

## Cobb County Department of Transportation

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### **Amendment to chapter 106 of the code of Cobb County, Georgia**

An Ordinance to add a new Utility Accommodations section (106-3); to delete the current Section 106-3, Pavement cuts, utility work; permission, restoration, obstructions; to amend Section 106-4, Utility locations in rights of way; and to add a new Section 106-10, formerly Section 106-3.

Whereas, Cobb County holds the rights of way within its geographical boundaries as an asset in trust for its citizens. Pursuant to O.C.G.A. § 36-1-20, "[t]he governing authority of each county, for the purpose of protecting and preserving the public health, safety, and welfare, is authorized to adopt ordinances for the governing ... of the unincorporated areas of the county ... and may provide for the implementation and enforcement of any power or duty vested in the County governing authority." Article 9 § 2, paragraph 3 of the Georgia Constitution provides that a county may exercise the powers over and provide services for "Public Transportation," and

Whereas, State law grants to counties the power to "grant permits and establish reasonable regulations for the installation, construction, maintenance, renewal, removal and relocation of pipes, mains, conduits, cable wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances of any utility, in, on, along, over, or under the public roads of the county." Further, O.C.G.A. § 32-4-42(6) mandates "[i]t shall be the duty of the county to ensure that the normal operation of the utility does not interfere with the use of the county road system," and

Whereas, the County and other public entities have invested millions of dollars in public funds to build, beautify, and maintain the rights-of-way; and

Whereas, Cobb County is experiencing rapid growth in communications technology that brings with it increased demand on its rights of way, and

Whereas, it is necessary that the County and the utilities effectively communicate and work together in order to accomplish the goals of this policy and implement plans for the development of both Cobb County and the utilities' facilities.

Whereas, it is not feasible to likewise increase the amount of rights of way currently available, and

Whereas, because of immediate safety and welfare concerns for the citizens of Cobb County, the need to have public utilities services provided on an uninterrupted basis, and concerns for the protection of the County's and other entities' property currently located within the rights of way, it is in the best interest of the County, its citizens, and current and future users of the rights of way to manage the County's rights of way to the fullest extent provided under the law without creating any barriers to entry,



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NOW THEREFORE, BE IT ENACTED by the Board of Commissioners, Cobb County, Georgia, that Chapter 106 of the Cobb County Code be amended as follows:

Section 106-3 shall be deleted in its entirety and the following new Section 106-3 entitled "Utility Accommodations in Rights of Way" shall be inserted in lieu thereof to read as follows:

### Sec. 106-3. Utility Accommodations in Rights of Way

#### (a) Adopted.

The 1988 Utility Accommodation Policy and Standards manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, except Appendix B (Permit Forms and Supporting Documents), promulgated by the State of Georgia Department of Transportation, as may be amended from time to time, is adopted by reference and incorporated in this article as if fully set forth herein, subject to all amendments and modifications contained in this article. A copy of the manual shall be maintained at the offices of the Director of Transportation or his designee and the Clerk of the Board of Commissioners and open for public inspection.

#### (b) Amendments.

The 1988 Utility Accommodation Policy and Standards manual promulgated by the State of Georgia Department of Transportation, as may be amended from time to time, adopted in Section 106-3(a) is amended in order to equate state definitions and provisions with their appropriate and equivalent county counterparts, such that a policy shall be implemented to reflect the intent and effect of the state right of way policy as it would logically apply to unincorporated Cobb County's rights of way, including but not limited to the following:

#### (1) Substitutions:

Commissioner = Director, County Department of Transportation

Department = County Department (of Transportation)

District Engineer = County Department of Transportation Operations Division Manager or his/her designee

Highway = Any road that is part of the Cobb County Road System

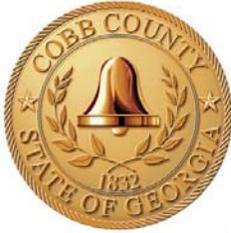
State = County

State Bridge and Structural Design Engineer = County D.O.T. Operations Division Manager or his/her designee

State Highway (Chief) Engineer = County D.O.T. Director or his/her designee

State Utilities Engineer = County Department of Transportation Operations Division Manager or his/her designee

"Telephone Booth" shall include any booth or structure, to be used by the public at large, which houses a communications link for local or long distance communications, including but not limited to



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data communication ports, terminals, kiosks, structures or jacks for connection with local or long distance communications.

