

Proposed Amendments
Official Code of Cobb County
Chapter 106
Public Hearing Dates
March 8, 2011 – 9:00 am
March 22, 2011 – 7:00 pm
Draft Amendment Package 2

Cobb County Community Development
P.O. Box 649
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ARTICLE II. STREET LIGHTING

DIVISION 1. GENERALLY

Sec. 106-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board means the county board of commissioners.

Department means the Cobb County Department of Transportation.

Director means the director of the department of transportation or his or her duly appointed or assigned authorized representative.

Lot means ~~any~~, except as otherwise defined herein, any single tract of land which falls within any of the zoning classifications, as defined by the zoning regulations set forth in chapter 134; provided, however, that in areas zoned for purposes other than single-family residential, different criteria may be adopted by the board of commissioners for the payment of energy costs and retirement of construction costs.

Street Light District Program means the County's overall program related to implementing, operating, and managing this Article and any related policies and procedures.

(Ord. of 2-27-79, § 4; Ord. of 6-10-86, § 2; Code 1977, § 3-23-27; Ord. of 7-27-95)

Cross references: Definitions generally, § 1-2.

Sec. 106-27. Conflicting provisions.

If any provision of this article is in conflict with any state or federal law, or with any rule, regulation or order of any state or federal agency having jurisdiction of the subject matter of this article, it is hereby deemed to be the intention of the board of commissioners that the state or federal law or rule, regulation or order, as the case may be, shall prevail so that the remaining portion of this article shall be deemed to be of full force and effect.

(Ord. of 2-27-79, § 14; Code 1977, § 3-23-37; Ord. of 7-27-95)

Sec. 106-28. Exceptions of terms of article.

The ~~b~~Board of ~~commissioners~~ may grant exceptions to the literal terms of this article where special conditions or hardships exist.

(Ord. of 2-27-79, § 13; Code 1977, § 3-23-36; Ord. of 7-27-95)

Sec. 106-29. Right of appeal.

Any person or agency dissatisfied with any decision or action of the ~~d~~Department of ~~transportation~~ shall have the right to appeal such decision or action first to the Director, then to the Board. ~~board of commissioners of the county until~~ Such appeal(s) must be made in writing, and delivered to the Director prior to the time the petition is considered by the Board. ~~board of commissioners.~~

(Ord. of 2-27-79, § 15; Code 1977, § 3-23-38; Ord. of 7-27-95)

Sec. 106-30. Authority to contract with public utilities.

The ~~b~~Board of ~~commissioners~~ may contract with public utilities for the purpose of carrying out the terms of this article.

(Ord. of 2-27-79, § 12; Code 1977, § 3-23-35; Ord. of 7-27-95)

Sec. 106-31. Reserved. Procedures to be followed by developers.

~~Street lights shall be required to be provided by the developers of all new subdivisions or other developments utilizing new streets or roads to be dedicated to the county or existing county roads or any combination, unless waived by the board of commissioners. Unless so waived, the developer, at the time of submitting the final plat to the county community development department, or its successor, shall:~~

~~(1) Submit a final street light layout prepared by the utility company which will provide the lighting service showing exact location of street lights within the development or subdivision. For residential and nonresidential subdivisions, this drawing must be approved by the county department of transportation prior to obtaining any building permit within the subdivision. Fixtures and standards/poles installed or used shall be approved by the utility company, which will be responsible for the maintenance of the facilities, and by the county department of transportation. The fixtures shall be mounted a minimum of 25 feet above the ground, and each fixture shall have appropriate arm length to illuminate the street. The county department of transportation may require, in addition to other requirements, a light to be located at any or all street intersections within the subdivision or other development.~~

~~(2) Pay all costs for standards/poles, fixtures, and any other related items or materials necessary for the installation.~~

~~(3) Submit proof of payment for complete installation to the department of transportation.~~

~~(4) Submit a copy of an executed agreement with the utility company for complete maintenance of all installations.~~

~~(Ord. of 2-27-79, § 18; Ord. of 6-23-81, § 7; Ord. of 7-26-83, § 4; Ord. of 6-10-86, § 8; Code 1977, § 3-23-41; Ord. of 7-27-95)~~

Sec. 106-32. Reserved. Subdivisions with underground cable for electric service.

