

BIRCH RUN TOWNSHIP
SAGINAW COUNTY, MICHIGAN

ORDINANCE NO. 2013-01

ADOPTION: February 12, 2013
PUBLICATION DATE: February 20, 2013
EFFECTIVE DATE: March 19, 2013

AN ORDINANCE TO AMEND ARTICLE II OF THE BIRCH RUN TOWNSHIP CODE
REGARDING THE USE OF OUTDOOR FURNACES IN BIRCH RUN TOWNSHIP

BIRCH RUN TOWNSHIP ORDAINS

ARTICLE II
OUTDOOR FURNACES

Section 1. Purpose

A. Research indicates that outdoor furnaces cause emission problems which can affect human health and safety. Smoke generated by outdoor furnaces can cause noxious and hazardous smoke, soot, fumes, odors, air pollution, particles and other products of combustion, particularly when restricted airflow and low operating temperatures are present.

B. Persons living and working within residential, commercial and industrial establishments situated within the Township of Birch Run are entitled to clean air and environmental circumstances free of unreasonable smoke, odor and fumes as well as living within an aesthetically pleasing environment through the proper storage of debris and combustible fuels.

C. The purpose of this ordinance is to protect the public health, safety and welfare of the residents of the Township of Birch Run from excessive smoke pollution, soot contamination and other toxic air pollutants and offensive odors emanating from outdoor furnaces and to regulate the location and use of same.

Section 2. Definitions

A. **OUTDOOR FURNACE:** Outdoor furnace means a furnace, stove or boiler designed, intended or used to provide heat and/or hot water to any residence or other structure, which operates by the burning of wood, coal or other type of solid fuel and which is NOT located within a building intended for habitation by humans or domestic animals.

B. **CHIMNEY:** Chimney means any flue or flues that carry off exhaust from the outdoor furnace firebox or burn chamber.

C. **LOT:** The term lot, parcel, front yard, front lot line, side lot line, and rear lot line shall have the meanings assigned to them in the BIRCH RUN TOWNSHIP ZONING ORDINANCE as amended.

Section 3. Restrictions

It is unlawful to install or operate an outdoor furnace or cause or permit the installation or operation of an outdoor furnace within the Township of Birch Run except as specifically authorized and permitted in this ordinance.

Section 4. Permit Required.

A. Any outdoor furnace existing within the Township of Birch Run before February 1, 2010, or any outdoor furnace installed on or after February 1, 2010 shall require the issuance of a permit by the Building Code Administration Division.

B. The permit applicant shall include information necessary to assure compliance with this ordinance including:

1. A drawing identifying all property lines and structures on the parcel installing the outdoor furnace, and the location and the height of all neighboring structures within 300 feet.
2. A copy of the manufactures specifications for the outdoor furnace being installed.

C. The Township shall charge a fee to cover the reasonable cost of inspection and administration of issuing a permit under this ordinance. This fee may be changed from time to time by Resolution of the Township board.

Section 5. Installation requirements

Every owner or person in control of outdoor furnace installed on or after February 1, 2010 shall comply with the following requirements and standards.

A. No outdoor furnace shall be located on a parcel that is part of a condominium subdivision, platted subdivision, or a planned unit development within Birch Run Township.

B. No outdoor furnace shall be located on a parcel of land less than 1 acre in area.

C. No more than one outdoor furnace shall be permitted on any parcel of land.

D. Such devices shall meet all specifications provided by the manufacturer and in addition, they must conform to any State Construction Code provisions that are applicable, and to the Township's fire prevention code. All outdoor furnaces must be Underwriter Laboratories Inc. listed, certified or otherwise approved by another product safety certification organization.

E. An outdoor furnace shall have a permanent chimney equipped with a spark arrestor which extends above the ground surface at least 2 feet higher than the highest

roof peak within ten feet of the outdoor furnace. In specific cases, based on the lay of the land surrounding structures, and the current code requirements the inspector may require a higher chimney.

F. No outdoor furnace shall be located either in the front yard or side lot area of any parcel, as defined in the Birch Run Township Zoning Ordinance or between the principal building on a parcel and the road right of way, unless the outdoor furnace is located at least 300 feet from the front lot line as measured at the road right of way line.

