

Sec. 106-3. - Utility accommodations in rights-of-way.

(a) *Adopted.* The 2016, as revised 12-01-18, Utility Accommodation Policy and Standards promulgated by the State of Georgia Department of Transportation (which hereinafter may be referred to as the "Manual"), is adopted by reference and incorporated in this article as if fully set forth herein, subject to all amendments, deletions and modifications contained in this article. A copy of the manual shall be maintained at the offices of the director of transportation or his/her designee and the clerk of the board of commissioners and open for public inspection. The Manual as adopted in this section 106-3(a) supersedes and replaces the 2009 Utility Accommodation Policy and Standards manual previously adopted.

(b) *Amendments.* The Manual promulgated by the state department of transportation, 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 county's rights-of-way, and in order to reflect the county's policies and practices, including, but not limited to, the following:

(1) *Definitions and terms substitutions.*

Attorney General of Georgia: County attorney.

Business Day: A Calendar Day exclusive of Saturday, Sunday and legal county holidays.

Commissioner: Director, county department of transportation.

Department: County department (of transportation).

District construction office: County department of transportation.

District or area engineer: County department of transportation deputy director or his/her designee.

District utilities office: County department of transportation engineering department.

Georgia Utilities Permitting System (GUPS): Cobb Utilities Permitting and Project System ("CUPPS"), a totally electronic, web-based system using county software which allows Utilities the ability to transfer a completed utility permit application package to the department for review via the internet.

Highway: Any road that is part of the county road system.

State: County.

State bridge and structural design engineer: County department of transportation engineering division manager or his/her designee.

State highway (chief) engineer: County department of transportation director or his/her designee.

State law department: County attorney's office.

State Subsurface Utilities Engineer: County department of transportation director or his/her designee.

State utilities engineer: County department of transportation deputy director or his/her designee.

State utilities office: County department of transportation.

- (2) *Administration.* The director of the 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 county, on county roads in the unincorporated county or within the county system and in accordance with any procedures the 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. Any fee schedule shall be posted at the offices of the director of transportation or his/her designee and open for public inspection.
- (4) *[Deleted provisions.]* The following chapters and sections of the Manual are deleted in their entirety:
 - a. 3.2.C;
 - b. Chapter 7;
 - c. Chapter 8.
- (5) *[Amended provisions.]* The following sections of the Manual are amended as follows:
 - a. *Section 2.5.G* of the Manual is amended by revising the second sentence to read as follows: "Private Lines may only cross the right-of-way with the prior consent of the county and by conforming to all applicable requirements contained in this Manual."
 - b. *Section 3.1.A.1* of the Manual is amended by removing the existing paragraph and adding the following in its place: "The County uses CUPPS as a general permit to be used for all types of utility installations including when a Utility has facilities within an active project."
 - c. *Section 3.1.A.2* is amended by removing the first sentence of the existing paragraph and adding the following in its place: "In addition to the general encroachment permit, a supplemental blasting permit will be required when the Utility proposes to do any work involving the use of explosives within the right of way. A blasting permit is available from the Cobb County Fire Department."
 - d. *Section 3.1.A.2* is further amended by deleting the last sentence.
 - e. *Section 3.2.B.5* of the Manual is amended by removing "Traffic Operations Office" and adding the following in its place: "Development Services Division."
 - f. *Section 3.3.A* of the Manual is amended by removing the existing paragraph and adding the following in its place: "Permit fees are charged in accordance with the department's published fee table, available in the Utility Permitting office of the department."
 - g. *Section 3.5.F* of the Manual is amended by removing the first three sentences, and by substituting the fourth sentence with the following: "A performance bond payable to the county may be required as a condition of the permit at the discretion of the County department of transportation".
 - h. *Section 3.6.A* of the Manual is amended by deleting the last two paragraphs.
 - i. *Section 4.0.A.1* of the Manual is amended by deleting subparagraph d. and adding the following in its place: "d. Selects the Overhead/Subsurface Utility process for specific projects"
 - j. *Section 4.0.A.2* of the Manual is amended by deleting subparagraph a. and adding the following in its place: "Prepares periodic reports to coordinate the work program with the Utility."
 - k. *Section 4.0.A.3* of the Manual is amended by replacing the phrase in subparagraph a. that reads "then a GUPS Permit must be completed and on file with the Department" with the following: "then a CUPPS Permit may be required by the Department."

