

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF BLOOMFIELD HILLS
ORDINANCE NO. 441

TEXT AMENDMENT TO ZONING ORDINANCE

AN ORDINANCE TO AMEND THE TEXT OF CHAPTER 24 OF THE BLOOMFIELD HILLS CITY CODE, SPECIFICALLY, THE BLOOMFIELD HILLS ZONING ORDINANCE, ORDINANCE NO. 188, AS AMENDED, BY AMENDING SECTION 24-242. – FENCES IN RESIDENTIAL DISTRICTS, TO ADDRESS AND CLARIFY, AMONG OTHER THINGS, THE TERMS AND PROVISIONS PERTAINING TO FRONT AND SIDE YARD FENCES, WALLS GATES, COLUMNS AND DRIVEWAY GATES AND BY ALSO AMENDING SUBSECTION (2) – SITE AND BUILDING DESIGN OF SECTION 24-237(C) – DESIGN STANDARDS TO ADD A NEW ITEM (o) TO ADDRESS FENCES IN COMMERCIAL, OFFICE AND INSTITUTIONAL ZONING DISTRICTS AND BY ALSO AMENDING SUBSECTION (2)(d) OF SECTION 24-235 – LANDSCAPE OPEN SPACE TO CLARIFY WHAT CONSTITUTES IMPERVIOUS SURFACE AREA

THE CITY OF BLOOMFIELD HILLS ORDAINS:

Section 1.

Section 24-242. – Fences in residential districts, of Article IV – General Provisions, of Chapter 24 of the Bloomfield Hills City Code, specifically the Bloomfield Hills Zoning Ordinance, Ordinance No. 188, as amended, is hereby amended to now read as follows:

Sec. 24-242. – Fences in residential districts.

- (a) *Permits required.* No fence, wall, gate or column structure shall be erected or replaced without the prior issuance of a zoning permit from the city. Any front or side yard fence, wall, or gate, permitted in this section is subject to review and approval by the planning commission. Retaining walls do not require review and approval by the planning commission but shall comply with the standards contained in subsection 7.5-2(10) of the Grading Ordinance and shall not adversely impact drainage conditions onto adjacent properties.
- (b) *Development standards for fences, walls, gates, and columns.*
 - 1. All fences, walls, gates and columns shall meet the following requirements:

- a) The finished side of the fence, wall or gate shall face the adjacent property or private or public right of way.
 - b) Fences, walls, and gates shall be constructed of high quality, durable materials including brick, natural stone, decorative wood, or decorative metal such as wrought iron or painted aluminum. Chain link fences and chain link gates shall be subject to the requirements of Subsection (c) of Section 24-242.
 - c) No fence, wall, gate or column shall be located within a public or private road right-of-way or pathway easement. Any existing fence, wall, gate or column located within any road right-of-way may be required to be removed at the owner's expense.
 - d) A four-foot tall mailbox wooden post or column may be located within a road right-of-way. The maximum height of four (4) feet does not include the mailbox unit. A concrete, brick or mortar post or column structure containing a mailbox shall be prohibited.
 - e) Clear vision area. The purpose of the provisions of this section is to provide an unobstructed view of approaching traffic on the intersecting roads. Solid walls, fences, or gates shall not exceed a maximum height of thirty (30) inches and all shrubs and plants shall be pruned to a height not to exceed thirty (30) inches above the road level at its nearest point in an area bounded by the right-of-way lines of intersecting roads or easements for vehicular access, public or private and a straight line joining points on such right-of-way lines twenty (20) feet distant from their intersection. All side limbs of trees in such area shall be pruned to a height of not less than ten (10) feet above the road surface. The city engineer may prescribe greater restrictions than the height set forth in this paragraph where unusual conditions make such additional restrictions desirable in the interest of the public safety.
 - f) The vertical dimension of any fence, wall, gate or column shall be measured from the finished grade on both sides of any such fence, wall, gate or column to any point on top of the fence, wall, gate or column, including post/column caps and any ornamental features.
 - g) All fences, walls, and gates shall be maintained in good condition by the property owner.
 - h) The planning commission, when considering whether to approve a fence, gate, wall or column located in the front or side yard of any lot in a residential district, may take into consideration recorded deed restrictions or covenants that affect the property, particularly as such restrictions or covenants regulate or prohibit fences on the subject property.
2. Rear yard fences, walls, and gates. Fences, walls, and gates may be located in rear yard areas subject to the following requirements:

