

**ARTICLE 11  
PRIVATE ROADS**

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**Sec. 1101. Generally.**

- (a) Private roads may, upon application, be permitted subject to the requirements of this Article. Proposed private streets shall not be permitted if they do not include access to amenities or features that, by design or agreement, are intended for use by the general public.
- (b) Applications for approval of private roads shall be approved or disapproved by the Mayor and City Council. Following a recommendation by the Zoning Administrator, the Mayor and City Council shall consider the application and the may impose conditions on the approval of private roads to ensure various public purposes and to mitigate potential problems with private roads.
- (c) No final plat involving a private road shall be approved unless said final plat conforms to the requirements of this Article.
- (d) This section shall not be construed to prevent the installation of roads and driveways within private developments not involving the subdivision of land that remain under private ownership but which are unrestricted in terms of public access.

**Sec. 1102. Special Improvement Requirements.**

Whenever a subdivision or development is proposed to have roads or streets closed to through-traffic (i.e., private with access control), the Mayor and City Council shall require that the following improvements and provisions be reviewed, approved, and installed or erected in accordance with approved development plans:

- (a) A gate or guardhouse at the entrance to the private road or street;
- (b) A sign of appropriate size to identify the street or development is private.
- (c) Provisions are made to ensure that access at the entrance to the private road or street is not restricted to law enforcement officials and vehicles, emergency response officials and vehicles, postal delivery vehicles, and City personnel and vehicles while conducting City business.

**Sec. 1103. Engineering Plans Required.**

It shall be unlawful for any person to construct a new private road or alter an existing private road or to cause the same to be done without first obtaining approval of development plans and securing a development permit from the Zoning Administrator in accordance with the requirements of this Ordinance.

**Sec. 1104. Standards for Private Roads.**

All private roads shall be constructed to standards for City Streets as specified in this Ordinance.

**Sec. 1105. Road Names and Signs.**

Private roads shall be named, subject to the approval of the Mayor and City Council after recommendation by the Zoning Administrator and 911 Coordinator. The subdivider of land involving a private road shall install road signs with content containing the road name as approved by the Zoning Administrator. The sign signifying the private road may be required by the Zoning Administrator to be a different color than that of road signs provided for public roads, or designated "private" in order to distinguish maintenance responsibilities in the field.

**Sec. 1106. Rights-of-ways.**

Right-of-ways for private roads shall be designated on final plats as general purpose public access and utility rights-of-ways, along with the name of said private road. Said private right-of-ways shall, at minimum, be of the same width as that required for the right-of-way of a City road. Right-of-ways for private roads shall not be included in any calculation of minimum lot size established by the Flowery Branch Zoning Ordinance. In the cases of private roads, the right-of-way for the private road shall be drawn as its own discrete parcel to be dedicated to a private homeowners association (i.e., not shown to be a part of any lot).

**Sec. 1107. Maintenance.**

The City shall not maintain, repair, resurface, rebuild, or otherwise improve roads, signs, drainage improvements or any other appurtenances within rights-of-ways established for private roads. A private maintenance agreement recorded with the Hall County Clerk of the Superior Court shall be required for any private road and other improvements within rights-of-ways established for private roads. The maintenance agreement shall set out the distribution of expenses, remedies for non-compliance with the terms of the agreement, rights to the use of rights-of-ways, and other pertinent considerations. The maintenance agreement shall specifically include the following terms:

- (a) The maintenance agreement shall establish minimum annual assessments in an amount adequate to defray costs of ordinary maintenance and procedures for approval of additional needed assessments. The maintenance agreement shall also specify that the funds from such assessments will be held by a homeowners or property owners association in cases of a subdivision of five (5) or more lots fronting on a private road.
- (b) The maintenance agreement shall include a periodic maintenance schedule.
- (c) The maintenance agreement shall be enforceable by any property owner served by the private road.
- (d) The maintenance agreement shall establish a formula for assessing maintenance and repair costs equitably to property owners served by the private road.
- (e) The maintenance agreement shall run with the land.
- (f) The Mayor and City Council may, at its discretion, as a condition of approving private roads, require a performance bond and/or maintenance bond be submitted by the subdivider and held by a homeowners or property owners association, to be drawn from by the homeowners or property owners association as maintenance and repair

needs may arise. Alternatively, where such association does not exist, the Mayor and City Council may require that the subdivider pay an amount of money as recommended by the Zoning Administrator into an escrow account or other suitable account for the maintenance and repair of private roads and stormwater management improvements.

**Sec. 1108. Specifications for Final Plats Involving Private Roads.**

No final plat involving a private road shall be approved by the Zoning Administrator for recording unless and until it shall contain the following on the face of the plat:

- (a) Deed book and page reference to the recorded covenant required by this Article.
- (b) "WARNING, the City of Flowery Branch has no responsibility to build, improve, maintain, or otherwise service the private roads, drainage improvements, and other appurtenances contained within the rights-of-ways for private roads shown on this plat."
- (c) "Grant of Right-of-way. The right-of-way shown on this plat for private road(s) is hereby granted and said grant of rights shall be liberally construed to provide all necessary authority to the City of Flowery Branch, and to public or private utility companies serving the subdivision, for the installation and maintenance of utilities, including, but not limited to, electric lines, gas lines, telephone lines, water lines, sewer lines, cable television lines, and fiber optic cables, drainage improvements, together with the right to trim interfering trees and brush, together with a perpetual right of ingress and egress for installation, maintenance, and replacement of such lines.

\_\_\_\_\_  
Signature of Property Owner"

**Sec. 1109. Purchaser's Acknowledgement.**

Prior to the sale and as a condition of the closing of a real estate transaction involving any lot served by a private road in the City, the subdivider or seller of said lot shall execute a notarized purchaser's acknowledgement of private road construction and drainage maintenance responsibilities as set forth below. A copy of the purchaser's acknowledgement shall be retained by the purchaser and shall be required to be submitted as a condition of a building permit for a principal building on said lot:

"Purchaser's Acknowledgement of Private Road and Drainage Maintenance Responsibility.

(I) (We) have read the Declaration of Covenant that pertains to the lot that is the subject of this real estate transaction \_\_\_\_\_ (insert address or attach legal description). (I) (We) understand that the Declaration of Covenant applies to the lot that (I am) (we are) purchasing and requires (me) (us) to provide a specified percentage or amount of the financing for the construction and maintenance of any private road and drainage facilities serving the lot which (I am) (we are) purchasing, and that owners of other lots in this plat may sue for and recover those costs which this covenant requires (me) (us) to pay, plus their damages resulting from (my) (our) refusal to contribute, plus reasonable attorneys fees. (I) (we) further understand that the City has no obligation to assist with the maintenance and improvement of the private road, drainage facilities, and other appurtenances within the right-of-way for the private road serving the lot in question.

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**Subdivision and Land Development Ordinance City of Flowery Branch, GA**

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I (we) understand that a copy of this purchaser's acknowledgement shall be required as a condition of the issuance of a building permit for a principal building on the lot (I am) (we are) purchasing.

\_\_\_\_\_  
Purchaser"