- l.* Section 4.0.A.3 of the Manual is further amended by deleting subparagraph d. and adding the following in its place: “d. Is responsible for participating in periodic utility coordination meetings, and planning their resources to accommodate the County on such projects identified in the Department’s Construction Work Program”
- m.* Section 4.0.B.1 of the Manual is amended by deleting it and adding the following in its place: “**General Description** – In the event that an issue should arise that is not specifically covered in Sections 4.1.C.4, 4.4.B and 4.4.C of this Manual, such issue shall follow the same escalation path as is described by Section 4.1.C.4 of this Manual.”
- n.* Section 4.0.C.1 of the Manual is amended by deleting the first two sentences of the first paragraph and adding the following in their place: “**General Description** – The department may utilize the SUE process to manage the risks associated with existing utility facilities found on active Department projects. The SUE process employs established engineering technologies that can provide precise horizontal and vertical locations of existing overhead/underground utilities to produce an accurate picture of the existing overhead/underground utility infrastructure.”
- o.* Section 4.0.C.2 of the Manual is amended by deleting the first paragraph and adding the following in its place: “**Implementation of SUE** – The Department may require the use of SUE on design-build projects and may request its use on any project where inaccurate underground utility information would negatively impact the project in a significant way.”
- p.* Section 4.1.A.1 of the Manual is amended by deleting the first paragraph and adding the following in its place: “In order to provide information on the Department’s Construction Work Program and to discuss proposed projects with the utility companies on a regular basis, it is the department’s policy to provide monthly reports to all utility companies. Printed information on the Construction Work Program will be provided to the Utilities to the extent possible without compromising any confidential or otherwise sensitive information. This information will be disseminated during the monthly meetings of the Cobb Utilities Coordinating Committee (Cobb-UCC) and posted on the Cobb-UCC web page of the Georgia Utilities Coordinating Council. Schedules may also be posted to the Cobb DOT Utilities web page and the CUPPS website. Regularly scheduled meetings may be held with utility companies involved on multiple projects. Utilities may request company-specific reports at any time. Particular items that need to be addressed as a minimum are as follows:”
- q.* Section 4.1.A.1 of the Manual is further amended by deleting the fourth bullet and adding the following in its place: “Utilities may be asked to identify candidate projects to employ Overhead/Subsurface Utility Engineering (SUE) investigations.”
- r.* Section 4.1.A.1 of the Manual is further amended by deleting the last paragraph.
- s.* Section 4.1.A.2 of the Manual is amended by deleting the third bullet in the section entitled “*Prior to Concept Team Meeting:*” and also by deleting the second bullet in the same section and adding in its place the following: “Submit a Request for Information (RFI) to each Utility to ensure each is aware of the general scope and nature of the Department project. This RFI would request that each Utility submit a written response which includes a cost estimate and comments concerning potential impact to their facilities. The Utility would indicate if it has easements that could be impacted by the project improvements. Additionally, in this response the Utility should provide an indication of whether its facilities could be included in the department’s project construction contract. The Utility would reimburse the contractor for performing the work, directly or through an approved subcontractor.”
- t.* Section 4.1.C.4 of the Manual is amended by deleting the paragraphs titled "Escalation Process Step 2" and "Escalation Process Step 3" in their entirety, and amending the remaining portions to read as follows:

"4.1.C.4 Work Plan Approval - It is the responsibility of the department of transportation engineering division manager or his/her designee to review all Work Plans submitted by the Utility found within a project's limits. If upon review, the County department of transportation engineering division manager or his/her designee determines a Work Plan to be unreasonable based upon the required scope of utility adjustment and/or relocation required to accommodate a project; the department of transportation engineering division manager or his/her designee will initiate the following process to resolve such disputes involving the Work Plan whenever they may occur.

