

**72-7-102 Excavations, structures, or objects prohibited within right-of-way except in accordance with law -- Permit and fee requirements -- Rulemaking -- Penalty for violation.**

- (1) As used in this section, "management costs" means the reasonable, direct, and actual costs a highway authority incurs in exercising authority over the highways under its jurisdiction.
- (2) Except as provided in Subsection (3) and Section 54-4-15, a person may not:
  - (a) dig or excavate, within the right-of-way of any state highway, county road, or city street; or
  - (b) place, construct, or maintain any approach road, driveway, pole, pipeline, conduit, sewer, ditch, culvert, billboard, advertising sign, or any other structure or object of any kind or character within the right-of-way.
- (3)
  - (a) A highway authority having jurisdiction over the right-of-way may allow excavating, installation of utilities and other facilities or access under rules made by the highway authority and in compliance with federal, state, and local law as applicable.
  - (b)
    - (i) The rules may require a permit for any excavation or installation and may require a surety bond or other security.
    - (ii) The application for a permit for excavation or installation on a state highway shall be accompanied by a fee established under Subsection (4)(f).
    - (iii) The permit may be revoked and the surety bond or other security may be forfeited for cause.
- (4)
  - (a) Except as provided in Section 72-7-108 with respect to the department concerning the interstate highway system, a highway authority may require compensation from a utility service provider for access to the right-of-way of a highway only as provided in this section.
  - (b) A highway authority may recover from a utility service provider, only those management costs caused by the utility service provider's activities in the right-of-way of a highway under the jurisdiction of the highway authority.
  - (c)
    - (i) A fee or other compensation under this Subsection (4) shall be imposed on a competitively neutral basis.
    - (ii) If a highway authority's management costs cannot be attributed to only one entity, the management costs shall be allocated among all privately owned and government agencies using the highway right-of-way for utility service purposes, including the highway authority itself. The allocation shall reflect proportionately the management costs incurred by the highway authority as a result of the various utility uses of the highway.
  - (d) A highway authority may not use the compensation authority granted under this Subsection (4) as a basis for generating revenue for the highway authority that is in addition to its management costs.
  - (e)
    - (i) A utility service provider that is assessed management costs or a franchise fee by a highway authority is entitled to recover those management costs.
    - (ii) If the highway authority that assesses the management costs or franchise fees is a political subdivision of the state and the utility service provider serves customers within the boundaries of that highway authority, the management costs may be recovered from those customers.
  - (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall adopt a schedule of fees to be assessed for management costs incurred in connection with issuing and administering a permit on a state highway under this section.

- (g) In addition to the requirements of this Subsection (4), a telecommunications tax or fee imposed by a municipality on a telecommunications provider, as defined in Section 10-1-402, is subject to Section 10-1-406.
- (5) Permit fees collected by the department under this section shall be deposited with the state treasurer and credited to the Transportation Fund.
- (6) Nothing in this section shall affect the authority of a municipality under:
  - (a) Section 10-1-203 or 10-1-203.5;
  - (b) Section 11-26-1;
  - (c) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or
  - (d) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.
- (7) A person who violates the provisions of Subsection (2) is guilty of a class B misdemeanor.

Amended by Chapter 289, 2012 General Session