



**SANDY SPRINGS**

**GEORGIA**

**Right of Way Policy**

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Department of Public Works  
Transportation Division

770-730-5600

## Table of Contents

<b>1.0</b>	<b>Introduction</b> .....	3
<b>2.0</b>	<b>Surplus Property Disposal</b> .....	3
	Sealed Bids.....	3
	Legal Compliance.....	3
	Procedure.....	4
<b>3.0</b>	<b>Roadway Abandonment</b> .....	4
	Legal Compliance.....	4
	Procedure.....	5
<b>4.0</b>	<b>Right-of-Way Acquisition</b> .....	5
	Procedure – Local Funding.....	5
	Condemnation.....	6
	Legal Compliance.....	<b>Error! Bookmark not defined.</b>
	Procedure – Federal or State Funding.....	6
	Right-of-Way Certification.....	8
<b>5.0</b>	<b>Easements</b> .....	8
	Types of Easements.....	8
	Legal Compliance.....	9
	Procedure.....	9
<b>6.0</b>	<b>Road Closure and Privatization</b> .....	10
	Discussion.....	11
	Legal Compliance.....	11
	Procedure - General.....	11
	Road Closure Requirements.....	12
	Road Privatization Requirements.....	14
	Neighborhood Petitions.....	15
<b>7.0</b>	<b>Right-of-Way Dedication</b> .....	15
<b>8.0</b>	<b>Roadway Donation</b> .....	15
	Procedure.....	17
	Neighborhood Petitions.....	17

## **1.0 Introduction**

The Right-of-Way Office carries out the City's right-of-way acquisition, maintenance, and disposal operations. The Right-of-Way staff is under the authority of the Transportation Division and Director of Public Works.

The purpose of the Right-of-Way Policy is to direct the action of the Right-of-Way Office and ensure that all actions taken on behalf of the City are implemented fairly and consistently. The policy is written to encourage and expedite acquisition by agreements with owners, to minimize litigation and to promote public confidence in the land acquisition and management program.

Most common functions of the City Right-of-Way office are governed by State law as found in the Official Code of Georgia Annotated (O.G.C.A.). This policy is designed to reflect how the City of Sandy Springs implements the relevant portions of State law as local procedural functions. It also clarifies public policy direction, in areas concerning right-of-way, where local discretion is called for.

Projects that are federally funded require that municipalities follow the laws and regulations in the Federal Uniform Relocation and Assistance Policies Act of 1970, amended (Uniform Act), in addition to the O.C.G.A. The Transportation Division complies with the Uniform Act in its acquisition program under the guidelines of the Georgia Department of Transportation.

## **2.0 Surplus Property Disposal**

For purposes of this policy, surplus property is defined as real property owned by the City that has been determined that to have no substantial public purpose.

Surplus property can be disposed of in various ways, including negotiated sale, sealed bids, auction, land swap, abandonment, or donation. *In all cases, State law mandates that the City first offer the right to repurchase at fair market value to the previous owner or their successor in title.* If the owner or successor does not purchase the property, it can be disposed of using any of the means of conveyance listed above. This conveyance is made subject to any easement of record and any legally permitted utility facilities. The transaction may also be subject to the retention of existing rights, easements for the support of drainage, or other title limitations.

### **2.1 Sealed Bids**

The advertisement for sealed bids will be published once a week in the Fulton County Daily Report. The first publication will be at least two weeks prior to the opening of the first bid, and the second publication will follow one week after the first. The minimum bid is the approved fair market value. A deposit of 10% of the bid, certified funds only, is required to accompany the bid. This deposit will be returned to any unsuccessful bidder. Mayor and Council retain the right to reject any one or all bids, and to re-advertise, or to abandon the sale.

### **2.2 Legal Compliance**

The disposal of surplus property is governed by the Official Code of Georgia Annotated, Title 32-7-3, Title 32-7-4, and Title 36-9-3; and by Federal Law through 23 CFR 710.403 and 710.409.

