

## Ordinance 2017.3.2

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FLATONIA, TEXAS, BY AMENDING CHAPTER 14, EXHIBIT A: ZONING ORDINANCE, ARTICLE I, ZONING REGULATIONS IN GENERAL, SECTION 7, DEFINITIONS, ADDING DEFINITIONS FOR "FENCE", AND "FENCE HEIGHT"; BY AMENDING ARTICLE IV, GENERAL PROHIBITIONS AND REQUIREMENTS, SECTION 3, HEIGHT, YARD AND AREA REQUIREMENTS, BY REPEALING AND REPLACING THE ENTIRE SECTION 3., HEIGHT, YARD AND AREA REQUIREMENTS INCLUDED HEREIN, WHICH ADDS CONTENT TO THE REVERSE CORNER LOT INCLUDING THE 30 DEGREE RULE AND A VISUAL DIAGRAM; BY AMENDING ARTICLE IV, GENERAL PROHIBITIONS AND REQUIREMENTS, SECTION 3, ACCESSORY STRUCTURE SETBACK REQUIREMENTS WITH CONTENT AMENDING REVERSE CORNER LOT REQUIREMENTS, AND A SUBSTANTIALLY UPDATED FENCES AND WALLS SECTION WITH EXPANDED GENERAL PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission of the City of Flatonia has advised and recommended to the City Council of the City of Flatonia that Chapter 14, Zoning Ordinance, requires amendment to the fencing section, to add definitions, to change fencing heights and clear vision areas along street corners as propounded by the citizens of Flatonia; and

**WHEREAS**, it is necessary to amend the Zoning Ordinance to give effect to the recommendation of the Planning and Zoning Commission regarding the changes desired by the citizens of Flatonia, which changes are for the benefit and welfare of the citizens of Flatonia; and

**WHEREAS**, the Planning and Zoning Commission conducted viewings within the City of Flatonia of existing properties showing current fencing restrictions with on-site viewing of the proposed fencing and clear vision changes to Chapter 14, Zoning Ordinance, proposed herein as required by the Code of Ordinances of the City of Flatonia, Texas.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FLATONIA, TEXAS:**

**Section 1.** That Ordinance 304, as amended, being the same as Chapter 14, Exhibit A: Zoning Ordinance, Article I, In General, Section 7, Definitions, be and it is hereby amended to add the following new definitions, to hereafter read as follows:

SECTION 7 DEFINITIONS

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**Fence:** A partition, wall, hedge, row(s) of continuous plantings, or gate erected as a dividing marker, visual or physical barrier, or enclosure.

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**Fence Height:** The distance from the adjacent finished grade to the highest projection of a fence structure, not including support posts, provided that the support posts are no more than four (4) inches above the fence structure.

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**Section 2.** That Ordinance 304, as amended, being the same as Chapter 14, Exhibit A: Zoning Ordinance, ARTICLE IV, GENERAL PROHIBITIONS AND REQUIREMENTS, SECTION 3, HEIGHT, YARD AND AREA REQUIREMENTS, be and it is hereby amended by repealing the entire ARTICLE IV, SECTION 3 and replacing it with the following to hereafter read as follows:

**ARTICLE IV.**

**SECTION 3. HEIGHT, YARD AND AREA REQUIREMENTS**

A. Height Requirement

Height limitations are established to ensure that buildings and structures shall not unnecessarily impact upon the privacy, views, or desirability of development of adjoining sites. Unless otherwise noted, the height limit for all buildings is 35 feet.

B. Height Exception

The height limits which may be enacted in this ordinance for the various districts shall not apply to church spires, belfries, cupolas, or domes not used for human habitation, nor to chimneys, ventilators, skylights, water tanks, parapet walls, cornices, or necessary mechanical appurtenances usually carried above the roof level, provided that such features are limited to that height necessary for their proper functioning.