~~In subdivisions utilizing underground cable for electrical service, the developers shall be required to accomplish the same items listed in section 106-31.~~

~~(Ord. of 2-27-79, § 19; Code 1977, § 3-23-42)~~

Sec. 106-33. Nonconforming fixtures.

(a) For purposes of this section the term "lot" is hereby defined as a lot or parcel of land which is developed and served by a utility provider which will bill and collect for the street light service on behalf of the county.

(b) The lawful use and maintenance of fixtures existing at the time of enactment of the original ordinance from which this article is derived, February 27, 1979, or subsequent amendment of this article, may be continued, even though such fixtures do not conform to the provisions of this article, provided that:

(1) A petition for the replacement of such nonconforming fixtures with the same or similar non-conforming fixtures is circulated in accordance with the provisions set forth in section 106-48. The petition shall include the cost to each lot owner for such fixtures and the then current monthly standard charge language indicating the acknowledgment and understanding of those signing the petition that the fixtures to be installed are non-conforming. The Petition shall be signed by 75 percent of the ~~subdivision or~~ street light district residents and submitted to the ~~dDepartment; and of~~ transportation. ~~Where less than 75 percent of the subdivision or street light district residents sign the petition, the county department of transportation shall replace and maintain the street lights in accordance with the standards provided by this article. A petition to replace and maintain nonconforming fixtures must be submitted prior to the replacement of such fixtures with standard fixtures.~~

(2) The cost of replacing ~~and maintaining~~ the nonconforming fixtures shall be borne by the ~~lots and~~ lot residents or lot owners within the ~~subdivision or~~ street lighting district and. ~~The cost for replacing or maintaining such nonconforming fixtures shall be equal to the actual cost incurred by the dDepartment of transportation to replace or maintain the nonconforming fixtures; and~~

(3) The fixtures have not previously been replaced with standard conforming fixtures.

~~(4)~~ Where less than 75 percent of the street light district residents sign the petition, the Department shall replace the street lights in accordance with the standards provided by this article.

(Ord. of 7-27-95)

Sec. 106-34. Installation and operation standards adopted; exceptions.

In order to ensure adequate illumination of public rights-of-way and promote safety and security, the American National Standard Practice for Roadway Lighting of the Illuminating Engineering Society, as approved by the American National Standards Institute (1983), and as from time to time amended, is hereby adopted as the standard for the installation and operation of lighting in the unincorporated areas of the county, with the following exceptions:

(1) Lighting fixtures installed within the public rights-of-way to be operated for the purpose of street illumination shall comply with the following standards. The minimum average horizontal footcandle illumination level by roadway classification shall be:

TABLE INSET:

<u>Roadway Classification</u>	<u>Commercial Area</u>	<u>Intermediate Area</u>	<u>Residential Area</u>
<u>Major</u>	<u>1.2</u>	<u>0.9</u>	<u>0.6</u>
<u>Collector</u>	<u>0.8</u>	<u>0.6</u>	<u>0.4</u>
<u>Local or residential</u>	<u>0.6</u>	<u>0.5</u>	<u>0.3</u>

The uniformity of illumination shall be such that the point of lowest illumination shall have at least one-third of the average horizontal footcandle required illumination level, except that on local or residential streets it may be not less than one-sixth of this average. The fixtures shall be mounted a minimum of 25 feet above the ground, and each fixture shall have appropriate arm length to illuminate the street.

(2) Any party requesting permission to install or operate lighting fixtures within public rights-of-way shall furnish plans and specifications to the Director for approval showing how the proposed lighting meets the standards, and no lighting shall be installed or operated without this approval. Should the Director disapprove the request to install or operate lighting fixtures within any public right-of-way, he/she shall communicate the disapproval in writing to the party requesting approval. The written communication shall include the specific reasons for disapproval. Any disapproval of a light or lighting system by the Director may be appealed to the board of commissioners. If any party desires to appeal an adverse decision by the Director, a notice of appeal shall be filed with the Director within 30 days from the date following the written notice of disapproval. It shall be the responsibility of the Director to transmit forthwith to the Board all papers and allied documents constituting the record upon which the action appealed from was taken, and to ensure that the appeal is promptly placed upon the agenda of the Board for its determination. The Board may reverse or affirm, wholly or partly, or may modify date of the order, requirement, decision or determination appealed from.