"After the County department of transportation engineering division manager or his/her designee has reviewed and determined that the submitted Work Plan is unreasonable for the proposed utility work in question, the department of transportation engineering division manager or his/her designee will notify the Utility of such opinion through written correspondence. Such written correspondence shall detail the items in question and request the Utility to justify or revise the Work Plan accordingly. The Utility will respond to this letter within 10 business days. The response shall include justification or proposed revisions to comply with the items in question identified by the department of transportation division manager or his/her designee. If the Work Plan dispute cannot be resolved through the efforts described above after 20 business days from the date provided in the department of transportation's original written correspondence, said dispute may be escalated by the department of transportation's engineering divisions manager or his/her designee or the Utility to the director of the department of transportation and a designated representative of the Utility who has authority to settle the dispute and who is at a higher level of management than the person with direct responsibility for the management of the project. If the parties are unable to resolve the dispute, either may select relief from such other remedies as may be available at law or in equity."

- u. *Section 4.2.A.2* of the Manual is amended by deleting **Case VII** and **Case VIII**.
- v. *Section 4.2.B.1* of the Manual is amended by deleting in its entirety and adding in its place the following:

"4.2.B.1 Determination of Eligibility. Whenever a claim for reimbursement is made by a Utility, a written application for such reimbursement shall be submitted by the Utility to the County department of transportation, along with such supporting documentation for such claim as may be required in the discretion of the department of transportation. Upon review and verification of the information provided by the Utility, the department of transportation shall make a determination of eligibility for reimbursement."
- w. *Section 4.2.B.4* of the Manual is amended by adding the following language to the end of the paragraph:

"For above-ground facilities, other factors may be considered by the County department of transportation in determining the allocation and proration of costs to be reimbursed to the Utility (including, but not limited to, the overhang of utility facilities into existing rights-of way)."
- x. *Section 4.2.F.2* of the Manual is amended by inserting before the last sentence of the first paragraph the following: "The Utility shall return the agreement, with proper signatures, and the department will forward to the Cobb County Board of Commissioners for final approval."
- y. *Section 4.2.F.3* of the Manual is amended by deleting in its entirety and adding in its place the following:

"4.2.F.3 **Reviews and Approvals.** Agreements will be approved and executed by the Chairman of the Board of Commissioners. The prior concurrence of the Director, County department of transportation and County Attorney may also be required."

- z. *Section 4.4.B* of the Manual is amended by deleting the paragraphs titled "Escalation Process Step 1", "Escalation Process Step 2" and "Escalation Process Step 3" in their entireties, and amending the remaining portions to read as follows:

"4.4.B Revised Work Plan Approval - If previously unforeseen utility removal, relocation, or adjustment work is found necessary by the County department of transportation, the Utility or the department's Contractor after the letting of a project, the Utility shall provide a revised work plan within 30 calendar days after becoming aware of such additional work or upon receipt of the Department's written notification advising of such additional work. The incorporation of this revised work plan into the overall project schedule is not intended to correct errors and omissions with the originally approved Work Plan submitted to the department. If such errors or omissions occur, it will be the Utility's responsibility to adhere to the original work plan submitted and approved during the preconstruction phase of the project's development. However, when it is deemed appropriate for a revised Work Plan to be submitted the following procedure shall be followed for its approval:

"It is the responsibility of the department of transportation engineering division manager or his/her designee to review all revised Work Plans submitted by the Utility found within a project's limits. If upon review, the department of transportation engineering division manager or his/her designee determines a revised Work Plan to be unreasonable based upon the required scope of utility adjustment and/or relocation required to accommodate a project, the department of transportation engineering division manager or his/her designee will initiate the same process to resolve such disputes as set forth in Section 4.1.C.4."

