

**AN ORDINANCE
TO AMEND CHAPTER 27 OF
THE CODE OF DEKALB COUNTY, GEORGIA,
AND FOR OTHER PURPOSES.**

WHEREAS; the Board of Commissioners is tasked with protecting the health, safety, and aesthetics of DeKalb County;

WHEREAS; the Board of Commissioners seeks to amend certain sections of Chapter 27 concerning retaining walls and fences for the health safety and welfare of residents of DeKalb County, among other things;

NOW THEREFORE, BE IT ORDAINED by the Governing Authority of DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapter 27 of the Code of DeKalb County, as Revised 1988, is hereby amended as follows:

PART I. ENACTMENT

By amending table 5.3 and sections 5.4.7 and 9.1.3 in Chapter 27 of the Code of DeKalb County as Revised 1988, to read as follows:

* * *

Table 5.3 Fence and Wall Standards

| Freestanding walls and fences (other than retaining walls) | | | |
|---|--|--------------------------------------|---|
| Use | Height | Setbacks | Variance Allowed |
| Fences in the front yard and side corner yard of single family detached residences | Up to four (4) feet from finished or street grade. | Shall not be within the right-of-way | Administrative variance required to increase wall height from four (4) to six (6) feet based on topography May apply for a variance from zoning board of appeals to increase height up to eight (8) feet max. |

| | | | |
|---|--|--|---|
| Fences and walls in interior side or rear yards of single family detached residential | Up to eight (8) feet. | Fences may be up to property line; walls, including footings, must not encroach over property line. | May apply for a variance from zoning board of appeals to increase height up to ten (10) feet max. |
| Fences and walls on the perimeter of single family detached, attached and multifamily developments (i.e., privacy, decorative) | Six (6) feet adjoining the street, eight (8) feet all other property lines | Fences may be up to property line; walls, including footings, must not encroach over property line. Shall not be within the right-of-way. | May apply for a variance from zoning board of appeals to increase height up to ten (10) feet max. |
| Industrial | No limit if adjoining non-residential use. Eight (8) feet if adjoining residential zoning or use | Fences may be up to the property line; walls, including footings, must not encroach over property line. Shall not be within the right-of-way | If next to residential, may apply for a variance from zoning board of appeals to increase height up to ten (10) feet max. |
| Single-family subdivisions and multi-family developments identification or monument walls | Up to eight (8) | Shall not be located in right-of-way. Setback varies, depending on sight visibility. | May apply for a variance from zoning board of appeals to increase height up to ten (10) feet max. |
| Non-residential, and mixed-use zoning districts | Up to ten (10) feet if adjoining non-residential use. Eight (8) feet if adjoining residential zoning or use | Shall not be located in right-of-way. Setback varies, depends on sight visibility. | May apply for a variance from zoning board of appeals to increase height up to twelve (12) feet max. |

Retaining Walls (exposed height)

| Use | Height | Setbacks | Variance Allowed |
|---|--|--|---|
| Retaining walls for individual single family detached residences | Up to four (4) feet from finished or street grade. | Retaining walls may be up to property line, including footings, shall not encroach over property line. Shall not be within the right-of-way. | Administrative variance required to increase wall height from four (4) feet to six (6) feet based on topography. Variance from zoning board of appeals to increase height up to eight (8) feet max. |
| Wing walls for single family | Four (4) feet | May extend ten (10) feet in front and rear yard, five (5)- | May apply for a variance from zoning board of |

| | | | |
|--|--|---|--|
| detached residences | | foot setback from side property line | appeals to increase height. up to eight (8) feet max. |
| Retaining wall for all development under a land disturbance permit adjacent to any residential district or use. | Max. six (6) feet, Tiered walls up to twelve (12) feet without variance. | Ten (10) foot setback from property line, reserved for landscaping. Landscape material shall have mature height as high as or higher than wall. A minimum five (5)-foot bench on tiered walls, landscaped | May apply for a variance from zoning board of appeals to increase height above six (6) feet based on topography or unique site development conditions. Must be accompanied by engineer certification supporting need for increased height. |
| Retaining walls for all development under a land disturbance permit adjacent to non-residential zoning district or use | Max. twelve (12) feet. Tiered walls up to 16 feet without variance Exempt for walls screened by intervening building. Building must be as high as or higher than wall | Ten (10) - foot setback from property line, reserved for landscaping. Landscape material shall have mature height as high as or higher than wall. A minimum five (5)-foot bench on tiered walls, landscaped | May apply for a variance from zoning board of appeals to increase height above twelve (12) feet based on topography or unique site development conditions. Must be accompanied by engineer certification supporting need for increased height. |

* * *

Sec. 5.4.7. Walls, fences, and retaining walls.