(3) Roadway or street lighting luminaries or fixtures installed within the public rights-of-way as security lights or for the purpose of lighting areas other than the public streets shall be mounted on the side of the pole opposite from the street, and shall be oriented in such a manner to ensure that the lateral light distribution pattern is parallel to the street and the vertical light distribution, at the initial light source, is perpendicular to the street, so as to protect the users of the street from objectionable glare. The approval of the Department shall be obtained before installation of these lights.

(4) Other lighting fixtures to be installed within or outside of public rights-of-way for whatever purpose shall be installed and operated in such a manner to prevent glare from being a hazard to or interfering with the normal use of the public rights-of-way.

(Ord. of 2-27-79, § 9; Ord. of 6-10-86, § 5; Code 1977, § 3-23-32; Ord. of 7-27-95)

Secs. 106-34-~~5~~-106-45. Reserved.

DIVISION 2. STREET LIGHTING DISTRICTS*

***Cross references: Taxation, ch. 114.**

Sec. 106-46. Ratification of existing districts.

The governing authority of the county does hereby ratify its action creating street light districts in certain unincorporated areas of the county as shown by the records in the office of the department of transportation, to which reference is hereby made for a full and complete description of each and every district heretofore created.

(Ord. of 2-27-79, § 1; Ord. of 6-23-81, § 1; Code 1977, § 3-23-24; Ord. of 7-27-95)

Sec. 106-47. Lighting cost declared a service; Special Revenue Fund.

The ~~b~~Board of commissioners does hereby declare that the cost and service for creation of street light districts or street lighting hereafter created, or as provided for in section 106-46, shall be a service and not a tax, as authorized by Ga. Const. art. IX, § II, ¶ VI (formerly Ga. Const. art. IX, § IV, ¶ II). A Street Light District Special Revenue Fund shall be created. Revenues from the Street Light District Program will be deposited into such Special Revenue Fund. Such revenues shall be used exclusively for any direct and indirect costs and expenses related to the County's Street Light District Program.

(Ord. of 2-27-79, § 2; Code 1977, § 3-23-25; Ord. of 7-27-95)

Sec. 106-48. Creation of district--Petition by lot owners; Request by CID; New Developments

(a) Any lot owner in any unincorporated area of the county may present a request for the creation of a street light district to the ~~d~~Director of the department of transportation. Upon receipt of the request, the ~~d~~Department of transportation shall determine, in conjunction with the lot owner requesting the petition, the appropriate boundaries for a street lighting district which will best serve the lot owner presenting the request and neighboring lot owners. The ~~d~~Department of transportation shall then prepare a plat showing the boundaries of this proposed street lighting district and all proposed light locations, and provide a petition for the creation of the proposed street lighting district to the lot owner requesting the creation of the district. The petition shall then be circulated among the lot owners in the proposed district. That petition shall provide space for the lot owners in the proposed district to sign, showing whether it is their preference that the proposed district be created. The petition shall also include the cost to each lot owner for the then current monthly standard charge and any applicable monthly installation surcharge. Once a petition has been returned to the ~~d~~Department of transportation, there shall be no changes in the preferences recorded thereon, and the petition shall clearly

state the same. If at least 75 percent, but less than 100 percent of the lot owners in the proposed district sign the petition approving the creation of the street lighting district, notices shall be posted for 10 days in the proposed district stating that:

"Notice: Cobb DOT has received a petition for street lights. A public hearing is not required unless requested in writing by (date). For information call (telephone number)."

If such hearing is requested, the person requesting that hearing shall be notified of the date and time of the hearing, and a legal advertisement announcing the public hearing shall be published once in the official legal organ of the county. At any such hearing, the ~~b~~Board of commissioners shall determine whether or not to create the proposed street lighting district. ~~Safety and economic factors shall be the prime consideration in making such determination.~~ If there is no request for a hearing or if 100 percent of the lot owners have signed the petition approving the creation of the street light district, the street lighting district shall be created, upon approval of the ~~b~~Board of commissioners. The ~~d~~Department of transportation will take no action on petitions with less than 75 percent of the lot owners' approval.

