

### § 14-16-3-3 SUPPLEMENTARY HEIGHT, AREA, AND USE REGULATIONS.

The following regulations override conflicting regulations elsewhere in this Zoning Code.

#### (A) *Height Regulations.*

- (1) Height regulations in this Zoning Code do not apply to:
  - (a) Belfries.
  - (b) Church spires and towers.
  - (c) Flag poles.
  - (d) Flues.
  - (e) Monuments.
  - (f) Ornamental towers and spires.
  - (g) Religious signs as specified in § 14-16-3-5(D)(4) of this Zoning Code.
- (2) A height variance may be approved for the following structures even though there is only a minimal showing as to exceptional physical condition:
  - (a) Chimneys.
  - (b) Conveyors.
  - (c) Cooling towers.
  - (d) Cupolas and domes.
  - (e) Elevator housings.
  - (f) Mechanical equipment and its screening.
  - (g) Observation towers.
  - (h) Penthouses.
  - (i) Smoke enclosures.
  - (j) Smoke stacks.
  - (k) Solar Collectors
  - (l) Stage towers or scenery lofts.
  - (m) Tanks.
  - (n) Walls and fences which are normally allowed to be up to eight or ten feet high, measured from the lower side, but because of a retaining wall a variance is required to allow the wall or fence to be three feet high measured from the higher side.

- (o) Water Towers.
- (3) A setback variance may be approved for the following structures even though there is only a minimal showing as to exceptional physical condition:
  - (a) Solar collectors.
  - (b) Houses located on lots created when side-yard setback requirements were less severe and the lot's dimensions make it unreasonable to require the current side-yard setback requirements.
- (4) Walls, Fences, Retaining Walls. See § 14-16-3-19.
  - (a) Wall or fence height: A wall, fence, retaining wall, or vertical combination of these in a residential zone may be built within a required setback, provided:
    - 1. It does not exceed eight feet in height above the lowest grade on the lower side within the required side or rear yard or three feet in height above the lowest grade on the lower side within the required front yard.
    - 2. Where property is contiguous to non-residential property, it may be erected to a maximum height of ten feet above the lowest grade on the residential side except in the required front-yard setback.
    - 3. On a corner lot, the rear yard of which is contiguous to the front yard of a residentially-zoned lot, a wall, fence, retaining wall, or vertical combination of these may not exceed three feet in height above the lowest grade on the lower side within ten feet of the street side right-of-way line. However, where approved, a conditional use may approve a higher wall or fence.
    - 4. On a lot where the rear lot line abuts a public street right-of-way and the lot's rear yard is contiguous to the front yard of another residentially-zoned lot, a wall, fence, or vertical combination of these may not exceed three feet in height above the lowest grade on the lower side within 20 feet of the rear right-of-way line; however, this setback is reduced to 15 feet if 15 feet is the normal front-yard setback requirement in the residential zone contiguous to the rear lot.
  - (b) A wall, fence, retaining wall, or vertical combination of these in a non-residential zone is not limited as to height except:
    - 1. Within five feet of public street right-of-way, where they shall not exceed three feet in height above the lowest grade on the street side; and
    - 2. If a wall or fence plus retaining wall abutting a residential zone would have an effective height of over eight feet above the lowest grade on the residential side, the Planning Director shall decide the required height; such decision shall be made by the same process required for a conditional use.
  - (c) No wall, fence, or retaining wall shall be erected in the clear sight triangle unless its type and location is approved by the Traffic Engineer based on a finding that it would not be a traffic hazard.
- (5) Noncommercial antenna height may be up to but shall not exceed 65 feet in any residential zone.

- (6) Special height and use regulations near airports are contained in Chapter 14, Article 15, Airport Zoning.
- (7) Building Height Limitations to Preserve Solar Access. The additional height limitations of this division (A) shall apply to all residential zones where the basic height limitation is 26 feet. In any subdivision for which the preliminary or preliminary/final plat is submitted to the city after February 1, 1981, the height of any building shall comply with one of the following additional height limitations, either:
  - (a) The building height shall not exceed the following heights, determined by the distance cardinally south from the northern boundary of the lot as follows:

Lot Line (feet)	Height (feet)
0 - 5	10
5 - 10	11
10 - 15	14
15 - 20	17
20 - 25	20
25 - 30	23
30 - 35	25
35 or more	26

or alternatively:

