



**PENNSYLVANIA STATE
TRANSPORTATION ADVISORY COMMITTEE**

**DEMAND FOR ALTERNATE USES OF
PENNDOT RIGHT-OF-WAY**

WHITE PAPER



August 2022

Cover Image



Dickens of a Christmas - Wellsboro, PA
December 5, 2021

Demand for Alternate Uses of PennDOT Right-of-Way

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Acknowledgments

About the Transportation Advisory Committee

The Pennsylvania Transportation Advisory Committee (TAC) was established in 1970 by Act 120 of the State Legislature, which also created the Pennsylvania Department of Transportation (PennDOT).

TAC has two primary duties. First, it "consults with and advises the State Transportation Commission and the Secretary of Transportation on behalf of all transportation modes in the Commonwealth." In fulfilling this task, TAC assists the Commission and the Secretary "in the determination of goals and the allocation of available resources among and between the alternate modes in the planning, development, and maintenance of programs, and technologies for transportation systems."

TAC's second duty is "to advise the several modes (about) the planning, programs, and goals of the Department and the State Transportation Commission." TAC undertakes in-depth studies on important issues and serves as a liaison between PennDOT and the general public.

TAC consists of the following members: the Secretary of Transportation; the heads (or their designees) of the Department of Agriculture, Department of Education, Department of Community and Economic Development, Public Utility Commission, Department of Environmental Protection, and the Governor's Policy Office; two members of the State House of Representatives; two members of the State Senate; and 18 public members—six appointed by the Governor, six appointed by the President Pro Tempore of the Senate, and six appointed by the Speaker of the House of Representatives.

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The TAC thanks the members of the Ad Hoc Committee formed to guide the direction of this study. Their knowledge of and expertise helped guide the course of the study process.

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The TAC acknowledges the contributions of the following municipalities, organizations, and Departments of Transportation, who helped broaden and inform our understanding of this topic. Their firsthand local and statewide knowledge and experiences proved invaluable.

City of Bethlehem

City of Pittsburgh

Florida Department of Transportation

Gettysburg Borough

Lawrenceville Corporation

Lewisburg Neighborhoods

Lititz Borough

Maryland Department of Transportation State Highway Administration

Wellsboro Area Chamber of Commerce

Executive Summary

In December 2021, the TAC kicked off a study to examine the issues and challenges that Pennsylvania municipalities have encountered in seeking permission for alternate uses of state-owned right-of-way. These alternate uses include outdoor dining, parades, festivals, temporary bike lanes, temporary sidewalk expansions, Open Streets events, and other community events and activities. These uses contribute to a community's economic vitality and quality of life and became even more critical during the COVID-19 pandemic. During this time, many activities typically held indoors, such as restaurant dining, were moved outside onto state-owned right-of-way to comply with social distancing regulations.

To gain an understanding of the issues and challenges that municipalities face and to develop potential recommendations to mitigate these challenges, the study team completed the following tasks:

- Met with the ad hoc committee on four occasions (December 15, 2021 and February 7, March 22, and June 6, 2022) to discuss potential issues and develop recommendations.
- Reviewed Pennsylvania's existing statutes and regulations for temporary full or partial closures of state highways by third parties and PennDOT's special event permit process.
- Reviewed Federal regulations regarding the non-transportation use of property acquired with Federal assistance through the Highway Trust Fund.
- Completed six case studies that included interviews with Pennsylvania municipalities and community organizations to discuss their experience with the special event permit process and alternate uses of state-owned right-of-way.
- Interviewed representatives from two other state Departments of Transportation to gain insight into how special events and alternate uses are facilitated in their states.

As a result of these tasks, the study team and ad hoc committee developed recommendations for PennDOT, individual municipalities/local organizations, and municipal organizations to consider and implement.

Recommendations for PennDOT

1. Explore the feasibility of authorizing PennDOT County Maintenance offices to coordinate with municipalities holding special events to use County Maintenance signs, changeable message signs, and other traffic control devices. Note that if this practice is deemed feasible, the coordination and use of County Maintenance equipment will be determined on a case-by-case basis, subject to the availability of equipment and other considerations.
2. For third parties requesting the use of state-owned right-of-way for non-transportation commercial activities, determine if entering into a lease between the third party and PennDOT would be more appropriate than completing the special event permit process. One example of this is a restaurant requesting the use of state-owned right-of-way for outdoor dining. Entering into leases with third parties would require coordination with the Right-Of-Way Division, and, as of June 2022, PennDOT is in the process of evaluating this recommendation.
3. Finalize the policy for charging and collecting the fair market value fee for the sale, use, lease, or



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lease renewal of real property acquired with Federal assistance from the Highway Trust Fund.

