

GATED COMMUNITIES: PUBLIC SAFETY ACCESS ORDINANCE

Section 100.01. Definitions

For the purposes of this section, the following words shall have the following meanings:

Key Box - A secure, tamper-proof device with a lock operable only by a fire department, police department, or emergency services department master key, and containing building entry keys and other such devices that may be required for access in an emergency.

Gated Community - A Residential Development consisting of 5 or more land or housing units, Commercial or Industrial Development consisting of one or more units, or accessory uses which are enclosed within a geographical area by restrictive gates.

Gates - A gate, crossbar, door, or other obstructive device which is utilized for the purpose of restricting, controlling, or obstructing entry or exit by motor vehicles or pedestrians to or from a private roadway.

Ingress/Egress - The point where vehicles or pedestrians enter and exit a development.

Private Streets - Internal streets that are not owned or maintained by the North Carolina Department of Transportation and that are owned and maintained by an entity responsible for upkeep and maintenance, such as a homeowners association, community group, property management company, or similar type of organization.

Section 100.02. Intent

The intent of this section is to regulate the installation and construction of all electronic access gates into private developments and/or uses, while also allowing for the safe and efficient ingress and egress for fire, police, emergency, and public works personnel.

Section 100.03. Requirements

The following are requirements for new and existing developments regarding the construction of gates around a development:

- A. The development inside the gated community shall have private streets.
- B. The location of the gate(s) shall comply with §100.04 regarding the development requirements for McDowell County.
- C. The ingress/egress gates should be in working order and inspected annually.

Section 100.04. Gated Development Specifics

Gated developments, whether for an existing community or proposed community, shall adhere to dimensional requirements that are set forth in this chapter.

A. The ingress/egress for fire department, and emergency vehicles shall be a minimum 12 feet (12') wide. All gates existing prior to the adoption date of this ordinance shall be grandfathered regarding width of the gate. Any significant changes to the structure of the gates after the adoption date of this ordinance will require that gate width be brought up to the 12 foot standard.

B. Each electrical vehicular gate must be provided with a fail-open device to open during power failures. During a power failure, the gates will open and remain open. These devices usually restore the gate(s) to the closed position after the power is restored. Emergency Services shall be allowed to change gate codes as often as deemed necessary.

C. Gates need to be opened for appropriate personnel to enter the community during an emergency. A lock box key activating switch or padlock shall be installed to allow emergency personnel access through vehicular gates.

D. An approved lock box shall be installed to allow emergency personnel access through all pedestrian gates.

E. If the vehicular gate is a swing-type gate, it should be designed so that when the gate is fully opened it does not obstruct the path of travel for vehicles or pedestrians, both emergency and non-emergency.

F. If the vehicular gate is a roll-type gate, it cannot be designed in a way that it would block vehicular and pedestrian paths of travel, both emergency and non-emergency, when fully opened.

G. If there are two or more gates in any single development, all gates must be operated in the same fashion.

H. Gate activation shall not be altered or placed out of service without prior notification to the local Fire Department, McDowell County Emergency Services and the McDowell County Sheriff's Department.

I. All gates must have 2 automated means of opening, as well as 1 manual means to open the gate in the event of a power failure.

J. In instances where a gate fails to operate in its intended operational capacity and such failure results in damage to the gate or causes the responding emergency agency to alter normal entrance procedures, the responding agency, mutual aid departments, and McDowell County shall not be held liable for damages incurred.

Section 100.05. Process

All gates must come in compliance within 12 months of adoption of the ordinance. The process for obtaining approval from McDowell County on new or modified gates shall be as follows:

- A. The applicant must submit a detailed plan, including but not limited to, scaled drawings showing the location of the gates, turn radius, dimensions of the gates, pavement, sidewalks, and curbs.
- B. All applicable permits for the construction of gates will be required to be obtained from McDowell County Building Inspections.

Section 100.06. Maintenance

The gated ingress/egress areas, along with the exterior gates encompassing the development, shall be kept in working order and shall be repaired and/or replaced in the event they are disabled and/or damaged. It is not the responsibility of McDowell County to maintain these gates. It is also a requirement that the gate be reviewed by McDowell County Personnel annually to verify the gate is in operable condition in the event of an emergency.

Section 100.07. Violations

The following are violations and the penalties of this chapter:

- A. It shall be unlawful for any person to construct, install, or maintain any blocking device, such as a gate or any other type of barrier, without first review and approval from McDowell County Personnel.
- B. If it is found that a gated community is in violation of this ordinance, the Home Owner's Association (HOA) or Property Owners Association (POA), will be contacted via registered mail by McDowell County and will be required to remedy the problem or submit a plan of action immediately. Any violations that have not been remedied or a plan of action submitted after seven (7) business days will be fined every day thereafter. Fines will be assessed at \$200.00 per day until the violation has been fixed.
- C. Violation determinations and requests for variance of the requirements of this Ordinance may be appealed to the McDowell County Board of Adjustments at a regularly scheduled meeting.