

ORDINANCE 18-04
TO AMEND TITLE 20 (UNIFIED DEVELOPMENT ORDINANCE)
OF THE BLOOMINGTON MUNICIPAL CODE (BMC)
- Re: Amending Fencing and Wall Standards and Some Related Definitions
Set Forth in BMC 20.05.046(d) and BMC 20.11.020

- WHEREAS, the Unified Development Ordinance (“UDO”) regulates development and architectural standards within the City of Bloomington; and
- WHEREAS, the UDO contains regulations related to fence heights; and
- WHEREAS, as written, lots with two or more street frontages are considered to have at least two front yards; and
- WHEREAS, property owners with corner lots are prohibited from building fencing exceeding 4 feet in height along any of the street-facing frontages; and
- WHEREAS, said regulation was primarily written to prevent tall privacy fences from being placed adjacent to sidewalks negatively impacting the pedestrian experience and to prohibit tall fences from blocking views to front doors and enhancing the public realm along street-facing frontages; and
- WHEREAS, this is a common variance request as well as a common enforcement issue that the Planning and Transportation Department (“Department”) faces; and
- WHEREAS, the Department proposes to amend the UDO fence rules related to corner lots to distinguish between the primary front, where the main entrance of a building is, and the secondary front, the non-addressed side which functions as a side yard, but is still along a public street; and
- WHEREAS, the Plan Commission considered this case, ZO-46-17, on February 5, 2018 and made a positive recommendation in favor of the amendment to the UDO, as described herein.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. Section 20.05.046(d), entitled “Fence and Wall Standards, General: Maximum Height,” shall be deleted and replaced with the following:

20.05.046(d) Fence and Wall Standards, General: Maximum Height

(d) Maximum Height:

- (1) Interior Lots
 - (A) Behind the front building wall of the primary structure, fences and walls shall not exceed a combined height of eight (8) feet.
 - (B) Forward of the front building wall of the primary structure, fences and walls shall not exceed four (4) feet in height.
- (2) Corner Lots: On corner lots where the structure has two front building walls, one frontage shall be considered a secondary front building wall.
 - (A) Fences and walls forward of the front building wall shall abide by 20.05.046(d) (1).
 - (B) Fences and walls along the lot frontage of the secondary front building wall, shall not exceed four (4) feet forward of the build to line or the building setback line, whichever applies.
 - (C) Behind the build to line or front building setback line, on the secondary front building wall, fences and walls shall not exceed eight (8) feet in height.
 - (D) The portion of fences up to and between the build to line/building setback line and the secondary front building wall which exceed five (5) feet in height, shall, by use of voids and solids via latticework or other similar techniques, be of open construction. This portion of the fence shall be constructed of materials widely accepted in the fence industry for permanent open-topped fencing.

- (E) Any determinations as to the secondary front building wall shall be decided by the Planning and Transportation Director.
- (3) Through Lots: On through lots where the structure has two front building walls, one frontage shall be considered a secondary front building wall.
- (A) Fences and walls forward of the front building wall shall abide by 20.05.046(d) (1).
- (B) Fences and walls greater than four (4) feet in height, along the lot frontage of the secondary front building wall, when adjacent to a neighborhood street or secondary collector street, shall meet the building setback.
- (C) Fences and walls greater than four (4) feet in height, along the lot frontage of the secondary front building wall, when adjacent to a primary collector street or arterial street, shall be set back at least ten (10) feet from the property line.
- (D) The portion of fences up to and between the build to line/building setback line and the secondary front building wall which exceed five (5) feet in height, shall, by use of voids and solids via latticework or other similar techniques, be of open construction. This portion of the fence shall be constructed of materials widely accepted in the fence industry for permanent open-topped fencing.
- (4) Where no primary structure exists on the parcel, fences and walls shall not exceed four (4) feet in height.

SECTION 2. Section 20.11.020, entitled "Defined Words" shall be amended by deleting the definition of "Lot, Interior" and replacing it with the following:

Lot, Interior. "Lot, Interior" means any lot, the side property line of which abuts the real property line of one (1) or more lots, and which is not separated by a public street.

