

ORDINANCE NO.: 11-0-02  
SPONSOR: MAYOR BOLLAS  
INTRODUCED: JANUARY 5, 2011

**AN ORDINANCE TO AMEND NEW FRANKLIN ZONING CODE SECTION 800.03 TO ADD RETAINING WALL REGULATIONS AND TO AMEND NEW FRANKLIN ZONING CODE SECTION 1400.02 TO INCORPORATE A DEFINITION FOR RETAINING WALL.**

WHEREAS, New Franklin Zoning Code Section 800.03 deals with general fence, wall, and hedge requirements; and

WHEREAS, the New Franklin Planning and Zoning Commission has recommended text amendments to Section 800.03 regarding retaining wall regulations; and

WHEREAS, the retaining wall regulations would be known as Section 800.03G(9); and

WHEREAS, it is also necessary to amend New Franklin Zoning Code Section 1400.02 to incorporate a definition for retaining wall; and

WHEREAS, New Franklin Council deems it necessary to adopt the regulations and definitions.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEW FRANKLIN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:**

**SECTION ONE:**

New Franklin Council hereby adopts the amendments to New Franklin Zoning Code Section 800.03 regarding retaining wall regulations. A copy of Section 800.03 is attached and the additions are noted in bold capital letters and underlined. The retaining wall regulations shall be known as Section 800.03G(9).

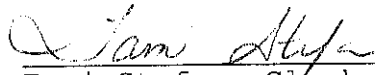
**SECTION TWO:**

New Franklin Council hereby adopts the definition of retaining wall necessary for the implementation of the retaining wall regulations and hereby amends New Franklin Zoning Code Section 1400.02 to incorporate that definition. The definition is attached to this ordinance.

**SECTION THREE:**

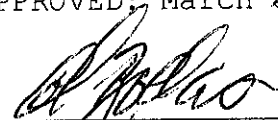
The City of New Franklin finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and any deliberation of this Council and any other Committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

ADOPTED: March <sup>2</sup> 3<sup>13</sup>, 2011

  
Tami Stefan, Clerk

  
Joseph Parsons, President

APPROVED: March <sup>2</sup> 3<sup>13</sup>, 2011

  
Al Bozias, Mayor

ENACTED EFFECTIVE: March <sup>2</sup> 3<sup>13</sup>, 2011

ON ROLL CALL: Adamson, Yes. Hess, Yes. Jones, Absent,  
Kaderly, Yes. Kalapodis, Absent, Parsons, Yes.  
Stock, Yes.

Publications on March 13, 2011 and March 20, 2011

  
Tami Stefan, Clerk

G. General Fence, Wall, and Hedge Requirements (Except for Agricultural Uses, See Section 800.03).

(1) *Regulations Applicable to All Districts.*

- (a) Visibility at Corner Lots. No obstruction to view in excess of two (2) feet in height shall be placed on any corner lot within a triangular area formed by the street right-of-way lines and a line connecting them at points thirty (30) feet from the intersection of the street lines, except that street trees are permitted which are pruned at least eight (8) feet above the established grade of the roadway so as not to obstruct clear view by motor vehicle drivers.
- (b) Fences, walls and hedges shall be well maintained and will be harmonious and appropriate in appearance with the existing character of the immediate area in which it is to be located, and will not be hazardous to existing neighboring uses.
- (c) No sharp wire or points shall project from the top, either side, end, or bottom of any fence.
- (d) No electrified fence or fence containing broken glass, barbed wire, scrap materials or any other substance reasonably calculated to do bodily harm shall be permitted in any zoning district without the express approval of the Board of Zoning Appeals.
- (e) No wall, fence, or hedge shall be placed on top of a berm or earth form that is higher than 18".
- (f) When walls or fences are used to fulfill screening requirements, they shall be detailed on the landscaping plan. They are to be of weather-proof materials. This includes pressure treating or painting of lumber if it is not redwood or cedar and using aluminum or galvanized hardware.
- (g) No fence or wall shall be constructed in any platted no-build zone, conservation/no disturb zone, floodway, floodplain or drainage easement for any parcel or subdivision which would be detrimental to the public health and safety. A fence or wall shall not be located so as to adversely affect the vision of drivers on the public streets or from driveways intersecting public streets.
- (h) Supporting members for fences and walls shall be located inside of the fenced or wall area away from the adjoining property unless the fence is designed such that the supporting members are identical in appearance on both sides of the fence or wall. **IN ANY CASE, ALL SUPPORTING MEMBERS FOR FENCES AND WALLS SHALL BE LOCATED ON THE FENCE OWNER'S PROPERTY.**
- (i) All portions of the property shall remain accessible from outside the fence area by means of a gate or other opening.
- (j) The height of a fence shall be measured from the established grade line to the highest point of the fence including posts and finials. The height of the fence in a side or rear yard may not be artificially increased by the use of mounding unless otherwise required by this Article.

