

Guidance Document

Pursuant to Neb. Rev. Stat. §84-901.03

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.



Pete Ricketts, Governor

MEMORANDUM

DATE: December 20, 2016
TO: All Local Officials
SUBJECT: Closing a Highway For a Special Event

The Nebraska Department of Roads (NDOR) offers the following guidance for special events held on state highways by counties, cities, or villages, subject to specific acknowledgment and notice requirements set forth in Neb. Rev. Stat §39-1359.

This new law provides, in part:

(2) A temporary use of the state highway system, other than a freeway, by a county, city, or village, including full and partial lane closures, shall be allowed for special events, as designated by a county, city, or village, under the following conditions:

(a) The roadway is located within the official corporate limits or zoning jurisdiction of the county, city, or village;

(b) A county, city, or village making use of the state highway system for a special event shall have the legal duty to protect the highway property from any damage that may occur arising out of the special event and the state shall not have any such duty during the time the county, city, or village is in control of the property as specified in the notice provided pursuant to subsection (3) of this section;

(c) Any existing statutory or common law duty of the state to protect the public from damage, injury, or death shall become the duty of the county, city, or village making use of the state highway system for the special event, and the state shall not have such statutory or common law duty during the time the county, city, or village is in control of the property as specified in the notice provided pursuant to subsection (3) of this section; and

(d) The county, city, or village using the state highway system for a special event shall formally, by official governing body action, acknowledge that it accepts the duties set out in this subsection and, if a claim is made against the state, shall indemnify, defend, and hold harmless the state from all claims, demands, actions, damages, and liability, including reasonable attorney's fees, that may arise as a result of the special event.

Kyle Schneweis, P.E., Director

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Pursuant to Neb. Rev. Stat. §39-1359, in the event you wish to hold a special event on the state highway system, please provide the NDOR District Engineer for your area with the following so that your event may proceed as requested:

- 1) Your county's, city's, or village's official governing body acknowledgement, specifically utilizing the language contained in subsection (2)(d) of the statute, particularly its acknowledgement of acceptance of the duties set out in subsection (2) and its agreement to indemnify, defend, and hold harmless the state from all claims, demands, actions, damages, and liability, including reasonable attorney's fees, that may arise as a result of the special event, and;
- 2) Thirty (30) day's advance written notice of the special event, specifying the date and time the county, city, or village will assume control of the identified state highway property, and the date and time it will relinquish control of such property to the state. Please provide beginning and ending locations for the highway closure, including sufficient area for the placement of advance warning and or detour signing, and please include sufficient time for your county, city, or village to prepare and later clear the property prior to returning possession back to the state.

In the event of failure to provide a specific acknowledgement as defined above from your county's, city's, or village's official governing body, as well as 30 day advance written notice now required by law, the state highway cannot be closed for your special event.

PLEASE NOTE: Advance warning and/or detour signing requirements as governed by the Manual on Uniform Traffic Control Devices (MUTCD) will apply to and arise out of your special event. If you decide to hold your special event, the duties and responsibilities for obtaining signs and meeting MUTCD requirements are solely yours. NDOR expects and understands you will utilize sufficient portions of the state highway as are necessary to provide advance warning and detour signing for your event consistent with the MUTCD.

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