SECTION 3. Section 20.11.020, entitled "Defined Words" shall be amended to add the following new definition:

Secondary Front Building Wall. "Secondary Front Building Wall" means the non-addressed side of the building elevation which fronts a public street where access to a structure is available, but is not the primary entrance to the structure.

SECTION 4. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 5. This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, and in accordance with I.C. §36-7-4-607.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 20th day of April, 2018.

18th d.

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DOROTHY GRANGER, PRESIDENT
Bloomington Common Council

ATTEST:

N. Bolden

NICOLE BOLDEN, CLERK
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 13th day of July, 2018.

Stephen Lucas
~~NICOLE BOLDEN, CLERK~~ Stephen Lucas, Deputy Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 16th day of July, 2018.

John Hamilton
JOHN HAMILTON, MAYOR
City of Bloomington

SYNOPSIS

This ordinance amends the Unified Development Ordinance, Title 20 to change the fence height regulations for properties with more than one street frontage. The current regulation was added to the UDO in 2006 to prevent tall privacy fences adjacent to sidewalks and to prohibit tall fences from blocking views to front doors and enhancing the public realm along street-facing frontages. However, this is a common variance request and an enforcement dilemma for the Planning and Transportation Department (“Department”). Therefore, the Department proposes the changes to clarify said regulations.

Note: On March 21, 2018, the Council adopted the following amendment to this ordinance:

- *Am 01 – which changed (d)(2)(A) and (d)(3)(A) to clarify where fences that may not exceed four feet in height must be located¹; and*

Note: On April 18, 2018, after defeat of Am 02 on March 21, 2018, the Council adopted the following amendment to this ordinance:

- *Am 2a – which added (d)(2)(D) (and re-lettered the existing (d)(2)(D) accordingly) and added (d)(3)(D) to require the portion of fences located between the build to line/setback line and the secondary front building wall, which exceed 5-feet in height, be made of open construction and of materials widely accepted in the fence industry.*

Pursuant to IC §36-7-4-607(e), the ordinance as amended, must be returned to the Plan Commission with a statement of reasons for the amendments for its consideration before this ordinance may go into effect.

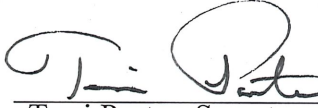
Distributed to: Mayor, Clerk, Council Administrator, Legal, Controller, Planning and Transportation

¹ On April 18, 2018 the Council to the steps necessary to amend Am 01 to correct a typographical error.

****ORDINANCE CERTIFICATION****

In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 18-04 is a true and complete copy of Plan Commission Case Number ZO-46-17 which was given a recommendation of approval by a vote of 8 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on February 5, 2018.

Date: February 8, 2018


 Terri Porter, Secretary
 Plan Commission

Received by the Common Council Office this 13th day of February, 2018.


 Nicole Bolden, City Clerk

Appropriation Ordinance # _____	Fiscal Impact Statement Ordinance # _____	Resolution # _____
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Type of Legislation:

Appropriation	End of Program	Penal Ordinance
Budget Transfer	New Program	Grant Approval
Salary Change	Bonding	Administrative Change
Zoning Change	Investments	Short-Term Borrowing
New Fees	Annexation	Other

If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

Planned Expenditure _____	Emergency _____
Unforeseen Need _____	Other _____

Funds Affected by Request:

Fund(s) Affected	_____	_____
Fund Balance as of January 1	\$ _____	\$ _____
Revenue to Date	\$ _____	\$ _____
Revenue Expected for Rest of year	\$ _____	\$ _____
Appropriations to Date	\$ _____	\$ _____
Unappropriated Balance	\$ _____	\$ _____
Effect of Proposed Legislation (+/-)	\$ _____	\$ _____
Projected Balance	\$ _____	\$ _____

Signature of Controller

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues?

Yes _____ No _____

If the legislation will not have a major fiscal impact, explain briefly the reason for your conclusion.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)