

**TOWNSHIP OF BIRCH RUN  
SAGINAW COUNTY, MICHIGAN**

**ORDINANCE NO. 2013-03**

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

AN ORDINANCE TO AMEND THE TOWNSHIP OF BIRCH RUN ORDINANCE # 2006-04, AS ADOPTED ON NOVEMBER 14, 2006, AS AMENDED; BY AMENDING Section II, Section III (b) #12, Section VI (A)-(B)-(C) and Section VII AS FOLLOWS:

An ordinance 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 noise within said Township and to prescribe the sanctions for the violation thereof.

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

**SECTION I  
ORDINANCE TITLE**

This Ordinance shall be known and may be cited as "The Township of Birch Run Public Nuisance Ordinance".

**SECTION II  
DEFINITIONS**

The following terms used in this Ordinance are defined as follow:

- (a) *"Daytime Hours"*: The hours between 7:00 a.m. and 10:00 p.m. local time.
- a. *"Night Hours"*: The hours between 10:00 p.m. and 7:00 a.m., local time.
  - b. *"Noxious Weeds"* shall include, but is not limited to the following:  
*Canada thistle (Cirsium arvense), dodders (any species of Cuscuta), mustards (charlock, black mustard and Indian mustard, species of Brassica or Sinapis), wild carrot (Daucus carota), bindweed (Convolvulus arvensis), perennial sowthistle (Sonchus arvensis), hoary alyssum (Berteroa incana), ragweed (Amrosia elatior 1), poison ivy (Rhus Toxicodendron), poison sumac (Toxicodendron vermix), oxeyes daisies, goldenrod, and dandelion.*
  - c. *"Tall Weeds"* shall mean any weed exceeding nine (9") inches in height.
  - d. *"Tall Grass"* shall mean any grass exceeding nine (9") inches in height.
  - e. *"Tall Brush"* shall mean any brush exceeding three (3') feet in height.
  - f. *"Other Plants"* shall include those recognized as deleterious to health, safety, or public welfare and recognized as a common nuisance.

**Amended 03/12/13**

- g. "Owner" shall mean the person(s) listed on the current property tax roll.
- h. "Township" shall mean the Township of Birch Run.
- i. "Township Board" shall mean the Birch Run Township Board.
- j. "Lot" shall mean a parcel of land located within the Township of Birch Run as identified on the Tax rolls for the County of Saginaw.
- k. "Parcel" shall mean any lot of land located within the Township of Birch Run as identified on the tax rolls for the County of Saginaw.
- l. "Structures" shall mean structures as defined in the Birch Run Township Zoning Ordinance.
- m. "Weeds" shall mean all Noxious Weeds, Tall Grass, Tall Brush, Tall Weeds and Other Plants, Grass, Weeds and/or Brush as defined above.
- n. "Woodlot" shall mean a vacant tract of land comprising of a minimum of seventy-five percent (75%) of mature trees.

Application of Ordinance. This Ordinance shall apply to and cover all Weeds, as defined above, found growing in the Township of Birch Run with the following exceptions:

- a. The entire lot in a platted subdivision shall be maintained within this ordinance.
- b. Other lots and parcels shall be maintained within one hundred feet (100') of a street, property line, right of way and a minimum of fifty (50) feet around all building and structures as determined by the Zoning Administrator.
- c. Woodlots and Agricultural lands shall be exempt from the Weed cutting requirements of this Ordinance up to a height of thirty-six (36) inches.

### SECTION III

#### ANTI-NOISE REGULATIONS

(a) GENERAL REGULATION No person, firm or corporation shall cause or create any unreasonable or unnecessarily loud noise or disturbance, injurious to the health, peace, or quiet of the residents and property owners of the Township.

(b) SPECIFIC VIOLATIONS The following noises and disturbances are hereby declared to be violations of this Ordinance; however, this listing is not to be construed to exclude other violations of this Ordinance not specifically enumerated:

- 1. The playing of any radio, phonograph, compact disc, television, or other electronic or mechanical sound producing device, including any musical instrument in such a manner or with such volume as to unreasonably upset or disturb the quiet, comfort or repose of other persons from nearby residential property.
- 2. Yelling, shouting, hooting or singing on the public streets between the hours of 10:00 p.m. and 7:00 a.m. or at any time or place so as to

unreasonably upset or disturb the quiet, comfort or repose of any persons in the vicinity.

