

VILLAGE OF BELLEVUE
EATON COUNTY, MICHIGAN
ORDINANCE NO. 2014-005

PREAMBLE

AN ORDINANCE OF THE VILLAGE OF BELLEVUE, MICHIGAN, PROVIDING THAT ORDINANCE #2007-001, THE ZONING ORDINANCE OF THE VILLAGE OF BELLEVUE, MICHIGAN, BE AMENDED BY AMENDING ARTICLE 2 (“CONSTRUCTION OF TERMS AND DEFINITIONS”) BY ADDING, REVISING, AND REMOVING DEFINITIONS RELATING TO FENCES/WALLS AND SECTION 23.03 (“FENCES AND WALLS”) OF ARTICLE 23 (“GENERAL PROVISIONS”) BY REVISING THE REGULATIONS RELATING TO FENCES/WALLS; TO REPEAL ORDINANCES AND PORTIONS OF ORDINANCES INCONSISTENT WITH THIS ORDINANCE; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

The Village of Bellevue, Eaton County, Michigan, hereby ordains:

1. Article 2 (“Construction of Terms and Definitions”) is hereby amended by revising the definition of “Fence” as follows:

Fence / Wall: An accessory structure of narrow depth intended to enclose a space, to screen or block views to a space, to serve as a physical barrier, and/or to serve as a decorative landscape element. A fence is typically constructed of wood, materials made to look like wood, plastics or wrought iron. A wall is typically constructed of brick, stone, poured concrete, and/or other masonry materials.

2. Article 2 (“Construction of Terms and Definitions”) is hereby amended by inserting the phrase “Wall” and corresponding definition as follows:

Wall: See definition for “fence/wall”.

3. Article 2 (“Construction of Terms and Definitions”) is hereby amended by revising the definition of “Fence, Ornamental” as follows:

Fence or Wall, Ornamental: A fence of open construction that serves as a decorative landscape element. A fence or wall that exhibits a decorative aspect across the entire face of the fence or wall, through the use of multiple materials or other features that place an emphasis on the decorative character of the fence or wall rather than the functional aspect of the fence or wall to enclose or otherwise identify a space. An ornamental fence or wall may be of solid or open construction unless specified otherwise by this Ordinance. Examples of decorative fences and walls include, by example, picket fences, split rail fences, wrought iron fences, brick and/or stone walls, and combinations thereof. Unless expressly provided for elsewhere in this

Ordinance, “ornamental fence” shall not be construed to include wire-woven, mesh-like and other similar appearing fences, including those commonly referred to as cyclone and chain-link fences, and mesh-like fences commonly used to contain farm animals irrespective of the dimensions of the mesh comprising the fence.

4. Article 2 (“Construction of Terms and Definitions”) is hereby amended by inserting the phrase “Fence or Wall, Obscuring” and corresponding definition as follows:

Fence or Wall, Obscuring: A fence or wall characterized by primarily closed construction so as to permit no or only limited visibility from one side to another, and which is typically intended to provide privacy or otherwise screen from view the space contained behind or within. Examples of obscuring fences and walls include, by example, solid wood fence, solid brick wall, solid poured concrete wall, and other fences and walls of similar character.

5. Article 2 (“Construction of Terms and Definitions”) is hereby amended by deleting the phrase “Fence, Privacy” and corresponding definition.

6. Article 23 (“General Provisions”) is hereby amended by amending Section 23.03 (“Fences”) as follows:

Section 23.03 Fences and Walls

A. **General Provisions:** All fences and walls shall comply with the following standards.

1. **Approval Required:** No fence or wall shall be erected prior to the submittal of an application to the Zoning Administrator and the issuance of a certificate of zoning compliance. Such an application shall comply with the site plan or plot plan requirements of Article 22, as applicable, and shall clearly and accurately depict the location, height and construction details for the fence or wall. The Zoning Administrator shall approve a fence or wall application if it complies with the standards of this Section and all other provisions of this Zoning Ordinance, except that the Planning Commission shall be the approval body for uses requiring site plan approval.
2. **Finished Side:** The finished side of a fence or wall shall face the exterior of the property on which it is located, the finished side being that side on which structural, framing and similar less ornamental features are less visible.
3. **Sharp Objects/Electrification:** Fences and walls with barbs, spikes, nails, or other sharp or electrified devices shall be prohibited except where expressly authorized by the Planning Commission during site plan review proceedings, upon the finding of a practical need for such fencing and that such barbs, spikes, nails, or other sharp or electrified devices are a minimum of eight (8) feet above the ground below.
4. **Clear Vision:** No fence or wall shall be erected along or near a street in such a manner as to obstruct safe, free and clear vision of oncoming traffic or vehicles attempting to access such street or negotiate movement through an intersection.
5. **Gates:** No fence or wall shall include gates that open over an alley, public right-of-way or other public property.