## **2.3 Procedure**

The following steps outline the procedure for disposal of surplus property:

1. Petitioner submits application and fee to the Public Works Department.
2. Comments are solicited from all applicable City departments and affected governmental agencies to determine whether the property may be surplus to the needs of the City. Findings and recommendations are submitted to the Director of Public Works.
3. The applicant is notified of the results of the staff investigation. If the property is determined to be surplus, the application is forwarded to the Right-of-Way specialist.
4. The Right-of-Way Specialist will determine the fair market value of the subject property via appraisal or other accepted means.
5. An offer to repurchase at the approved fair market value will be made to the previous owner or successor in title, if different from the applicant. The previous owner will have 60 days to accept in writing and, if accepted, an additional 60 days to close the transaction.
6. If the previous owner or successor in title does not exercise their option to purchase the subject property, the Right-of-Way Specialist may begin negotiations or procedures for disposal as directed by the City Manager or Director of Public Works.

## **3.0 Roadway Abandonment**

Roadway abandonment is defined as the intentional and permanent relinquishment of claim and title to real property that forms a segment of the City of Sandy Springs' roadway network or was acquired or held for future use as a portion of the roadway network.

A roadway can only be abandoned once it has been determined that no substantial public purpose will be served by the City retaining ownership of the property. All roadway abandonment is initiated by a formal written request of an applicant. Any roadway abandoned by the City of Sandy Springs will be considered surplus property, and may be disposed of as outlined in Section 2.0 of this policy.

### **3.1 Legal Compliance**

Roadway abandonment is governed by the Official Code of Georgia Annotated, Title 32-7-2(c):

When it is determined that a section of the municipal street system has for any reason ceased to be used by the public to the extent that no substantial public purpose is served by it, the municipality, by certification recorded in its minutes, accompanied by a plat or sketch, and after notice to property owners located thereon, may declare that section of street shall no longer be a part of the municipal street system and the rights of the public in and to that section of street as a public street shall cease. The property may be disposed of by the municipality as provided in Code Section 32-7-4

### **3.2 Procedure**

The following steps outline the procedure for roadway abandonment:

1. The applicant must submit information to the Public Works Department, including:
  - a. Survey with metes and bounds of property to be abandoned,
  - b. Written legal description of the property to be abandoned, and
  - c. Application fee to cover the cost of advertising and signs
2. The City's Right-of-way Specialist will complete the package for review by applicable City departments and affected governmental agencies. Findings and recommendations will be submitted to the Director of Public Works.
3. Findings will be presented to the City Manager for direction. If approved by the City Manager, the application will be placed on the City Council meeting agenda for a public hearing. Copies of a resolution with plats, legal descriptions, and an aerial photograph will be submitted to the City Clerk approximately 30 days prior to the City Council meeting.
4. Upon City Manager approval, the Right-of-way Specialist will advertise the abandonment hearing. Notice will be placed in the *Fulton County Daily Report* for two consecutive weeks immediately prior to the public hearing. The City will place public notice signs at the abandonment site.
5. The applicant and adjacent property owners will be notified of the abandonment request and public hearing (including date, time, and place) via certified mail.
6. The Director of Public Works will present the request to the Sandy Springs City Council at the scheduled meeting.
7. If the resolution is passed, notification will be sent to all applicable City departments and affected governmental agencies.
8. The applicant and adjacent property owners will be notified via certified mail of any action taken by the Sandy Springs City Council in regards to the application for abandonment.

## **4.0 Right-of-Way Acquisition**

Right-of-way acquisition is defined as the obtaining of real property by any method including, but not limited to, gift, purchase, condemnation, devise, court order, and exchange for the purposes of improvement to or construction of the roadway network of the City of Sandy Springs.

### **4.1 Procedure—Local Funding**

The following procedure is used for transportation improvement projects that are wholly locally funded:

1. The Transportation Division will submit five (5) copies of the approved project right-of-way plans.

2. The Right-of-Way Specialist will distribute one copy of the recorded plat to the City's title examiner to conduct a title search.
3. The Right-of-Way Specialist will distribute one copy of the recorded plat to the City's appraiser to prepare an official appraisal of the subject properties.
4. The Right-of-Way Specialist will send an introduction letter to the property owner(s). If required, a meeting will be set up to discuss the project with the impacted property owners.
5. The required right-of-way may be acquired through donation or just compensation (fair market value). *The Right-of-Way Office must explain to the owner their rights to fair market value for their property and their right to an appraisal of their property.*
6. If the property is to be acquired for just compensation, a Purchase Option Agreement must be signed by the property owner. A check for the purchase amount will be prepared by the Director of Finance, and the check will be sent to the closing attorney to be placed in an escrow account until closing.
7. Upon notification of the City Clerk, right-of-way plans are recorded at the courthouse (2 sets of plans are required for recording).

