

AN ORDINANCE

AMENDING the Comprehensive Development Code of the City of Marietta.

NOW, THEREFORE BE IT HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA, THAT:

Section 1: Division 720, Quasi-judicial Decisions and Board of Zoning Appeals, Section 720.04, Applications and notice, is hereby amended as follows:

720.04 Applications and notice

- A. An appeal to the Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved or by any governmental officer, department, board or agency affected by any decision of the Planning and Zoning Division with respect to this article. Such appeal shall be made within 10 days following notification of the decision appealed from, by filing with the Director of Development Services a notice of appeal and specifying the grounds thereof. The Director of Development Services or his designee shall forthwith transmit to the Board all the papers constituting the record upon which the action was taken.
- B. Applications for a hearing and decision on requests for variances and appeals shall be filed with the Director of Development Services, on forms he shall provide, at least 30 days prior to the meeting at which they may be heard. Each application shall contain such information as the Director of Development Services may require to enable the Board or City Council to make its decision including, but not limited to, a plat drawn to scale showing the following:
 - 1. All property lines, with dimensions on an appropriate scale to allow staff review;
 - 2. A legal description of the tract involved;
 - 3. Location of buildings and other structures, creeks, and easements referenced to the property;
 - 4. North arrow, land district and land lot number; and
 - 5. Location of setback lines or other requirements from which the variance is sought.
- C. A copy of the paid in full tax bill or a letter from the City of Marietta Tax Department stating that all taxes have been paid must accompany the application for a variance before it will be processed.
- D. At least 15 but not more than 45 days prior to a quasi-judicial hearing before the Board or City Council for variances and appeals, the Department of Development Services shall notify by regular mail all property owners within 200 feet of the property being considered (excluding owners of common areas or common elements of a condominium development) as shown by the most recent City tax records at the addresses shown on said records. Such notification must include the proposed appeal(s) or variance(s) being considered and the date, time, and place of the scheduled quasi-judicial hearing.
- E. Due notice of all quasi-judicial hearings on applications for variances and appeals shall be published at least 15 days (but no more than 45) days prior to the hearing in the newspaper denoted as the legal organ of the City and shall include the date, time, and place of said hearing.
- F. In addition to the above notice requirements, at least 15 but not more than 45 days prior to the quasi-judicial hearing the Department of Development Services shall post in a conspicuous place on the property a sign or signs which shall contain information as to the date, the time and purpose of the hearing.
- G. No submitted variance application may be amended after public notice of the request has been given, provided, however, the Board may allow such application to be amended during the public hearing.

- H. Notice of variance requests before the Board of Zoning Appeals shall be sent to all City Council Members by the Director of Development Services or his or her designee.
- I. Any applicant to whom a variance or appeal is granted or denied shall be given written notice specifying any variances or appeals granted or denied within 10 days of the decision.
- J. Time limit on resubmission. An application for a variance affecting the same property shall not be submitted more than once every 12 months; however, an applicant may petition the Board of Zoning Appeals or the City Council, as appropriate, to waive the 12-month waiting period by demonstrating that the situations or amount of variance requested which led to denial have materially changed or if the request is materially different.

Section 2: Division 724, Definitions, Section 724.02, Definitions of terms, is hereby amended as follows:

- *Quasi-judicial decision:* Decisions on applications for variances, appeals of decisions of the Director of Development Services, or other similar permits not enumerated as a zoning decision, pursuant to standards for the exercise of such quasi-judicial authority adopted by the City Council.

Section 3: Division 710, Supplementary District Regulations, Section 710.04, Fences, Paragraph C. is hereby amended as follows:

710.04 Fences and walls

- A. In all cases:
 - 1. Except as otherwise provided, fences or walls shall not be constructed within 2 feet of a public right-of-way.
 - 2. The finished side of a fence shall be to the exterior. For purposes of this section, the finished side of the fence shall be defined as the side of the fence that contains no visible support structures. Further, the following fences shall be considered as allowable exterior finishes:
 - a. Shadowbox fences (example shown below)
 - b. Dual sided fences with decorative elements on both side including, but not limited to, trim, post caps, and x-cross beams (example shown below)
 - 3. Where allowed, chain link fences shall not be subject to regulations regarding the finished side of the fence.