"Utility" (as defined in the state's policy) shall read:

"Utility: All privately, publicly or cooperatively owned systems for producing, transmitting or distributing communication, data, information, telecommunication, cable television, power, electricity, light, heat, gas, oil, crude products, water/sewer, steam, fire and police signals, traffic control devices, and street lighting systems, and housing or conduit for any of the foregoing, which directly or indirectly serve the public or any part thereof. The term "utility" may also be used to refer to the owner, operator, provider, servicer, or any agent thereof, of any above-described utility or utility facility."

(2) Administration. The Director of the Cobb County Department of Transportation shall have the authority to administer the State Department of Transportation's Utility Accommodation Policy and Standards, as amended from time to time by the State or County, on county roads in unincorporated Cobb County and in accordance with any procedures the Cobb County Department of Transportation may establish thereunder.

(3) Fees. The Board of Commissioners shall be authorized to charge fees in accordance with the State Department of Transportation's Utility Accommodations Policy and Standards and any other applicable laws that exist now or may be enacted in the future. Fees shall be determined by the Director of the Department of Transportation and subject to the approval of and publicly disclosed by the Board of Commissioners. Any fee schedule shall be posted at the offices of the Director of Transportation or his designee and the Clerk of the Board of Commissioners and open for public inspection.

[Cross reference: The Georgia Constitution, Art. 9, Sec. 2, Para. 3; O.C.G.A. § 36-1-20; O.C.G.A. § 32-4-42(6); State Department of Transportation's Utility Accommodations Policy and Standards (1988 ).]

Section 106-4 shall be deleted in its entirety and the following new Section 106-4 shall be inserted in lieu thereof to read as follows:

### Section 106-4. Utility Locations in Rights of Way

All utilities locating their facilities in new residential and commercial developments shall locate their facilities pursuant to the Cobb County Development Standards and Specifications, adopted on October 22, 1996 and effective January 1, 1997, and as those Development Standards may be amended from time to time. In the event that the Development Standards conflict with the State



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Department of Transportation's Utility Accommodation Policy and Standards, Cobb County's Development Standards will prevail, so long as they are not more restrictive.

(Mo. of 10/22/96, No. 14)

The Official Code of Cobb County, Georgia, is amended by adding a section numbered 106-10, to read as follows:

106-10. Pavement cuts, utility work; permission, restoration, obstructions.

(a) Any utility, contractor, firm or individual shall obtain written approval of the board of commissioners through the county department of transportation prior to starting any pavement cuts, curb cuts or any utility repairs or installations on county rights of way. Allowances will be made for emergency conditions. Utilities, as defined in Section 106-3(b)(1), shall also comply with the policy and procedures set forth in Sections 106-3 and 106-4.

(b) After work approved under this section has been completed, the affected party shall repair the pavement, or portion of rights of way, that has been encroached upon. Repair work shall be completed in accordance with all of the work specifications on file with the county department of transportation and to the department's satisfaction. Utilities, as defined in Section 106-3(b)(1), shall also comply with the policy and procedures set forth in Sections 106-3 and 106-4.

(c) The rights of way shall be kept clear of any form of unnecessary obstruction. Anyone not having written permission from the county department of transportation to place any type of structure or material, including junk or debris, on the rights of way shall be subject to legal action and/or prosecution as provided by law.

(Mo. of 2-8-66, No. IX; Mo. of 9-26-67, No. 24; Code 1977, § 3-23-5)