

**CORRECTED**

**ORDINANCE NO. 742**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEDWIG VILLAGE, TEXAS AMENDING ARTICLE V, ZONING REGULATIONS, SECTION 502, PERMITTED USES, AND ARTICLE V, ZONING REGULATIONS, SECTION 505, RESIDENTIAL DISTRICTS A AND C, OF THE HEDWIG VILLAGE PLANNING AND ZONING CODE RELATING TO NONCONFORMITY OF RESIDENTIAL PROPERTIES.**

**WHEREAS**, pursuant to Section 705 of the Hedwig Village Planning and Zoning Code, the City Council of the City of Hedwig Village, Texas and the Planning and Zoning Commission of the City of Hedwig Village, Texas have held a joint public hearing to consider possible amendments to the Hedwig Village Planning and Zoning Code; and

**WHEREAS**, pursuant to Section 710 of the Hedwig Village Planning and Zoning Code, the Planning and Zoning Commission of the City of Hedwig Village, Texas submitted its written recommendation to the City Council of the City of Hedwig Village, Texas concerning proposed amendments to Article V, Zoning Regulations, Section 502, Permitted Uses, and Article V, Zoning Regulations, Section 505, Residential Districts A and C, of the Hedwig Village Planning and Zoning Code; and

**WHEREAS**, pursuant to Sections 711 and 712 of the Hedwig Village Planning and Zoning Code, the City Council of the City of Hedwig Village, Texas, has considered the recommendation of the Planning and Zoning Commission, concerning the proposed amendments to the City's Planning and Zoning Code relating to nonconformity of residential properties; and

**WHEREAS**, the City Council of the City of Hedwig Village, Texas, has concluded that amendments should be made to Article V, Zoning Regulations, Section 502, Permitted Uses, and Article V, Zoning Regulations, Section 505 Residential Districts A and C, of the City's Planning and Zoning Code and that the proposed amendments are in compliance with the comprehensive plan of the City.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEDWIG VILLAGE, TEXAS THAT:**

**Section 1.** The Recitals set forth above are found to be true and correct and are adopted as the findings of fact of the City.

**Section 2.** Article V, Zoning Regulations, Section 502, Permitted Uses, of the Planning and Zoning Code of the City of Hedwig Village, Texas is amended to read as set out in Appendix A, attached hereto and Article V, Zoning Regulations, Section 505, Residential Districts A and C, of the Planning and Zoning Code of the City of Hedwig Village, Texas is amended to read as set out in Appendix B, attached hereto. All other

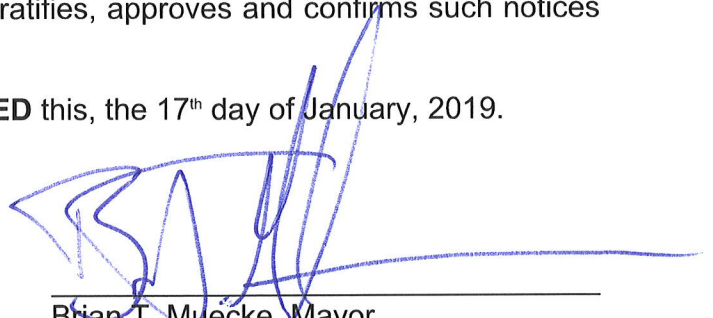
portions of the Planning and Zoning Code not specifically amended hereby remain in full force and effect.

**Section 3.** All ordinances and parts of ordinances in conflict with this Ordinance are repealed to the extent of the conflict only.

**Section 4.** If any word, phrase, clause, sentence, paragraph, section or other part of this Ordinance or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, neither the remainder of this Ordinance, nor the application of such word, phrase, clause, sentence, paragraph, section or other part of this Ordinance to any other persons or circumstances, shall be affected thereby.

**Section 5.** The City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this Ordinance was discussed, considered or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

**PASSED, APPROVED and ADOPTED** this, the 17<sup>th</sup> day of January, 2019.



\_\_\_\_\_  
Brian T. Muecke, Mayor  
City of Hedwig Village, Texas

**ATTEST:**



\_\_\_\_\_  
Kelly Johnson, City Secretary  
City of Hedwig Village, Texas

## Appendix A

### Appendix A – PLANNING AND ZONING CODE

#### Article V. – ZONING REGULATIONS

##### Section 502. Permitted Uses

502. - Permitted uses.

