

2022 CODE AMENDMENTS

Official Code of Cobb County Part I. – Chapter 110

Final

Package II

Version I - distributed on August 11, 2022

Version II- distributed on September 21, 2022

Version III- distributed on September 28, 2022

Board of Commissioners Work Session

August 23, 2022 – 1:30 pm

Board of Commissioners Public Hearing Dates

September 13, 2022 – 9:00 am

September 27, 2022 – 7:00 pm

Cobb County Community Development

P.O. Box 649

Marietta, GA 30061

www.cobbcounty.org



Cobb County...Expect the Best!

Chapter 110 – SUBDIVISIONS

ARTICLE III. – SUBDIVISION DESIGN STANDARDS AND REQUIRED IMPROVEMENTS

Division 2.—Streets

Section 110-86 of the Official Code of Cobb County, Georgia, is amended to read as follows:

Sec. 110-86.- Private Streets.

~~Every subdivided property shall be served from a dedicated public street which shall have been constructed to county specifications and/or shall be maintained by county forces. Any private street that is platted in a subdivision or other residential project, as approved by the board of commissioners, must be noted as such on the plat. All private streets shall be indicated with a blue, post mounted street sign consistent with county street sign standards.~~

(a). Private streets in new developments.

- 1) Every subdivided property shall be served from a dedicated public street which shall have been constructed to county specifications and/or shall be maintained by County forces.
- 2) Any private street that is platted in a subdivision or other residential project, as approved by the board of commissioners, must be noted as such on the plat.
- 3) All private streets shall be indicated with a blue, post mounted street sign consistent with county street sign standards.
- 4) Private streets must be surfaced with the same type of materials that are used by the Cobb County Department of Transportation for the surfacing and resurfacing of public streets or with materials that are as protective as those used by the county to surface and resurface public streets so long as such alternative materials are approved by the director of the Cobb County Department of Transportation.
- 5) All private streets must comply with the Cobb County Department of Transportation requirements for public streets regarding roadway/lane widths, superelevation and run-off, intersection design, street grades and design speed, vertical alignment, horizontal alignment, curbs and gutters, sub-grade preparation, signing and striping.
- 6) In the case of private streets, maintenance of all stormwater infrastructure shall be the responsibility of a property owners association.
- 7) Access to all private streets by emergency and law enforcement vehicles shall be provided and all private streets shall be constructed to allow access to all emergency vehicles.
- 8) Any development that includes private streets, whether residential, commercial, institutional, industrial, or office development, must organize and establish a property owners' association or homeowners' association, as appropriate. Such association shall be formed prior to the sale of any properties within the development. Membership in the appropriate association must be mandatory for each original and successive purchaser of a lot, building or unit within the development. The declaration of covenants must be recorded with the clerk of the county superior court, again prior to the sale of any properties within the development, and the recorded declaration of covenants must provide that all private streets and associated improvements are owned by the association or are held in common by the property owners within the development. The declaration of covenants shall show clear legal authority to maintain and exercise control over the private streets and required improvements associated

with private streets, including, but not limited to, sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses. As well, the declaration shall set forth the right of the association to collect sums from the members for such maintenance of the private streets and related improvements. The streets must be properly maintained and insured with no liability or maintenance responsibilities accruing to the county. The recorded declaration of covenants must specifically require the appropriate association to repair and maintain each private street in the same manner as similar public streets are maintained by the county and such maintenance and repair must be performed in compliance with all county standards and all applicable provisions of law.