- (b) The height shall not exceed a 31° angle plane (as further defined in division 3. below) drawn upward from a horizontal line located two feet above the mean grade at either:
  1. A line lying ten feet within the lot lying to the north and parallel to the general south side of the neighboring lot which is most nearly perpendicular to cardinal north, if the lot is vacant and no building permit for a structure has been applied for;
  2. The facade of the principal residential building on the lot lying to the north, which most nearly faces cardinal south if the lot has an existing building intended for permanent occupancy or a building permit for a structure has been issued; or
  3. The plane shall be made up of lines drawn cardinally south, 31° above horizontal, along all points identifying said southerly setback lines or building lines.
- (c) The Zoning Enforcement Officer shall waive all or part of the provisions of divisions (a) and (b) above if he finds that, pursuant to rules and regulations promulgated by the Mayor and so records in his files, beneficial and important solar access can be protected for a lot to the north through the height requirements of this division (A) due to:

1. The lot(s) to the north being exceptionally large or high, so that there are many good locations for solar collector relating to passive or active solar energy systems which will not be blocked by the proposed construction; or
  2. The development on the lot(s) to the north is already served by as much solar collector area as is likely to ever be needed and solar access to that collector surface will not be impaired by the proposed construction.
- (d) The Zoning Enforcement Officer shall waive the provisions of divisions (a) and (b) above if he finds that the owner or builder proposing the height limit waiver has demonstrated:
1. That there will clearly not be a principal building in the area within 35 feet to the north of the proposed building; or
  2. That any heated building which building is on separate lot, is built or is under construction to minimum energy efficient standards with a maximum average U value for the walls (U<sub>o wall</sub>) not to exceed .16 BTUs per hour per square foot degrees Fahrenheit and with a maximum average U value for the roof (U<sub>o roof</sub>) not to exceed .04 BTUs per hour per square foot per degrees Fahrenheit. The fact that the building adjacent to the north is connected to the proposed building does not change the regulations.

**(B) Area and Use Regulations.**

(1) Yards.

- (a) All parts of required yards or open spaces must be open to the sky, except as follows:
1. Accessory buildings.
  2. Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon smoke towers which may project as much as ten feet into the rear yard.
  3. Projections of skylights, sills, chimneys, belt courses, cornices, and ornamental features which may project as much as 24 inches into a required yard.
  4. Evaporative coolers which may project as much as 48 inches into the required rear or side yards.
- (b) Required yard or court area with any building or lot cannot be considered as providing a yard or court area for another building or lot.

(2) Accessory Structures.

- (a) Unless approved under a Site Development Plan, an accessory building on a lot, the principal use of which is a house or town house, shall not be located in the required front yard setback and shall not occupy over 25% of the side-plus-rear-yards. An accessory structure in any required yard shall not exceed either 18 feet in height, or any applicable height limitations imposed by division (A)(7) of this section, except if it is in a required side-yard setback on a corner, it shall not exceed the height of the fence allowed by (A)(4) of this section.

- (b) On a corner lot, the rear yard of which abuts the front yard of a residentially-zoned lot, an accessory building shall comply with the same side-yard setback on the street side as the principal building.
  - (c) An accessory structure which is not covered by division (b) above has no required setback from a lot line, except that an accessory structure used as a garage for off-street parking with access to an alley shall be set back a minimum of five feet from the alley.
  - (d) An accessory building that is 80 square feet in area or smaller and six feet in height, or smaller, must be at least five feet from another accessory building without living quarters on abutting lots and at least 10 feet from a dwelling or accessory living quarters on abutting lots.
  - (e) An accessory building that is larger in area or height than an accessory building as described in division (d) above must be at least five feet from any other accessory building without living quarters and at least 10 feet from any dwelling or accessory living quarters.
  - (f) No accessory building may extend across the width of the rear or side yard unless a passage of at least five feet is provided at some point along the width.
  - (g) An accessory building may be connected to the principal building with a roof, provided that at least two sides of the connecting structure are not enclosed with a material other than that necessary for roof supports. The roof shall be located at least as far from the side lot lines as is the principal building.
  - (h) Accessory swimming pools may occupy any part of the yard, provided they are not closer than five feet to a lot line or building and provided they are surrounded by a duly approved wall or fence at least six feet high. Alternatively, accessory swimming pools shall be surrounded by a barrier that complies with Section AG105 of the 2003 International Residential Code and shall be equipped with a powered safety cover that complies with ASTM F1346-91(2003), Standard Performance Standards for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs; each to be certified for compliance by a professional swimming pool contractor, registered architect or registered engineer in plan submittals for a swimming pool. (But note division (A)(4) of this section).
- (3) A use allowed in a zone shall not be carried on in a vehicle, including a trailer, unless such vehicle's use is specifically allowed in that zone. However, this does not limit vehicles' use for transportation and temporary storage.

('74 Code, § 7-14-40C; Am. Ord. 35-1995; Am. Ord. 29-2004; Am. Ord. 29-2005; Am. Ord. 44-2005)

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