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**DEPARTMENT OF PLANNING & SUSTAINABILITY**

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TEXT AMENDMENT ANALYSIS**

**AGENDA NO: 2017-0567    ZONING CASE NO: TA-17-21565    MEETING DATE: Nov. 7, 2017**

**APPLICANT:            DeKalb County Board Of Commissioners**

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**REASON OF REQUEST:**

Application of DeKalb County Board of Commissioners to amend Chapter 27 of the DeKalb County Code section 5.4.7 Walls, Fences, and Retaining Walls and Table 5.4 to expand standards for walls and fences and to delineate between retaining walls for single-family building construction and subdivision development. The amendment addresses height, terracing, materials, and inspection of walls constructed in DeKalb County. This ordinance also amends section 9.1.3 to add definition for wing wall.

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**RECOMMENDATION(S):**

**PLANNING DEPARTMENT: A PPROVAL**

**PLANNING STAFF ANALYSIS:** This amendment addresses walls, fences and retaining wall and their impact on adjacent properties. Staff consulted with the engineering and building inspection staff, the development community and the PECS committee.

**PLANNING COMMISSION VOTE: Approval 6-0-0. M. Butts moved, J. Johnson seconded for approval per staff recommendation.**

**COMMUNITY COUNCIL VOTE/RECOMMENDATION:** (CC1) Approval of text in general. Not in favor of any fences or walls on individual single family lots exceeding 8 feet in height. If walls/fences are allowed up to 12 feet want to see that they are composed of brick or stone and not wood. Also, members support vinyl ornamental fences that appear to be ornamental iron for front and street side yards. (CC2) Members wanted to know the reason for the proposed changes, what is being proposed and what standards will remain the same. Interesting is including a specific grade change included in the criteria for the ZBOA. (CC3) Members commented that the proposed regulations were appropriate and well thought-out. (CC4) Approval. (CC5) Members were of the opinion that the proposed text amendment would help clarify the existing ordinance on fences, walls and retaining walls.

**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**

<b>Freestanding walls and fences (other than retaining walls)</b>			
<b>Use</b>	<b>Height</b>	<b>Setbacks</b>	<b>Variance Allowed</b>
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 not to exceed 8 feet max.

<b>Freestanding walls and fences (other than retaining walls)</b>			
<b>Use</b>	<b>Height</b>	<b>Setbacks</b>	<b>Variance Allowed</b>
Fences and walls in side or rear yards of single family detached residential	Up to eight (8) feet.	Fences may be on property line; walls, including footings, must not encroach over property line.	May apply for a variance from zoning board of appeals to increase height not to exceed 10 feet max
Fences and walls on the perimeter of single family detached subdivisions (i.e., privacy, decorative)	Six (6) feet adjoining the street, eight (8) feet all other property lines	Fences may be on 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 12 feet max.)
Industrial	No limit if adjoining non-residential use.  Eight (8) feet if adjoining residential use	Fences may be on 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 12 feet).
Single- and Multi-family identification or monument walls	Eight (8) feet for single family (attached or detached), ten (10) feet for multifamily	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 12 feet max).
Non-residential, multi-family and mixed-use zoning districts	Up to ten (10) feet if adjoining non-residential use.  Eight (8) feet if adjoining residential 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 12 feet) max.

<b>Retaining Walls (exposed height)</b>			
<b>Use</b>	<b>Height</b>	<b>Setbacks</b>	<b>Variance Allowed</b>
Retaining walls for individual single family detached residences	Up to four (4) feet from finished or street grade.	Retaining walls, 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) to six (6) feet based on topography. Variance from zoning board of appeals to increase up to eight (8) feet max.

<b>Retaining Walls (exposed height)</b>			
<b>Use</b>	<b>Height</b>	<b>Setbacks</b>	<b>Variance Allowed</b>
Wing walls for single family detached residences	Eight (8) feet	May extend 10 feet in front and rear yard, 5-foot setback from side property line	May apply for a variance from zoning board of appeals to increase height
Retaining wall for all development under a land disturbance permit adjacent to single family attached or detached	Max. eight (8) feet, Tiered walls up to 16 feet without variance.	10 foot setback from property line, reserved for landscaping	May apply for a variance from zoning board of appeals to increase height above 8 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.	10 foot setback from property line, reserved for landscaping	May apply for a variance from zoning board of appeals to increase height above 12 feet based on topography or unique site development conditions. Must be accompanied by engineer certification supporting need for increased height.

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**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 are exempt from regulations governing the height and materials provided that it does not impede necessary safe line of sight for entry and egress.
  - (8) No freestanding wall or fence in a multi-family, non-residential or mixed use zoning district may be more than ten (10) feet in height.
  - (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.
- (b) *Freestanding walls and fences for single-family lots and dwellings.*
- (1) Fences or freestanding walls constructed in a front yard or side corner yard shall not exceed four (4) feet in height.
  - (2) No freestanding wall or fence shall be more than eight (8) feet high from finished grade, without variance approval.

## **Retaining Walls**

### *(c) General provisions, retaining walls and wing walls*

- (1) Retaining walls must 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 over four (4) feet, 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. Newly constructed retaining walls shall not be higher than four (iv) 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.

- (1) Wing walls that are integrated with the foundation of the structure shall not exceed eight (8) feet in height. 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.

- (2) 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.
- (3) Retaining walls on building lots must be included on the final plat and/or the building permit plans.
- (4) 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.
- (5) 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 therefor, 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 low side of the wall is facing adjoining residential or non-residential 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 8 feet may be tiered, up to 16 feet 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 8 feet per tier. Depth of bench shall meet engineering specifications. Bench area shall be landscaped to provide a screen.
  - (6) Any proposed plantings shall not have a negative impact on the retaining wall system.
- (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 exceed four feet 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.

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**Section 9.1.3. Defined terms.**

*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.

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KATHIE GANNON

Presiding Officer  
Board of Commissioners  
DeKalb County, Georgia

**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