(b) The petition for creation of the proposed street lighting district must be returned to the ~~d~~Department of transportation within 90 days after it is obtained from the ~~d~~Department; however, the ~~d~~Director may, in his or her discretion, for good cause shown, extend the time for the return of the petition an additional 30 days, for a total of 120 days, when a written request for such extension is made to the ~~d~~Department of transportation before the expiration of the original 90 days.

(c) Where the ~~initial~~ petition is mailed by the ~~d~~Department of transportation to the lot owner requesting the street light district, an additional three days shall be added to the 90 days to allow time for mailing. If the completed petition is returned to the ~~d~~Department of transportation by mail, to be timely, the envelope must be postmarked indicating that it was mailed on or before the date due. In those cases where the due date falls on a weekend or legal holiday, the due date shall be the end of the next business day. Envelopes postmarked after the due date shall not be considered.

(d) Notwithstanding any provisions to the contrary set forth in paragraphs (a), (b), and (c) of this section, if a community improvement district ("CID") desires to create a street lighting district within the boundaries of the CID, a representative of the CID may present such request to the ~~d~~Director of the ~~department of transportation~~. The request shall include a copy of a resolution by the CID and certified minutes showing that the CID board of directors or governing body has duly adopted the resolution approving the creation of a street lighting district and the street lighting district's boundaries. Upon receipt of the request and the other documents, the ~~d~~Department of transportation shall determine if the boundaries of the street lighting district are appropriate. If the boundaries are determined to be appropriate, the street lighting district will be created upon approval of the ~~b~~Board of commissioners.

~~Additionally, notwithstanding any provisions to the contrary, including those set forth in sections 106-50 through 106-52 regarding costs, payments, and collections, when~~

~~a street lighting district is created within a CID, the cost of providing and maintaining the street light service in the street lighting district shall be determined by agreement between the CID and the county. The charge associated with the lighting shall be determined by the department and approved by the board of commissioners and shall be posted and open for public inspection in the offices of the department and the clerk of the board. In the event of excessive vandalism to street lights within a street light district which results in the county being billed for repairs, the county may recoup those costs by adding those costs to the charge.~~

(e) Upon compliance with all provisions of Section 106-66(a), a street light district will be created upon approval by the Board.

(Ord. of 2-27-79, § 10; Ord. of 6-23-81, § 4; Ord. of 7-26-83, § 3; Ord. of 6-10-86, § 6; Code 1977, § 3-23-33; Ord. of 7-27-95; Ord. of 8-10-10)

Sec. 106-49. Same--Under special conditions.

In areas where special conditions as to safety, security, land topography, economic and other factors may be involved, the ~~Board of commissioners~~ may create special street lighting districts and provide for special street lighting under such terms and conditions as may be determined by the ~~Board of commissioners~~, any other provisions of this article to the contrary notwithstanding; provided, however, that in such instances, a public hearing shall be held by the ~~Board of commissioners~~ after advertisement in the official organ of the county one time at least ten days before conducting such public hearing.

(Ord. of 2-27-79, § 11; Code 1977, § 3-23-34; Ord. of 7-27-95)

Sec. 106-50. Responsibility for costs; ~~retirement of existing contracts.~~

(a) For purposes of subsections (b) and (c) of this section, the term "lot" is hereby defined as a lot or parcel of land which is developed and served by a utility provider which will bill and collect for the street light service on behalf of the county.

(b) The cost of providing and maintaining street light service in existing street light districts and in street light districts hereafter created shall be borne by the ~~lots and~~ lot residents or owners within the street light districts ~~in the county~~ who are billed for utility services provided to the lots by utility providers who, by agreement with the county, will bill for street light service; ~~whether or not the lot is located within the boundaries of a particular subdivision, so long as the lot is located within the boundaries of a street light district.~~ The charge therefore shall be determined by the ~~county~~ Department of transportation, and, approved by the ~~Board of commissioners~~, reviewed in accordance with the schedule set forth in adopted policies and procedures, and made available upon request. ~~and shall be posted and open for public inspection in the offices of the department of transportation and the clerk of the board of commissioners. The initial charge for each proposed street lighting district created by petition shall also be included~~