- a) Fences, walls and gates shall not exceed six (6) feet in height as measured from grade.
 - b) Fences, walls and gates may be of open or closed construction.
 - c) The planning commission may allow fences, walls, and gates to exceed six (6) feet provided the following requirements are met:
 - i. The size, height and location of the fence, wall or gate does not in any way endanger the public safety.
 - ii. The size, location, height, design and materials of the fence, wall or gate are aesthetically in harmony with both the property on which it is located as well as surrounding properties.
 - iii. The proposed removal of vegetation and trees and disturbance to natural terrain has been minimized.
 - iv. Any fence or wall may be required to be landscaped. Screen plantings required as a condition of approval for any fence or wall shall be maintained in good condition by the property owner.
 - v. The size, height, design and location of the fence, wall or gate does not create a traffic or pedestrian hazard.
 - vi. The size, height, location and nature of the fence, wall or gate shall not discourage the development of adjacent land or impair the value thereof.
 - vii. The size, height, and location of the fence, wall or gate shall not interfere with the view of adjacent property owners.
3. Front and side yard fences, walls and gates, not including driveway gates addressed in Subsection 4 of Section 24-242. Front yard fences, walls and gates are prohibited in a front yard on property that faces the main entrance of the residence on the property. The planning commission may allow fences, walls and gates in other front yards, such as in a through lot, that do not face the main entrance of the residence on the property, or in a side yard subject to the following requirements:
- a) Fences, walls and gates with an open design shall not exceed four (4) feet in height.
 - b) Fences, walls and gates with a solid design may not exceed three (3) feet in height.
 - c) Fences, walls and gates located in front yard or side yards must be in keeping with the character of neighboring properties.

- d) All fences or walls in a front or side yard that are required by Appendix G of the Michigan Residential Code to surround a swimming pool, spa or hot tub shall be reviewed and approved by the planning commission.
 - e) The following conditions are met:
 - i. The size, height and location of the fence, wall or gate does not in any way endanger the public safety.
 - ii. The size, location, height, design and materials of the fence, wall or gate are aesthetically in harmony with both the property on which it is located as well as surrounding properties.
 - iii. The proposed removal of vegetation and trees and disturbance to natural terrain has been minimized.
 - iv. Any fence, wall or gate located in a front or side yard shall be required to be landscaped so as to sufficiently screen the fence, wall or gate from view from the road and adjacent properties. Screen plantings required as a condition of approval for any fence, wall or gate shall be maintained in good condition by the property owner and the fence, wall, or gate as well as areas on both sides of the fence, wall or gate shall be maintained in good condition by the property owner.
 - v. The size, height, design and location of the fence, wall or gate does not create a traffic or pedestrian hazard.
 - vi. The size, height, location and nature of the fence, wall or gate shall be such that it does not discourage the development of adjacent land or impair the value thereof.
 - vii. The size, height, and location of the fence, wall or gate shall not interfere with the view of adjacent property owners.
 - f) Exceptions: Planning Commission approval is not required for a side yard fence, wall, gate, or column as follows:
 - i. Walls, fences or gates of a solid design required to screen generators or air conditioners in compliance with Section 24-229 of the Zoning Ordinance.
4. Driveway gates. The City of Bloomfield Hills Master Plan provides that visibly gated driveways (security gates) can alter the feel of a residential street and therefore, such gated driveways should be generally avoided. The planning commission may allow driveway gates in front yards adjacent to: Long Lake Road, Quarton Road, and Lahser Road right-of-ways subject to the following requirements:
- a) Driveway gates located in a front yard must be of an open design and shall not exceed four (4) feet in height. The minimum unobstructed opening distance between columns

located at a driveway entrance shall be sixteen (16) feet. All driveway gates located at and/or across a driveway entrance shall either be black or a dark metallic color with a matte finish and shall not exceed twenty (20) feet in length.

