R920. Transportation, Operations, Traffic and Safety.
R920-4. Special Road Use or Event.
R920-4-1. Purpose, Authority, and Scope of Rule.

(1) The purposes of this rule are to:
   (a) Ensure the right of Utahns and visitors to speak and protest in public forums and other public places owned or maintained by the Utah Department of Transportation;
   (b) Encourage and support special events such as parades, runs and walks, bicycle races, and film-related activities, recognizing their importance to Utah's economy and to the well-being of residents of and visitors to Utah;
   (c) Manage limited resources and multiple requests for the use of the same roadways in a responsible and content-neutral manner;
   (d) Encourage collaboration with local governments in the review and management of Special Road Uses;
   (e) Provide guidelines and an appeal process for the review of applications for special road use permits; and
   (f) Set reasonable time, place, and manner restrictions for the safe use of roadways for free speech events, and set reasonable requirements on other special events on highways and land under the jurisdiction of the Department to protect public safety, persons, and property, and to accommodate the interests of persons not participating in the assemblies to use the roadways for travel;
(2) This rule is intended to further the following governmental interests:
   (a) The rights of Utahns to speak, protest, and peaceably assemble;
   (b) The safety of all participants in, and spectators of, special events;
   (c) The safety of the travelling public;
   (d) The ability of emergency service providers to access and care for participants and spectators in special use events, and for residents near to such event;
   (e) The management of limited resources;
   (f) Utah's tourism industry and its strong economy;
   (g) The ability of residents and others not participating in any special event, to travel on the roadways and to access private property without unreasonable disruption; and
   (h) The protection against unreasonable financial burdens on the Department or the State.
(3) This rule is authorized by Sections 72-1-201, 72-1-212 and 41-6a-1111 of the Utah Code Annotated. This rule applies to all highways and adjacent rights-of-way under the Department's jurisdiction.

R920-4-1.5 Definitions.

The following definitions shall apply for purposes of Rule 920-4:

(1) The "Applicant" means an individual, corporation, unincorporated association, Local Government, or other organization, seeking a Special Event Permit. "Applicant" also includes any predecessors or successors in interest to the Applicant, and, if the Applicant is an entity, any officers and principals of the Applicant.
(2) A "Day" means a calendar day, except as otherwise expressly stated in this Rule.

(3) "Department" means the Utah Department of Transportation.

(4) A "Free Speech Road Use" means a type of Special Road Use conducted for the purpose of persons expressing their political, social, religious, or other views protected by the First Amendment to the United States Constitution and Article I, Section 15 of the Utah Constitution during the event. A "Free Speech Road Use" does not include

- (a) Solicitations or events which primarily propose a commercial transaction;
- (b) Bicycle races or events;
- (c) Foot races, including fun-runs, races, walks, and similar events;
- (d) Motorcycle rallies, parades, and similar events; or
- (e) Use of highways and adjacent rights-of-way for filming.

(5) "Local Government" means a municipality as defined in Utah Code § 10-1-104(5), a county, or an institution of higher education defined in Utah Code § 53B-2-101.

(6) A "Short-Notice Free Speech Road Use" means a type of Free Speech Road Use which arises out of, or is related to, events or other public issues which cannot be reasonably anticipated far enough in advance of the occurrence to allow compliance with the deadlines otherwise required in this Rule. An Applicant bears the burden of demonstrating that a proposed Free Speech Road Use is a Short-Notice Free Speech Road Use.

(7) A "Special Event Permit" means a permit sought or granted by the Department for a Special Road Use.

(8) A "Special Road Use" means a use or event taking place on a highway or adjacent to a highway other than normal traffic or lawful pedestrian movement.

- (a) A Special Road Use includes:
  - (i) A demonstration, rally, vigil, picket line or similar gathering;
  - (ii) A parade or march;
  - (iii) A bicycle race or event;
  - (iv) A foot race, including a fun-run, race, walk, or similar event;
  - (v) A motorcycle rally, parade, ride or similar event; and
  - (vi) The use of highways and adjacent rights-of-way for filming.
- (b) A "Special Road Use" does not include:
  - (i) Outdoor advertising, regulated by the Protection of Highways Act, Utah Code § 72-7-501, et seq. and Utah Admin. Code. R933-2;
  - (ii) Encroachment on, or the placement, construction, or maintenance of, roads, driveways, advertising, and utilities, regulated by Utah Code § 72-7-701, et seq., and Utah Admin. Code R. 930-7; and
  - (iii) The sole display of unattended signs or banners on or appurtenant to the roadway.