4. Consider adding an action to the [Special Event Permit Application \(TE-300\)](#) form that event sponsors must notify the County Emergency Management Center of the special event. Knowledge of the event will provide situational awareness to dispatch operators in the Center.
5. The [PennDOT Local Technical Assistance Program \(LTAP\)](#) is dedicated to transferring transportation technology through training, technical assistance, and other customer services to municipal elected officials and their staff. Develop a training course through LTAP to provide instruction on traffic detours. Since traffic detours have more implications than just special events, the training would benefit many areas, such as transportation management for work zones and traffic incident management.
6. Clarify and simplify the [Special Event Permit Guidance](#) document and [Special Event Permit Application \(TE-300\)](#) form. It should be noted that PennDOT is currently (as of March 2022) updating both the document and form.
7. Formalize the roles and responsibilities of PennDOT Central Office, the PennDOT Engineering Districts, and municipalities with regard to application submission and the review and issuance of Special Event Permits to ensure consistency and remove variations Statewide.
8. Update and develop additional resources, guidance, and instructions for the special event permit process on the PennDOT [website](#). For example, a “Frequently Asked Questions” section could be added to answer common questions, such as:
 - Is it necessary to have a Professional Engineer prepare the detour plan for my event?
 - Are there requirements for temporary signs that are used to detour traffic?
 - What happens if I do not obtain a permit for a special event on state-owned right-of-way?
9. The “Guidance for Temporary Non-Highway Use of Right-of-Way” memorandum introduces important guidance for non-highway uses that may or may not require a special events permit. Evaluate if this guidance should be further developed into a formal PennDOT policy document.
10. Through LTAP, investigate the possibility of developing an online tool to assist those completing the special event permit application, particularly if a detour route is required. Some potential features of the tool could include:
 - A mapping tool that suggests appropriate detours. PennDOT’s hauling permit system, APRAS, has a very similar tool that analyzes and suggests appropriate routes for special hauling permit applicants. It may be possible to adapt this system to analyze and suggest detour routes around a state-owned roadway closure.
 - A rough estimate of the quantity of signs, barricades, and other traffic control devices

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that may be needed in accordance with PennDOT Publication 213: Temporary Traffic Control Guidelines.

- A conceptual cost estimate for the traffic control devices that are suggested.
11. Update [67 PA Code §212.701](#) and PennDOT [Publication 212 \(Official Traffic Control Devices\)](#) to coincide with [75 PA C.S. §6109\(j\)](#). Specifically, remove the requirement from the Code stating that municipalities must also indemnify the Commonwealth if there is a separate entity sponsoring a special event for which is providing indemnification. It should be noted that updating the PA Code is a time-intensive process. In the interim, PennDOT is updating the Special Event Permit Guidance document and Special Event Permit Application (TE-300) form to explain and clarify the difference between the PA Code and the PA Consolidated Statutes, and state that the Consolidated Statutes take precedence over the Code.

Recommendations for Municipalities/Local Organizations

1. With increasing demand for Active Transportation Plans and multimodal design solutions, local authorities are encouraged to develop, execute, and enforce actions to manage safety and mobility for all modes of travel. For example, the Municipalities Planning Code authorizes zoning actions and the adoption of comprehensive plans and ordinances to encourage municipalities to proactively plan for the implementation of multimodal improvements. Deviating from or granting exceptions to comprehensive plans, zoning ordinances, or codes may result in the need to implement costly design solutions post construction.
2. If a special event must close a portion of a state route, select the route and limits to be used for all future special events. Once a permit is granted for a state route closure, use the same detour route for future events. While detour routes are still subject to PennDOT's final approval, using the same detour route for all special events will help streamline the application process.
3. Encourage sponsors to hold special events on local roads rather than state routes. State routes typically have the highest traffic volumes in a municipality, and their closure, even if temporary, will have the most significant impact on mobility and safety. In addition, if the event can be held on a municipal-owned local street, PennDOT approval for the special event is not necessary.
4. Engage with local universities and places of higher learning to assist with transportation planning for special events and alternate uses. For example, students in a traffic engineering course could contribute to considerations of where to hold an Open Streets event.
5. If municipalities have existing insurance policies, municipal officials should explore the possibility of using the policy for special events. Municipalities may also join organizations, such as the Pennsylvania Intergovernmental Risk Management Association ([PIRMA](#)) and [Delaware Valley Trusts](#), that are risk sharing pools that offer comprehensive liability and property coverages to Pennsylvania public entities. Third-party event sponsors may be able to obtain insurance from national organizations, such as the National Trust for Historic Preservation or USA Cycling for



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bicycle races. Additionally, local chapters of national organizations, such as the Lions Club, may obtain insurance through their parent organization. If special event specific policies are being obtained, try to obtain a year-round policy, especially if there are multiple events throughout the year.