- A. *Business districts.* No structure or land in a business district of the City of Hedwig Village shall hereafter be constructed, built, erected, moved, altered, remodeled by expanding the size thereof, reconstructed, used, or occupied except in accordance with the requirements of the zoning district and of this code in which the structure is located. However, a structure, use, or lot lawfully existing or permitted at the date of adoption of this zoning code may continue to be occupied as a nonconforming use under the provisions and requirements of this code.
- B. *Residential districts.* No structure or land in a residential district of the City of Hedwig Village shall hereafter be constructed, built, erected, moved, altered, remodeled by expanding the size thereof, reconstructed, used, or occupied except in accordance with the requirements of the zoning district and of this code in which the structure is located. However, a land use or structure lawfully permitted shall be allowed to be occupied, altered, remodeled or expanded given the proposed construction reduces or does not increase any existing nonconformity that is prohibited under Section 505.D, Section 505.E and Section 505.F. Such allowance is subject to approval of the building official, whose discretion shall be guided by the following considerations:
  - (1) The extent of any existing nonconformity;
  - (2) The relation of any existing nonconformity to the potential allowance; and
  - (3) The feasibility and relative benefit to the neighborhood of the reduction or termination of any existing nonconformity.

## Appendix B

### Appendix A – PLANNING AND ZONING CODE

#### Article V. – ZONING REGULATIONS

##### Section 505. Residential districts A and C

505. - Residential districts A and C.

A. *Use regulations.* In residential districts A and C, no building, structure, land or premises shall be used, and no building or structure shall hereafter be erected, moved, constructed or altered except for one or more of the following uses:

- (1) One single-family dwelling.
- (2) Temporary buildings and materials for uses incidental to construction work on the premises. These temporary buildings and materials shall be allowed on the premises for a period not to exceed six months beginning with the issuance of a construction permit; provided, however, the building official may grant extensions for additional successive periods of not more than three months each if it is shown that, due to the nature and extent of the construction activity, such extension is necessary to accomplish completion of the project and the construction has proceeded with due diligence. In all events, these temporary buildings and materials shall be removed upon completion or abandonment of construction work.
- (3) Accessory uses and buildings, including a private garage and servant's quarters, and such as is customarily incidental to any permitted use when located on the same premises, but such accessory building shall not involve the conduct of a business, trade or profession on the premises.

B. *Limitations.* The following limitations and restrictions shall apply to all of the above permitted uses:

1. *Garages.* No garage attached to the main building and which faces or opens toward any street shall be any closer to the street than the front of the house, and no garage or out building may be used as a residence or living quarters, except by persons employed on the premises, or except during the construction period of the main residence, and then only for a period not to exceed six months.
2. *Parking.* Off-street paved parking area shall be provided on the premises for all vehicles owned or used by the occupants of the dwelling. Parking of vehicles in the front yard and in a side yard which adjoins a street on any lot in any residential district shall be confined to such off-street paved parking areas.
3. *Swimming pools.* All swimming pools shall be enclosed by a structural fence to prevent entrance from without except by means of a self-closing and self-latching gate and shall be obscured from view from any public street. Backwash water shall be piped to the sanitary sewer.

Notwithstanding other provisions of this code, the water edge of swimming pools may not be located closer than three feet from a rear or side ground utility easement or closer than five feet from a rear or side property line, whichever is greater. Both aboveground and belowground swimming pools are deemed to be structures for the purposes of all parts of this code.

4. *Recreational vehicles.* No vehicle which is or which customarily is equipped with living or sleeping facilities, whether self-propelled or designed to be used as a trailer or for use otherwise in conjunction with any vehicle, whether occupied or not, shall be kept in a front yard for a period longer than a total of 48 hours during any consecutive eight-day period, except where such vehicle or trailer is for use incidental to construction as provided under subsection 505.A.(2).
5. *Watercraft.* No boat, houseboat, canoe, raft, surfboard, or other apparatus designed for use on water, including trailers therefor, and no motor or engine designed to propel such craft or

