

**BATH CHARTER TOWNSHIP
CLINTON COUNTY, MICHIGAN
ZONING ORDINANCE AMENDMENT
ORDINANCE 31.70**

At a duly scheduled meeting of the Township Board of Bath Charter Township, Clinton County, Michigan, held at the Bath Charter Township Board Meeting Room on August 2, 2021, at 6:00 p.m., Township Board Member Trustee Almerigi moved to adopt the following ordinance, which motion was seconded by Township Board Member Trustee Fewins-Bliss:

An Ordinance to establish regulations related to landscaping, parking lot landscaping, and street trees for all new commercial, office, industrial, multi-family residential, and mixed-use developments within the township in order to reduce soil erosion, better manage stormwater, improve and preserve the look of the built environment, and promote the use of native plant species.

BATH CHARTER TOWNSHIP, CLINTON COUNTY, MICHIGAN, ORDAINS:

SECTION 1. Article XXV, “Interpretation, Severability, Vested Right, Repeal, Penalties, and Effective Date”, shall be renumbered to Article XXVI. All sections within Article XXV shall be appropriately renumbered to reference Article XXVI.

SECTION 2. Adoption of Article XXV, Landscape Ordinance: The Bath Charter Township Zoning Ordinance, Article XXV, Landscape Ordinance, shall read as follows:

Sec. 25.01. – Intent.

Landscaping, berms, and screening are necessary for the continued protection and enhancement of all land uses. Landscaping features are capable of enhancing the visual image of the township, preserving natural features, and alleviating the impact of noise, traffic, and visual distraction associated with certain uses. Screening is important to protect less-intensive uses from the noise, light, traffic, litter, and other impacts of more intensive, non-residential uses. Accordingly, these provisions are intended to set minimum standards for the design and use of landscaping, greenbelts, and screening, and for the protection and enhancement of the township’s environment. More specifically, the intent of these provisions is to:

- A. Improve the appearance of off-street parking areas, vehicular use areas, and property abutting public rights-of-way.
- B. Protect and preserve the appearance, character, and value of the neighborhoods which abut non-residential areas, parking areas, and other intensive use areas, thereby protecting the public health, safety, and welfare.
- C. Reduce soil erosion and depletion.
- D. Increase soil water retention, thereby helping to prevent flooding.
- E. Promote native plant species where appropriate.

Sec. 25.02. – Scope of Application.

These requirements shall apply to all uses which are developed, expanded, or changed, and to all lots, sites, and parcels which are developed or expanded upon following the effective date of this ordinance. No site plan shall be approved unless it shows landscaping consistent with the requirements of this section. Where landscaping is required, a building permit shall not be issued until the required landscape plan is submitted and approved, and a certificate of occupancy shall not be issued unless provisions set forth in this section have been met or a performance guarantee has been posted in accordance with the provisions set forth in this Article.

Exemptions:

1. *Rural Exemption.* All developments in the Rural (R) zoning district, with the exception of Planned Unit Developments (see Section 19.08), Performance Subdivisions (see Section 14.06), and other types of subdivisions, are exempt from the landscaping requirements contained herein.
2. *Agricultural Exemption.* Agricultural uses in all zoning districts are exempt from the landscaping requirements contained herein.
3. *Single-family Exemption.* Single-family homes built individually are exempt from the provisions of this ordinance. Landscaping for common open spaces and street trees on individual lots or along streets within a subdivision, site condominium, or other residential developments shall be installed by the developer at the time of initial infrastructure construction and shall be

maintained by said developer, their authorized agent, the homeowner, or a homeowner's association.

Sec. 25.03. – Minimum Requirements.

The requirements in this ordinance are the minimum required, and under no circumstances shall they preclude the developer and the Township from agreeing to more extensive landscaping.

Sec. 25.04. – Design Creativity.

Creativity in landscape design is encouraged. Accordingly, required trees and shrubs may be planted at uniform intervals, at random, or in groupings, depending on the designer's desired visual effect and, equally important, the intent of the Township to coordinate landscaping between adjoining properties. Generally, the most successful landscape design plans have involved clustering of trees and shrubs, rather than "formal" designs involving placement of trees and shrubs at uniform intervals.