~~on the petitions circulated through the proposed district. In the event of excessive vandalism to street lights within a district which results in the county is being billed by the power company for repairs, the county may prorate those repair bills and add a pro rata share of those bills to the charge.~~

(c) In those districts in existence as of the date of adoption of the original ordinance from which this article is derived (February 27, 1979), or which may hereafter be created, in which there are costs related to initial construction and installation of poles, fixtures, wiring, etc., and such costs are paid by the County to the power or utility company or other entity, shall be reimbursed by the lot residents or owners within the street light district. Reimbursement shall be made through the assessment of a monthly installation surcharge determined by the Department, approved by the Board, reviewed in accordance with any schedule set forth in adopted policies and procedures, and made available to anyone upon request. ~~is construction cost, the same shall be retired as per agreement or contract with the public utility or other person to whom the indebtedness is owed, and shall be billed accordingly per lot.~~

(d) Additionally, notwithstanding any provisions to the contrary, when a street light district is created within a CID, the cost of providing and maintaining the street light service in the street light district shall be determined by agreement between the CID and the county. The charge(s) associated with the lighting shall be determined by the Department and approved by the Board and shall be made available upon request. In the event the county is billed by the power company for repairs, the county may recoup those costs by adding those costs to the charge(s).

(Ord. of 2-27-79, § 3; Ord. of 6-23-81, § 2; Ord. of 7-26-83, § 1; Ord. of 6-10-86, § 1; Code 1977, § 3-23-26; Ord. of 7-27-95)

Sec. 106-51. Payment date; delinquencies.

The due date for the payment of the services and sums provided in this article shall be the same date of each month as the utilities are due to the utility provider which bills for lighting service on behalf of the county, and subject to the same penalties for late payment and for failure to pay. Any utility service provided by the utility provider may be discontinued for late payment or nonpayment.

(Ord. of 2-27-79, § 5; Ord. of 6-10-86, § 3; Code 1977, § 3-23-28; Ord. of 7-27-95)

Sec. 106-52. Responsibility for collection of moneys.

The billing, accounting, collecting and receiving of the moneys provided for in this article shall be performed by the county water system or other utility provider which will, by agreement with the county, perform those functions ~~on behalf of the county.~~

(Ord. of 2-27-79, § 6; Ord. of 6-10-86, § 4; Code 1977, § 3-23-29; Ord. of 7-27-95)

Secs. 106-53--106-65. Reserved.

DIVISION 3. SPECIFICATIONS STREET LIGHT DISTRICTS AND LIGHTING FOR NEW SUBDIVISIONS AND OTHER DEVELOPMENTS*

*Cross references: Subdivision design standards and required improvements, § 110-51 et seq.; condominiums, § 110-111 et seq.

Sec. 106-66. Conformance by ~~subdivision~~ developers; acceptance of public right-of-way.

~~(a) — The owner, developer or other person developing a subdivision shall be required to provide street lights which conform to all of the standards provided for in this article; and, in addition thereto, shall be required to obtain approval of the street light layout from the department of transportation prior to commencing any construction of any street light facilities. Approval or final acceptance of the subdivision requires compliance with this article.~~

(a) The owner, developer or other entity developing a subdivision, a shopping center, industrial park, office park, apartment complex or like development constructing new streets or roads to be dedicated to the county or utilizing existing county roads or any combination shall be required to provide street lights which conform to all standards provided in this article. Unless so waived, the developer, at the time of submitting the final plat to the county community development department, or its successor, shall:

(1) Submit a street light layout prepared by the utility company which will provide the lighting service showing exact location of street lights within the development or subdivision. For residential and nonresidential subdivisions, this drawing must be approved by the Department prior to obtaining any building permit within the subdivision. Fixtures and standards/poles installed or used shall be approved by the utility company, which will be responsible for the maintenance of the facilities, and by the Department.

(2) Pay all costs for standards/poles, fixtures, and any other related items or materials necessary for the installation.

(3) Submit proof of payment for complete installation to the Department.

Upon compliance with the above provisions, the Department will present the street light district for approval by the Board.