R920-4-2. Permit Required for Special Road Use; Exceptions.

(1) A Special Event Permit shall be required for any Special Road Use. A Special Road Use shall not occupy the roadway until a permit is issued. A permit shall be obtained by submitting a completed application form to the Department for the particular type of Special Road Use requested, accompanied by the fees as listed within the Department fee schedule and any

other documents or attachments as required by this Rule.

(2) An Applicant shall send an application to the regional office in which the Special Road Use originates. If the Special Road Use continues through multiple Department Regions, the Department may designate a regional office to coordinate the application process throughout all other affected regions.

(3) A Special Event Permit shall not be required for activities that occur entirely on a sidewalk, crosswalk, or dedicated pedestrian passageway adjacent to or nearby a roadway so long as:

   (a) Pedestrians are lawfully permitted to be present in the area;

   (b) Reasonable measures are taken to ensure that the activity does not encroach upon the roadway or otherwise affect normal vehicular traffic flow; and

   (c) Non-participating pedestrians have access to the sidewalk or passageway.

R920-4-3. Timeline for Submitting Applications.

(1) Subject to the requirements of this section, Applicants are encouraged to submit applications for a Special Event Permit as far in advance as is practicable to allow sufficient time for the completion of the application, for the negotiation of any conditions to the application, and for appeal, if permitted.

(2) A completed application for a Special Event Permit shall be submitted at least 30 days before the proposed Special Road Use. Any applications not received by the specified deadline may be considered by the Department if;

   (a) The Applicant pays the expedited review fee as defined in R920-4-4, and

   (b) There is sufficient time to process the application, to coordinate with the Applicant, and to ensure that the Applicant will comply with the terms of the permit.

(3) No application may be filed more than one year before the proposed event date.

(4) Subsection (2) does not apply to:

   (a) A Special Event Permit for a Short-Notice Free Speech Road Use; or

   (b) A Special Event Permit sought by a Local Government for a Special Road Use if the Local Government is responsible for the supervision and safety of the Special Road Use.

R920-4-4. Fees for Filing Applications; Exceptions.

(1) An application for a Special Event Permit shall be accompanied by the appropriate nonrefundable review fees as listed within the Department fee schedule. The fees are imposed as a regulatory measure and are charged only to defray the expenses of processing the application, reviewing for acceptability, and monitoring the event to ensure conformity with the intent expressed in Section R920-4-1 above.

(2) Any Special Event Permit not received by the deadline in subsection (2) of Rule 920-4-3 shall be accompanied with a nonrefundable expedited review fee as listed within the Department fee schedule. Payment of the expedited fee does not guarantee that the Department will process the application.

(3) Subsection (1) does not apply to:

(a) A Special Event Permit sought by a Local Government if the Local Government is responsible for the supervision and safety of the Special Road Use.

(b) An application for a Special Event Permit for Free Speech Road Use if the Applicant demonstrates, by sufficient evidence, that the payment of the fee would affect the ability of the Applicant to provide for the necessities of life. If an Applicant is an organization, the Department may require proof that the organization's membership is similarly unable to pay.

(4) Subsection (2) does not apply to a Special Event Permit for a Short-Notice Free Speech Road Use. An application for a Special Event Permit for a Short-Notice Free Speech Road Use shall pay the nonrefundable fee specified in subsection (1), unless one of the exceptions in subsection (3) also applies.

R920-4-5. Restrictions on Special Event Permits

(1) The Region Permit Officer shall not issue a Special Event Permit if, in the two years preceding the date of the Application:

(a) The Applicant had been granted a Special Event Permit, and the Applicant

(i) Violated a condition of the Permit, or

(ii) Failed to take reasonable care in preventing the participants in the Special Road Use from violating a condition of the permit; or

(b) The Applicant engaged in a Special Road Use without first securing a Special Event Permit.

(2) The Region Permit Officer shall not issue a Special Event Permit for Special Road Use on an overpass above a highway, if the Special Road Use is intended to draw the attention of the traffic below, and is not an incidental traversing of the overpass as part of the event path.

(3) The Region Permit Officer shall not issue a Special Event Permit for any portion of the same roadway for a period of more than 24 continuous hours, per Special Road Use.

(a) This subsection does not apply to a Special Event Permit sought by a Local Government for a Special Road Use if the Local Government is responsible for the supervision and safety of the Special Road Use.

(b) Deviations from provisions of this subsection may be allowed if they do not violate state and federal statutes, law, or regulations, and the use will be for the public good without compromising the transportation purposes of the roadway.

(c) Requests for deviations may be considered by the Department on an individual basis, upon justification submitted by the Applicant.