#### **4.2 Condemnation—Local Funding**

All reasonable efforts at negotiation shall be made to acquire right-of-way necessary for any transportation project. Condemnation will be considered only after such options are exhausted. All condemnation procedures will conform to all applicable State Laws, including Title 22 of the *Official Code of Georgia Annotated*.

Upon recommendation from the Director of Public Works to the City Manager that the property in question be acquired by condemnation, the Right-of-Way Office will prepare a condemnation file for the City Attorney. The condemnation file will include the following:

- Recorded plat,
- Title opinion,
- Negotiator's log,
- Offer letter,
- Appraisal,
- Right-of-way deed and easements, and
- A copy of all written correspondence with the property owner.

The condemning attorney may request that the title opinion and appraisal be updated. All documents provided to the City Attorney must be originals as they will be used as exhibits for court.

#### **4.3 Procedure—Federal or State Funding**

The City of Sandy Springs must own in fee simple or have a long term interest through leases or easements for all property to be included in the new right-of-way boundaries for each project. If the transportation improvement project has any Federal or State funding allocated to it, property

must be acquired in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, amended (Uniform Act).

If property acquisition, including permanent or temporary easements, is required, the City of Sandy Springs must submit two copies of the right-of-way plans for approval to Georgia Department of Transportation (GDOT). This procedure must be followed if Federal or State funds are used for any portion of the project. Acquisition may begin only after GDOT approval of the Right-of-Way plans.

The right-of-way acquisition process required by the Uniform Act consists of numerous steps, each of which is intended to preserve both the rights of the property owner and the acquiring agency. Given that mandated processes are well documented by other agencies, they will not be repeated, in whole, within this document. The following is a general overview of the process as mandated by the Uniform Act

1. The owner(s) of the subject property(s) will be given a copy of the brochure, *What Happens When Your Property is needed for a Transportation Facility*, and a receipt is obtained from the owner. The brochure is available from the GDOT District Office Local Government Coordinator.
2. The Right-of-Way Office will notify the property owner that they have the right to select one of the following options for acquisition:
  - a. Receive payment based on the appraised fair market value,
  - b. Donate the property and choose whether to receive an appraisal of fair market value, or
  - c. Accept an amount of money and/or services based on an estimate of appraisal calculation including a waiver of the right to inspect the property during the appraisal process. This option is available only for property valued under five thousand dollars (\$5,000).
3. The owner is asked to select the option to be used for this acquisition. During the discussions with the owner, the City may notify the owner, if such is the case, that no funds are available to purchase the property.
4. An appraisal for each parcel must be reviewed and approved by GDOT, unless the property owner voluntarily donates the property. Only GDOT approved appraisers may be used for preparing appraisals. Each property owner is eligible for reimbursement of certain incidental expenses that may arise due to the acquisition process, whether their property was purchased or donated.
5. No property acquisition negotiations may take place until the City has received environmental clearance for the project, per the process as outlined in the National Environmental Policy Act.
6. If Federal or State funds are to be used in acquiring property, the acquisition process may not begin until a Project Management Agreement is executed and GDOT approves the right-of-way plans and appraisals. The City should coordinate closely with GDOT on property acquisition procedures.
7. If Federal or State funds are to be used in acquiring property, a real property agreement between the City and GDOT must be executed. This agreement indicates the ratio of

Federal or State funds used to acquire the property. Additionally, it stipulates that if the property is ever sold, the City will reimburse GDOT for the fair market value of the property at the indicated ratio.

8. Government agency condemnation of property is typically limited to projects that are seen as critical to the public good. GDOT's traditional position on this matter has been that locally sponsored projects are desirable improvements to local infrastructure but are not necessarily critical. Therefore, it is the City's responsibility to determine whether the project is critical to the public good if condemnation of property becomes necessary for the project.