Examples of the finished side of a fence



Examples of the unfinished side of a fence



Shadowbox fence



Dual sided fence with decorative elements

- B. In all zoning districts, decorative or ornamental fences or walls, as required by this ordinance, shall be constructed of durable materials such as wood, brick, stone, or wrought iron, or split rail; but shall not be constructed of exposed concrete block, or used or discarded material in disrepair, including, but not limited to, pallets, tree trunks, trash, tires, junk or other similar items.
- C. Reserved.
- D. In all zoning districts, except LI, HI, and PID [see 710.04(E)]:
1. Fences or walls within the front yard of any parcel of land on a public/private street shall not exceed 4 feet in height and shall be ornamental or decorative in nature.
 2. Fences or walls within major side yards or within the rear yard of double frontage lots shall not exceed 6 feet in height and shall be ornamental or decorative in nature.
 3. In residentially zoned areas, a subdivision entrance, fence or wall along the right of way, which must be maintained by the owner or an established home owners association, shall not exceed eight (8) feet in height, shall be ornamental or decorative in nature, composed of high grade metal, wood, brick, stone or stucco, have columns (composed of only brick, stone or stucco) spaced no further apart than 40 feet and must be reviewed and approved by City staff prior to construction.
 4. In all other instances, fences and walls shall be no more than 8 feet in height.
- E. Fences or walls located in the front yard of any parcel of land located on arterial or collector streets on property zoned LI, HI, or PID shall have a maximum height of 6 feet and shall be ornamental or decorative in nature. In all other instances, fences and walls shall be no more than 8 feet in height.
- F. When this article requires a fence to be constructed, such fence shall be completed prior to occupancy of the primary use structure. Telecommunications towers are not subject to the requirements set forth in Section 710.04, but must meet all requirements listed in Section 712.07. Retaining walls are not subject to the requirements of Section 710.04. All properties must also be in accordance with Section 716.04.
- G. A fence equipped with or having barbed wire, spikes, or similar device, or electric charge shall not contain said devices within 6 feet of the ground level. No fence shall have barbed wire, spikes, or similar devices, or an electric charge in a yard fronting a street on property zoned for residential, commercial, central business district, or office use. Barbed wire, spikes, or similar devices, or an electric charge on fences shall not exceed more than 20 inches above the height of the fence.
- H. All swimming pools shall be enclosed by a fence having a height of not less than 4 feet with a self-closing, self-latching gate unless otherwise approved by the Director of Development Services.

Section 4: Division 710, Supplementary District Regulations, Section 710.05, Buffers, Paragraph C. is hereby amended as follows:

710.05 Buffers

Buffers, as required by this article, shall be established and maintained by the property owner to separate and partially screen noise and views. Buffers shall meet the following requirements:

- A. Property owners and developers shall leave undisturbed the natural topography and growth of the land, except vegetation determined to be:
1. dead or diseased*;

2. natural growth where too dense for normal growth*;
3. trees that are a danger to property or people*;
4. poison ivy and other noxious vegetation;
5. creeping vines and invasive species that threaten the viability of desirable plant growth (e.g. kudzu).

* Determinations must be certified by a registered arborist or licensed landscape architect for trees in these categories to be removed.

The Planning and Zoning Director or his/her designee may require additional landscape improvements in buffers that lack sufficient topography or foliage to provide for visual screening and diffusion of sound. These improvements may include natural features that supplement the existing landscape such as trees, berms, shrubs, flowers, grass, stone, rocks, and other landscaping materials.

- B. Buffers must not be used for parking or contain any structure other than a permanent wall or fence as required by the City.

Vehicular access, public utilities, and stormwater drainage are allowed in a buffer provided they are crossing perpendicularly to the buffer. Such facilities shall be designed so as to cause the least amount of intrusion possible. Stormwater retention and detention facilities shall not be placed in a required buffer. Bike paths and greenways are excluded from these restrictions.

- C. Reserved.

- D. Buffers shall consist of a permanent wall or solid fence not less than six feet in height and a screen of evergreen plantings, so designed and developed to provide for visual screening and diffusion of sound. The Planning and Zoning Director may provide an administrative variance to allow a buffer to be established without the fence, when it can be demonstrated that the existing or proposed landscape serves a satisfactory screening function and the adjacent affected property owner consents to the issuance of said variance. The Planning and Zoning Director shall not provide an administrative variance when it has been approved as a stipulation of zoning. All required fencing shall be installed prior to issuance of the certificate of occupancy. See 712.08 (Tree Protection and Landscaping) for a listing of additional requirements pertaining to species and location requirements.

- E. Any grading, improvements or construction adjacent thereto shall be conducted far enough from the buffer area so as not to disturb or encroach upon the buffer area.

- F. Buffer area shall be counted in addition to the setback requirement.

- G. Buffers need not be established in those instances in which a street separates zoning districts.

- H. No buffer shall be required in circumstances in which the rezoning of a parcel or parcels of property creates a condition in which a buffer would be required along the boundary of an adjacent property or properties, where no buffer had previously been required. Where a buffer was previously required on adjacent property before the rezoning, and the size of that buffer would be increased due to the rezoning, the previously required buffer shall remain the same size.

Section 5: The above-described text amendments shall have an effective date of July 1, 2025.

Section 6: It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses, and phrases are severable and if any section, paragraph, sentence, clause, or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

Section 7: All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 8: This Ordinance shall be effective upon signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

Final Ordinance submitted by:


Shelby Little, Planning & Zoning Manager


Approved as to Form:


Douglas R. Haynie, City Attorney
Daniel White

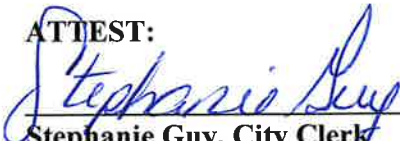
Approved by City Council:

APPROVED:

DATE: June 11, 2025


R. Steve Tumlin, Jr., Mayor

ATTEST:


Stephanie Guy, City Clerk