Sec. 25.05. – Inclusion of Sidewalks.

The Planning Commission shall have the ability to require sidewalks for any project should they deem it appropriate. Sidewalks shall be installed along the interior edge of the tree lawn as defined within this ordinance.

Sec. 25.06. – Preservation of Existing Vegetation.

To the fullest extent reasonably possible, existing vegetation shall be preserved during and after the development process. The top priority for preservation shall be healthy trees that have reached maturity. Any trees on a site being developed that are not on the Approved Tree List shall be removed during the development process.

Sec. 25.07. - General Site Requirements.

All developed portions of the site shall conform to the following general landscaping standards:

1. All unpaved portions of the site shall be planted with grass, sod, groundcover, shrubbery, or other suitable live plant material, which shall extend to any abutting street pavement edge, back of curb, or

identified road shoulder. Grass areas shall be planted and grown as permanent lawns. Grass may be sodded, or seeded and mulched, and shall be protected from erosion by appropriate means until the grass is established.

2. All sites shall adhere to the minimum landscaping requirements as follows:
 - a. One (1) tree and one (1) shrub per three thousand (3,000) square feet of unpaved surface
 - b. Plus, one (1) tree per one thousand (1,000) square feet of paved surface.
 - c. For the purposes of calculating paved area, materials such as pervious pavements, brick pavers, and other pervious surfaces shall count as one-half of their covered area.
 - d. Trees required in this section are separate from those required by other sections within this ordinance.
 - e. The Planning Commission shall have the discretion to adjust these requirements for an individual project as they deem appropriate.
3. All plantings, with the exception of grasses used for groundcover, shall contain a minimum of seventy-five percent (75%) native species, as determined by generally accepted sources and approved by the Planning Commission or Zoning Administrator.
4. Except for grasses uses for groundcover, landscaping shall not consist of more than fifty percent (50%) of any one plant species.

Sec. 25.08. – Berms.

Where required, berms shall conform to the following standards:

1. *Dimensions.* Unless otherwise indicated or deemed appropriate, required berms shall be measured from the grade of the adjacent road right-of-way or parking lot adjacent to the berm (whichever is higher)

and shall be constructed with slopes no steeper than one-foot vertical for each three (3) feet horizontal (33% slope), with at least a two-foot flat area on top. Berms shall undulate both vertically and horizontally, and the landscape plan shall show the proposed contours of the berm, subject to review and approval of berm design as shown on the site plan.

2. *Protection from Erosion.* Any required berm shall be planted with grass, sod, ground cover, or other suitable live plant material to protect it from erosion so that it retains its height and shape. The use of railroad ties, cement blocks, and other types of construction materials to retain the shape and height of a berm shall be prohibited unless specifically reviewed and approved by the Planning Commission.
3. *Required Plantings.* A minimum of one (1) deciduous shade tree shall be planted for each thirty (30) lineal feet or portion thereof, plus, a minimum of one (1) ornamental tree shall be planted for each fifty (50) lineal feet or portion thereof of required berm, plus, evergreen trees or hedges that are at least eight (8) feet high as measured from the top of the root ball, which, upon being planted in two (2) rows with staggered offset planted fifteen-foot on center of both rows, will create a visual barrier for at least seventy-five percent (75%) of the berm length.
4. *Measurement of Berm Length.* For the purposes of calculating required plant material, berm length shall be measured along the exterior edge of the berm.

Sec. 25.09. – Parking Lot Landscaping and Design.

In addition to required screening, all off-street parking areas shall also adhere to the following landscaping and design requirements:

1. Parking lots shall be efficiently landscaped with trees and shrubs to reduce the visual impacts of headlights, glare, and parking lot lighting; to delineate driving lanes; and define rows of parking. Additionally, parking lots should be appropriately landscaped to provide shade in order to reduce the amount of reflected heat, break up or reduce contiguous areas of impervious pavement, and to improve the aesthetics of parking lots.