- (k) Chain link fences with or without wooded or synthetic slat material shall not be allowed when used to satisfy buffer yard and landscaping requirements.
- (2) *Accent Fences and Picket Fences.* Accent fences and picket fences shall be permitted in all zoning districts if limited to four (4) feet in height as measured from grade, and if designed only to partially enclose an area and serve only an ornamental purpose.
- (3) *Arbors and Trellises.* Arbors or trellises shall be permitted in all zoning districts except for the R-L District, where they are considered a conditional use subject to Board of Zoning Appeals approval. Arbors or trellises, which are detached from the building, may encroach on a required side yard, side yard which abuts a street and forward of the principal structure provided that:
  - (a) The surface of the arbor or trellis shall be at least 50% open; and
  - (b) Such arbors and trellises shall be of a size no greater than the following maximum dimensions:
    - 1. Maximum Height - 8 feet
    - 2. Maximum Width - 5 feet
    - 3. Maximum Depth - 3 feet
- (4) *Solid fences.* Solid fences of an approved type shall be permitted in all zoning districts only in rear yards or to enclose a deck, patio, or pool. Solid fences shall not be located within a required side yard. Solid fences shall not be used to enclose the entire perimeter of the property except when used to enclose junk yards, land fills, or highly nuisance-oriented land uses.
- (5) *Brick, Stone or Masonry Walls.* Brick, stone or masonry walls are permitted, but forward of the building line shall not exceed three feet in height.
- (6) *Regulations Applicable to C-D, R-E, R-1, R-2, R-3 and C-R Districts Only*
  - (a) Fences, walls, and hedges may be permitted in any required yard or along the edge of any yard, provided that no fence, wall, or hedge between the front building line of the main structure and the road right-of-way shall be more than four (4) feet in height above grade.
  - (b) Fences, walls, or hedges may be permitted along the side or rear lot lines to a height of not more than six (6) feet above the grade. Informal planting, however, may be higher than six (6) feet. Hedges and living fences shall be located so that future growth shall not extend over the lot line.
- (7) *Regulations Applicable to the R-L District Only*
  - (a) From the lakefront towards the street, the height of a fence, wall or hedge shall not exceed three (3) feet in height for the first twenty (20) feet back from the waters edge. From this first twenty (20) feet to not closer than twelve (12) feet of the public right-of-way, it shall be not higher than four (4) feet. If the fence is a completely see-thru security fence with all metal construction, then the fence shall not exceed four (4) feet

in height along its total run. No fence, wall or hedge shall be erected within twelve (12) feet of the public right-of-way.

(8) *Regulations Applicable to All Other Districts*

- (a) Security Or Industrial Fences. Security, electrified, and industrial fences can be conditionally permitted in business and industrial zoning districts as approved by the Board of Zoning Appeals.
- (b) Such fences may not be placed forward of the primary structure and are restricted to side and rear yards.
- (c) Such fences may be erected parallel to and on, or approximately on, the common property line to a height not exceeding six (6) feet above the established grade.

