

# LOC Bulletin



August 4, 2017

## Public Drinking Ordinance Not Preempted by State Law

On Wednesday, the Oregon Court of Appeals issued its decision in [\*State v. Victor Uroza-Zuniga\*](#), ruling that the city of Beaverton's ordinance prohibiting people from consuming alcohol in a public place is not preempted by state law. Mr. Uroza-Zuniga was arrested by the Beaverton Police Department for consuming alcohol in a public place, in violation of Beaverton's municipal code. During Mr. Uroza-Zuniga's subsequent criminal trial and before the Court of Appeals, he argued that Beaverton's ordinance was preempted by two state statutes.

The court held that ORS 430.402(1) allows a city to enact an ordinance prohibiting the consumption of alcohol in a public place as long as the prohibition is a general ban on public drinking. Within its decision, the court noted that there is nothing in the text of the state statute, context, or even in legislative history that suggests Beaverton's ordinance is preempted by this state law. The court's decision also noted that when the Legislature debated ORS 430.402(1) in 1971, the law was specifically amended to allow for the "continued regulation of public drinking by cities."

Mr. Uroza-Zuniga had also argued that the penalty provisions in Beaverton's ordinance were more extensive than in the state's "open container" statute, ORS 811.170, which prohibits people from consuming alcoholic beverages in motor vehicles located on public highways. Arguing that because the two laws cover the same subject matter, Mr. Uroza-Zuniga suggested that the "open container" statute preempts the penalty provisions in Beaverton's ordinance. The Court of Appeals did not find Mr. Uroza-Zuniga's argument persuasive, instead noting that Beaverton's ordinance and the state's "open container" law "regulate conduct that is different in specifics," thereby making state preemption of the city's ordinance impossible.

The League participated as an *amicus curiae* in this case and wishes to thank Maja K. Haium, then an assistant city attorney for Beaverton and now currently a deputy city attorney for Portland, for writing the League's *amicus* brief.

Contact: Patty Mulvihill, General Counsel – [pmulvihill@orcities.org](mailto:pmulvihill@orcities.org)

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## PERS Goes From Bad to Worse

In a move likely to increase employer rates, the board of directors of the Public Employees Retirement System (PERS) voted last week to reduce the assumed earnings rate (AER) from 7.5 to 7.2 percent. The AER is the amount the PERS board believes the investments in the system will earn. Employer rates fund the difference between what the system needs and what the investments will yield. The PERS actuarial consultant estimates that this change, when combined with other minor changes, will result in an employer rate increase equal to 1.9 percent of payroll. However, because of the practice of “rate collaring,” which limits the amount of rate increases employers may be subjected to in a single two-year rate cycle, the increase will be added to previously anticipated increases in 2019, 2021 and 2023.

The AER also serves as the annuity rate, which is the amount of “money match” retirees are guaranteed in their calculations. As the reduction in the AER will also mean a reduction in retiree annuity benefits for Tier 1 money-match eligible employees, it is anticipated that those PERS members will consider their retirement options.

**Contact:** Scott Winkels, Intergovernmental Relations Associate – [swinkels@orcities.org](mailto:swinkels@orcities.org)

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## Last Chance to Save on LOC Conference Registration

Early registration for the League’s 92nd Annual Conference—with a reduced rate of \$325—ends **Monday at 5:00 p.m.** The LOC Conference is the premier training event each year for city officials in Oregon, and this year’s program will include more than 30 innovative and informative sessions on relevant topics for city officials.

The conference is scheduled for September 28-30 at the DoubleTree by Hilton Hotel Portland.

To register online, click [here](#). Conference information can be viewed [here](#).

**Contact:** Jenni Kistler, Project Coordinator – [jkistler@orcities.org](mailto:jkistler@orcities.org)

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## CIS to Recognize Safe Cities

CIS (Citycounty Insurance Services) and the League will again team up to sponsor the Annual Employee Safety Awards Program for Oregon cities. This program was initiated in 1974 to stimulate interest and participation in loss prevention programs by providing recognition to cities with low accident frequency rates.

Safety Awards are awarded in categories based on the number of regular employees and full-time equivalent volunteer hours, for the period from July 1, 2016 through June 30, 2017. Additional information is available at [www.cisoregon.org/awards](http://www.cisoregon.org/awards). New this year: cities that are members of CIS' Workers' Compensation program will be automatically entered for a chance to win an award.

Submission Timeline: July 1 – August 11

**Contact:** John Zakariassen, CIS Senior Risk Management Consultant – [jjzakariassen@cisoregon.org](mailto:jjzakariassen@cisoregon.org) or (503) 763-3852

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## August Local Focus Now Online

The latest edition of *Local Focus*, the League's monthly magazine, is available [here](#). On the cover this month: 2017 Legislative Session: How Cities Fared.