#### **4.4 Right-of-Way Certification**

Once all right-of-way has been acquired or is otherwise available for a project with allocated Federal or State funds, the City must submit a Right-of-Way Certification Form to GDOT. This form certifies that all property is publicly owned and any real property acquisitions followed the requirements of the Uniform Act. If right-of-way was acquired for the project through purchase, lease, or easement, the Right-of-Way Certification Form must include a plat or a plan sheet showing the acquired right-of-way in relation to the project.

#### **4.5 Legal Compliance**

The acquisition of right-of-way is governed by the Official Code of Georgia Annotated, Title 22, Title 32-7, and Title 32-3, and by Federal Law through the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, amended (42 U.S.C. 4601, et. seq. and 49 CFR Part 24) (Uniform Act).

### **5.0 Easements**

An easement is the right to use the real property of another for a specific purpose. The easement is itself a real property interest, but legal title to the underlying land is retained by the original owner for all other purposes. Typical easements are for access to another property, for additional working areas for construction projects, for utility or sewer lines both under and above ground, for unimpeded flow of surface water, or for the maintenance of land or structures.

#### **5.1 Types of Easements**

##### ***5.1.1 Permanent Easements***

Permanent easements are typically required for ongoing inspection and maintenance. The underlying property owner's rights to use a permanent easement are somewhat restricted, although non-structural improvements such as walkways, driveways, and fencing are generally allowable, as are some types of shallow rooted landscaping. The City typically obtains a permanent easement for maintenance or interparcel access purposes. The following are common types of permanent easements:

- Drainage Easements preserve a legal path for storm water conveyance. A downstream property owner is obligated to accept the storm water flowing onto his property by gravity. Although the property owner owns the land within drainage easements, any structures or plantings (trees or bushes)



within a drainage easement are at risk. The City is under no obligation to replace anything within a drainage easement that must be removed for maintenance purposes. No dumping of yard debris, filling with soil or concrete, or fencing is permitted within a drainage easement. Property owners who fail to maintain drainage easements in an open unobstructed condition may be subject to fines and may face civil liability in the event of flood damage to surrounding properties.

- Utility Easements allow access to utility lines for maintenance, repair, and improvement. No permanent structures may be built in the area of a utility easement, and vegetation may be severely limited.
- *Driveway or Access Easements* provide vehicular access between parcels of land or from a parcel of land to the public right-of-way. Such easements are used to facilitate shared driveways and interparcel access. They can also be used to allow the City to reconnect a parcel's driveway to the right-of-way if such was disturbed due to a construction project.
- *Sidewalk Easements* allow for free public pedestrian movement across private property. They grant the City access to the sidewalk for maintenance and repair purposes.
- *Conservation Easements* limit development in order to protect the environment, requiring them to remain as undeveloped green space.

### **5.1.2 Temporary Easements**

Temporary easements are frequently required for construction of transportation projects and are granted for a specific period of time. Upon expiration, all rights associated with the temporary easement return to the property owner.

- *Temporary Construction Easements* grant the City the right of access to property to facilitate a construction property. These are typically 20- to 60-foot wide areas beyond the existing right-of-way that provide space for construction equipment to work on the right-of-way. Construction easements last only for the duration of construction activities.
- *Right-of-Entry Easements* provide the right of general access to a property. They are sometimes referred to as "floating" because they do not define a specific area of the affected property. They are used to allow the City access to a property to facilitate a transportation project (for example, surveying and appraisal activities).

## **5.2 Legal Compliance**

Easements are governed by the *Official Code of Georgia Annotated*, Title 32-3-1 and by Federal Law through the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, amended (42 U.S.C. 4601, et. seq. and 49 CFR Part 24) (Uniform Act).

## **5.2 Procedure**

The Right-of-Way Office is responsible for obtaining any easements that may be necessary for transportation projects or normal maintenance activities of the Department of Public Works. The following process is standards for acquiring easements:

1. The Right-of-Way office prepares easement documents which illustrate the affected area and identify the property by address, warranty deed, land lot, and district from the Fulton County Tax Assessor's records and the Fulton County Clerk's office.
2. The Right-of-Way Office will send a letter to the property owner explaining the need for the easement, along with a copy of the easement documents for their approval.
3. If there has been no contact from the property owner within five business days, the Right-of-Way Office calls to offer assistance in explaining the document to expedite the approval process.
4. All easement agreements must be signed by the legal property owner and a representative if the Right-of-Way Office. They must also be notarized.
5. If the property owner is unwilling to freely grant an easement, a purchase may be negotiated. Additionally, State law provides for the City to use its powers of eminent domain to acquire easements.
6. For temporary easements, the approved documents will be kept on file with the Right-of-Way Office. Since these easements will expire within a set timeframe, they will be included in the project documentation for archive at the conclusion of construction.
7. For permanent easements, the signed and notarized easement agreement and plat will be filed with the Fulton County Court Clerk for recording.

