

“East Palestine, Marietta Freight Depot, Pedestrian Deaths Railroad Residential Buffer Overlay Zone”

Preamble: Using the evolving zoning criteria of restrictive zoning such as the DOD Accidental Zone, closure of Street RR crossings in Marietta over years in reaction to Pedestrian fatalities, and the current saturation of Apartment Zoning throughout Cobb County” be it resolve that Marietta adopt the Railroad Residential Buffer Overlay for the safety and well being of residences as follows:

Be it resolve that Marietta adopt an Ordinance referred to the “East Palestine, Marietta Freight Depot, and Pedestrian Safety Railroad Buffer Overlay” (“EPMFDPS”) to include, but not limited, to the following provisions:

- The EPMFDPS shall commence at the Kennesaw Ave. Railroad crossing and right of way and go southernly along the Railroad right of way, full breadth and length, and end at the West Dixie Railroad crossing. (“Railroad Accidental Area”).
- Notwithstanding current zoning enacted by previous terms of council, parcels no matter how zoned and (not utilizing residential) used for commercial property and parking lots are barred from building new multifamily apartments or converting current commercial buildings to apartments for lack of said use of property as existing. Properties cannot create new residential multi family as an authorized use if not exercised currently or recently. The current use of the property within the zoning will prevail and preclude residential multifamily if not currently used as such.
- There shall be a 50’ foot buffer from the east and west boundary of the Railroad easement with no improvements with except for a Fence installed along buffer boundary and then another 8’buffer on the outside of the fence that can only be used for inside driveways and/or parking and not footprint of building(s).
- The effective date of the Ordinance shall be retroactive to February 3, 2023, the date of the major derailment carrying hazardous materials in East Palestine, Ohio.
- If a variance is sought, notwithstanding any other code provision, such petition shall go before the Marietta City Council with a super majority of five votes required for granting such variance, and six votes if vetoed to overcome veto. Decision will be based upon the preponderance of evidence for safety and restricted density issues.
- This Overlay shall sunset upon the following mitigating safety and traffic items being satisfied, completed and implemented:
 - “Quiet railroad crossings” to be implemented on each crossing within the Railroad Accidental Area.
 - The forthcoming safety measures being consider based upon the recent multi derailment have been adopted locally as certified by the Georgia Department of Transportation.

- Alternate gateways with walkability sidewalks into the Cobb County Court Complex area and Square shall be improved and moved up in priority, including, but not limited to, Washington Ave., Lawrence Street, Roswell St., Fairground Street, Powder Springs St., Kennesaw Avenue, and Atlanta Street in anticipation of clogged railroad crossings.
- Walking Easement to be obtained from the corner of Polk and Loop to tie into open Denmead Street north of Marietta Square Market and designate Walking and bicycle path to Mill Street.
- Pedestrian, handicap accessible, bridges over the Loop and within 2 miles of the square, a Pedestrian bridge over Whitlock (strategically to also facilitate students walking to school.).
- Economic Development to recruit a quality, downtown grocery store, deli and market just off Marietta square.
- Any other safety and traffic and business flow measures proposed by Council.