



# Right of Way Management

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## Description

Local authority to manage public rights of way and receive compensation for their use is derived from Oregon's constitutional provisions for home rule, state statute, and court decisions which have consistently upheld the right of cities to manage rights of way. Nevertheless, legislative and judicial efforts are often mounted to thwart local management of this public resource.

## Background

Cities have the right to set terms and conditions, including the establishment of a fee structure, when an entity occupies a right of way for transmission of data, energy, water and other resources. While certain statutes and utility regulations define how such fees can be charged, this ability is firmly established.

Cities also determine how this authority is exercised—by ordinance or through negotiation with each entity seeking to occupy the right of way. This applies to private and public sector occupants. In fact, several cities charge *themselves* a franchise fee when a municipally-owned utility is using the right of way.

Municipal authority over the management of rights of way is an essential component of a city's home rule.

## Priority

The League will oppose any legislation preempting the ability of cities to manage and receive compensation for the use of a public right of way, including:

- Establishment of a “one-size-fits-all,” statewide franchise fee policy and collection system; and
- Prohibition of a city's authority to levy franchise fees on other government entities.