ZONING ORDINANCE, AS ADOPTED ON DECEMBER 14, 2004, AS AMENDED; BY AMENDING ARTICLE 13, SECTION 13.03 BY THE ADDITION OF LANGUAGE AS FOLLOWS:**

**Add to Article 13 Nonconforming Lots, Uses and Structures; Amend Section 13.03-A, #1 & add # 7**

Section 13.03 Nonconforming Uses

- A. Where, at the effective date of adoption or amendment of this Ordinance, a lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:
1. No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance with the exception of nonconforming commercial uses in residential zoning districts outlined in subsection 7 below. However, a nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
  2. No nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
  3. A change of tenancy or ownership of a nonconforming use is allowed provided there is no increase in the degree of nonconformance of the nonconforming use.
  4. Irrespective of other requirements of this Article, if no structural alterations are made, any nonconforming use of a structure and premises may be changed to another nonconforming use of less nonconformance, provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is more appropriate to the District than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Article. Where a nonconforming use, structure, or use and structure in combination is hereafter changed to a less nonconforming character, it shall not thereafter be changed to a greater nonconforming character.
  5. If a nonconforming use of a parcel or lot ceases for any reason for a period of more than one hundred and eighty (180) consecutive days, the subsequent use of such parcel or lot shall conform to the regulations and provisions of this Ordinance for the District in which such lot or parcel is located.
  6. Any use of land or structure, or combination thereof, that is superseded by a permitted use, shall thereafter conform to the regulations for the District in which such use is located, and the nonconforming use may not thereafter be resumed.

7. An active nonconforming commercial use located in an A-1, R-1, R-2 or R-3 zoning districts may be permitted to be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance by approval of the Planning Commission following a public hearing meeting the requirements of 3.08 of this Ordinance. In granting this exception, the Planning Commission may impose conditions necessary to ensure that such change meets the standards for approval below:
- a. The nonconformity must have existed prior to the effective date of this amendment.
  - b. It must be a legal nonconforming use. The use could not have been established in violation of the Ordinance requirements in effect at that time.
  - c. The change shall not significantly increase the impact of the use on the surrounding parcels or such impacts can be adequately mitigated. Impacts can include noise, odor, dust, light, glare traffic, hours of operation, or appearance.
  - d. The change in the use would not be contrary to the public health, safety, or welfare or the spirit of the Ordinance.

**SECTION II**  
**SEVERABILITY**

Should any section, clause or provision of this Ordinance be declared unconstitutional, illegal or of no force and effect by a court of competent jurisdiction, then and in that event such portion thereof shall not be deemed to affect the validity of any other part or portion of this Ordinance.

**SECTION III**  
**EFFECTIVE DATE and REPEAL of CONFLICTING ORDINANCES**

This Ordinance shall take effect eight (8) days following publication, following adoption. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**CERTIFICATION**

The foregoing ordinance is hereby certified to be the authentic record of the ordinance which was duly adopted by the Township Board of the Township of Birch Run on the 10<sup>th</sup> day of July 2018, and published on the 18<sup>th</sup> day of July 2018.

YEAS: Sheridan, Totten, Trinklein, Kiessling, Letterman

NAYS:

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 10<sup>th</sup> day of July, 2018, the original of said meeting was given to and in compliance with Act 267, Public Acts of Michigan, 1976.

I further certify that on the 18<sup>th</sup> day of July, 2018, I caused a notice of such adoption to be published in the Birch Run/Bridgeport Herald, a newspaper circulated in the Township of Birch Run, and that said Ordinance and the record of publication was duly recorded in the Book of Ordinances of the Township of Birch Run and is available for public use and inspection at the offices of the Birch Run Township Clerk.

IN WITNESS WHEREOF, I have hereunto fixed my official signature on this 11<sup>th</sup> day of July, 2018.

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Corey Trinklein, Clerk  
Birch Run Township