

Dec. 15, 2005

05-20  
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**AN ORDINANCE**

**AN ORDINANCE TO AMEND  
THE CODE OF DEKALB COUNTY, GEORGIA,  
CHAPTER 7, REQUIREMENTS FOR CONSTRUCTION ON INFILL LOTS AND  
FOR OTHER PURPOSES.**

**WHEREAS**, the Governing Authority of DeKalb County is tasked with the protection of the County's public health, safety, and general welfare; and

**WHEREAS**, the DeKalb County Board of Commissioners has determined that these amendments are needed to ensure that mechanisms are in place to preserve mature and stable neighborhoods where neighborhoods are desirous of such preservation; and

**WHEREAS**, the DeKalb County Board of Commissioners recognizes that there can be unintended consequences where the development and zoning regulations applicable to, and suitable for, first generation or "Greenfield" development is applied without modification to redevelopment of residential homes in mature neighborhoods; and

**WHEREAS**, the DeKalb County Board of Commissioners desires to ensure that countywide growth and development is not suppressed by the broad application of a regulatory framework that is not suited to the newly emerging areas of growth in the County; and

**WHEREAS**, the DeKalb County Board of Commissioners desires to provide a model ordinance suitable for adoption by neighborhoods to provide for building controls that work to preserve the character and streetscapes of existing mature and stable communities.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Commissioners of DeKalb County, Georgia, and it is hereby ordained by the authority of same, that chapter

7 of the Code of DeKalb County, Georgia, shall be amended; Sections 7-31.1 through 7-31.3 are added; Chapter 27 of the Code of DeKalb County, Section 27.31 is amended and Sections 27-722.1 through 27-722.12, are added to read as follows:

**PART I. ENACTMENT**

*By adding new sections 7-31.1, 7-31.2 and 7-31.3 to read as follows:*

**Sec. 7-31.1. Definitions for infill development regulations.**

For the purposes of this section through Section 7-31.3, certain terms and words are defined. Where words have not been defined, but are defined in Section 1-2, those words shall have the meaning as defined therein. The following words, terms, and phrases, when used in this section through Section 7-31.3, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*“Demolition”* of an infill building shall mean the destruction and removal of an existing building or structure in whole or in part whether such destruction and removal involves removal of all or part of the prior foundation.

*“Infill building”* means any building built or proposed to be built on an infill lot.

*“Infill lot”* shall include any of the following:

- (a) a conforming lot of record or a nonconforming lot of record in a single-family residential zoning district created by the demolition of an existing residential structure and replacement of that structure with new construction.
- (b) a conforming lot of record in a single-family residential zoning district created by the demolition of an existing residential structure which is divided into two lots for construction of two new single-family residential structures. This ordinance shall not apply to the demolition of an existing residential structure which is divided into more than two lots for construction of more than two new single-family residential structures.

*“New construction”* on an infill lot means the replacement of an existing residential building or structure with a new building, structure or an addition that increases the usable square footage in the building, structure or addition.

**Sec. 7.31.2. Requirements for construction on infill lots.**

- (a) A permit application for a development permit on an infill lot shall include a site plan. The site plan shall include the measurements for infill building height and for the main floor front door threshold elevation for the existing residential structure and the proposed structure. The site plan shall delineate the proposed grading for the entire site, the storm water control measures proposed to protect adjacent properties, erosion control, water quality measures, and include a tree survey and a tree protection plan.
- (b) An applicant shall also indicate on the site plan the location of the following construction-related items:
  - (1) Dumpsters or other onsite disposal equipment;
  - (2) Portable toilets;
  - (3) Onsite parking for construction vehicles;
  - (4) Construction material staging and storage; and
  - (5) Borrow or stockpile areas.
- (c) Construction activity on, and deliveries to, infill lots shall be limited to:

Monday-Friday	7:00 AM to 7:00 PM.
Saturday	8:00 AM to 5:00 PM.