- b) The driveway gate shall be set back on the lot such that there shall be a sufficient area between a driveway gate located in the front yard and the road to allow vehicles to turn around so as not to obstruct traffic. No portion of the area to allow vehicles to turn around shall be located in the road right-of-way.
 - c) Any driveway gate restricting vehicular access to property shall be accessible using a public safety department-provided code in the event of an emergency. The city shall be held harmless for any damage caused to any driveway gate by city emergency vehicles, for any damage caused to any public safety vehicles and for any delays in responding to emergencies due to the existence of the driveway gate. The homeowner (applicant) shall sign an indemnification agreement agreeable to the city.
 - d) Security shall not be a primary concern the planning commission approving a driveway gate.
 - e) The size, height and location of the driveway gate does not in any way endanger the public safety.
 - f) The size, location, height, design and materials of the driveway gate are aesthetically in harmony with both the property on which it is located as well as surrounding properties.
 - g) The proposed removal of vegetation and trees and disturbance to natural terrain has been minimized.
 - h). The size, height, design and location of the driveway gate does not create a traffic or pedestrian hazard.
 - i). The size, height, location and nature of the driveway gate shall be such that it does not discourage the development of adjacent land or impair the value thereof.
 - j) The size, height, and location of the driveway gate shall not interfere with the view of adjacent property owners.
5. Decorative columns may be located in a front yard or side yard subject to the following requirements:
- a) Decorative columns shall have a maximum height of five (5) feet including decorative features.

- b) The minimum unobstructed opening distance between columns located at a driveway entrance shall be sixteen (16) feet.
- (c) *Prohibited fences, walls, gates, columns types.* The following are prohibited:
 - 1. Chain-link or cyclone fences, including any fence with bare lengths of wire stretched between metal poles, with the exception of dark green or black chain-link fences located in heavily wooded and/or vegetated areas that obscure the chain link fences from a public view, or chain link fences that are approved by the planning commission.
 - 2. Barbed or razor wire fences, including any fence with attached barbs, sharp points, or razors.
 - 3. Electric fences, including any fence containing an electric current or charge of electricity.
 - 4. Any fence, wall, gate or column located within a public or private road right-of-way or pathway easement except for a mailbox column.
- (d) *Fences, walls, gates, and columns requiring public notice.* Permit requests for all front and side yard fences, walls, and gates and rear yard fences, walls, and gates that exceed six (6) feet require notification pursuant to subsection 24-263(2). The notice of the public hearing, the provisions of subsection 24-263(2) notwithstanding, shall be sent to the owners of the property assessed within five hundred (500) feet of the boundary of such property.
- (e) *Requirements for nonconforming fences, walls, gates, and columns.* Replacement of existing legal nonconforming fences, walls, gates, and columns shall be subject to the requirements in this ordinance. Exceptions may be granted pursuant to item (i) (below) of this ordinance, or where the strict application of these requirements will result in a hardship for the property owner.
- (f) *Repairs.* Repair of short sections of legal nonconforming fences, walls, gates, or columns (repair of less than fifty (50) feet or repair of no greater than twenty-five (25) percent of total fence or wall length) will not require zoning approval if no other work is done on the same structure over a twelve-month period.
- (g) *Replacement.* The replacement of any nonconforming structure shall be prohibited if the city manager determines that a public safety hazard exists or that the structure encroaches in an easement or public right-of-way. Fences and walls as determined by the city manager to contribute to the historical character of the city may be allowed to be rebuilt.
- (h) *Violations.* Any fence, wall, gate or column constructed without a lawfully issued permit shall be in violation pursuant to section 24-7 of the City Code.
- (i) *Exceptions.* Exceptions may be granted for the replacement of existing nonconforming fences, walls, gates and columns referenced in subsections (e) and (g), subject to a noticed hearing and

upon the zoning board of appeals approval pursuant to subsection 24-278(2) making all of the following findings:

1. The height and design of the proposed fence, wall, gate or column are compatible with other such structures in the neighborhood;
2. The proposed removal of vegetation and trees and disturbance to natural terrain has been minimized; and
3. The proposed structure is otherwise in compliance with all regulations and policies set forth in the Bloomfield Hills City Code and the Bloomfield Hills Master Plan.