## **6.0 Road Closure and Privatization**

For purposes of this policy, a road closure refers to a publicly owned and maintained roadway that has been partially or completely closed to through traffic. A road closure is typically implemented by the installation of a physical device or barrier designed to prevent vehicular traffic from passing. Closures typically include warning signage and pedestrian access through the barrier. They may include provisions for emergency vehicle access and a vehicular turn-around. The simplest type of permanent closure is concrete or metal bollards installed across a roadway with appropriate signage.

Road privatization is the process of the City abandoning the public right-of-way of neighborhood streets to a private entity. After privatization, a road becomes a privately owned road and the City does not maintain the roadway or accept any liability for the roadway. Any necessary routine or emergency maintenance, such as resurfacing, surface water management, or sinkhole repair becomes the responsibility of the owner. The controlling entity may limit access to a private road as it sees fit, subject to City law and policy. Privatization envisions the conversion of an existing neighborhood to private streets, as opposed to the roadway abandonment policy, as found in Section 3.0 of this document, which is primarily used for returning unused right-of-way to an adjacent property owner.

## 6.1 Discussion

The metropolitan Atlanta area suffers from a sparse and poorly interconnected transportation network. Massive growth in the region over the last two decades has continued to outpace road construction. Commuters on over-capacity collector streets divert along interconnecting local residential roads, adding significant volumes to neighborhood streets. In response, some residents have called for closures to through traffic. Such closures tend to force more traffic along already over-burdened corridors, along with limiting the routing options of the neighborhood residents themselves. In addition, road closures and privatizations typically have a negative impact on emergency service response time. Poorly chosen closures serve only to exacerbate an already significant problem.

Implementing a road closure or privatization requires a delicate balance between the desires of the neighborhood residents and the needs of the greater traveling public. This policy preserves the desire for interconnectivity while responding to residents' concerns and giving them a voice.

Road closures and privatization are intrinsically linked. Roads are maintained with public funding and located in City owned right-of-way. As such, the interest of the public good should be weighed when considering the dispensation of any roadway. Privatizing a road can cause problems with the loss of interconnectivity, increased emergency vehicle response times, and school bus routing. Road closures without privatization can also lead to issues of the public good. Some roadways, if closed to through traffic, would serve as little more than City maintained driveways.

## 6.2 Legal Compliance

Streets belong to the general as well as the local public. If the control and general supervision of streets is conferred by the legislature upon the City, the City holds them in trust for the convenience and use of the public at large. It then becomes the City's duty to keep them in safe and suitable condition for the passage of persons and transportation of commodities. The basic principles of law regarding streets are pronounced in at least two cases, Jones, et al. v. City of Moultrie, et al., 196 Ga. 526 (1943); Accord: Soles v. City of Vidalia, 92 Ga. App. 839 (1955):

A highway is a public way open and free to any one who has occasion to pass along it on foot or with any kind of vehicle. Id. The streets of a city belong to the public, and are primarily for the use of the public in the ordinary way Id. The primary object of streets is for public passage. They should be kept open and unobstructed for that purpose...The streets of the city are peculiarly within the police control for the purpose of preserving and protecting their use by the public as thoroughfares. Id.

In addition to compliance with the general legal principles expressed above, the roadway closure and privatization policy will comply will all applicable State and Federal laws.

## 6.3 Procedures—General

Procedures for road closures and privatization are similar. Specific deviations or expansions upon the following procedure will be covered in the individual sections below.