2. All off-street parking areas requiring ten (10) or more spaces shall additionally adhere to the following requirements:
 - a. One (1) planting island shall be provided for every ten (10) parking spaces. There shall be no more than ten (10) contiguous parking spaces in a row without a planting island.
 - b. The end of all parking rows shall be divided from driving lanes by planting islands.
 - c. In development containing residential uses, large parking areas shall be divided by planting strips into smaller parking areas of no more than forty (40) parking spaces.
 - d. In any developments not containing residential uses, large parking areas shall be divided into smaller parking areas of no more than sixty (60) parking spaces.
 - e. Planting islands shall be a minimum of six (6) feet wide with a length equivalent to the length of any adjacent parking spaces and planting strips. Two (2) shade trees shall be provided for each planting island, plus shrubs and/or groundcover to cover the entire area. Trees shall be planted no closer than ten (10) feet together. Planting islands shall be protected by curbing or bollards.
 - f. Planting strips shall be a minimum of six (6) feet wide and shall run the length of the parking row. Planting strips shall contain street-type shade trees at intervals of thirty (30) to forty (40) feet, plus shrubs and/or groundcover to cover the entire area. Planting strips shall be protected by curbing or bollards.
 - g. Vegetated swales may be substituted in place of planting islands or planting strips where appropriate. Vegetated swales must be divided from parking spaces and driving lanes by bollards, parking stops, or other appropriate means.
 - h. The placement of lighting structures shall be coordinated with the landscape plan to avoid a conflict with the effectiveness of light fixtures.

3. *Other Landscaping.* Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements
4. No landscaping shall be erected, established, or maintained on any parcel or in any parking lot which will obstruct the view of drivers. Accordingly, all landscaping shall comply with the provisions concerns unobstructed sight distance set forth in Section 25.11 herein. Furthermore, interior landscaping in parking lots shall not be permitted to obstruct cross-visibility between a height of thirty (30) inches and six (6) feet above the grade level of the parking lot.

Sec. 25.10. – Screening.

1. *General Screening Requirements.* Unless otherwise specified, whenever an evergreen or landscaped screen is required, evergreen screening shall consist of closely spaced plantings which can be reasonably expected to form a complete visual barrier that is at least eight (8) feet above the ground level within five (5) years of planting. Wherever screening is required adjacent to residentially zoned or used property, the screening must be installed prior to the beginning of site grading and general construction, except where such activity would result in damage to the screening.
2. *Screening of Utility Substation and Mechanical Equipment.* Mechanical equipment, such as air compressors, pool pump, transformers, air conditioning units, sprinkler pumps, satellite dish antennas, utility substations, and other similar equipment shall be screened by evergreens, shrubs, and/or decorative wooden fencing on at least three (3) sides. Insofar as practical, said screening shall exceed the vertical height of the equipment being screened by at least six (6) inches within two (2) years of planting. Specific screening requirements for utility substations will be determined on a case-by-case basis by the planning official depending on the particular character of the area where the substation is proposed to be located.

Sec. 25.11. – Unobstructed Sight Distance.

1. *Sight Distance Triangle.* The sight distance triangle is described as follows:
 - a. The area formed at the corner intersection of two (2) public right-of-way lines, or the intersection of a public right-of-way line and a

driveway, the two (2) sides of a triangle being twenty-five (25) feet in length measured along the right-of-way line and/or edge of the driveway, with the third line being a line connecting the two (2) sides.

2. No fence, wall, structure, or planting shall be erected, established, or maintained on any lot which will obstruct the view of drivers in vehicles approaching an intersection of two (2) or more sides.
3. Landscaping, except required grass or groundcover, shall not be located closer than three (3) feet from the edge of any driveway or road shoulder within the triangular area.

Sec. 25.12. – Snow Management.