Freestanding Walls and Fences

(a) General provisions, freestanding walls and fences.

- (1) When this chapter requires a wall or fence to be constructed, the wall or fence shall be completed prior to the issuance of a certificate of occupancy for the principal structure.
- (2) No wall or fence shall be constructed in any public right-of-way.
- (3) See Table 5.3 Freestanding fence and wall standards for additional requirements.
- (4)) The height of a wall or fence is measured along the adjacent finished grade. However, if located within fifteen (15) feet of any street, and if the street grade is above the adjacent finished grade, the fence or wall height may be measured from the street. Grade and height shall be determined by a registered surveyor or licensed engineer.

- (5) No freestanding walls or fences may be composed of exposed common concrete block, tires, junk, pallets, railroad ties, loose stone, vinyl and other discarded materials.
- (6) With the exception of M and M-2 zoning districts, freestanding walls or fences erected within the front yard shall be constructed of brick, stone, wood, wrought iron, or material simulating wrought iron. Any other material, including but not limited to, chain link and other wire fences are prohibited in the front yards of all districts, with the exception of M and M-2 zoning districts.
- (7) Fences and walls in the M and M-2 zoning districts where exempt from regulations governing the height and materials shall not impede necessary safe line of sight for entry and egress.
- (9) Security entrance gates in multifamily or non-residential districts shall be located at least fifty (50) feet from the property line in order to ensure safe queuing, ingress to and egress from the property.
- (10) Temporary fencing may be erected during construction for security and public safety purposes, provided that it does not impede necessary safe line of sight for entry and egress.
- (11) Fence gates in single family residential may be six (6) feet in the front yard. Gates shall be set back a minimum of fifteen (15 feet) from right-of-way.

Retaining Walls

(c) General provisions, retaining walls and wing walls

- (1) Retaining walls shall be located outside the public right-of-way.
- (2) Retaining walls shall be located within the confines of the owner's/applicant's property.
- (3) Retaining walls shall comply with applicable easement restrictions.
- (4) Retaining walls shall not be located within undisturbed stream buffers, transitional buffers, floodplains, drainage easements, or drainage ways in a manner that impedes the flow of water.
- (5) Retaining walls four (4) feet or more, measured from finished grade shall be constructed of reinforced concrete or other masonry materials, or

gabion/vegetative gabion walls. Treated timbers may be used for walls less than four (4) feet in height and no permanent structure is supported by the soil retained by the retaining wall.

- (6) No signage shall be placed on top of walls.

(d) *Retaining walls on single family lots.*

Retaining walls on lots under construction for single-family dwellings shall abide by the following: (i) the entire wall structure, including footing, shall not encroach on adjacent property. (ii) drainage shall be properly conveyed along the length of the wall in conformance with construction standards, and (iii) a construction/maintenance easement shall be obtained from the adjoining property owner, if applicable.

- (1) Newly constructed retaining walls shall not be higher than four (4) feet measured from finished grade; however, existing retaining walls may be repaired and replaced so long as the height of the repaired or replaced wall is no greater than the original height of the wall.
- (2) Wing walls that are integrated with the foundation of the structure shall not exceed four (4) feet in height, without a variance. Wing walls may extend into the front or rear yard for a distance not to exceed ten (10) feet and into the side yard to a point not closer than five (5) feet from the side lot line. If a wing wall turns direction, from that point it is no longer a wing wall and is considered a retaining wall. Wing walls exceeding 30 inches above finished grade must have a guardrail, a minimum of 36 inches and a maximum of 48 inches in height. Wing walls may not exceed 12 inches above grade at the higher side elevation.
- (3) Retaining walls may be tiered but no single wall shall exceed four (4) feet in height. All tiered wall design shall be certified by a licensed engineer.
- (4) Retaining walls on building lots must be included on the final plat and/or the building permit plans.
- (5) All retaining walls constructed as a drainage component, as described in GA. Soil and Water Conservation Commission Green Book, shall require design by a licensed engineer.
- (6) A variance is required to increase the height of a retaining wall as follows:
 - a. If exceptional topographical restrictions exist that were not created by the owner or his agent on a lot, and it is established to the reasonable satisfaction of the director of planning that no practical

alternative design of such wall is feasible, then the director of planning may, upon application therefore, grant an administrative variance allowing a wall up to six (6) feet. An applicant for a retaining wall administrative variance shall include with the application a certified field-run site plan or a topographical map certified by a licensed engineer or landscape architect.

