

NTIA 2002 State Survey of ROW Statutes

NTIA 2002 State Survey of Rights-of-Way Statutes for Virginia and Adjoining States

State	Jurisdiction, Terms of Agreement (except fees)	Compensation	Timelines	Nondiscrimination	Mediation	Condemnation	Remediation & Maintenance
Virginia	<p>VA. Code Ann. § 56-458 (2002): Telecommunications companies have the right to build its system along public roads and railroads, on public lands, and along navigable waterways.</p> <p>VA. Code Ann. § 56-462 (2002): "A. No incorporated city or town shall grant to any such telegraph or telephone corporation the right to erect its poles, wires, or cables, or to lay its conduits upon or beneath its parks, streets, avenues, or alleys until such company shall have first obtained, in the manner prescribed by the laws of this Commonwealth, the franchise to occupy the same."</p>	<p>VA. Code Ann. § 56-468.1 (2002): In Virginia, the state Department of Transportation annually calculates the Public Rights-of-Way Use Fee as an annual average rate per access line. The average weights public highway miles at \$425 per mile and new installations at \$1 per linear foot.</p> <p>VA. Code Ann. § 56-458(E) (2002). In-kind fees prohibited.</p>	<p>VA. Code Ann. § 56-458(D)(2002) Transportation Board has 45 days to grant or deny approval for use of right-of-way, and if denied it must provide a written explanation of the reasons the permit was denied and the actions required to cure the denial.</p>	<p>VA. Code Ann. § 56-458(C) (2002): Municipalities and the Commonwealth Transportation Board are prohibited from unreasonably or discriminatorily restricting right-of-way use.</p> <p>Va. Code Ann. § 56-458(B) (2002): Commercial mobile radio services are exempt from paying right-of-way fees.</p>			<p>VA. Code Ann. § 56-467 (2002): Utility must restore the right-of-way to a good condition, and if it does not, the municipality may complete the restoration and recover costs from the utility.</p>
District of Columbia	<p>D.C. Code Ann. § 10-1141.03 (2002). The Mayor may issue permits to occupy or otherwise use public rights-of-way, public space, and public structures for any purpose. He may do so without regard to whether the permittee owns the property abutting the public areas, and he may revoke the permit at any time. Any leasing or subleasing of the public areas must be with the express consent of the</p>	<p>D.C. Code Ann. § 10-1141.04 (2002): Right-of-way access permit fees to cover costs of reviewing permit applications. "The Mayor may allow a permittee to pay a fixed charge for a set period of time, pay an amount based upon the amount of the public right-of-way or public space</p>		<p>D.C. Code Ann. § 34-2004 (2002): Terms and conditions of franchise agreement must be competitively neutral and fees must be nondiscriminatory.</p>		<p>D.C. Code Ann. § 34-1921.08 (2002). Rights to build and lay conduits not compensable in event of condemnation [Formerly '43-1417]</p>	<p>D.C. Code Ann. § 34-2004(c) (2002): "The Mayor shall issue rules to establish and regulate the process through which any alteration or damage to public rights of way in the District of Columbia shall be compensated by the telecommunications service provider whose construction or repair work has altered or damaged</p>

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	<p>mayor. When a permit is revoked or expires, the Mayor may require the permittee to remove any apparatus constructed in the public areas.</p>	<p>used or occupied, pay an amount based upon a revenue sharing formula, or provide in-kind services to the District in lieu of a monetary payment, or the Mayor may require a permittee to pay a combination of these items."</p>					<p>public rights of way. The rules shall require the telecommunications service provider to repair any alteration or damage pursuant to specifications and inspection by the District of Columbia Department of Public Works, or require that the telecommunications service provider compensate the District of Columbia for the cost of repair to a public right of way."</p>
<p>Kentucky</p>	<p>Ky. Rev. Stat. Ann. § 278.540 (2002): Once just compensation has been made, the provider gains the right to construct, maintain and operate its lines through any public lands of this state and across and along any public road.</p>	<p>Ky. Rev. Stat. Ann. § 278.540(1) (2002): Just compensation for right-of-way access is authorized.</p> <p>Ky. Rev. Stat. Ann. § 278.130 (2002): Cities are prohibited from assessing occupational license tax on public utilities. Instead, PSC assesses annual license tax on utilities.</p>					<p>Ky. Rev. Stat. Ann. § 278.540(1) (2002): As long as just compensation is paid, telecommunications companies have the right to construct and maintain its lines on any public lands, public roads, or navigable waters.</p> <p>Ky. Rev. Stat. Ann. § 278.540(2) (2002): A telecommunications company may contract with a private property owner for right-of-way over private lands, or if they are unable to reach an agreement by contract, the telecommunications company may condemn the private land under the Eminent Domain Act of Kentucky. (Ky.</p>

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							Rev. Stat. Ann. § 416.450 - 416.680).
Maryland	Md. Ann. Code art. 23A, § 2(13) (2002): Municipalities have the express power to grant exclusive or non-exclusive franchises to a community antenna system or cable systems that use rights-of-way. The municipality may impose franchise fees and establish rates, rules and regulations for the franchises.					Md. Code Ann., Public Utility Companies § 5-410 (4)(b) (2002): Telecommunications companies have the power to construct their systems on any authorized route, and acquire by condemnation any property deemed necessary for their purposes.	
North Carolina	N.C. Gen. Stat. § 62-39 (2002) Public Utility Commission has the power to regulate crossings of telephone, telegraph, electric power lines and pipelines and rights-of-way of railroads and other utilities by another utility N.C. Gen. Stat. § 62-182 (2002): Telecommunications companies and other public utilities have the right to contract with private land owners for rights-of-way.					N.C. Gen. Stat. § 62-183 (2002): Telecommunications companies and other public utilities have a right to condemn private lands for the construction, maintenance, and operation of the telecommunications system, as long as just compensation is paid for the use of the land.	
Tennessee	Tenn. Code Ann. § 65-21-201 (2002): Telecommunications companies or their equivalent are granted rights-of-way along public roads, over public lands, along navigable waters, and on private lands. Tenn. Code Ann. § 65-21-103 (2002): Telecommunications					Tenn. Code Ann. § 65-21-204 (2002): If a telecommunications provider is unsuccessful in contracting for a right-of-way over private land, then the company may condemn the land for its own purpose.	

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	<p>companies do not have the right to contract for exclusive rights to rights-of-way in this state.</p> <p>Tenn. Code Ann. § 6-54-109 (2002): Municipalities have the exclusive right to franchise utilities within their jurisdiction.</p> <p>Tenn. Code Ann. §13-24-303 (2002): Protects authority of locals to exercise reasonable municipal and county police powers.</p>						
<p>West Virginia</p>	<p>W.Va. Code § 8-31-1,2 (2002): Municipalities and counties have franchising authority and may impose terms and conditions for those agreements.</p> <p>W.Va. Code § 17-4-8 (2002): Telecommunications companies and other service providers are prohibited from constructing facilities on state roads except under the conditions as may be prescribed by the state road commissioner.</p>	<p>W.Va. Code § 17-16A-13 (2002): The Parkways Authority has the power to fix and collect fees for the use of rights-of-way along the state parkways.</p>				<p>W.Va. Code § 54-1-2 (2002): The right of eminent domain is permitted for construction and maintenance of telegraph and telephone lines if for public use.</p>	