

**RULES
OF
GEORGIA DEPARTMENT OF TRANSPORTATION
CHAPTER 672-11
INSTALLATION, RELOCATION, AND MANAGEMENT OF UTILITIES
ON PUBLIC RIGHTS-OF-WAY**

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672-11-.01 Purposes of Chapter

- (1) O.C.G.A. §32-6-174 grants the Department authority to promulgate reasonable regulations governing the installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, tracks, traffic and other such signals, and other equipment and appliances of any utility in, on, along, over, or under any part of the state highway system or any public road project which the Department has undertaken or agreed to undertake or which has been completed by the Department pursuant to its authority.
- (2) In managing the Public Rights-of-Way obtained pursuant to the Department's authority, the Department requires Permits and accompanying fees for the installation of any private or public Utility within the Public Rights-of-Way.
- (3) For Communications Utilities, pursuant to 47 U.S.C. § 253, states may require reasonable compensation from providers of telecommunications services for use of Public Rights-of-Way. The Permit fees that are set forth in this Chapter shall be specifically designated to cover the Department's actual incurred costs of administering the Permit program, which includes costs associated with the approval and administration of Permits, the inspection of work on the Public Rights-of-Way, and the continued occupancy by the permitted Utility on the Public Rights-of-Way. The Permit fees shall not result in the recovery of more than those actual incurred costs by the Department. The Department shall perform or cause to be performed an audit of this Chapter and the Permit fees set forth in Section 672-11-.04 at a minimum every five (5) years in order to ensure that Permit fees remain based on actual incurred costs. Based upon the result of this audit, the Department may amend this Chapter in accordance with the Georgia Administrative Procedure Act.

672-11-.02 Definitions

The following words when used in Chapter 672-11 shall have the following meanings:

- (a) "Annual Permit Fee" means the yearly amount due for a Permit approved by Department on or after January 1, 2022 that is associated with the ongoing management of the Public Rights-of-Way obtained pursuant to the Department's authority and as calculated in accordance with this Chapter.
- (b) "Application Fee" means a nonrefundable onetime fee for the review of a Permit application by the Department and as calculated in accordance with this Chapter. This fee is nonrefundable regardless of whether a Permit application is abandoned or not approved.
- (c) "Communication Cable" means any fiber optic, copper, media, or other cable utilized by a Communications Utility for the purpose of providing a Communications Service.
- (d) "Communications Service" includes, but is not limited to, a wireline or wireless Telecommunications Service, Information Service or Cable Service as those terms are defined in Sections 153 and 522 of the Communications Act of 1934, as amended, (47 U.S.C. §§ 153 and 602) and Broadband Internet Access Service as that term is defined in Section 8.1(b) of the rules and regulations of the FCC (47 C.F.R. § 8.1(b)).
- (e) "Communications Utility" means a Utility that provides a Communications Service.
- (f) "Department" or "GDOT" means the Georgia Department of Transportation.

- (g) “Existing Permit” means a Permit that has been approved by the Department prior to January 1, 2022.
- (h) “FCC” means the United States Federal Communications Commission.
- (i) “Non-Communications Utility” means a utility that is not a Communications Utility, including, but not limited to, an entity that provides electric, gas, water or other power services, without regard to whether such services are subject to regulation by the Georgia Public Service Commission or other regulatory department.
- (j) “Permit” means the legal document by which the Department authorizes the use of and regulates the use and/or occupancy of the Public Rights-of-Way and as further defined in the UAM.
- (k) “Public Rights-of-Way” means the state highway system and those local roads and streets that are a part of the Federal-aid system, but excluding the interstate highway systems.
- (l) “UAM” means the Department’s Utility Accommodation Policy and Standards Manual, current edition.
- (m) “Utility” means a Communications Utility or a Non-Communications Utility.
- (n) “Wireless Facility” means equipment at a fixed location that enables wireless communications between user equipment and a communications network and includes, but is not limited to, Small Wireless Facilities as that term is defined in Section 1.6002 of the rules and regulations of the FCC (47 C.F.R. § 1.6002).

Authority: O.C.G.A. §§ 32-6-174, 50-13-4, 32-2-2

672-11-.03 Issuance of Permits, Permit Fees, and Alternative Procedure for Assessing Fees for Non-Communication Utilities

- (1) The Department shall follow the same policies, procedures, and standards for approving Permits for the installation of Non-Communication Utility facilities on Public Rights of Way as set out in the UAM.
- (2) In addition to the requirements of the UAM, a Non-Communications Utility shall enter into an agreement with the Department for payment of an annual lump sum amount that represents a reasonable approximation of the average cost to the Department associated with the administration of the Permits of the Non-Communications Utility, the inspection of work on the Public Rights-of-Way, and the continued occupancy by the permitted Non-Communications Utility on the Public Rights-of-Way to be negotiated on an individual basis. Such agreements will take into consideration the mileage and/or number of facilities in place by the Non-Communications Utility, the amount of current and anticipated Permit work within the Public Rights-of-Way, and the estimated costs to the Department of the Non-Communications Utility's operations. Such agreement shall provide for annual adjustments of the fee amount.
- (3) The Department and a Non-Communications Utility may have entered into an agreement for payment of an annual lump sum amount prior to the adoption of this Chapter. Such agreements will remain in full force and effect if desired by the Non-Communications Utility and the Department or may be renegotiated.

