

**CITY OF WHARTON  
ORDINANCE NO. 2025-10**

**AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 18, BUILDING AND CONSTRUCTION, ARTICLE III, BUILDING AND CONSTRUCTION, SECTIONS 18-77 & SECTIONS 18-78; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; PROVIDING FOR SEPARABILITY AND SETTING AN EFFECTIVE DATE.**

**BE IT ORDAINED** by the City Council of the City of Wharton, Texas:

**WHEREAS**, it is the desire of the City of Wharton Code of Ordinances to read as follows:

**ARTICLE III BUILDING AND CONSTRUCTION**

Sec. 18-77. – Definitions and Building line setback requirements.

(a) *Definitions:*

- (1) *Abut/abutting* shall mean to physically touch or border upon; or to share a common property line or border. This term implies a closer proximity than the term "adjacent."
- (2) *Accessory building* shall mean a building, the use of which is incidental to that of the principal building and which is located on the same lot. An accessory building is not an unattached residential vehicular garage that supports the use of the principal building.
- (3) *Adjacent* shall mean lying near or close to. (See "abut/abutting")
- (4) *Building/yard setback line* shall mean a line or lines within a property defining the minimum horizontal distance between a building/structure outermost projection and property line.
- (5) *Commercial* shall mean a building(s)/structure(s) where the occupation, employment or enterprise is carried on for profit generally located on a smaller site than industrial. (A business, non-residential).
- (6) *Duplex/two-family dwelling* shall mean a building containing two dwelling units designed to be occupied by two families living independently of each other.
- (7) *Dwelling* shall mean a building, or portion thereof, which is used exclusively for human habitation. An unattached residential vehicular garage is considered to be part of the dwelling.
- (8) *Exterior side building/yard setback line* shall mean a line or lines within a property defining the minimum horizontal distance between a building/structure outermost projection and an exterior property line. (See "setback measurements".)
- (9) *Front building/yard setback line* shall mean a line or lines within a property defining the minimum horizontal distance between a building/structure outermost projection and the property line facing a street right-of-way. The front of a building/structure is the primary access to it as originally intended by the builder/architect and inherent to the style and design of the building structure.

- (10) *Industrial* shall mean a building(s)/structure(s), which is used to engage in the basic processing and manufacturing of materials or products predominantly from extracted, or raw materials. Engaged in the manufacture, predominately from previously prepared materials of finished parts, including processing, fabrication, assembly, treatment, packaging, storage, sales and distribution of such products; or engaged in storage, wholesale and distribution of manufactured products, supplies and equipment. An industrial building(s)/structure(s) may generate high levels of noise, vibrations, smoke, dust, odors or light.
- (11) *Interior side building/yard setback line* shall mean a line or lines within a property defining the minimum horizontal distance between a building/structure outermost projection and the interior property line. (See "setback measurements".)
- (12) *Lot* shall mean a plot of land having frontage on at least one public street, which is or in the future may be offered for sale, conveyance, transfer or improvement.
- (13) *Multi-family residential* shall mean buildings designed to contain three or more complete separate living facilities for single-family occupancy. Multi-family dwellings shall include apartments and condominiums.
- (14) *Parcel* shall mean a contiguous area of land in the possession of or owned by, or recorded as the property of, the same person or persons. Parcels of land generally are large enough to be subdivided into lots.
- (15) *Principal building* shall mean the building in which the principal use of the lot, which it is located on, is conducted.
- (16) *Property line* shall mean the surveyed line(s) bounding the property to form a legal boundary.
- (17) *Rear building/yard setback line* shall mean a line or lines within a property defining the minimum horizontal distance between a building/structure outermost projection and the rear property line.
- (18) *Setback measurements* shall be measured from the outermost projection of the structure to the appropriate property line. An exterior side property line is one, which abuts or is adjacent to a street right-of-way. An interior side property line has no street frontage and is one which abuts another lot(s) or parcel(s) boundary. A rear property line is one which abuts another lot(s) or parcel(s), or a street right-of-way.
- (19) *Single-family residential* shall mean a building/structure containing one dwelling designed to be occupied primarily by one family and with the total of all habitable areas not to be less than 700 square feet excluding the garage.
- (20) *Sight visibility triangle* shall mean an area between a height of two (2) feet and eight (8) feet above an area at the intersection of two (2) streets, which shall include that portion of public right-of-way and any corner lot within the adjacent curb lines and a diagonal line intersecting such curb lines at points twenty (20) feet back from their intersection, to form a triangle; and shall also mean an area on each side of a driveway where private driveways open into public streets, which shall include that portion of public right-of-way and any portion of lot within the adjacent curb lines and a diagonal line intersecting at points fifteen (15) feet long, one (1) of which extends back along the adjacent curb and the other back toward the private property or street, to form a triangle.