1. A neighborhood should submit a request in writing for closure or privatization of the desired roadway(s). Upon receipt of this request, the Department of Public Works will log the request into the request tracking databases.
2. The Transportation Division will conduct an initial assessment, which will include review of GIS data, maps, existing traffic data, and a field investigation.
3. The Transportation Division will conduct appropriate studies, as indicated by the initial assessment, to determine if the neighborhood qualifies:
  - a. If the results of the study indicate there it does not qualify, the neighborhood will be informed in writing
  - b. If the results of the study indicate it does qualify, Transportation staff will develop a report of findings, including recommendations
4. If, based on the traffic study, the recommendation is to proceed with the closure or privatization process, Public Works staff will coordinate with the applicant to provide specific direction regarding the petition process.
5. Once petitions have been verified by staff, findings will be presented to the City Manager for direction. If directed, the item will be forwarded to the City Clerk for inclusion on the City Council's agenda for action.
6. Once acted on by the City Council, implementation will proceed as directed by the City Manager.

#### **6.4 Road Closure Requirements**

The following specific requirements are in addition to the general procedure and apply to all requests for road closure:

- The Department of Public Works will only support a road closure on local residential streets. Local streets are those classified by the City as primarily used to directly access land parcels. Residential streets are those where the adjacent land use is deemed primarily residential in nature.
- The Department of Public Works will only support a road closure if the road in question is part of a neighborhood that connects to at least three different collector roads. In the case of a neighborhood with the requisite multiple connections, Transportation staff should consider the closure of specific access points to redirect traffic flow through the neighborhood. Public Works will not support the closure of a single road that connects two collector roads. For purposes of this policy, a collector road is defined as any road that the Department of Public Works has given a functional classification of collector or higher.
- The traffic study will confirm that a traffic-related problem exists before the Department of Public Works will support any closure request:
  - Traffic studies performed for evaluation of a requested road closure should include 24-hour vehicular volumes and speeds.

- If a significant speeding problem exists, the neighborhood should be referred to the City's Traffic Calming Program, and road closure should not be supported until after a traffic calming project is implemented and evaluated for effectiveness. Traffic Calming is effective in reducing speeds on residential roadways, and can address the immediate safety concerns caused by speeding traffic more effectively than a road closure.
- For excessive volume, a problem is assumed to exist when collected vehicular volumes greatly exceed those found in the surrounding area and/or the expected trip generation for the surrounding land uses, as calculated using the *Trip Generation Handbook*.
- For pedestrian and other safety related problems, confirmation should be made based on accident reports, inadequate roadway geometry (such as poor sight distance), and other safety parameters.
- The Department of Public Works may recommend support for a closure based on a combination of the factors listed above and on accepted engineering practice.
- The City requires that there be unanimous support from the community for implementing road closures.
  - A formal petition should be submitted to the City showing that 100% of the property owners in the neighborhood and along the affected roadway affirm their support for the closure. The Impacted Area is defined as all properties along the roadway or street segment where a road closure is to be implemented, any roadway or street segment immediately connecting to those, any roadway or street segment that would be used as an alternate route by vehicles diverted due to the closure, and any other parcel whose vehicular access is restricted by the closure. The Transportation Division will provide a map indicating the Impacted Area.
  - If the required percentages cannot be obtained, the Department of Public Works may recommend the road closure based on traffic studies and accepted engineering practice.
- All road closures should be coordinated with any programmed transportation capital projects and conform to any approved land use plans. Additionally, all closures should conform to any approved regional or state mobility plans. Approval by the Director of Public Works and the Director of Community Development is required to indicate conformity.
- Public Works staff will consult with emergency service providers, Fulton County Schools, and the Postmaster before recommending approval of any road closure so that said services can be accommodated and not significantly impaired to render their required performances.
- The design of any construction or devices used to facilitate the road closure requires the approval of the Department of Public Works.

- Once a road closure is implemented, the Department of Public Works reserves the right to relocate, modify or remove the closure for operational or safety reasons at any time.
  - A neighborhood association may request the removal of a road closure in its community. A formal petition will be required showing that 100% of the property owners in the neighborhood and in the impacted area affirm their support for the removal of the closure. As with installation, removal of road closure requires action by the City Council.
  - The City reserves the right to deny a request to remove a road closure based on operational and safety reasons.

## **6.5 Road Privatization Requirements**

The following specific requirements are in addition to the general procedure and apply to all requests for road privatization.