- aa. *Section 4.4.C* of the Manual is amended by deleting in its entirety and adding in its place the following:

"4.4.C. Procedures for Utility Damages or Delay Costs - If the Utility fails to provide a Work Plan or fails to complete the removal, relocation, or adjustment of its facilities in accordance with the Work Plan or Revised Work Plan approved by the County department of transportation, then the Utility may be liable to the department or its Contractor for delay costs and damages incurred by the department or its Contractor which grow out of the failure of the Utility to carry out and complete its work accordingly. However, the following escalation process shall be utilized by the department, its Contractor, and the Utility to resolve such disputes regarding damages or delays prior to such claims being brought before a court of competent jurisdiction.

"Escalation Process Step 1 - It shall be the Contractor's responsibility to coordinate and track each Utilities progress in relation to the Work Plan or Revised Work Plan previously approved by the department of transportation engineering division manager or his/her designee. Once the Contractor has determined that the Utilities work progress is at least 20% behind the approved Work Plan, the Contractor will notify the Utility and the department of such apparent delay through written correspondence. Such written correspondence shall detail the delay in question and request the Utility to submit a proposal on how the Utility plans to rectify such delay and maintain the project's schedule prescribed by the previously approved Work Plan. The Utility will respond to this letter within 10 business days. The response shall include a proposal to cure the delay identified by the department's Contractor. In some cases, the complexity of the project may require that a utility coordination meeting be held to address the issues identified by the department's Contractor. If the Utility determines that this is the case, then the Utility's response letter shall include a request to hold a utility coordination meeting with the department's Contractor and the department of transportation for utility delay resolution. If the utility delay dispute cannot be resolved through the coordination efforts described above after 20 business days from the date provided in the Contractor's original written correspondence, said dispute may be escalated for further consideration as provided in Escalation Process Step 2 below.

"Escalation Process Step 2 - After the department of transportation engineering division manager or his/her designee has reviewed and determined that the submitted Work Plan is unreasonable for the proposed utility work in question, the department of transportation engineering division manager or his/her designee will notify the Utility of such determination through written correspondence. Such written correspondence shall detail the items in question and request the Utility to justify or revise the Work Plan accordingly. The Utility will respond to this letter within 10 business days. The response shall include justification or proposed revisions to comply with the items in question identified by the department of transportation engineering division manager or his/her designee. If the Work Plan dispute cannot be resolved through the efforts described above after 20 business days from the date provided in the department of transportation's original written correspondence, said dispute may be escalated by the department of transportation engineering division manager or his/her designee or the Utility to the director of the department of transportation and a designated representative of the Utility who has authority to settle the dispute and who is at a higher level of management than the person with direct responsibility for the management of the project. If the parties are unable to resolve the dispute, either party may select relief from such other remedies as may be available at law or in equity. The Utility shall have a period of 45 days from the date of receipt of the department of transportation's original written correspondence to either pay the amount of the damages or delay costs to the department or its Contractor or seek relief from this determination by available legal or equitable remedy".

- bb. *Section 4.7.A* of the Manual is amended by revising the last sentence to read as follows: "Contact the county department of transportation for a current copy of this form."
- cc. *Section 4.7.B.1* of the Manual is amended by deleting the first sentence and adding its place the following: "It is desirable to use Overhead/Subsurface Utility Engineering (SUE) to determine existing utility owners/locations, POA and traffic signal communications information on projects that involve placement of new signal facilities or communications cables, or where existing facilities must be relocated to new joint-use poles."
- dd. *Section 4.7.B.2* of the Manual is amended by deleting the first sentence and adding in its place the following: "**Non-SUE Projects/New Installations** – For projects that do not utilize the services of SUE, the responsible party for preliminary engineering will perform survey to include but not limited to the Edge of Pavement (EP) and curb/gutter, and property and R/W data."
- ee. *Section 5.2.B.2* of the Manual is amended by deleting the last two bullets in subparagraph a.
- ff. *Section 5.2.F.2* of the Manual is amended by adding at the end of subparagraph a. a new paragraph to be numbered 4 as follows:

"4. Milling and resurfacing shall be performed such that there isn't an increase in the pavement elevations in the after condition. Areas to be milled and resurfaced shall be measured from each trench edge on each side of the trench. For an example; If a trench is cut diagonal to an east west road, the milling and resurfacing would be measured 50' from a point the further west and 50' from the point further east for complete milling and resurfacing between those two external points.