6. Materials and Maintenance: Fences and walls shall be constructed of materials designed and intended for such purposes. In no case shall a fence or wall be constructed of tires, vehicle parts, rotting lumber, pallets, glare-producing materials, trash or any materials capable of providing habitat for pests or vermin. All fences and walls shall be maintained in good exterior and structural condition.
7. Vertical Support Heights: Vertical supports of a fence or wall, such as in the case of a post or column, may exceed the maximum specified fence and wall heights of this Section by no more than four (4) inches.
8. Height Increases: Where a use is subject to site plan approval by the Planning Commission, the Planning Commission may grant a maximum twenty-five percent (25%) increase in the specified maximum fence or wall heights of this Section, upon a finding that unique conditions are present that substantiate the need for an increased height. Such unique conditions may pertain to, by example, public safety concerns, special screening issues, or special operational aspects of the use of the lot.

B. Residential and Agricultural Districts: Fences and walls in the AG, RA, RB, and RC districts, and any other agricultural and residential districts, shall comply with the following:

1. Obscuring Fences and Walls:

- a. Side and Rear Yards: Obscuring fences and walls are permitted in side and rear yards, subject to the following standards:
 - (1) Minimum Setback: No setback is required except that in the case of a multiple family development and any non-residential use, where the Planning Commission determines tree or shrub plantings along the exterior side of the fence or wall are necessary during site plan review proceedings to mitigate impacts or otherwise enhance the character of the development, the Planning Commission may require a setback not to exceed fifteen (15) feet.
 - (2) Maximum Height: Six (6) feet.
- b. Front Yards: Obscuring fences and walls are prohibited in a front yard except as provided below:
 - (1) In the case of a corner lot, an obscuring fence or wall may be erected along one (1) of the front yards subject to the following limitations:
 - (a) Minimum Setback: The minimum setback from the front lot line of the yard in which the fence or wall is to be located shall be a minimum of ten (10) feet.
 - (b) Maximum Height: Six (6) feet.
 - (c) Yard Selection: The fence or wall shall not be erected in a front yard adjacent to a major street as defined in this Ordinance, unless both front yards are adjacent to a major street.
 - (d) Maximum Length: The fence or wall shall not extend along the front yard in which it is located, toward the other front yard, beyond the leading edge of the building's façade facing such other yard.
 - (2) In the case of a through-lot, an obscuring fence or wall may be erected within one (1) of the front yards subject to the following limitations:

- (a) **Minimum Setback:** The minimum setback from the respective front lot line shall be equal to the district's required minimum front yard setback for the principal building on the lot.
- (b) **Maximum Height:** Six (6) feet.
- (c) **Yard Selection:** The fence or wall shall not be erected in a front yard adjacent to a major street as defined in this Ordinance, unless both front yards are adjacent to a major street.

2. **Ornamental Fences and Walls:**

- a. **Side and Rear Yards:** Ornamental fences and walls, including wire-woven, chain-link, and other mesh-like fencing that is commonly used to contain farm animals, are permitted in side and rear yards subject to the following standards:
 - (1) **Minimum Setback:** No setback is required.
 - (2) **Maximum Height:** Six (6) feet.
- b. **Front Yards:** Ornamental fences and walls are permitted in a front yard, subject to the following standards:
 - (1) **Minimum Setback:** The minimum setback from the front lot line shall be two (2) feet. No setback is required from side and rear lot lines within a front yard.
 - (2) **Maximum Height:** Four (4) feet.
 - (3) **Materials and Design:** Ornamental fences and walls shall be of a minimum fifty percent (50%) open construction for all portions of such fence or wall in excess of three (3) feet in height. "Open construction" shall be construed to mean the allowance of visibility through the fence or wall, measured across any one (1) square foot of its vertical surface and as viewed perpendicularly to the fence or wall.

3. **Exemptions:** Fences and walls for the purpose of confining livestock in association with agriculture in the AG District are exempt from the provisions of this subsection (B).