(21) *Street* shall mean a public right-of-way, however designated, which provides vehicular circulation and access to adjacent property.

- a. A major thoroughfare means a principal traffic artery or trafficway, usually of more or less continuous routing over long distances, whose function is to serve as a principal connecting street with state and federal highways, and shall include each street designated as a major thoroughfare on the current major thoroughfare plan formally adopted and designated by the planning commission and city council. Minimum width of right-of-way shall be 100 feet.
- b. A collector street means a street whose function is to collect and distribute traffic between major thoroughfares and minor streets. It is not necessarily of continuous routing for long distances, has intersections at grades, provides direct access to abutting property, and shall include each street designated as a collector street on the thoroughfare plan formally adopted and designated by the planning commission and city council. Minimum width of right-of-way shall be 80 feet.
- c. A minor street means a street whose function is to provide access to abutting residential property within neighborhoods, with all intersections at grade, and not of continuous routing for any great distance so as to discourage heavy, through traffic. Minimum width of right-of-way shall be 60 feet.

(22) *Utility easement* shall mean an area for restricted use on private property upon which a public or private utility shall have the right to remove and keep removed; all or part of any permanent or portable building; obstructing fences without proper gate configuration to allow reasonable ingress or egress; trees, shrubs, or other improvements or growths which in any way endanger, tend to endanger, or significantly interfere with the construction or maintenance, or efficiency of its respective utility systems on any of these easements. The public utility shall at all times have the right of ingress and egress to, from, over, under and upon the said easement for the purposes of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of its respective systems without the necessity of procuring the permission of anyone. The ownership or title to the land encompassed by the easement is retained by the owner, while the dominant right to use the area is retained by the public or private and encumbered utility. Private owners may only make temporary and incidental use of the easement surface area in ways that do not interfere with the superior rights of the utility.

(23) *Variance* shall mean a deviation from the required norm that may be granted following certain procedures specified herein.

#### **Sec. 18-78. - Fence Requirements.**

##### **a) Fence Materials**

1. Fences shall be constructed of the following materials:
  - i. Wood;
  - ii. Wrought Iron;
  - iii. Chain-link;
  - iv. Brick or other approved material of equal quality.
2. Fences shall not be constructed of mixed materials. Uniform materials must be utilized for each run of the fence.

##### **b) Fence Screening:**

1. All new commercial uses located adjacent to a residential lot shall be properly screened by a privacy fence of not less than eight (8) feet in height.

c) Fence Location

1. Fences shall be located fully within the bounds of the property or on a shared property line with mutual agreement.
  - a. If not a shared common fence, the new fence shall be positioned to allow for maintenance.
2. Side and rear yard fencing shall have a maximum height of eight (8)-feet.
3. Front yard decorative fencing is permitted at a maximum height of four (4) feet setback of at least five (5) feet from the front property line.
4. In no case shall a fence be constructed in such a way that it would obstruct the required site visibility triangle as defined in Section 18-77.

d) Site Visibility Triangle Requirements

1. *Sight visibility triangle* shall mean an area between a height of two (2) feet and eight (8) feet above an area at the intersection of two (2) streets, which shall include that portion of public right-of-way and any corner lot within the adjacent curb lines and a diagonal line intersecting such curb lines at points twenty (20) feet back from their intersection, to form a triangle and;
2. Shall also mean an area on each side of a driveway where private driveways open into public streets, which shall include that portion of public right-of-way and any portion of lot within the adjacent curb lines and a diagonal line intersecting at points fifteen (15) feet long, one (1) of which extends back along the adjacent curb and the other back toward the private property or street, to form a triangle.
3. All newly constructed fences must comply with sight visibility triangle requirements.