- The Department of Public Works will only support privatization of local streets. Local streets are those classified by the City as primarily used to directly access land parcels.
- The Department of Public Works will only support privatization for a neighborhood or road that does not connect to two or more different collector roads. For purposes of this policy, a collector road is defined as any road that the Department of Public Works has given a functional classification of collector or higher. Same comments as in previous section.
- The City requires that there be unanimous support from the community for implementing a road privatization.
  - A formal petition showing that 100% of the property owners in the community and along the affected roadway(s) affirm their support for the privatization should be submitted to the City.
  - All privatizations should be coordinated with any programmed transportation capital projects and conform to any approved land use plans. Additionally, all privatizations should conform to any approved regional or state mobility plans. Approval by the Director of Public Works and the Director of Community Development is required to indicate conformity.
- Public Works will consult with emergency service providers, Fulton County Schools, and the Postmaster before approval of privatization, and so that said services can be accommodated and not significantly impaired to render their required performances.
- Upon completion of an approved petition, the applicant will continue with the Roadway Abandonment procedure as outlined in section 3.0 with the following specific additions:
  - The controlling entity for the privatized road will give the City permanent easements as may be required for the entirety of the existing right-of-way at no cost as a condition of privatization.

- Upon approval of a road privatization, the controlling entity will file a revised plat and legal descriptions indicating the new dispensation of the property. Any expenses or fees incurred in the filing will be the sole responsibility of the controlling entity.
- Any access control, such as a gate, that the residents of the road wish to install should conform in design and construction to all relevant City standards, regulations, and processes, and must meet emergency access requirements. All access controls should conform to City standards as if the road or neighborhood was newly constructed. Recent privatization will not be accepted as a justification for any exemptions or variances to these standards.

## **6.6 Neighborhood Petitions**

The City of Sandy Springs requires that there be wide community support for road closure or privatization. All of the property owners in the impacted area should be contacted and given an opportunity to sign this petition, indicating their opinion concerning the installation of the traffic calming device. Any abstention or indication other than a “yes” will be considered a “no.”

A spouse’s signature will not be acceptable if he/she is not the legal owner. If both husband and wife are joint legal owners, both signatures are required. A “Mr. and Mrs.” signature is not acceptable. All owners must sign individually, including owners of undeveloped lots. Renting tenants are not an acceptable substitute for the legal homeowner. The percentages will be calculated, based on individual lots where the owners sign affirmatively, divided by the total number of lots in the neighborhood. Each lot counts as only one lot regardless of the number of owners signing. Where a neighborhood has a homeowners’ association or other legal mechanism allowing a group less than the previously stated required percentages to represent their position on matters such as these, this mechanism may replace the petition process as approved by the City Manager after consultation with the City Attorney.

The completed petition must be returned to the Transportation Division where it will be checked against tax records and land lot maps to ensure that it meets all requirements. The City reserves the right to set a reasonable expiration date on petition signatures.

## **7.0 Right-of-Way Dedication**

*Reserved*

## **8.0 Roadway Donation**

Roadway donation is the acceptance of a privately constructed and maintained roadway or parcel of right-of-way into the public right-of-way. Once donated, the road and land in the dedicated right-of-way become public property to the extent of the conveyance. The City will thereafter maintain the roadway, performing any improvements or modifications deemed necessary.

Donated roadways can help the City expand the existing roadway network and provide previously unusable connections. The City should only accept roadways that expand the

transportation network and conform to acceptable standards in order to limit potential maintenance burdens caused by substandard construction. As such, the following requirements are placed on any roadway donation:

