

AN ORDINANCE

**AN ORDINANCE TO AMEND THE CODE OF
DEKALB COUNTY, GEORGIA, CHAPTER 27,
REGARDING REQUIREMENTS FOR
INFILL LOTS WITHIN UNINCORPORATED
DEKALB COUNTY, 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 County's public health, safety, and general welfare require the harmonious, orderly, and progressive development of land within DeKalb County; and

WHEREAS, the DeKalb County Infill Task Force composed of interested citizens and development community professionals was appointed to deliberate regarding infill development with a view to making policy recommendations to the governing authority; and

WHEREAS, the DeKalb County Board of Commissioners has considered the recommendations of the DeKalb County Infill Task Force; and

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

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 27 of the Code of DeKalb County, Section 27-31 shall be amended; Sections 27-796.1, 27-796.2, 27-796.3, 27-796.4 and 27-796.5 are added; and Section 27-915 is amended to read as follows:

PART I. ENACTMENT

By amending section 27-31 to add the following definitions in alphabetical order to read as follows:

Sec. 27-31. Definitions for infill development regulations.

...

“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 building height” means the vertical distance from the top of the first floor slab, or if on a crawl space, to top of the highest point of the roof of the proposed structure. For structures with basements, it is the vertical distance from a point (3) three feet below the front door threshold of the residence that existed on the lot prior to demolition to the highest point of the roof of the proposed structure.

“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.
- (c) a vacant lot in a single-family residential zoning district with an existing residential structure within one hundred (100) feet of either side lot line.

“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.

By adding new sections 27-796.1, 27-796.2, 7-796.3, 7-796.4 and 7-796.5, to read as follows:

Sec. 27-796.1. Statement of purpose and intent.

The purpose and intent of the board of commissioners is to provide for the establishment of height restrictions for infill lots for the following reasons:

- (a) To allow for the implementation of policies and objectives of the County's comprehensive plan and the zoning ordinance; and
- (b) To avail neighborhoods of an opportunity to ensure that new and remodeled single-family dwellings and related accessory uses and structures are compatible with the height, size, and level of forestation of the existing dwellings and lots; and
- (c) To encourage property owners to improve and renovate existing housing stock rather than demolish the same; and
- (d) To establish and maintain a balance between preserving the character of mature neighborhoods while accommodating compatible new residential development.

Sec. 27-796.2. 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 4th 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) The proposed front door threshold elevation for infill buildings on infill lots shall not be more than two (2) feet greater than the front door elevation of the residential structure that existed on the lot prior to demolition.
- (j) Driveways for front entry garages on infill lots with setbacks less than thirty (30) feet shall not be more than eighteen (18) feet wide in the right of way. All other driveways shall be a maximum of twelve (12) feet wide. Except where necessary to accommodate the requisite turn radius at the transition to the street, the distance between the property lines in the side yard and the driveway shall be equal to at least half the width of the required side yard.
- (k) In addition to the requirements set forth in section 14-39 of the Code of DeKalb County, the trees located on the front half of 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 that no reasonable alternatives to removal exist in order to accommodate utilities, drainage measures, water quality improvements, and driveways.
- (l) Existing drainage patterns located along property lines shall not be adversely affected by construction of an infill building or any associated site work.
- (m) 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.
- (n) 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. 27-796.3. Variance from application of infill building height restriction.

Variations from any applicable height restriction that arises from the application of the definition of infill building height set forth in this chapter shall be heard by the zoning board of appeals in accordance with the process and requirements set forth in chapter 27 of this code with the exception of Section 27-796.5.

Sec. 27-796.4. Demolition permits.

- (a) A demolition site plan shall be submitted as part of the permit application package. The demolition site plan shall depict structures and impervious surfaces to be removed, location and size of all trees greater than eight (8) inches DBH, construction exits, tree fencing, best managements practices for erosion control, 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.

Sec. 27-796.5. Administrative variance regarding height for infill development.

The height of a structure on an infill lot may exceed the infill lot building height if the applicant for a building permit establishes to the satisfaction of the development director or designee that the highest peak of the residential structure on both lots immediately adjacent to the infill building height. All other variances regarding height must be sought from the zoning board of appeals.

By amending section 27-915(b) to read as follows:

Sec. 27-915. Power and duty of the board to hear applications for variances; limitations of authority of board.

...

- (b) Allow an increase in maximum height of the building except the board shall have the power to grant variances to increase the infill building height for an infill building.

PART II. EFFECTIVE DATE

This ordinance shall become effective upon adoption by the Board of Commissioners and approval by the Chief Executive Officer of the companion home rule amendment.

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 _____, 2005.

BURRELL ELLIS
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this ____ day of _____, 2005.

VERNON JONES
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

MICHAEL J. BELL
Ex-Officio Clerk
Board of Commissioners and
Chief Executive Officer