- apparatus, shall be kept in a front yard for a period totaling more than 48 hours during any consecutive eight-day period.
6. *Trucks.* No truck in excess of one-ton capacity nor any vehicle designed to transport more than 12 persons shall be parked within district A or C except for loading and unloading, but in no event shall such parking exceed a total period of 48 hours during any consecutive eight-day period.
  7. *Other property.* No property not incidental to a permitted use in residential districts A and C, and no utility trailer shall be kept in a front yard for a period longer than a total of 48 hours during any consecutive eight-day period.
  8. *Places of public assembly.* Places of assembly which were permitted prior to 1955 shall provide off-street parking area or areas on the premises of sufficient size to accommodate one parking space for each two seats in the place of assembly. Each parking space shall constitute an area of not less than 175 square feet. Adequate driveways and space for traffic movement, together with unblocked space for access by emergency vehicles, shall be provided on the site. Parking spaces, areas, driveways, and emergency lanes shall be marked and all of these shall be maintained. Parking spaces, areas, driveways, and emergency lanes shall be constructed to meet requirements for secondary streets as prescribed in Ordinance No. 52, section 2(e)(3), enacted March 29, 1961. Such off-street parking area or areas shall have sufficient grades and surface and/or underground drains with adequate sized drain pipe and number of clean-out facilities.
  9. *Business.* No business shall be conducted in residential districts A or C.
  10. *Fences.*
    - (a) Unless Otherwise allowed by this subsection B.10, no fence shall be more than eight (8) feet in height measured from the elevation grade at the fence line; nor shall the fence extend five (5) feet back from the property build line.
    - (b) Fencing materials:
      - (1) Finished masonry (not exposed CMU), stained or natural wood, wrought iron painted black fencing materials or combination thereof shall be used for fences, walls, or gates. Chain link fencing is not permitted. Synthetic materials may be used as approved by the Building Official.
      - (2) Vine-covered walls shall be allowed.
      - (3) No barbed or razor wire shall be used or maintained as part of any fence, wall, gate or hedge. No sharp point, including glass, shall project from the top of the fence or wall.
      - (4) No salvaged materials, scrap wood, or recycled materials shall be used for fencing or walls. Fencing and walls shall be constructed with all new materials.
      - (5) Existing legal nonconforming fences or walls shall be maintained or repaired.
      - (6) All swinging gates shall be prohibited from encroaching into the public right-of-way.
      - (7) No vinyl or plastic slats may be used as a screening material for residential fence.
    - (c) For the purposes of this subsection B.10, contiguous lots held under common ownership shall be considered as one lot for the purpose of establishing required yards. No fence shall be erected on a vacant lot unless such vacant lot is contiguous to a lot or lots containing the residence of the owner of the vacant lot or lots.
    - (d) This subsection B.10 does not apply to construction related fencing.
  11. *Front of dwelling.* The front of a dwelling existing at the time this code is enacted shall be the front of any subsequent dwelling constructed on that lot.
  12. *Aircraft.* Property in residential district A or C shall not be used for the takeoff, landing, parking or storage of helicopters, balloons or other aircraft of any sort. This prohibition shall not apply to the landing and takeoff of emergency or law enforcement helicopters while in the performance of official duties.