C. Supplementary Yard Regulations

1. Side or Rear Yard at Abutting Districts.

Where a side lot line or rear lot line, or both, of a lot in a business or industrial district abuts upon the side or rear lot line of a lot in any residential or business district, the width of the side yard and depth of the rear yard shall be as follows:

| Side or Rear of Lot in: | Abuts Lot in: | Width of side yard in less restricted district | Depth of rear yard in less restricted district |
|-------------------------|---------------|--|--|
| Business                | Residential   | 20 feet  | 20 feet  |
| Industrial              | Residential   | 40 feet  | 40 feet  |
| Industrial              | Business      | 20 feet  | 20 feet  |

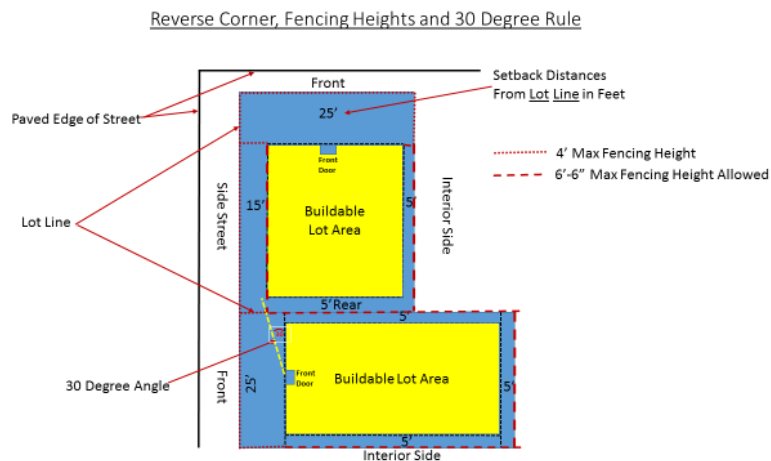
(Ordinance 304 adopted 12/21/00)

2. Reversed Corner Lot.

In any district, a reversed corner lot shall have provided on the intersection or side street of the corner lot, a desired side yard having a width equal to the depth of the front yard required for a structure on the lot to the rear of the corner lot. (Ordinance 371 adopted 9/14/04)

30 Degree Angle Rule: Upon the approval of the City Manager, the corner lot side yard width equal to the depth of the front yard on the lot to the rear of the corner lot may be reduced to a lesser side yard depth as a result of the intersection formed by the corner lot rear lot line and a 30 degree angle measured from the rear lot's flush point of the main street facing exterior wall at the front door (See 30 Degree Figure Below). The following apply:

- At no time will a corner lot side yard depth be less than 15 feet measured from the side yard lot line.
- The 30 Degree Rule does not apply to reverse corner lots if there is a City right of way (alley, utility easement) separating the two adjoining lots.
- Privacy fences not to exceed six feet and six inches (6'-6") may be erected on the lot lines out to the 30 Degree Rule intersection point establishing the corner lot side yard depth.



3. Projecting Architectural Features.

Every part of a required yard shall be open and unobstructed from the ground to the sky except for permitted accessory structures and for the ordinary projection of sills, belt courses, cornices, buttresses, eaves, and similar architectural features, provided that such projections shall not extend into any utility easement or extend more than two feet into any required front or rear yard. Open fire escapes may extend into any required yard not more than three and one-half feet. Architectural features shall adhere to a minimum of ten feet (10') of separation from any adjoining lot structure.

4. Accessory Structures.

- a. Side Yard and Rear Yard Requirements: All accessory structures in residential zoning districts shall be subject to the area and setback requirements in the following table.

**ACCESSORY STRUCTURE SETBACK REQUIREMENTS**

|  | Zoning District |       |       |
|--|-----------------|-------|-------|
|  | R-1             | R-2   | R-3   |
| Minimum Side Yard Setback  | 5 ft.           | 5 ft. | 5 ft. |
| Minimum Rear Yard Setback  | 5 ft.           | 5 ft. | 5 ft. |
| Maximum Width (% of Rear Lot Width)                                    | 30%             | 30%   | 30%   |
| Maximum Area (% of Rear Yard occupied within aforementioned setbacks.) | 25%             | 25%   | 25%   |

- b. Reversed Corner Lot: No accessory structure on a reversed corner lot shall be erected or altered nearer to the intersecting or side street line than the front building line to be observed by any structure on the lot to the rear of the corner lot.

If at the approval of the City Manger the Reversed Corner Lot has enacted the 30 Degree Rule for side yard depth, no accessory structure shall be erected or altered nearer the intersection formed by the corner lot rear lot line and a 30 degree angle measured from the rear lot's flush point of the main street facing exterior wall at the front door. Under the 30 Degree Rule, no accessory structure is allowed in a side yard nearer than 15' from the side yard lot line.