G. An outdoor furnace installed within the Township of Birch Run on or after February 1, 2010, shall meet or exceed the United States Environmental Protection Agency's (EPA) smoke emission standards for Phase 2 Qualified (white tag models) hydronic heaters.

H. An outdoor furnace shall not be located less than sixty-five (65) feet from any residence which is not serviced by the outdoor furnace.

I. An outdoor furnace shall further be located at least fifty (50) feet from the nearest side lot line and at least five (5) feet from the rear lot line.

Section 6. Operation Standards.

A. Fuel. No fuel other than natural wood without additives, wood pellets without additives, corn and agricultural seeds in their natural state may be burned in an outdoor furnace. The burning of all other fuels or materials, including but not limited to the following is specifically prohibited.

1. Rubbish or garbage, including but not limited to, food waste, food wraps, packaging, animal carcasses, animal waste, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business waste.

2. Waste oil or other oily waste.

3. Asphalt and products containing asphalt.

4. Treated or painted wood including, but not limited to, plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

5. Any plastic material including, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.

6. Rubber, including tires and synthetic rubber-like products.

7. Leaves and grass clippings.

8. Newspapers, corrugated cardboard, container board or office paper.

9. Any fuel that violates State or Federal regulations.

Any fuel stored within twenty five (25) feet of an outdoor furnace shall be either covered or otherwise reasonably protected against accidental ignition or combustion.

Section 7. Safety Standards. An outdoor furnace shall be kept in good condition and reasonable repair and in compliance with all manufactures and UL or other testing org. requirements at all times.

Section 8. RIGHT OF ENTRY AND INSPECTION. The Building Official or authorized officer, agent, employee, or representative of the Township of Birch Run may inspect any property for the purpose of ascertaining compliance with manufacturer's instructions and the requirements of this Ordinance and State law.

Section 9. LIABILITY. A person improperly installing, using or maintaining an outdoor furnace shall be responsible for all cost and other liability resulting from damage caused by the outdoor furnace.

Section 10. Existing Outdoor Furnaces. Any outdoor furnace for which a mechanical and/or building permit was approved and issued by the Township of Birch Run prior to the adoption of this Ordinance shall be exempt from the provisions of Section 5 of this Ordinance, provided that the size of the lot, unit, parcel or tract of land is not subsequently reduced and also provided that the outdoor furnace is not relocated on the property in any manner that violates the minimum setback required within the Ordinance. Any existing furnace installed within the township without a permit shall be required to obtain a permit and comply with all the conditions of this ordinance.

Section 11. Severability. The sections and provisions of this Ordinance are severable and any portion that is declared invalid by a court of law or regulatory body of competent jurisdiction shall in no way affect the validity of the remaining sections or provisions of this Ordinance.

Section 12. PENALTY.

A. Failure to comply with the requirements of this Ordinance is hereby declared to be a nuisance per se. Violation of this Ordinance is a municipal civil infraction, for which the fine shall be \$50.00 for the first offense, \$100.00 for the second offense, and \$200.00 for the third and subsequent offenses and in addition to other cost, damages and expenses provided by law. These fines may be changed from time to time by Resolution of the Township Board.

1. Each day during which any violation continues shall be deemed a separate offence.

2. The forgoing penalty shall not prohibit the Township of Birch Run from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

Section 13. Effective Date.

This Ordinance shall become effective 30 days after publication of a summary of the

provisions thereof in a local newspaper of general circulation within the Township.

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 February, 2013

Adopted:

Aye: Sheridan, Totten, Trevino, Trinklein, Magnus, Letterman, Moore

Nay:

Absent:

Section 14. REPEALER

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

STATE OF MICHIGAN)
COUNTY OF SAGINAW)

I, the undersigned, the fully qualified and acting Clerk for the Township of Birch Run, Saginaw County, Michigan, do hereby certify that the forgoing 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 12th day of February, 2013, 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 13th day of February, 2013.

Corey Trinklein, Clerk
Birch Run Township