**(9) RETAINING WALL REGULATIONS**

**(a) RETAINING WALLS SHALL BE PERMITTED IN ALL ZONING DISTRICTS ALONG ALL LOT LINES TO A HEIGHT OF NOT MORE THAN SIX (6) FEET ABOVE THE EXISTING NATURAL GRADE PRIOR TO CONSTRUCTION, PROVIDED THAT ANY RETAINING WALL SHALL BE WELL MAINTAINED, WILL BE HARMONIOUS AND APPROPRIATE IN APPEARANCE WITH THE EXISTING CHARACTER OF THE IMMEDIATE AREA IN WHICH IT IS TO BE LOCATED, AND WILL NOT BE HAZARDOUS OR DISTURBING TO EXISTING OR FUTURE NEIGHBORING USES.**

**(b) RETAINING WALLS SHALL BE SUBJECT TO SITE PLAN REVIEW BY THE PLANNING AND ZONING COMMISSION AND APPROVED BY THE SUMMIT COUNTY BUILDING DEPARTMENT AND/OR THE CITY ENGINEER AND/OR HIS/HER DESIGNEE WHEN THEY MEET ANY OF THE FOLLOWING CONDITIONS:**

**(1) THE WALL IS THREE (3) FEET OR OVER IN HEIGHT ABOVE GRADE TO THE TOP OF THE WALL.**

**(2) THE WALL IS SUPPORTING AN ADDITIONAL LOAD, SUCH AS A STRUCTURE OR DRIVEWAY.**

**(3) THE WALL IS CONTAINING A SURCHARGE FOR DRIVEWAYS AND SIDEWALKS WHEN THEY ARE MORE THAN THREE (3) FEET ABOVE AN ADJACENT GRADE POINT THAT IS WITHIN FIVE (5) FEET OF THE EDGE OF THE DRIVE.**

**(c) ALL RETAINING WALLS SHALL BE SUBJECT TO THE REQUIREMENTS OF SECTION 800.01G(1)(a) VISIBILITY AT CORNER LOTS.**

**(d) PERMIT APPLICATION REQUIREMENTS. A SITE PLAN INDICATING:**

**(1) THE DISTANCE TO PROPERTY LINES.**

- (2) THE CONTOURS OF ALL ADJACENT GRADE THAT INDICATE THE FLOW OF THE SURFACE WATER ON THE LOT THAT MAY BE AFFECTED BY THE WALL, AND THE HEIGHT AND TYPE OF FILL CONTAINED BY THE WALL.
- (3) THE LOCATION OF ANY EASEMENTS NEAR THE PROPOSED WALL.
- (4) TECHNICAL DRAWINGS INDICATING THE HEIGHT, LENGTH, WIDTH, REINFORCING, AND DRAINAGE OF THE WALLS; THE TYPE OF SOIL OR OTHER MATERIAL BEING RETAINED ARE REQUIRED TO BE SUBMITTED PRIOR TO PERMIT APPROVAL. RETAINING WALLS SHALL BE DESIGNED TO ENSURE STABILITY AGAINST OVERTURNING, SLIDING, EXCESSIVE FOUNDATION PRESSURE AND WATER UPLIFT.

To be added in Article 14 DEFINITIONS

RETAINING WALL – A WALL OR SIMILAR STRUCTURE, THREE (3) FEET OR OVER IN HEIGHT, SPECIFICALLY INTENDED TO BE USED AT A GRADE CHANGE FOR THE PURPOSE OF HOLDING SOIL ON THE UP-HILL SIDE FROM SLUMPING, SLIDING OR FALLING. RETAINING WALLS THAT ARE NOT LATERALLY SUPPORTED AT THE TOP AND THAT RETAIN IN EXCESS OF 24 INCHES OF UNBALANCED FILL SHALL BE DESIGNED TO ENSURE STABILITY AGAINST OVERTURNING, SLIDING, EXCESSIVE FOUNDATION PRESSURE AND WATER UPLIFT. RETAINING WALLS SHALL BE DESIGNED FOR A SAFETY FACTOR OF 1.5 OR GREATER AS DETERMINED BY THE DESIGN ENGINEER.