- c. Height Limit: The height of an accessory structure to a dwelling shall not exceed fourteen (14) feet or the height of the dwelling, whichever is less.

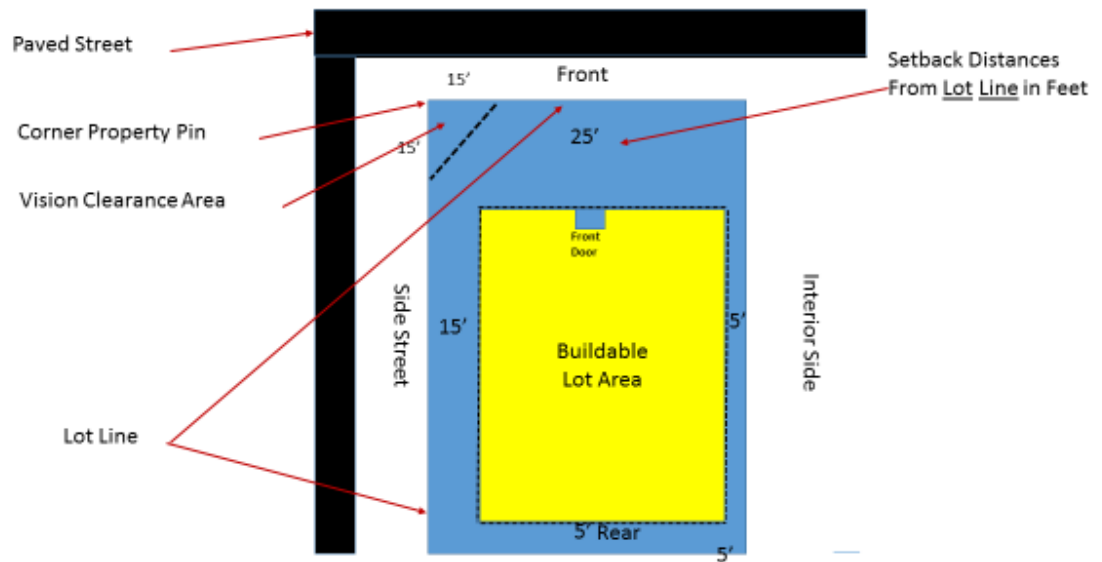
5. Fences and Walls.

- a. Permit Required. Except as otherwise provided herein, no person shall erect, alter or relocate any fence or wall within the City without first having been issued a permit therefor.
- b. Permit Fee. There is no charge for permits for fences that are six feet in height or lower, or for walls (excluding retaining walls) that are four feet in height or lower. A building permit application and related building permit fee shall be required for fences that exceed six feet in height and for walls that exceed four feet in height.
- c. Application Procedures.
  - (1) Agricultural, single family, and two family uses. Each application for a permit under this section shall be submitted to the Building Official on forms provided by the City. Each application shall include a site plan drawn to scale showing the location of the house(s), garage(s), and other improvements on the lot, all lot lines, and the location of the fencing or wall to be erected, altered or relocated.
  - (2) Uses other than agricultural, single family, or two family. Request for fencing or walls shall be processed as part of and according to the procedures of the site plan review.
- d. General Provisions. Except as otherwise provided herein, all fences and walls within the City shall be subject to the following general provisions:
  - (1) No fences or walls shall be placed on or extend into public rights-of-way except as determined necessary by the governing body or its agent(s).
  - (2) All fences (hedges and plantings excluded) and walls shall require a fence/wall permit under this Section, unless a separate building permit is required for the fence or wall, or unless the fence or wall does not require a building permit and is authorized on an approved site plan. Fence/wall permits may be issued by the Building Official or designee, if all requirements of this Chapter have been met.
  - (3) Both sides of any fence or wall shall be maintained in a condition of reasonable repair and appearance by its owner and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private.
  - (4) No physical damage of any kind shall occur to abutting property during installation unless it is allowed under agreement with the adjacent property owner.
  - (5) A survey may be required by the Building Official for all fences (except hedges and plantings) or walls to be constructed on or within six feet from the lot line, unless corner property stakes are in place and marked, or written authorization is received from both parties where neighbors are involved. Additionally, retaining walls shall not be placed within any drainage or ponding easement unless also reviewed and approved by the Building

Official.