There shall be no construction activity or deliveries on Sundays, New Year's Day, Thanksgiving Day, Christmas Day, Memorial Day, July 4<sup>th</sup> or Labor Day unless such activity arises from an emergency which puts the site or neighboring property owners and their property at risk of harm or loss.
- (d) The owner of the real property shall be responsible for posting a sign, in a location visible from the street frontage that shows the time during which construction and deliveries are authorized. Such sign shall be posted seven (7) days in advance of the commencement of any construction or delivery to the site.
- (e) Dumpsters or any onsite waste disposal equipment may not be located on the street. If adequate traffic controls can be

implemented, the development director or designee may approve the placement of dumpsters and onsite waste disposal equipment on a street so long as the street has a paved width greater than twenty-four (24) feet.

- (f) Portable toilets shall be located off of the right-of-way and at least fifteen (15) feet from any side property line.
- (g) Wherever possible, temporary parking shall be provided onsite and not on the street.
- (h) The distance between a retaining wall and the property line shall be equal to at least half of the distance between the property line and the required setback line. Newly constructed retaining walls shall not be higher than four (4) feet; however, existing retaining walls may be repaired and replaced so long as the height or the repaired or replaced wall does not increase in height over the original height of the wall.
- (i) In addition to the requirements set forth in section 14-39 of the Code of DeKalb County, the trees of six (6) inches DBH or greater located in the front yard and the rear half of the rear yard of an infill lot shall be preserved unless it can be demonstrated to the development director or designee in the demolition site plan that no reasonable alternatives to removal exist in order to accommodate permitted accessory structures, utilities, drainage measures, water quality improvements, and driveways.
- (j) Existing drainage patterns located along property lines shall not be adversely affected by construction of an infill building or any associated site work.
- (k) The applicant for construction on an infill lot shall be responsible for ensuring that all existing sewer services and taps from the building(s) to the street shall be inspected and verified to be in proper condition prior to connection.
- (l) The owner of real property shall be responsible for ensuring that a copy of any demolition permit secured in connection with infill lot development is posted on the property, in a location visible from the street frontage, within seven (7) days of the date of issuance, and at least seven days (7) prior to the commencement of demolition.

**Sec. 7-31.3. Demolition permits.**

- (a) A demolition site plan shall be submitted as part of the permit application package. The demolition site plan shall depict the trees, structures and impervious surfaces to be removed; location and size of all trees greater than six (6) inches DBH; construction exits; tree save areas, best managements practices for erosion control; and elevation of the existing front door threshold.
- (b) Only dead, diseased, or hazardous trees, as determined by a certified arborist, may be removed pursuant to a demolition permit.
- (c) No demolition permit for property within any residential district shall be issued unless the applicant for a demolition permit has submitted a site plan that shows the infill building height of the proposed structure measured in the manner specified in this Code.

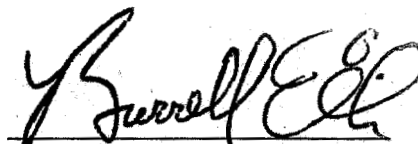
**PART II. EFFECTIVE DATE**

This ordinance shall become effective upon 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 15 day of December, 2005.



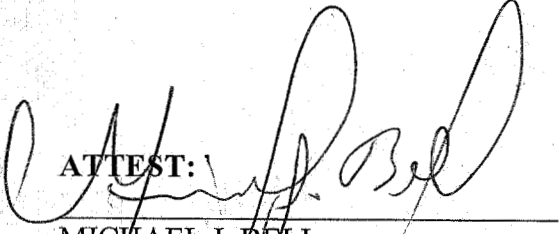
**BURRELL ELLIS**  
Presiding Officer  
Board of Commissioners  
DeKalb County, Georgia

Dec. 15, 2005

**APPROVED** by the Chief Executive Officer of DeKalb County, this 15 day  
of December, 2005.



**VERNON JONES**  
Chief Executive Officer  
DeKalb County, Georgia



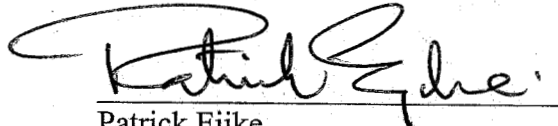
**ATTEST:**  
**MICHAEL J. BELL**  
Ex-Officio Clerk  
Board of Commissioners and  
Chief Executive Officer  
DeKalb County, Georgia

APPROVED AS TO FORM:



**Viviane H. Earnst**  
Acting County Attorney  
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:



**Patrick Ejike**  
Acting Director of Development  
DeKalb County, Georgia