Authority: O.C.G.A. §§ 32-6-174, 50-13-4, 32-2-2

672-11-.04 Issuance of Permits, Permit Fees, and Alternative Procedure for Assessing Fees for Communication Utilities

(1) Issuance of Permits.

- a. This Section 672-11-.04 applies only to Permits for use of the Public Rights-of-Way by Communications Utilities. The Department shall follow the same policies, procedures, and standards for approving Permits for the installation of Communication Utility facilities on Public Rights of Way as apply to Non-Communications Utilities as set out in the UAM, except that payment of Permit fees shall be required as set forth herein.
- b. The fees set forth in this Chapter shall not apply to crossing Public Rights-of-Way when not in conjunction with a longitudinal access.

(2) Schedule of Permit Fees. The assessed rates for obtaining and retaining a Permit for a Communication Utility on or after January 1, 2022, shall be as follows:

- a. Application Fee. Each Permit application shall include an Application Fee that will be assessed as follows, unless waived pursuant to subsection (d) of this Rule:
 - i. For a Communication Utility that is a mile or more in length, the Application Fee shall be \$1,400.
 - ii. For a Communication Utility that is less than a mile in length, the Application Fee shall be \$742.
 - iii. For a Wireless Facility, the Application Fee shall be \$742.
- b. Annual Permit Fee. An Annual Permit Fee will be assessed as follows, unless waived pursuant to subsection (d) of this Rule:
 - i. For a Communication Utility the Annual Permit Fee shall be \$300.
 - ii. For a Wireless Facility, the Annual Permit Fee shall be \$270.
 - iii. Where two or more Communication Utilities install Communication Cables simultaneously and in the same trench, the Annual Permit Fee shall be reduced by 25 percent for each Communication Utility.
 - iv. Where Communication Cables are installed on a pole line in joint use with another Communication Utility facility, the Annual Permit Fee shall be reduced by 25 percent for each permittee.
 - v. The Annual Permit Fee shall be assessed annually for the duration of time the facilities of the Communications Utility remain located on or in a Public

Right-of-Way, until said facilities are abandoned or until the facilities are decommissioned as evidenced by written notification to the Department. After a 60-day cure period, the Department may cancel or revoke a Permit upon written notice to the Communications Utility.

- vi. The Annual Permit Fee for each Permit shall be assessed by the Department as an annual payment in accordance with this rule. The Department shall assess the Annual Permit Fee and send an invoice for each Permit on or about February 1st of each year to the Communications Utility. The Annual Permit Fee shall be paid by July 1st of each year.
 - vii. All Annual Permit Fees shall be paid within thirty (30) days of the due date. If an Annual Permit Fee is not paid within thirty (30) days of the due date, the subject Permit may be subject to revocation by the Department.
 - viii. Prior to revocation of any Permit for failure to timely pay the Annual Permit Fees or for any other reason, the Department shall send a final notice to the Communications Utility at least thirty (30) days before the revocation of the Permit shall become effective.
 - ix. If a permittee does not install all utilities approved in a Permit, it must inform the Department of the location of the actual installation one (1) year from the issuance of the Permit.
- c. Existing Permits. For Existing Permits, the rates set forth in this subsection (2) shall be applicable on January 1, 2022. Permittees issued a Permit before January 1, 2022 and that have no outstanding invoices associated with any issued permits may select to pay the rates set forth in this rule for Existing Permits.
- d. Waivers of Annual Permit Fees. Notwithstanding otherwise applicable requirements of 47 U.S.C. § 253, the Department may waive the Application Fee and/or the Annual Permit Fee where the sole purpose of a Permit is to provide Broadband Internet Access Service to public and private elementary and secondary schools or where the sole purpose of a Permit is to provide Broadband Internet Access Service to hospitals and other medical institutions including, but not limited to, emergency medical care centers. Any waiver under this subsection (d) will remain in effect for as long as the use of the Permit remains the same.

(3) Alternative Procedure for Assessing Fees.

- a. In lieu of the Permit Fees set forth in this Rule, a Communications Utility may enter into an agreement with the Department for payment of an annual lump sum amount that represents a reasonable approximation of the average cost to the Department associated with the administration of the Permits of the Communications Utility, the

inspection of work on the Public Rights-of-Way, and the continued occupancy by the permitted Communications Utility on the Public Rights-of-Way to be negotiated on an individual basis. Such agreements will take into consideration the mileage and/or number of facilities in place by the Communications Utility, the amount of current and anticipated Permit work within the Public Rights-of-Way, and the estimated costs to the Department of the Communications Utility's operations. Such agreements shall provide for annual adjustments of the fee amount.

- b. The Department and a Communications Utility may have previously entered into an agreement for payment of an annual lump sum amount prior to the adoption of this Chapter. Such agreements will remain in full force and effect if desired by the Communications Utility and the Department or may be renegotiated.

Authority: O.C.G.A. §§ 32-6-174, 50-13-4, 32-2-2