Any fence, wall, gate or column proposed to be located closer to the right-of-way (public or private) than required shall require a variance in accordance with the provisions of article VI, zoning board of appeals, section 24-279 of the zoning ordinance.

Section 2.

Subsection (2) Site and building design, of Section 24-237(C). – Design standards, of Article IV – General Provisions, of Chapter 24 of the Bloomfield Hills City Code, specifically the Bloomfield Hills Zoning Ordinance, Ordinance No. 188, as amended, is hereby amended to add a new item (o) to read as follows:

- (o) All new fences, walls, gates and columns to be located on properties in commercial, office or institutional zoning districts shall comply with the requirements of Section 24-242(c) unless reviewed and approved by the Planning Commission.

Section 3

Subsection (d) of Section 24-235 – Landscape Open Space of Article IV, General Provisions, of Chapter 24 of the Bloomfield Hills City Code, specifically the Bloomfield Hills Zoning Ordinance, Ordinance No. 188 as amended, is hereby amended to now read as follow:

- (d) For the purposes of computing the landscaped open space as required in Section 24-196, the following shall apply:
 - (1) Impervious surface areas intended solely for pedestrian walkways or plant holders or structures that have no purpose other than for decoration, such as, but not limited to, sculptures and pieces of art, shall be included as open space, provided that such areas shall not exceed thirty (30) percent of the total required landscaped open space. Impervious surface areas in this subsection (d) and in the definition of Landscaped Open Space contained in section 24-3 shall not include these areas that the City's consulting engineers determine are covered by pervious materials that are sufficiently porous to allow water and/or other liquids to pass through said surface areas.

- (2) Patios or terraces, including those portions of patios and terraces which can be used for pedestrian walkways, shall not be calculated as open space.
- (3) Tennis courts that are grass or clay may be included as open space.
- (4) Impervious surfaces adjacent to swimming pools and/or cabana areas shall not be calculated as open space.
- (5) Only those portions of planting islands within parking lots, and open space area at the perimeter of parking lots, which are located beyond the maximum vehicle overhang as permitted in Section 24-231(4) shall be included as landscaped open space. The minimum width of a planter island shall be four (4) feet, exclusive of the vehicle overhang area.
- (6) Necessary drives of a width not exceeding ten (10) feet and the length being the single most direct route between the road right of way and a garage bay area not exceeding twenty (20) feet in width and twenty (20) feet in depth may be included as open space. Any area of a drive exceeding those dimensions are not considered open space.

Section 4. Repealer.

Any and all Ordinances and resolutions heretofore adopted inconsistent herewith are hereby repealed to the extent that the provisions thereof are inconsistent with the provisions hereof.

Section 5. Severability.

If anyone (1) or more provisions of this Ordinance shall ever be held by any Court of competent jurisdiction to be invalid or unenforceable for any reason, the remaining provisions hereof shall nevertheless be continued in full force and effect, it being expressly recited and declared that such remaining provisions would have been enacted despite the invalidity of such provision or provisions so held to be invalid.

Section 6. 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 when they were commenced.

Section 7. Effective Date.

This Ordinance shall take effect immediately upon publication in the manner prescribed by the Bloomfield Hills City Charter.

Section 8. Adoption.

This Ordinance is hereby declared to have been adopted by the City Commission of the City of Bloomfield Hills at a meeting thereof duly called and held on the 14th day of January, 2020, and ordered to be given publication in the manner prescribed by the Charter of the City of Bloomfield Hills.

AYES:3 (Hosler, McClure, Baxter)

NAYES:1 (Buckley)

ABSENT: 1 (McCarthy)

ABSTENTIONS:

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

I, the undersigned, the duly qualified Clerk of the City of Bloomfield Hills, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete copy of Ordinance No. 441 adopted by the City Commission of the City of Bloomfield Hills on the 14th day of January, 2020 the original of which is in my office.

Amy Burton, City Clerk
City of Bloomfield Hills