**Contact:** Kevin Toon, Communications Director – [ktoon@orcities.org](mailto:ktoon@orcities.org)

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## Cities Encouraged to Share Their News in Local Focus

Tigard and Millersburg are the cities most recently highlighted in the pages of *Local Focus* for their new projects, noteworthy accomplishments, awards and good works. Does your city have a similar story to tell? To view the most recent news reported by cities in LOC's City News pages, click [here](#).

**Contact:** Send your city's news to Kevin Toon, Communications Director – [ktoon@orcities.org](mailto:ktoon@orcities.org)

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## 47 Cities Complete the LOC Water Rates Survey

The League would like to thank its members for taking the time to review and complete the 2017 Water Rate Survey. The League regularly updates this data, which provides valuable insight on city drinking water, wastewater and stormwater. The data is compiled in a manner that can allow cities to compare rates based on geography/region, population and services provided. This data can also assist the League in advocating for more funding for water-related infrastructure, and help ensure that new water policies and regulations do not result in excessive burdens for ratepayers or decreased service levels.

The deadline for cities to respond to the survey is 5:00 p.m. **August 25.**

The League also would like to thank the following 47 cities for responding as of August 3:

Adams	Estacada	Mt. Angel	Shaniko
Antelope	Gates	Mt. Vernon	Siletz
Banks	Grants Pass	Nehalem	Sodaville
Beaverton	Haines	North Powder	Spray
Canyon City	Halfway	Nyssa	Sweet Home
Cascade Locks	Imbler	Pendleton	Tangent
Coquille	Irrigon	Philomath	Tigard
Cottage Grove	Lostine	Richland	Ukiah
Dayton	Malin	Rogue River	Vale
Dundee	McMinnville	Salem	Waldport
Dunes City	Mitchell	Scio	Wood Village
Echo	Mosier	Seneca	

**Contact:** Paul Aljets, Research Coordinator – [paljets@orcities.org](mailto:paljets@orcities.org)

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## Development Fees Survey Data now on LOC-Data

The recent development fees survey received 89 responses from cities. This data has been uploaded to [LOC-Data](#), allowing cities to compare their rates and methods to those of other cities. Due to formatting issues in several cities, not all responses were included in this dataset. The remaining city responses will be uploaded over the next week.

**Contact:** Paul Aljets, Research Coordinator – [paljets@orcities.org](mailto:paljets@orcities.org)

## State & Local Legal Center Previews U.S. Supreme Court's Upcoming Docket

In July, the State & Local Legal Center published [a summary of those cases](#) on the U.S. Supreme Court's upcoming docket with the potential to impact the authority of state and local governments. Four cases are specifically highlighted, and two are noted for consideration. The Supreme Court's term begins October 2.

The Center files *amicus* briefs on matters in support of state and local matters. Members of the Center include: the Council of State Governments; the International City/County Management Association; the National Governors Association; the National Association of Counties; the National Conference of State Legislators; the National League of Cities; and the United States Conference of Mayors.

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## STIP Cycle Underway

The Oregon Department of Transportation (ODOT) has announced that the process for distributing money for transportation projects through the 2021-2024 Statewide Transportation Improvement Program (STIP) has begun. In addition, the agency is soliciting input from stakeholders as to which projects should be funded. For more information on the program and how to participate, go to the ODOT website created especially for this process: [www.oregon.gov/ODOT/STIP](http://www.oregon.gov/ODOT/STIP).

**Contact:** Craig Honeyman, Legislative Director – [choneyman@orcities.org](mailto:choneyman@orcities.org)

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## Oregon State Treasury Transforms LGIP

The Oregon State Treasury is partnering with PFM Asset Management LLC to transform the Local Government Investment Pool—a part of the Oregon Short Term Fund. The Treasury will focus on managing the investment of the pool, while PFM will provide administrative and operational support, including the launch of a web-based option to view accounts and perform transactions. Participants will need to complete and submit a packet of transition forms before the new system goes live. Transition packets have been mailed to all participants, **so cities are asked to please check their mailboxes and return the packets as quickly as possible**. If enough participants return their packets in a timely fashion, the new system could go live as early as this fall. If you have questions about how to complete the forms, the Treasury and PFM are hosting webinars on August 7, 8 and 9. For more information, and to register for webinars, click [here](#).

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## ODOT Schedules Webinar on How to Use OR-Plan

The state has nine modal and topic plans that set the policy direction for moving people and goods safely and reliably. However, with so many separate documents, it can be challenging to see connections between plans and policies.

OR-Plan is an easy to use online searchable database that provides access to all statewide transportation policies and strategies in one place. The tool helps to illustrate important connections and considerations related to specific issues, modes and plans.

Test out the new OR-Plan tool [online](#) and learn how to use it by tuning in into the launch [webinar](#) on August 31.

Questions about the tool or webinar? Contact Mary McGowan, (503) 986-7140 or [Mary.M.McGowan@odot.state.or.us](mailto:Mary.M.McGowan@odot.state.or.us).



For more information on LOC programs and services, visit:  
[www.orcities.org](http://www.orcities.org).

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and on Facebook: [facebook.com/LeagueOfOregonCities](https://facebook.com/LeagueOfOregonCities).

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