- 9) Within nine months following approval of the final plat, the county's community development director or their designee must inspect the private streets to ensure compliance with all county standards and all applicable provisions of this Code including, but not limited to, the requirements set forth in law for public streets, curbs, sidewalks, signage and street lighting. The developer must be notified of any deficiencies in writing and such deficiencies must be corrected within 60 days of the written notice of deficiencies unless the county agrees to an extension of that period in writing.
 - 10) Failure to correct the complete list of deficiencies constitutes a violation of this section and will subject the developer to prosecution for a code violation in the magistrate court. Any person found to have violated this section is subject to a fine of not less than \$500.00 for each violation. Each day that the violation exists is a separate and distinct offense.
 - 11) The community development director or their designee shall deny issuance of certificates of occupancy until all deficiencies have been corrected.
 - 12) This ordinance shall be effective October 1, 2022, for new requests for private streets.
- (b). Hazardous private streets.
- 1) Hazardous private streets shall mean any private street which is open for access for vehicular traffic and which the director of the department of transportation or their designee has determined to contain any or all of the following defects:
 - i. A roadway, the surface material of which has loosened, buckled, split, crumbled, eroded or in any other way deteriorated so as to make it unsafe for vehicular traffic or so as to constitute a roadway obstruction to the adequate access by emergency vehicles or public utility vehicles.
 - ii. A roadway, the surface of which has become blocked in whole or in part by the deposit of earth or other materials thereon, or by reason of any other cause.
 - iii. A roadway, all or any portion of which is likely to collapse due to deterioration, decay, faulty construction, or by reason of the removal or movement of any portion of the ground necessary for the support thereof.
 - 2) It is found and declared that hazardous private streets on properties within unincorporated Cobb County are an endangerment to the public safety as a result of unsafe conditions to those persons residing or working in the vicinity and constitutes a public nuisance.
 - 3) When the director of the department of transportation or their designee determines that any private street is a hazardous private street, as defined above, they shall serve a mandate requiring the correction of the hazardous condition. One copy of the

mandate shall be served on each owner of record of the land constituting the private street and upon the owner of each contiguous or adjacent parcel having access on the private street, as shown on Cobb County tax records. Such mandate shall be served either personally or by certified mail. Notice shall be deemed complete and sufficient when personally delivered or mailed. The mandate shall include:

- i. the street address and legal description, sufficient for identification of the parcel or parcels constituting the private street;
 - ii. the defects causing the street to be a hazardous private street and their location;
 - iii. a statement of work required to be done in order to correct said defects and place the streets in a state of repair that is consistent with county standards.;
 - iv. that all repairs shall commence within 60 days following the issuance of the mandate and shall specify a reasonable time in which the work shall be completed. The director of the department of transportation may extend the time for completion for good cause upon written request for such an extension.;
 - v. a statement that if the work is not completed within the time stated, the county may elect to remedy the condition and a lien shall be placed on the property for the cost of such repairs;
 - vi. a statement that the record owner of the property may, at any time prior to the date specified in the mandate for the work to commence, make a written appeal to the board of commissioners for the purpose of showing that the cited conditions do not constitute a violation.
- 4) In addition to requiring the repair of a hazardous private street, the director of the department of transportation may order the immediate closing thereof until the repair work has been satisfactorily completed if the director determines that the hazard presents immediate threat to life, limb, health, property safety and general welfare.
 - 5) Any person served with a mandate to repair may, at any time prior to the date specified in the mandate for the work to commence, file a written appeal to the board of commissioners, upon such form as the board shall prescribe, for review of any requirements of said mandate. The filing of such an appeal shall stay all requirements for the mandate until a determination of the matter is rendered by the board. The board shall promptly set a date for the hearing of the appeal and shall at least 10 days prior thereto, give public notice thereof, as well as due notice to the parties in interest. The board shall make such investigations as it deems necessary and shall upon the date set for hearing of the appeal from the order to repair, hear and consider evidence offered by any interested person. Thereafter, but in no event later than 60 days from receipt of the appeal, the board shall make a determination as to whether or not the private street is a hazardous private street within the terms of this chapter, and may affirm, change, or modify any requirements of the repair mandate.
 - 6) Failure to repair any private street as required by the county within the time set by the director of the department of transportation, or within any additional time the director extends for good cause, may cause the private street to be repaired by any means deemed advisable by the board of commissioners.
 - 7) In the event the county repairs the hazardous private street, the costs of repair shall be certified to the director of finance. All certified costs incurred by the county plus an

administrative charge to repair a hazardous private street will be a special assessment lien and charge shall be attached to the property upon which the private street is located. Said lien shall be payable with interest at the rate of eight percent per annum from the date of certification until paid. Such lien shall be in favor of the county and may be satisfied at any time by payment thereof, including accrued interest. Notice of such lien shall be filed in the office of the Clerk of the Superior Court and recorded among the public records of Cobb County, Georgia. The county reserves the right to pursue these costs as a personal obligation against the owner of the real property, recoverable by the county in an action before any court of competent jurisdiction.

- 8) It shall be unlawful for any person to obstruct, impede or interfere with any representative of the county whenever such representative is engaged in the repair of such private street pursuant to the provisions of this chapter or is performing any necessary act preliminary to or incidental to such work.