

DIXIE SPRINGS ARCHITECTURAL CONTROL COMMITTEE

BOARD OF DIRECTORS CORPORATE RESOLUTION #001

WALL HEIGHT RESTRICTION WHERE GRADE CHANGES EXIST

We the undersigned, being a quorum of the directors of this corporation consent and agree that the following corporate resolution was made

on 09/03/2020 date

at 10:55am time

at City of Hurricane Library location

In accordance with State Law and the Bylaws of this corporation by unanimous consent, the board of directors decided that: Whereas,

- 1) Article II, Section 2 (e) of the Dixie Springs CC&R's states: "The Architectural Control Committee will consider approval of aesthetically compatible fences and walls which are not more than six (6) feet in height, are located on the side or rear Lot lines of a Lot or are on the perimeter of a patio or open porch and do not extend beyond the front or rear yard setback lines"; and
- 2) Dixie Springs CC&R's Article II, Section 2 (e) further states: "Where a fence or wall is located along an interior property line separating two lots and there is a difference in grade of the two lots, the fence or wall may be erected or allowed only to the maximum height permitted from the grade of the lowest lot"; and
- 3) Limiting such walls or fences to a six-foot maximum height from the grade of the lowest Lot is not practical or realistic. When a grade difference nears or exceeds six (6) feet, the higher graded Lot would end up with little or no wall above the grade level of the higher Lot, and the wall on the lower graded Lot would end up with a wall that may not even reach the grade of the higher lot; and
- 4) While under Article II of the Dixie Springs CC&R's, the Architectural Control Committee is not responsible for ensuring that structures in Dixie Springs do not create structural, safety or containment issues, the Architectural Control Committee nevertheless recognizes that limiting a wall or fence to the maximum height permitted from the grade of the lower Lot could create potential structural, safety or containment issues if the wall or fence does not reach the grade of the higher Lot; and
- 5) Section 10-15-2 of the Washington County Zoning and Building ordinance states: "Where a fence, wall or hedge is located along an interior property line separating two (2) lots and there is a difference in grade of the two properties, the fence, wall or hedge may be erected or allowed to the maximum height permitted on either side of the property line," and Section 10-37-9 of the City of Hurricane ordinance further states that "When a retaining wall protects a cut below natural grade and is located on a line separating lots, such retaining wall may be topped by a fence or wall, or hedge of the same height that would be permitted at such location if no retaining wall existed"; and
- 6) After fair review and acting in good faith, without conflict of interest and for the reasons above, it is determined that it is not in the best interest of the ACC to enforce the six-foot maximum height