3. The emission or creation of any excessive noise which unreasonably interferes with the operation of any school, church, hospital or court.
4. The keeping of any animal, bird, or fowl, which emanates frequent or extended noise which shall unreasonably disturb the quiet, comfort or repose of any person in the vicinity; such as allowing or permitting any dog to bark repeatedly in an area where such barking can be clearly heard from nearby residential property.
5. The operation of any automobile, motorcycle, or other vehicle so out of repair or so loaded or constructed as to cause loud and unnecessary grating, grinding, rattling, or other unreasonable noise including the noise resulting from exhaust, which is clearly audible from nearby properties and unreasonably disturbing to the quiet, comfort, or repose of other persons. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain same so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle as originally manufactured shall be in violation of this section.
6. The sound of any horn or other device on any motor vehicle unless necessary to operate said vehicle safely or as required by the Michigan Motor Vehicle Code.
7. The discharging outside of any enclosed building of the exhaust of any steam engine, internal combustion engine, motor vehicle, or motor boat engine except through a muffler or other similar device which will effectively prevent loud or explosive noises. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain same so the noise emitted by such vehicle or engine is increased above that emitted by such vehicle as originally manufactured shall be in violation of this section.
8. The use of any drum, loud speaker or other instrument or device for the purpose of attracting attention to any performance, show, sale, display or other commercial purpose which, by the creation of such noise, shall be unreasonably disturbing to other persons in the vicinity.
9. The operation of a loudspeaker or other sound amplifying device upon any vehicle on the streets of the Township with the purpose of advertising, where such vehicle, speaker or sound amplifying device emits loud and raucous noises unreasonably disturbing to nearby residential property.
10. The operation of any machinery, equipment or mechanical device so as to emit unreasonably loud noise which is disturbing to the quiet, comfort, or repose of any person.
11. No vehicles parked in the Township shall be left running for more than ½ an hour during the night hours in a residential or agricultural area, unless exempt under this ordinance.
12. It shall be unlawful for grass, weeds or a combination of weeds and grass to exceed 10 inches in height, for lots or parcels in any *agricultural*, business, or industrial district, or any residential ~~lot~~ *district*. It shall be the

duty of the owner or occupant of said parcel (hereafter collectively "Owner") to maintain the lawn area *on vacant or occupied parcels, surrounding and around all structures* ~~the building or other structure to destroy the noxious weeds before they reach a seed bearing stage, and to prevent said weeds from perpetuating themselves and from becoming a detriment to public health.~~ *as defined in Section II:*

(c) EXCEPTIONS: None of the prohibitions hereinbefore enumerated shall apply to the following:

1. Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities.
2. Excavation or repair of bridges, streets or highways or other property by or on behalf of the State of Michigan, Birch Run Township or the County of Saginaw, between sundown and 7:00 a.m. when the public welfare, safety and convenience render it impossible to perform such work during other hours.
3. Warning devices emitting sound for warning purposes as authorized by law.
4. Any agricultural equipment while engaged in normal agricultural activities including but not limited to planting, cultivation, irrigation and harvesting of crops.
5. Noises occurring between 7:00 a.m. and sundown caused by construction, repairs or demolition as long as a valid building permit has been issued by the Township and is currently in effect, and provided, such noise is not unduly excessive.
6. Noises occurring between 7:00 a.m. and sundown caused by maintenance of grounds, provided, such noise is not unduly excessive.
7. Noises emanating from the discharge of firearms are excluded, providing the discharge of firearms was authorized under Michigan Law and all local Ordinances.
8. The Birch Run Township Board may issue a permit, within thirty (30) days of the receipt of an application thereof, for a variance from this Ordinance for the purposes of a public or private meeting, concert, parade or other similar event. Application must be received by the Township Clerk at least forty-five (45) days prior to the event.
9. Any noise connected with a business (i.e. racetrack) that meets the established standards for that business and/or complies with all Special Use Permit requirements.

#### SECTION IV PUBLIC NUISANCE REGULATIONS

No Person, firm or corporation shall create, cause or maintain any public nuisance within the Township by the unreasonable emission of dust, smoke, fly ash or noxious odors which are offensive or disturbing to adjacent property owners and residents or persons in the area.

**Amended 03/12/13**

SECTION V  
COMPLAINTS

Complainants shall be required to complete a Birch Run Township Complaint Form, located at the Birch Run Township office.

SECTION VI  
NOTIFICATION TO AND DUTY OF OWNER.