13. *Antennas.* Dish-type satellite receiving or transmitting antennas shall not be located in a front or side yard, and the highest point on any such antenna shall not be more than 12 feet above ground level.
  14. *Accessory buildings.* No accessory building shall be located in a front yard.
  15. *Windows above second stories.* No building or structure in residential district A or C shall have placed or constructed thereon any window above a second story unless such window faces the street to which such building or structure faces.
  16. *[Floor area above second stories.]* No building or structure in residential district A or C shall contain more than 500 square feet of habitable floor area above the second story.
- C. *Required lot area and width.* Unless otherwise provided for on a subdivision plat duly approved by the City of Hedwig Village prior to the date of enactment of this code, the following minimum lot areas and widths shall apply:
- (1) A lot shall have an area of not less than 21,000 square feet in residential district A and not less than 15,000 square feet in residential district C, exclusive of public or private roads or either of them.
  - (2) The average width of a lot shall be not less than 110 feet, with a minimum of 90 feet at the front building line.
- D. *[Ground coverage and lot area covered by impermeable surfaces limitations.]* The total ground coverage of all buildings on a lot shall not exceed 25 percent of the lot area. Furthermore, not more than a total of 40 percent of the lot area shall be covered by all buildings, driveways, sidewalks, patios, pool decks or other surfaces which are impermeable to water; provided, however, that the surface area of water in outdoor swimming pools shall not be considered a surface which is impermeable to water.
- E. *Yard required.*
1. *General.* No building or accessory structure shall be constructed or erected within any required yard unless otherwise specifically authorized herein.
  2. *Front yard.* The front yard depth shall be not less than 70 feet at any point from the center line of the public street or street access easement which established the front property line.
  3. *Side yard.* There shall be two side yards, each side yard having a minimum width of 15 feet.
  4. *Rear yard.* The rear yard shall be not less than 25 feet; provided, however, accessory structures may be constructed or erected within a required rear yard provided such accessory structure is located not less than 15 feet from any property line.
- F. *Building height limit.* No building, structure, or device in residential district A or C including anything attached thereto or anything constructed for use in conjunction therewith, shall exceed 35 feet in height above the average mean ground level prior to construction. This limitation shall not apply to chimneys, which may exceed such maximum height by five feet. Notwithstanding the foregoing height limitation, no building or structure in residential district A or C shall exceed in height an imaginary line that is 63.5 degrees, with the horizontal, at the outer edge of the yard upon which such building or structure is located.
- G. *Other structures.* Notwithstanding other provisions of this code, underground structures not visible at or above grade, other than swimming pools, may be built up to a property line, except that in no event shall they be closer than 30 feet to the centerline of any street.
- H. *Exceptions to Sections 505.C and 505.E.*
- (1) Exception for deed restrictions on lots platted prior to July 13, 1955.  
 Upon application for a building permit for construction on only one lot lying within a subdivision for which a plat was recorded with the County Clerk of Harris County, Texas, prior to July 13, 1955, and a showing by the applicant that such construction complies fully with the terms of

currently valid deed restrictions on such lot, the limits on required lot area (Section 505.C) and yards and required yard depth (Section 505.E) shall not apply to such construction insofar as such limits are otherwise specified in such deed restrictions. If such deed restrictions have been changed subsequent to the enactment of this zoning code, then deed restrictions in effect on the date of enactment of this zoning code shall be those with which compliance must be shown by the applicant. Such lot and structures thereon shall be deemed to be permitted nonconforming uses. Nothing herein shall be construed as obligating or permitting the City of Hedwig Village to enforce or otherwise protect deed restrictions on any property to any degree or extent.

- (2) Exception to side and rear yard requirements for additions to existing primary structures constructed before January 1, 1980.

Upon application for a building permit for a structure to be added to an existing structure, the yards required will be no less than ten feet wide in the side yard and no less than 15 feet deep in the rear yard. A building permit shall be granted by the building official upon a showing that:

- (a) The structure represents an addition to a portion of an existing primary structure constructed before January 1, 1980;
  - (b) The additional structure will not result in a violation of any coverage restrictions(s) for the lot;
  - (c) The additional structure will not result in a violation of the building height limit; and
  - (d) The additional structure conforms to all federal, state and local codes, ordinances and conditions.
- (3) Exception for new construction for the purpose of connection of an accessory building to a primary structure, the yards required will be no less than ten feet wide in the side yard and no less than 15 feet deep in the rear yard. A permit shall be granted by the building official upon a showing that:

- (a) The connection is the result of the attachment of an accessory building constructed prior to March 31, 2004, to a primary structure constructed prior to January 1, 1980 and, except as permitted in subsection (3)(b) below, does not result in any new construction in the side or rear yard area;
  - (b) The connection consists only of an existing structure or an extension of such structure along its existing building line;
  - (c) The connection will not result in a violation of any coverage restriction(s) for the lot;
  - (d) The connection will not result in a violation of the building height limit; and
  - (e) The connection structure conforms to all federal, state and local codes, ordinances and conditions.
- (4) Exception for the alteration or addition to a nonconforming primary structure that was constructed prior to January 1, 1980.

Upon application, a building permit will be issued by the building official for the alteration or addition to a nonconforming primary structure that was constructed prior to January 1, 1980, upon showing that:

- (a) Any permitted alteration or addition to a nonconforming primary structure will not result in a violation of any coverage restrictions for the lot;
- (b) Any permitted alteration or addition to a nonconforming primary structure represents no more than 30 percent increase in the square footage of livable space in the existing nonconforming primary structure;
- (c) Any permitted alteration or addition to a nonconforming primary structure will not result in an increase of the specific existing nonconformity; and

(d) Any permitted alteration or addition shall conform to all federal, state and local codes, ordinances and conditions.