- b. If exceptional topographical restrictions exist that were not created by the owner or his agent on the lot, and it is established to the satisfaction of the zoning board of appeals that no practical alternative design of such wall is feasible, the zoning board of appeals may, upon application therefor, grant a variance allowing newly constructed retaining walls to be up to eight (8) feet. Notwithstanding any provision in this chapter to the contrary, no variance may be granted to allow the height of a retaining wall above eight (8) feet. In addition to the materials otherwise required for a variance in Division 5 of Article 7 of this chapter, an applicant for a retaining wall variance shall provide a certified field-run site plan or a topographical map certified by a licensed engineer or landscape architect with the application for the variance.

(e) *Retaining walls standards for development under a land disturbance permit*

- (1) Retaining walls above grade and when the wall is facing adjoining residential or non-residential zoned or used property shall be as indicated in Table 5.3.
- (2) Any single or tiered retaining wall over the maximum height shall be approved by the zoning board of appeals. The zoning board of appeals shall consider the following in making a decision:
 - a. Grading changes necessitated for gravity flow and sewer connections.
 - b. Grading changes necessitated to meet Chapter 14 road construction standards
 - c. Extremely steep slope, greater than 3 to 1 topographical changes on site as compared to adjacent existing subdivision.
 - d. Structural engineer's sealed and signed statement of their evaluation of the consequence of retaining wall failure and recommendations for reducing the consequence and risk of failure in the event of failure. This may include increasing the required factors of safety for sliding, overturning, bearing capacity, and global stability. The applicant shall provide a plan of action to include additional

setbacks from both sides of the retaining wall, frequency of inspection, and maintenance practices.

- e. Whether the wall height is necessary to address life/safety.
 - f. A variance to increase height granted by the ZBA may result in an increased setback.
- (3) The setback area between the wall and the property line shall be planted to provide a screen.
 - (4) Retaining walls over 6 feet may be tiered, up to 12 feet facing residential or 16 feet facing non-residential without a variance. The wall design shall be submitted by a licensed engineer and be approved by the department.
 - (5) Tiered walls shall have a maximum height of 6 feet per tier facing residential and 8 feet per tier facing non-residential. Depth of bench shall meet engineering specifications. Bench area shall be landscaped.
 - (6) Bench between tiered walls shall be a minimum 5-foot in depth, and landscaped. Any proposed plantings shall not have a negative impact on the retaining wall system.
 - (7) Landscaping in front of retaining walls shall meet the standards of Sec. 27-5.4.5 *Buffer planting and materials*. Plant materials used on tiered walls may include shrubs and vines and other plants that do not impact the integrity of the walls.
- (f) Retaining walls shall be shown on sketch plats, land disturbance permit plans, final plats, and building plans.
 - (g) *Permitting and Inspection of retaining walls.*
 - (1) Retaining walls that are four feet or more in height measured from the finished grade to the top of wall shall be certified by a licensed engineer. A building permit and building inspection are required.
 - (2) For poured in place retaining walls, a footing inspection must be scheduled and successfully passed prior to pouring. Once the footing has been poured, a wall inspection shall be scheduled, performed and approved.
 - (3) For treated lumber tie-walls, a wall inspection shall be scheduled and successfully passed for verification of adequate dead-men and proper drainage design for the wall prior to backfill material being installed.

- (4) After the wall is completely finished, an as-built certification is required before a Certificate of Occupancy is issued.

* * *

Section 9.1.3. Defined terms.

Bench, tiered wall – The horizontal area between two retaining walls.

Wall, wing – An architectural feature that is a continuation of a building wall projecting beyond the exterior walls of the building.

PART II. EFFECTIVE DATE

This ordinance shall become effective immediately on the date of adoption by the board of commissioners and approval by the chief executive officer.

PART III. SEVERABILITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are repealed.

ADOPTED by the DeKalb County Board of Commissioners, this _____ day of _____, 2017.

KATHIE GANNON
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

December 12, 2017

APPROVED by the Chief Executive Officer of DeKalb County, this ____ day of _____, 2017.

MICHAEL THURMOND
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

BARBARA SANDERS-NORWOOD, CCC
Clerk to the Board of Commissioners
And Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO FORM:

O.V. BRANTLEY
County Attorney
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

ANDREW BAKER
Planning Director
DeKalb County, Georgia