For any roadway with no raised barriers separating the lanes, the entire roadway shall be milled and resurfaced as described above. For divided roadways (divided with a raised barrier or median), only the side being trenched needs to be resurfaced.

For any utility trenching within the stop bars or stop lines within a signalized intersection, the entire intersection shall be milled and replaced regardless of the length.

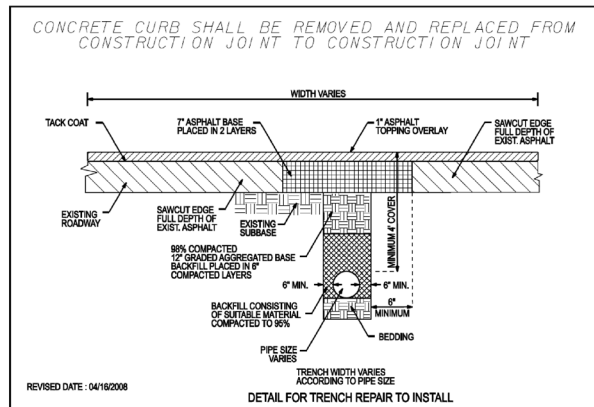
Any and all pavement markings and raised pavement markers within the milled and resurfaced areas shall be replaced in kind according to the department standards for pavement markings and raised pavement markers. Any existing "in-pavement" traffic detection devices within the milled and resurfaced area shall be replaced to the satisfaction of the department of transportation traffic operations manager. Any utility related contractor working around signalized intersections must coordinate with the department of transportation traffic operations manager at least two weeks before the planned start of any saw cutting for utility trenching within a signalized intersection."

- gg. Section 5.2.F.2.b. of the Manual is amended by deleting subparagraph 1 in its entirety and adding in its place the following:

"1. Asphaltic Concrete Pavements- a minimum depth of 48 inches from the top of the pipe to the finished asphalt grade shall be required.

"The bottom of the trench under the pipe shall be bedded up to the haunches of the pipe. Backfill shall be of a suitable material compacted to 98% compaction. The trench shall have a minimum clearance of 6 inches on either side of the pipe for the maximum amount of compaction effort. A minimum of 12 inches graded aggregated base backfill shall be placed in 6 inch compacted layers at 98% compaction. A 7 inch asphalt base shall be placed in 2 layers with an additional one inch (1") asphalt topping overlay. The existing asphalt will be saw cut along the edge for the full depth of existing asphalt. A tack coat will be required between the asphalt base course and the asphalt topping overlay coat. The asphalt topping shall match the existing roadway asphalt. When the concrete curbing is cut it shall be replaced from construction joint to construction joint (See trench repair diagram below)."

- hh. Section 5.2.F.2.c. of the Manual is amended by adding the following language to the end of the paragraph: "Milling and resurfacing shall be required by the department of transportation engineering/utility permitting department".



- ii. Section 5.8.A of the Manual is amended by deleting in its entirety, and adding in its place the following: "**Irrigation Systems.** Irrigation systems installed in the right of way, primarily for sprinkler systems, are installed at the risk of the property owner. The department does not issue permits for irrigation systems, but may issue a landscape license at its discretion. If any irrigation system is damaged, including those licensed by the department, it will not be repaired or replaced by the county."

jj. Section 5.11 of the Manual is amended by deleting in its entirety and adding in its place the following: “**Small Wireless Facilities.** Small Wireless Facilities shall be governed by Article VII of Chapter 106 of the Official Code of Cobb County, as amended.”

(Ord. of 1-23-01; Ord. of 9-22-09; Amd. of 2-23-10; Ord. of 2-28-12)