(d) In determining whether to grant the deviation, the Region Permit Officer shall consider the Purposes of the Rule as articulated in Rule 920-4-1(1), The Applicant shall have the burden to prove that the deviation is in the public interest and will not substantially affect the ability of residents and others not participating in any special event to travel on the roadways and to access private property without unreasonable disruption. The Region Permit Officer may require the Applicant to provide additional proof, such as a traffic impact study, to satisfy the Applicant's burden for the deviation.

R920-4-6. Applications for Special Event Permits for Non-Free Speech Road Uses.

This section governs the standards for review of all applications for Special Event Permits other than

those covered in R920-4-7.

In addition to an Application for Special Event Permit, the Region Permit Officer shall require the Applicant to provide as necessary:

(a) Insurance coverage, waiver and release of damages and indemnification as described in R920-4-9;
(b) A traffic control plan as described in R920-4-10;
(c) Public notification as described in R920-4-11;
(d) A contingency plan, as described in R920-4-12;
(e) A route map as described in R920-4-13; and
(f) Proof that the applicant has obtained any any applicable city, county, or other governmental agency approvals or permits as described in R920-4-14.

(2) In reviewing any Application for Special Event Permit, the Region Permit Officer may place reasonable restrictions on the Special Road Use. Except as provided by R920-4-5(1), no such restriction shall be based on the identity of the applicant or of persons expected to participate in the Special Road Use. The restrictions include, but are not limited to:

(a) A limitation of the total time the permittee may occupy a particular portion of roadway;
(b) A limitation on the particular time of day the permittee may occupy the roadway;
(c) A limitation on the number of lanes the permittee may occupy on the roadway;
(d) A limitation on the number or size of banners or signs any participants may carry on the roadway; and
(e) A prohibition on the use of a particular roadway and the requirement of an alternate route.

(3) The Region Permit Officer may place reasonable terms, conditions, and limitations on a Free Speech Road Use as allowed by this Rule and otherwise required by law. In placing restrictions on the Special Road Use, the Region Permit Officer shall consider:

(a) The annual number of other Special Use events scheduled on the roadway;
(b) Planned construction or repairs of the roadway or utilities underneath or adjacent to the roadway;
(c) The nature of the roadway requested for use, and the volume of traffic normally occupying the roadway at the requested time of use;
(d) The amount of time requested for use;
(e) The safety of all participants in special events;
(f) The safety of the travelling public;
(g) The ability of emergency service providers to access and care for participants and spectators in special use events, and for residents near to such event; and
(h) The ability of residents and others not participating in any special event, to travel on the roadways and to access private property without unreasonable disruption; and
(i) The overall economic impact on nearby businesses and the traveling public resulting from the Special Road Use.

(4) Applications for Special Event Permits governed by this section shall be processed. If the Region Permit Officer determines the application is incomplete, he or she shall notify the Applicant with a notice of incomplete application once the deficiency is discovered.

(5) Once the application is complete, the Region Permit Officer shall apply best efforts to provide approval, approval with conditions, or denial of the Application:
    (a) Within 30 days of receipt of a complete application, or seven days before the scheduled event, whichever is earlier.
    (b) In the case of an application submitted along with an expedited fee, within three business days of its receipt as complete.

R920-4-7. Review of Applications for Special Event Permits for Free Speech Road Uses

This section governs the standards for review of applications for Special Event Permits for Free Speech Road Uses.

(1) In addition to any Application for Special Event Permit for Free Speech Road Use, the Region Permit Officer shall require the Applicant to provide, as necessary:
    (a) A traffic control plan as described in R920-4-10;
    (b) Public notification as described in R920-4-11;
    (c) A contingency plan, as described in R920-4-12;
    (d) A route map as described in R920-4-13; and
    (e) Proof that the applicant has obtained any applicable city, county, or other governmental agency approvals or permits as described in R920-4-14.
(2) In reviewing any Application for Special Event Permit for Free Speech Road Use, the Region Permit Officer may place reasonable time, place, and manner restrictions on the Free Speech Road Use. No such restriction shall be based on the content of the beliefs expressed or anticipated to be expressed during the Free Speech Road Use, or on factors such as the identity or appearance of persons expected to participate in the assembly.
(3) In placing reasonable time, place, and manner restrictions on the Special Road Use, the Region Permit Officer shall consider:
    (a) The annual number of other Special Use events scheduled on the roadway;
    (b) Planned construction or repairs of the roadway or utilities underneath or adjacent to the roadway;
    (c) The nature of the roadway requested for use, and the volume of traffic normally occupying the roadway at the requested time of use;
    (d) The amount of time requested for use;
    (e) The safety of all participants in special events;
    (f) The safety of the travelling public;
    (g) The ability of emergency service providers to access and care for participants and spectators in special use events, and for residents near to such event; and
    (h) The ability of residents and others not participating in any special event, to travel on the roadways and to access other public and private property without unreasonable disruption.
(4) The Region Permit Officer may place reasonable terms, conditions, and limitations on a Free Speech Road Use as allowed by this Rule and otherwise required by law. In placing time, place, or manner restrictions on a Free Speech Road Use, the Region Permit Officer shall select restrictions that are tailored to address any identified risks of harm or other articulated governmental interests. The restrictions include, but are not limited to:

(a) A limitation of the total time the permittee may occupy a particular portion of roadway;
(b) A limitation on the particular time of day the permittee may occupy the roadway;
(c) A limitation on the number of lanes the permittee may occupy on the roadway;
(d) A limitation on the number or size of banners or signs any participants may carry on the roadway;
(e) A prohibition on the use of a particular roadway and the requirement of an alternate route, where other restrictions will not protect the governmental interests affected by the Free Speech Road Use, and ample alternatives for speech exist.

(5) Once the application is complete, the Region Permit Officer shall apply best efforts to provide approval, approval with conditions, or denial of the Application within 30 days of receipt of a complete application, or seven days before the scheduled event, whichever is earlier.

(6) Applications for Special Event Permit for a Short-Notice Free Speech Road Use shall be processed on an expedited basis, and the Region Permit Officer shall apply best efforts to provide approval, approval with conditions, or denial of the application within three business days of its receipt as complete.

R920-4-8. Special Use Double Booking Conflict Resolution.

(1) In cases where a double booking conflict arises, the Department will encourage any secondary, or subsequent, Applicant to review the feasibility of collocating with the original Applicant. If collocating proves impracticable, the Department will encourage any secondary, or subsequent, Applicant to offer a viable alternative strategy that meets the needs of all Applicants, while also ensuring adequate public safety measures remain intact.

(2) For non-Free Speech Special Road Uses, the Department may also rely on local agency assistance with establishing special event permitting priorities and reserves the authority to exercise the discretion in giving priority consideration to an applicant based on an evaluation of historic use, potential economic benefit, and other relevant factors.

(3) In cases where none of the aforementioned conflict resolution strategies prove effective in remedying a continuing dispute between multiple applicants, and the Department determines that collocating is impracticable, the Special Event Permit will be issued based on the earliest recorded application time and date where the Department has determined the Applicant has fully completed all application requirements.

R920-4-9. Minimum Liability Coverage, Waiver and Release of Damages Form, and Indemnification Form Completion Requirements.

(1) The Applicant for a Special Event Permit governed by R920-4-7 shall obtain and provide proof of liability insurance at time of application naming the "State of Utah, the Department and its Employees" as an additional insured under the certificate, with a minimum $1,000,000 coverage per occurrence and $3,000,000 in aggregate. The name of the insured on the insurance policy and the name of the Applicant shall be identical.

(2) The Applicant may fulfill the requirements of Subsection (1) by providing
(a) Sufficient proof that the Applicant has secured liability insurance for the event required by another governmental entity which meets the minimum coverage requirements

contained in Subsection (1), and

(b) The Applicant has included the “State of Utah, the Department of Transportation, and its Employees” as an additional insured on the policy.

(3) The Applicant shall complete the appropriate "Waiver and Release of Damages" and "Indemnification" forms prior to permit issuance. All event participants shall also complete the "Waiver and Release of Damages" form prior to participating in the permitted event.

(4) The Applicant is responsible for ensuring each participant completes the "Waiver and Release of Damages" form prior to participating in the event. The originating Applicant is the custodian of all signed participant waivers, as specified in subsection (3), and shall produce these upon demand for inspection and review by the Department at any time within 12 months after the completion of the event.

R920-4-10. Traffic Control Requirements and Considerations.

(1) All traffic control is the responsibility of the Applicant. A traffic control plan, in accordance with R920-1, R930-6 and Department Standard and Supplemental Drawings, shall be provided to, and approved by, the Region Traffic Engineer, or other authorized Department designee. If the Region Traffic Engineer deems it necessary, considering the nature of the Applicant’s Special Road Use and the proposed event path, the Applicant may be required to perform and provide a traffic impact study for the Special Road Use.

(2) Road closures will require appropriate traffic control. Appropriate traffic control may include by uniformed state, county, or local peace officers, or a private company, identified event staff, or physical devices, as determined by the Department.