- The Department of Public Works will only support donation of streets that connect two or more different collector roads. For purposes of this policy, a collector road is defined as any road that the Department of Public Works has given a functional classification of collector or higher.
- The City should not accept a portion of a street for donation. If a community desires to donate its roadways, they should donate all existing roadways. If a single street is to be donated, the entire street should be donated.
- All construction, maintenance, and inspection requirements in this section should be approved by the Director of Public Works and the Director of Community Development to indicate conformity to City standards and should include the following:
  - Applicants for donation should hire a qualified contractor to perform core samples at 100 foot intervals along the centerline of all effected roadways. The resulting analysis of the samples should be submitted to the Transportation Division for review. Only roadways that can demonstrate an appropriate sectional construction will be accepted.
  - A minimum of 10.5 feet of right-of-way from the back of curb should be dedicated to the City for all affected roadways. All utility boxes, hydrants, poles, or other utility-related structures should fall within the dedicated right-of-way. This may require more right-of-way than the minimum 10.5 feet. Additionally, no structures, or portions thereof, may be located in the newly dedicated right-of-way. Structures would include, but are not limited to, buildings, monuments, fences, or walls.
  - All signs located in the newly dedicated right-of-way should conform to City standards as set forth in the *Driveway Manual*.
  - If an irrigation system is located in the newly dedicated right-of-way, the applicant should file for a utility permit to operate it within the right-of-way. The applicant should provide an inspection report regarding the condition of the irrigation system to the City as part of the utility permit process. The applicant should also perform any repairs to the roadway, shoulder, or drainage system caused by failures or breaks in an existing irrigation system. If the utility permit is approved, the applicant should file an indemnification agreement with the City regarding its operation. If the utility permit is denied, all portions of the irrigation system should be removed from the right-of-way before dedication will be accepted. This provision applies equally to irrigation systems owned by a single property owner along the affected roadway as it does to a communal operating entity, such as a homeowners' association, that would operate a neighborhood-wide irrigation system.
  - All features of the roadway and right-of-way should conform to current City standards for new development. This includes, but is not limited to pavement cross-section, pavement width, curb, gutter, catch basins, other drainage structures, and sidewalk.



- All traffic calming devices in the affected roadway should conform to City standards. The applicant will be responsible for removing or reconstructing any non-conforming traffic calming devices before the roadway will be accepted.

## **8.1 Procedure**

The following steps outline the procedure for the donation of a roadway:

1. Applicant must submit a request in writing to donate of the desired roadway(s). Upon receipt of this request, the Department of Public Works will log the request into the request tracking databases.
2. The Transportation Division will conduct an initial assessment, which will include review of GIS data, maps, existing traffic data, and a field investigation.
3. If, based on the initial assessment, the recommendation is to proceed with the donation process, Public Works staff will coordinate with the applicant to provide specific direction regarding the petition process.
4. The applicant must show support for the donation through a formal petition submitted to the City. The petition should demonstrate that 100% of the property owners in the community and along the affected roadway(s) affirm their support for the privatization.
5. Once petitions have been verified by staff, an inspection of the roadway(s) will be scheduled with the applicant. Transportation Division and Community Development staff will inspect the site and review all submitted documentation, including core samples, etc. Staff will produce a report detailing if the street is up to City preventative maintenance standards.
6. All findings, along with staff recommendation, will be presented to the City Manager for direction. If directed, the item will be forwarded to the City Clerk for inclusion on the City Council's agenda for action.
7. Upon City Council approval, the applicant will file a revised subdivision plat indicated the new dispensation of the property, right-of-way location, and easements with the Fulton County Court Clerk. Any expenses or fees incurred in the filing will be the sole responsibility of the applicant. A copy of the recorded plat will be provided to the City Right-of-Way Office.

## **8.2 Neighborhood Petitions**

The City of Sandy Springs requires wide support from the community for roadway donation. All of the property owners in the impacted area should be contacted and given an opportunity to sign this petition, indicating their opinion concerning the installation of the traffic calming device. Any abstention or indication other than a "yes" will be considered a "no."

A spouse's signature will not be acceptable if he/she is not the legal owner. If both husband and wife are joint legal owners, both signatures are required. A "Mr. and Mrs." signature is not acceptable. All owners must sign individually, including owners of undeveloped lots. Renting tenants are not an acceptable substitute for the legal homeowner. The percentages will be calculated, based on individual lots where the owners sign affirmatively, divided by the total number of lots in the neighborhood. Each lot counts as only one lot regardless of the number of owners signing. Where a neighborhood has a homeowners' association or other legal

mechanism allowing a group less than the previously stated required percentages to represent their position on matters such as these, this mechanism may replace the petition process as approved by the City Manager after consultation with the City Attorney.

The completed petition must be returned to the Transportation Division where it will be checked against tax records and land lot maps to ensure that it meets all requirements. The City reserves the right to set a reasonable expiration date on petition signatures.