1. Snow management areas are required for all properties requiring on-site parking. Snow management areas shall be clearly identified on all landscape plans provided as part of the site plan review process.
2. To the maximum extent practicable, snow management areas shall be located in:
 - a. Sunny areas to help speed up the snow melting process.
 - b. Revegetated areas to help with slowing the absorption of runoff, and to prevent ponding.
3. Drainage from snow management areas shall:
 - a. Divert snowmelt away from sidewalks, driveways, parking areas, and other impervious surfaces.
 - b. Divert snowmelt away from shaded areas to avoid freezing and ice hazards.
 - c. Protect waterways and adjacent properties by providing methods for filtering runoff before drainage leaves the site.
 - d. Minimize erosion.

Sec. 25.13. – Street Trees

1. All street trees shall be planted and maintained per the requirements of this section.
2. For the purposes of this section, the tree lawn shall be defined as an area from the edge of the public right-of-way, edge of the road shoulder, or back of the curb, toward the interior of the lot, measuring ten (10) feet in width, along any lot line with road frontage. For properties with existing sidewalks, the tree lawn shall be the area between the edge of the public right-of-way, edge of the road shoulder, or back of the curb, and the sidewalk along lot lines with road frontage.
3. General Street Tree Requirements
 - a. One (1) street tree shall be planted for each forty (40) feet of lot width (road frontage) or fraction thereof. Trees shall be distributed along the entire frontage of the property, although they need not be evenly spaced. Some clustering of street trees is appropriate if necessary to avoid conflict with buried utility lines.
 - b. Street trees shall be planted within the tree lawn as defined in this section and shall be no closer than four (4) feet to curbs, sidewalks, or the edge of the tree lawn.
 - c. Existing trees within the tree lawn may be used to fulfill the street tree requirements so long as they are of a species listed in the Street Tree section of the Approved Tree List.
4. Approved Tree Species.
 - a. Street trees are encouraged to be of a native species, but are not required to adhere to the seventy-five percent (75%) native species requirement. As such, street trees are not included in calculations of the native species requirement.
 - b. Street trees shall be selected from the Street Tree section of the Approved Tree List.
5. Placement Near Utilities.

- a. Street trees shall be planted so that they do not interfere with any underground water line, sewer line, electrical facilities, or other utility.

6. Required Maintenance and Protection.

- a. Maintenance of street trees shall be the responsibility of the owner(s) of the property on which the trees are located or parcels adjacent to the trees.
- b. Street trees shall not obstruct the light from any street lights or obstruct the view of any road signage.
- c. Street trees shall be maintained so as to provide a clear space of not less than ten (10) feet above the surface of any sidewalk and fourteen (14) feet above the surface of the road.
- d. Prior to commencement of any construction, demolition, alteration, or repair of any building or structure, the owner(s) of the property shall place or cause to be placed adequate guards and protection around all nearby street trees as will effectively prevent injury thereto.
- e. Should a street tree be removed for any reason, a replacement tree shall be planted within one (1) growing season. Request for an extension for replacing said tree may be granted by the planning official upon receipt of a written request from the property.

SECTION 3. Severability: The provisions of this Ordinance are declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

SECTION 4. Effective Date: This Ordinance shall take effect seven (7) days after publication of a notice of adoption of this Ordinance, unless referendum procedures are initiated under MCL 125.3402. If referendum procedures are initiated, this Ordinance will take effect in accordance with MCL 125.3402.

YEAS: Almerigi, Benzie, Fewins-Bliss, Howe, Rosekrans, Butler-Challender, Wiswasser

NAYS: None

ABSENT/ABSTAIN: None

ORDINANCE DECLARED ADOPTED.



Marie Howe, Bath Charter Township Supervisor

CERTIFICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Bath Charter Township Board at a duly scheduled and noticed meeting of that Township Board held on August 2, 2021, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the DeWitt-Bath Review newspaper, a newspaper that circulates within Bath Charter Township, on July 25, 2021.
3. Within one week after such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the Township board voting, and how each member voted.
4. I filed an attested copy of the above Ordinance with the Clinton County Clerk on August 16, 2021.

ATTESTED:



Brenda Butler-Challender, Bath Charter Township Clerk