



726.01 Purpose

This section is enacted pursuant to:

- A. Encourage the development of an economically sound and stable community;
- B. Assure the provision of adequate public infrastructure to new land development;
- C. Assure the adequate provisions of safe and convenient traffic access and circulation, both vehicular and pedestrian, to new land developments;
- D. Assure the adequate provision of needed public open space and building sites in land developments through the preservation of land for recreational, educational, and other public purposes; and
- E. Assure, in general, the wise development of new areas. (Code 1996, Sec. 7-8-4-2-020)

726.02 Conflicting regulations

Whenever the provisions of this article and those of some other resolution, ordinance or statute apply to the same subject matter, the more restrictive standard shall govern.

(Code 1996, Sec. 7-8-4-2-030)

726.03 Public and private development

All development involving two or more parcels of land or principal buildings shall be done in compliance with the Marietta Subdivision Regulations. Streets constructed as a part of sub-dividing a parcel of one and two family dwelling unit subdivisions must be dedicated to the City of Marietta as public rights of way. Driveways constructed in new multifamily developments such as apartment and condominium complexes must be constructed in accordance with the minimum standards set forth in Division 730 for local residential streets. Driveways constructed in new multifamily developments may only be dedicated as public rights of way upon approval of the Mayor and Council. The requirements for installation of improvements found in the subdivision regulations may only be altered when part of a planned development and such alteration is part of the plan approved by the City Council. Private roads constructed for the purpose of establishing gated communities may be granted as a variance by City Council only after development plans meeting the following conditions are submitted by the developer and reviewed and approved by the City:

- A. All private roads must be designed and constructed according to Division 730 of the Marietta City Code.
- B. Gates must be set back a minimum of 50 feet from public right-of-way. Minimum gate width must equal the required road width plus the width of any utility easements present, but in no case shall the width be less than 30 feet, provided, however, that the required gate width may be accomplished through the combination of adjacent entrance and exit gates of equal width.
- C. Gate width and placement must be reviewed by, and are subject to approval by, both the Fire Department and Department of Public Works.



**ZONING ORDINANCE
DIVISION 726
SUBDIVISION REGULATIONS**

- D. Arrangements for access through the gate for emergency service vehicles must be reviewed by, and are subject to approval by, the Fire Department. Emergency service vehicles include, but are not limited to, fire suppression equipment, medical emergency vehicles and law-enforcement vehicles. Necessary arrangements include, but are not limited to; Emergency Mechanical Disconnects (crash bolts), siren activated entry (Siren Operated Sensor) compatible with all City equipment which is currently used or may be used in the future, Knox/fire boxes for keyed/keyless entry, keypad code entry, occupant telephone authorized entry, and automatic gate opening upon power disconnect.
- E. Arrangements for access through the gate for non-emergency service vehicles must be reviewed by, and are subject to approval by, the Department of Public Works. Non-emergency public service vehicles include, but are not limited to, mail delivery, garbage pickup, public utility meter reading and public utility maintenance. Necessary arrangements include, but are not limited to, access easements for refuse collection vehicles and appropriate utility easements for public utility development and maintenance.
- F. Gates may not restrict access to any public right-of-way or publicly owned property within the proposed development.
- G. The City must be properly indemnified against any liability resulting from the proposed development. This indemnification shall be evidenced by: 1) The Release and Indemnity Agreement placed on the plat; 2) a separate release and indemnity agreement executed by the developer; 3) a clause in each deed of conveyance by the developer for each lot in the subdivision acknowledging the release and indemnity agreement; 4) assumption of liability of the release and indemnity agreement by the homeowners association; and 5) assumption of liability of the release and indemnity agreement in the Protective Covenants which shall become part of the covenants of the subdivision. The developer's liability shall end three years after the last lot has been sold by the developer, provided that there are then no pending or threatened claims against the developer, the City or the Homeowners' Association. All language for liability agreements and covenants shall read as required by the City of Marietta.
- H. The Developer shall grant such easements to the appropriate governing authority or utility company as are necessary for public purposes regarding said community.
- I. In the event that the developer does not obtain any approval required hereunder, same shall not alleviate the requirement of obtaining such approval.
- J. The following standards shall be used by City Council when considering any variance request for gated communities:
 1. The number of units in the development shall not be excessive as identified on the Future Land Use Map of the City of Marietta.
 2. The developer must demonstrate adequate provision for maintenance of the private road and any other infrastructure associated with the development, including but not limited to a note on the plat and a clause in each deed of conveyance by the developer for each lot in the subdivision acknowledging the perpetual maintenance of the private road (and other private infrastructure) by the Homeowners' Association.
 3. The developer must demonstrate an adequate strategy for necessary access.



**ZONING ORDINANCE
DIVISION 726
SUBDIVISION REGULATIONS**

4. The private road and gate must not unreasonably impede the logical future development of public roads in the vicinity of the project.
5. The private road and gate must not unreasonably restrict public access to sites of cultural, historical or natural significance.
6. The private road and gate must not unreasonably restrict previously established pedestrian access.
7. The establishment of gated communities must not have unreasonable negative effects on the health and welfare of the community or the good order of the City.

(Code 1996, Sec. 7-8-2-14-170; Ord. No. 5569, 6/12/96)

726.04 Approval required

No land in the City of Marietta shall hereafter be subdivided and sold or otherwise transferred in ownership by reference to or other use of plat of a subdivision until said plat has received final approval by the Mayor and Council, after which said plat shall be duly recorded in the office of the Clerk of the Superior Court of Cobb County. The description by metes and bounds in the document of sale or transfer shall not exempt the transaction from the regulations.

(Code 1978, Sec. 7-3004)

726.05 Issuance of building permit

No building permit shall be issued for nor building erected within the City on any lot unless the street giving access to the lot upon which said building is proposed to be placed shall be accepted or opened as, or shall have otherwise received the legal status of a public street prior to that time or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Mayor and Council.

726.06 Private Street Notification by Developer and Home Owners Association

In conjunction with the creation of the mandatory home owners association, there shall be master protective covenants for the communities that have private streets. The master protective covenants shall be recorded in the Deed Records of Cobb County, Georgia, and shall contain covenants, rules, and regulations applicable to the residential community. The mandatory association shall be responsible for the enforcement of the covenants. The covenants shall require the home owners association to budget or plan appropriately for all maintenance costs associated with all private streets within the proposed community. Further, within all sales information, purchase contracts, and the like, notification shall be provided to all future and potential future homeowners of the requirement for the home owners association to maintain all private streets.