(3) The Region Permit Officer may require an alternate route, or alternative time, if the proposed Special Road Use occurs when traffic volumes are high, active road construction is present, an alternate event is already occupying the road, a safer route can accommodate the event, or the event poses a significant inconvenience to the traveling public.

(4) All railroad crossings and bridges shall be given special attention. The Applicant shall coordinate with the appropriate railroad representatives to ensure the event schedule does not conflict with the operation of the railroad.

(5) The Applicant shall restore the particular road segment to its original condition, free from litter and, other material changes.

(6) The Department may monitor and ensure compliance with the terms and conditions of any Special Event Permit, and require the Applicant to pay a monitoring and compliance fee at the rates authorized within the Department’s fee schedule.

R920-4-11. Public Notification Requirements.

(1) As determined by the Region Permit Officer, the Applicant may be required to provide advance notification to the general public regarding the Special Road Use, depending on the nature of the roadway being used, the time of day of the use, and the impact on the non-participating travelling public and adjacent businesses.

(2) The Region Permit Officer may require the Applicant to inform the general public about the date, time, affected roads, traffic impacts, an estimate of the anticipated length of delay, and

other information necessary to provide reasonable notice to the public of the Special Road Use. The methods of notification may include:

(a) A news release distributed to all local radio stations, television stations, and newspapers that announce the event and advise residents of alternate routes and potential delays.

(b) The posting of signs, including variable message signs, along the Special Road Use route for a reasonable period of time prior to the event;

(c) Attempts by the Applicant to personally contact residents and businesses along the Special Road Use route;

(d) The retention of a dedicated agent or public relations firm to maximize the distribution of the message.

(3) Any signs required to be posted pursuant to this rule, including any variable message signs, shall not advertise the event itself or any private products or services.

R920-4-12. Contingency Plan and Participant Notification Requirements.

(1) Considering the nature of the planned Special Road Use, the Applicant shall develop:

(a) Contingency or emergency plans,

(b) Planned rest areas, water facilities, and trash cleanup, and

(c) Plans to ensure that participants obey the conditions of the Special Event Permit and all other generally applicable traffic laws, lights, and signs.

(d) The Region Permit Officer may require that the Applicant provide notice to participants, bystanders, or the public of all plans enumerated in subsection (1) of this Rule. The amount of and method of notice shall be dependent on the circumstances of the Special Road Use.

R920-4-13. Event Route Identification and Private Property Use Requirements.

The Applicant shall provide a detailed map showing the proposed course and direction of the event. Locations of parking areas, water stations, toilet facilities, and other appropriate information shall also be included on the map if deemed necessary by the Region Permit Officer. These areas cannot be located within the state right-of-way. The applicant is responsible for obtaining appropriate permission to locate these facilities on private property.

R920-4-14. Adherence to Municipal, County, or other Governmental Agency Permitting Requirements.

The Applicant shall procure any applicable city, county, or other governmental agency approvals or permits.

R920-4-15. Appeal.

(1) An Applicant may appeal the following determinations of a Region Permit Officer:

(a) Any denial of a Special Event Permit;

(b) A denial of a deviation request as described in Rule 920-4-5(3)(b);

(c) A determination that a proposed Special Road Use is not a Free Speech Road Use or Short-Notice Free Speech Road Use; and

(d) Any time, place, or manner restriction placed on a Special Event Permit for a Free Speech Road Use that the Applicant believes is unreasonable or illegal.

(2) The following process shall be used for an appeal:

(a) An Applicant may appeal the determinations described in subsection (1) decision to the Department's Program Development Director,

(b) Any appeal to the Department's Program Development Director shall be in writing and shall include:

(i) A statement of the basis for the objection,

(ii) Any supporting documents to be used in the appeal, and

(iii) A copy of any written decision issued by the Region Permit Officer.

(c) The Department's Program Development Director shall make a decision on appeal, based on the written submissions of the Applicant, and the Department's file.

(d) The Department's Program Development Director shall concur with, modify, or overrule the decision of the Region Permit Officer. The decision shall be in writing and shall explain the reasons for the decision.

(3) Appeals shall be resolved within the following timelines:

(a) For appeals brought under subsections (1)(c) or (d), the Department's Program Development Director shall issue a decision as soon as reasonably practicable, but no later than three business days after the Department's Program Development Director receives the written appeal.

(b) For all other appeals, the Department's Program Development Director shall issue a decision no later than 14 days prior to the planned date of the Special Road Use, or within 30 days after the appeal has been lodged, whichever is later.