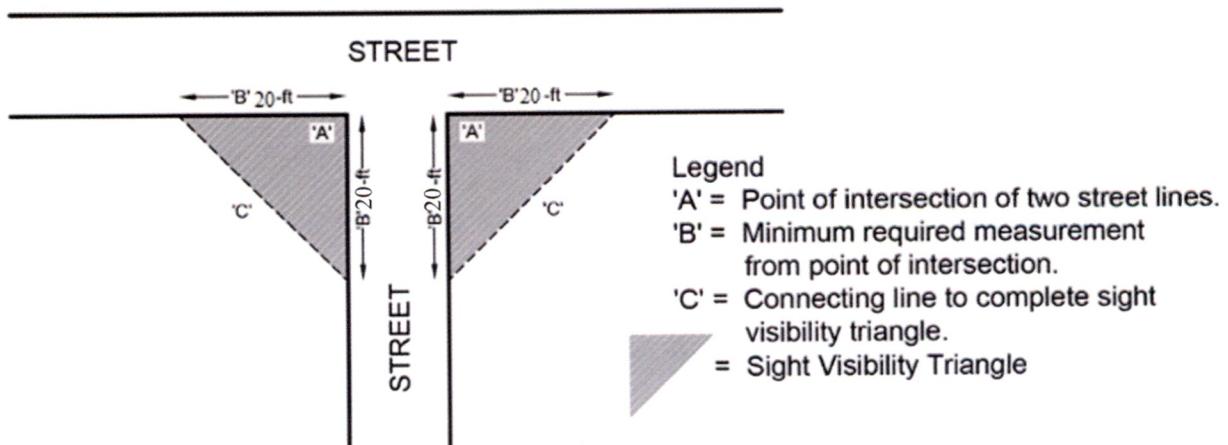


Figure 18-78. (c)1 - Sight visibility triangle at the intersection of two streets.

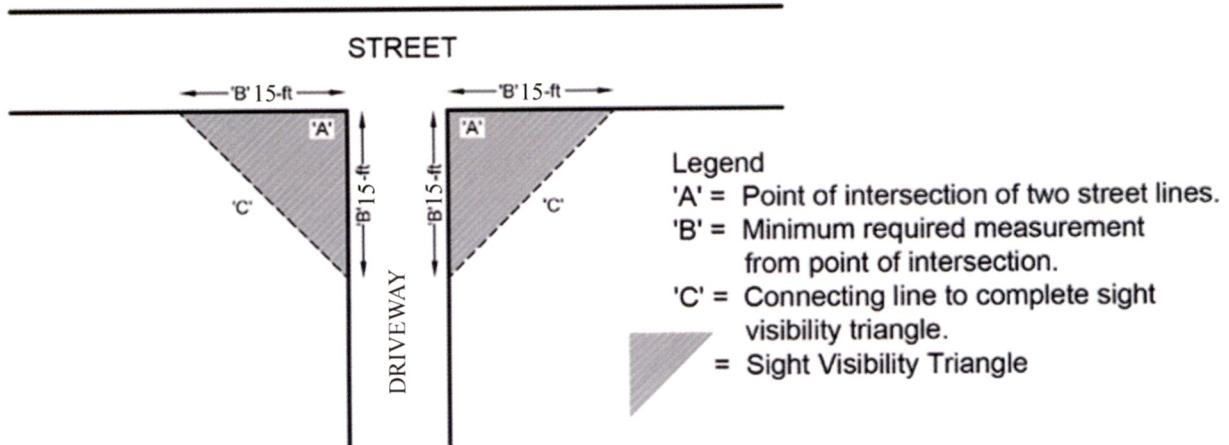


Figure 18-78. (c)2 - Sight visibility triangle at the intersection of a street or driveway.

e) Nonconformity

1. Fences constructed prior to the adoption of this section shall become legally nonconforming and shall be granted prior nonconforming status until such time that such fences are removed or destroyed due to casualty or other similar cause that is more than 50 percent of the fair market value as determined by the Building Official or their designee.
2. Ordinary repair and maintenance. Normal maintenance and repair of nonconforming fences can generally be performed without losing prior nonconforming status at the discretion of the Building Official or their designee.

f) Fence Maintenance Requirements.

1. All fences must be maintained and in working order in accordance with Section 18-78(a).

### Fine and Penalty for Violations

Any person violating any of the terms or provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$100.00 nor more than the maximum provided in sections 1-5 for each offense. If the terms or provisions of this article are violated by any corporation or firm, the officers and agents actively in charge of the business of such corporation or firm and the person actually performing the work for such corporation or firm shall be subject to the penalties provided in this section.

### Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

**Effective Date**

This Ordinance shall become effective on the 23rd day of May 2025.

**Passage and Approval**

**PASSED AND APPROVED** by the City Council of the City of Wharton, Texas, on the 12<sup>th</sup> day of May 2025.

**CITY OF WHARTON, TEXAS**

By: Tim Barker  
**TIM BARKER**  
Mayor

**ATTEST:**

Paula Favors  
**PAULA FAVORS**

City Secretary

**APPROVED AS TO FORM**

Paul Webb  
**PAUL WEBB**  
City Attorney

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