- (A) All violators of this Ordinance, except Section 3 *III (b)* 12, will have thirty days (30) from the date of the notice to comply with all applicable requirements.
- (B) First Notification for Section 3 *III (b)* 12: The Clerk will publish in the *Birch Run/Bridgeport Herald* in March a notice to all property owners within the Township that Tall Grass and Weeds, not cut by May 1 of that year may be cut or removed by the Township and the owner of the property charged a fine and cost for the removal of same.
- Second Notification for Section 3 *III (b)* 12: After May 1, the ~~Commissioner~~ *Zoning Administrator* shall prepare a list of all property owners who have failed to cut Tall Grass and Weeds, on their property as required in Section ~~6~~ *VI (B)* above. The Township shall mail, by ~~return receipt requested delivery~~, *first class mail* a Second Notification to each property owner on such list, notifying them that they have ~~seven (7)~~ *ten (10)* days to comply with the Grass/Weed cutting and removal requirements of the Ordinance or they will be subject to the violation and penalty as stated in Section ~~7~~ *VII* of the Ordinance.
- (C) Duty:
- (1) It shall be the duty of all owners of land on which Tall Weeds, Tall Grass and/or Tall Brush are found to be growing to cut the Tall Weeds, Tall Grass and Tall Brush.
  - (2) It shall be the duty of all owners of land on which, *any weeds, or Tall Weeds, Tall Grass and/or Tall Brush* have been cut to remove the remains from all public sidewalks and streets within the Township of Birch Run.

SECTION VII  
VIOLATION AND PENALTY

Any person, firm, or corporation who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Birch Run Township Ordinance 98-1, which shall be punishable by a civil fine of not more than \$500.00 along with costs which may include all expenses, direct and indirect, to which Birch Run Township has been put in connection with the municipal civil infraction. *The Township shall keep an account of expenses incurred with respect to each parcel of land which is entered upon in carrying out the provisions of this ordinance. The Township Board shall establish by resolution an hourly rate (a fraction of an hour shall be charged the full hourly rate) and an administrative fee which shall be charged by the Township for carrying out the provisions of this ordinance. In order to reimburse the Township for its expenses in administering the inspection, scheduling and notification procedures required under this ordinance, there shall be an annual one-time fee which shall be charged to the owner. Failure to remit payment within the specified time period shall*

*result in said fine and cost placed as a tax lien on said parcel. In no case, however, shall costs of less than \$25.00 or more than \$500.00 be ordered.* A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan Law. The sanctions herein provided for shall be in addition to any injunctive or other relief, which might be available or appropriate under the circumstances.

In the event the owner of any lot(s) within the Township, to which Section 3 III b (12) applies, fails or refuses to comply with the provisions of Section 6 VI (B) thereof, and after being notified in accordance with Section 6 VI (C), said owner shall be found to be in violation of this Ordinance and subject to a fine of One Hundred (\$100.00) per parcel and not more than Five Hundred (\$500.00) Dollars per violation and the cost of removal. Furthermore, the Township of Birch Run or any authorized agent thereof shall have the right, to enter upon such lots and to cut and/or destroy any and all noxious and tall weeds, tall grass and tall brush located thereon. All due care shall be taken to avoid unnecessary damage to said property.

An owner, who has been fined and charged in accordance with Section 7 VII, shall have thirty (30) days from receipt of said fine and cost to remit payment to the Township or any authorized agent. Failure to remit payment within the specified time period shall result in said fine and cost plus ten (10%) percent penalty placed as a tax lien on said lot as provided by law against the lot to be charged and collected as in the case of general property tax against the lot, or lots, in question.

From the time of the commencement of the cutting and destruction of such Noxious and Tall Weeds, Tall Grass and Tall Brush, the Township shall have a lien upon the lot or parcel until such time the fine and costs are paid in full.

#### SECTION VIII SEVERABILITY

The several provisions of this Ordinance are declared to be separate; if any court of law shall hold that any section or provision thereof is invalid, such holding shall not affect or impair the validity of any other section or provision of this Ordinance.

#### SECTION IX EFFECTIVE DATE

This Ordinance shall take effect thirty-days (30 days) following publication, following adoption. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

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 12 day of March, 2013.

Adopted: March 12, 2013

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

Nay:

**Amended 03/12/13**

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 12 day of March, 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 13<sup>th</sup> day of March 2013.

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Corey Trinklein, Clerk  
Birch Run Township