C. **Commercial and Industrial Districts:** Fences and walls in BOS, CBD, GB, I-1 and I-2 District, and any other commercial and industrial districts, shall comply with the following:

1. **Obscuring Fences and Walls:**

- a. **Side and Rear Yards:** Obscuring fences and walls are prohibited in side and rear yards in the CBD. Obscuring fences and walls are permitted in side and rear yards in the BOS, GB, I-1 and I-2 Districts, and any other commercial and industrial districts, subject to the following standards:
 - (1) **Minimum Setback:** No setback is required except where the Planning Commission determines tree or shrub plantings along the exterior side of the fence or wall are determined necessary during site plan review proceedings to mitigate impacts or otherwise enhance the character of the development, in which case the setback shall be as determined necessary by the Planning Commission but not to exceed fifteen (15) feet.
 - (2) **Maximum Height:** Six (6) feet, except that a maximum height of ten (10) feet may be approved during site plan review proceedings upon the Planning Commission finding the proposed increased height is necessary due to the

nature of the particular use and such increased height shall not unreasonably impact adjacent properties.

- b. Front Yards: Obscuring fences and walls in front yards are prohibited in BOS, CBD, GB, and any other commercial districts. Obscuring fences and walls in front yards in I-1, I-2 and any other industrial districts, are prohibited except upon a finding by the Planning Commission during site plan review proceedings that the practical development and use of the site necessitates the use of such obscuring fence or wall in the front yard and that the proposed height, setback, design and construction materials shall be compatible with surrounding conditions. However, in no case shall such fence or wall exceed eight (8) feet in height and be less than forty (40) feet from the front lot line.

2. Ornamental Fences and Walls:

- a. Side and Rear Yards: Ornamental fences and walls, including wire-woven, chain-link, and other mesh-like fencing that is commonly used to contain farm animals, are permitted in side and rear yards subject to the following standards:
 - (1) Minimum Setback: No setback is required except where the Planning Commission determines tree or shrub plantings along the exterior side of the fence or wall are determined necessary during site plan review proceedings to mitigate impacts or otherwise enhance the character of the development, in which case the setback shall be as determined necessary by the Planning Commission but not to exceed ten (10) feet.
 - (2) Maximum Height: Six (6) feet, except that a maximum height of ten (10) feet may be approved during site plan review proceedings upon the Planning Commission finding the proposed increased height is necessary due to the nature of the particular use and such increased height shall not unreasonably impact adjacent properties.
- b. Front Yards: Ornamental fences and walls are permitted in a front yard, subject to the following standards:
 - (1) Minimum Setback: No setback is required except where the Planning Commission determines tree or shrub plantings along the exterior side of the fence or wall are necessary during site plan review proceedings to mitigate impacts or otherwise enhance the character of the development, in which case the setback shall be as determined necessary by the Planning Commission but not to exceed five (5) feet in the CBD District and fifteen (15) feet in all other Districts.
 - (2) Maximum Height: Four (4) feet, except that the Planning Commission may approve fence and wall heights of not greater than six (6) feet during site plan review proceedings, upon a finding that the additional height is in keeping with surrounding conditions, the fence is compatible in design, location and scale with adjacent developed lots, is compatible with site features on adjacent developed lots, and/or otherwise enhances the visual appearance of the site as viewed from adjacent lots and road corridors.
 - (3) Materials and Design: Any portion of a decorative fence or wall in excess of four (4) feet in height, as may be approved by the Planning Commission according to

subsection (2) above, shall be of a minimum fifty percent (50%) open construction. "Open construction" shall be construed to mean the allowance of visibility through the fence or wall, measured across any one (1) square foot of its vertical surface and as viewed perpendicularly to the fence or wall.

7. **Severability.** If any clause, sentence, paragraph, or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

8. **Repeal.** All ordinances and resolutions, or parts of ordinances and resolutions, of the Village of Bellevue inconsistent herewith are hereby repealed so far as they may be inconsistent with the provisions of this Ordinance.

9. **Effective Date.** This Ordinance shall take effect following the date of its publication.

Denise Poyer, President
Village of Bellevue

I, Travis Brininstool, Clerk of the Village of Bellevue, hereby certify that the foregoing is a true copy of the original of Ordinance No. 2014-005, enacted by the Village Council of the Village of Bellevue at a regular meeting on Tuesday, May 27, 2014.

Travis Brininstool, Clerk
Village of Bellevue