(Ord. of 2-27-79, § 18; Ord. of 6-23-81, § 7; Ord. of 7-26-83, § 4; Ord. of 6-10-86, § 8; Code 1977, § 3-23-41; Ord. of 7-27-95)

(b) The owner, developer or other ~~person~~ entity developing a shopping center, industrial park, office park, apartment complex or like development within a designated street light district shall be required to provide street lights along public rights-of-way adjoining that property which conform to all of the standards provided for in this article;

and the owner or developer shall be required to obtain approval of the street light layout from the department of transportation prior to commencing any construction of any street light facilities.

(c) The ~~d~~Department of ~~transportation~~ shall not recommend the acceptance of any public streets or roads proposed to be dedicated to the county for perpetual ownership and maintenance until such time as the street lights conform to the approved street light layout.

(Ord. of 2-27-79, § 7; Ord. of 6-23-81, § 8; Ord. of 7-26-83, § 2; Code 1977, § 3-23-30; Ord. of 7-27-95)

Sec. 106-67. Reserved. ~~Lighting in areas other than single-family residential.~~

~~Street lighting in districts other than single-family residential shall be permitted only:~~

- ~~(1) — With the approval of the d~~Director of the department of transportation.
- ~~(2) — Upon final approval by the b~~Board of commissioners of the county; and
- ~~(3) — Upon compliance with the standards provided in this division article.~~

~~(Ord. of 2-27-79, § 8; Code 1977, § 3-23-31; Ord. of 7-27-95)~~

Sec. 106.68. Reserved.

~~Sec. 106-68. Installation and operation standards adopted; exceptions.~~

~~— In order to ensure adequate illumination of public rights of way and promote safety and security, the American National Standard Practice for Roadway Lighting of the Illuminating Engineering Society, as approved by the American National Standards Institute (1983), as from time to time amended, is hereby adopted as the standard for the installation and operation of lighting in the unincorporated areas of the county, with the following exceptions:~~

~~(1) — Lighting fixtures installed within the public rights-of-way to be operated for the purpose of street illumination shall comply with these standards. The minimum average horizontal footcandle illumination level by roadway classification shall be:~~

TABLE INSET:

Roadway Classification	Commercial Area	Intermediate Area	Residential Area
Major	1.2	0.9	0.6
Collector	0.8	0.6	0.4
Local or residential	0.6	0.5	0.3

~~The uniformity of illumination shall be such that the point of lowest illumination shall have at least one third of the average horizontal footcandle required illumination level, except that on local or residential streets it may be not less than one sixth of this average.~~

~~(2) Any party requesting permission to install or operate lighting fixtures within public rights of way shall furnish plans and specifications to the director of the department of transportation for approval showing how the proposed lighting meets the standards, and no lighting shall be installed or operated without this approval. Should the director disapprove the request to install or operate lighting fixtures within any public right of way, he shall communicate the disapproval in writing to the party requesting approval. The written communication shall include the specific reasons for disapproval. Any disapproval of a light or lighting system by the director may be appealed to the board of commissioners. If any party desires to appeal an adverse decision by the director, a notice of appeal shall be filed with the director within 30 days from the date following the written notice of disapproval. It shall be the responsibility of the director to transmit forthwith to the board all papers and allied documents constituting the record upon which the action appealed from was taken, and to ensure that the appeal is promptly placed upon the agenda of the board for its determination. The board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination appealed from.~~

~~(3) Roadway or street lighting luminaries or fixtures installed within the public rights of way as security lights or for the purpose of lighting areas other than the public streets shall be mounted on the side of the pole opposite from the street, and shall be oriented in such a manner to ensure that the lateral light distribution pattern is parallel to the street and the vertical light distribution, at the initial light source, is perpendicular to the street, so as to protect the users of the street from objectionable glare. The approval of the department of transportation shall be obtained before installation of these lights.~~

~~(4) Other lighting fixtures to be installed within or outside of public rights of way for whatever purpose shall be installed and operated in such a manner to prevent glare from being a hazard to or interfering with the normal use of the public rights of way.~~

~~(Ord. of 2-27-79, § 9; Ord. of 6-10-86, § 5; Code 1977, § 3-23-32; Ord. of 7-27-95)~~