- (6) A fence with a minimum height of three feet shall be required on the top of any retaining wall, and on the top of any tiered retaining wall that requires a building permit. The City Manager may grant exceptions to this provision if the retaining wall does not pose a public safety concern.
  - (7) Fences shall not be constructed from plywood, corrugated metal, branches, or materials originally intended for other purposes (such as agricultural, as in T-posts), UNLESS upon the illustration of a high degree of workmanship quality achieved through the use of such, prior approval is granted by the Building Official.
  - (8) No fences or walls shall be placed within a wetland or required wetland buffer, cross over a required rain garden, or extend below the ordinary high water level of a lake, stream, or water quality/detention pond.
  - (9) No fence or wall, other than the wall of a permitted structure shall be erected or altered in any front yard to exceed the height of four feet (4'). For purposes of this section, the front yard area shall be defined as the total area created when drawing a parallelogram that consist of perpendicular lines drawn from each side of the principal structure from its forward edge to the edge of lot lines defining the property. The maximum height of a privacy fence (side yard and/or rear yard fence) shall not exceed 6 feet 6 inches above the elevation of the principal structure's adjacent foundation.
  - (10) On City Manager approval, properties with rear or side yards that abut any railroad may be authorized privacy fencing heights not to exceed eight feet (8') along the railroad right-of-way only.
- e. Vision Clearance. On any corner lot on which a front yard is required by this ordinance, no wall, fence or other structure shall be erected in excess of three feet (3') in height, and no hedge, shrub, tree or other growth shall be maintained in excess of three feet (3') in height within the triangular area formed by the intersecting lot lines as measured from the existing corner property pin and a straight line connecting edge of lot lines at points 15 feet from the corner property pin measured along each lot line.

Reverse Corner, Fencing Heights and 30 Degree Rule



f. **Non-Conforming Fences.** It is the intent of this Ordinance to allow the continuation of such non-conforming fences until they are discontinued as provided herein. However, it is not the intent of this Chapter to encourage the survival of non-conforming fences and such fences that are declared to be incompatible with permitted fences within the City. Such fences shall be regulated by the following provisions:

- (1) An existing fence not allowed by this Ordinance in the district within which it is located, except when required by law or ordinance, shall not be enlarged, extended, reconstructed, or structurally altered unless such fence is changed to comply with the requirements of this Ordinance. Maintenance of a non-conforming fence will be allowed when this includes necessary repair and incidental alterations which do not expand or intensify the non-conforming fence.

6. Storage in Front and Side Yards.

There shall be no storage of vehicles (other than non-commercial off-street parking), or storage or display of any merchandise or materials of any kind in any front yard required by this ordinance in any district. There shall be no storage of vehicles or storage of any merchandise or materials of any kind in any side yard or rear yard required by this ordinance that abuts any residential district unless screened by privacy fencing from residential view.

**Section 3.** Ordinance 304, as amended, being the same as Chapter 14, Exhibit A: Zoning Ordinance, Code of Ordinances, City of Flatonia, Texas, shall, except as amended herein, remain in full force and effect.

**Section 4.** Any articles, sections or subsections of the Code of Ordinances, City of Flatonia, Texas, inconsistent with the provisions hereof are hereby expressly repealed.

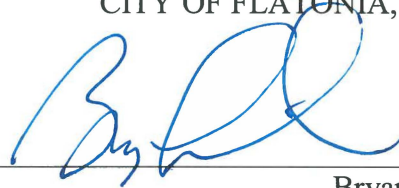
**Section 5.** If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions or sets of circumstances shall not be affected hereby, it being the intent of the City Council in adopting this Ordinance that no portion thereof or provisions or regulation contained herein shall become inoperative or fail by reason of an unconstitutionality and all provisions of this Ordinance are declared to be reasonable.

**Section 6.** This ordinance shall be effective upon the publication of the caption hereof in accordance with law.

**PASSED AND APPROVED** this the 14<sup>th</sup> day of March, 2017.

CITY OF FLATONIA, TEXAS

By: \_\_\_\_\_



Bryan Milson  
Mayor

ATTEST:



Melissa Brunner, TRMC, CMC  
City Secretary

APPROVED AS TO FORM:



Maria Angela Flores Beck  
City Attorney