6. Prior to special events and any road closure, send a press release to the PA Motor Truck Association to help divert commercial vehicle traffic around the event. Similarly, notify PennDOT's Regional Traffic Management Center of the event, as required by the special event permit.
7. Engage with municipal departments and the local community to garner support and assistance with the special events process. Promote the fact that there are upfront costs to holding special events, but they are an investment to improve the quality of life for the community and stimulate the local economy.

Recommendations for Municipal Organizations

Several organizations and programs exist throughout Pennsylvania that are dedicated to assisting municipal elected officials and staff. The organizations could apply the following recommendations individually, or they could coordinate and implement the recommendations together. Since special events and alternate uses of state-owned right-of-way are important to all levels of municipalities in Pennsylvania, it may be more appropriate for the organizations to work together in implementation.

1. In conjunction with PennDOT Recommendation #5, coordinate with LTAP to develop a training course to provide instruction on traffic detours.
2. Create a central resource for municipalities to pool and share resources, such as detour signage.
3. Create a database of information and references that municipalities can use to help with the special events process. The database could include:
 - Contact information of solicitors, engineering firms, and traffic control companies with expertise in the special events process.
 - Previously approved special event permit applications.
 - Example detour plans that have been used.
 - The cost of deploying traffic control devices for past detours and special events. The costs should be presented by PennDOT District to account for variations in costs across different regions.
 - Best practices and lessons learned from past events and applications.
4. In conjunction with PennDOT Recommendation #10, coordinate with LTAP to investigate the possibility of developing an online tool to assist those completing the special event permit application.

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Introduction

The COVID-19 pandemic affected almost every aspect of day-to-day living, particularly in relation to the need to isolate and social distance, and has changed many aspects of Pennsylvanians' day-to-day living, including how we conduct business, socialize, and recreate. In some municipalities, right-of-way normally reserved for on-street parking or vehicular travel has been converted for other purposes, including outdoor seating for restaurateurs and bicyclist and pedestrian travel. Other communities have closed streets altogether. The increased competition for space has been a significant challenge for public officials of Pennsylvania downtowns who are trying to balance the needs of the local economy, transportation needs for multiple modes, road safety needs, and public health requirements.

The primary purpose of highway right-of-way is for transportation purposes, but there are occasions when the right-of-way may be used alternatively as economic generators. These alternate uses include outdoor dining, parades, festivals, temporary bike lanes, temporary sidewalk expansions, Open Streets events, and other community events and activities, all of which contribute to a community's economic vitality and quality of life. Many of these events are held on Pennsylvania's main streets and roadways that serve as economic drivers for downtown businesses. In many instances, these main streets are roadways that are owned by the Commonwealth.

The focus of this study is to examine the issues and challenges that Pennsylvania municipalities have encountered in seeking permission for alternate uses of state-owned right-of-way. The study includes case studies from different municipalities within Pennsylvania as well as other state Departments of Transportation (DOTs) and their processes for permitting alternate uses of right-of-way.

Statutes and Regulations

To comply with state regulations, PennDOT uses the special event permit process to review and approve requests for temporary full or partial closures of state highways by third parties for certain activities, including parades, running/bicycle races, and street fairs. The special event permit process is established by the PA Consolidated Statutes and further expanded in the Pennsylvania Code. Moreover, there are additional federal regulations that have an impact on alternate use of right-of-way and special events. These regulations are discussed in the following sections.

During the COVID-19 pandemic, municipalities requested PennDOT approval for other alternative uses of the state-owned right-of-way, such as outdoor dining, to promote economic development and allow space for mandated social distancing. In response, the special event permit process was used to permit these activities, along with other requirements to comply with federal regulations when applicable.

Pennsylvania Consolidated Statutes and Regulations

The PA Consolidated Statutes are the laws passed by the Pennsylvania General Assembly. In June 2021, under Act 36, Pennsylvania amended the Vehicle Code, [75 PA C.S. §6109](#), to add that PennDOT may not require local authorities to fully indemnify, save harmless and defend the Commonwealth, Commonwealth departments and their officers, agents and employees from and against claims, suits or actions for injury, death or property damage arising from or because of the acts or omissions of its officers,



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agents or employees or of the sponsor of the procession, special activity or assemblage (hereafter referred to as fully indemnify or full indemnification), if all of the following conditions are met:

- The sponsor of the event is not the local authority.
- The event sponsor will fully indemnify the Commonwealth.
- The event sponsor names the department as an additional insured on its liability policies and insurances.
- The event sponsor agrees to reimburse the Commonwealth for all costs for police escort and traffic control services.
- The local authority approves of the event.
- The local authority agrees to provide adequate detour signing or police controls for rerouting traffic along alternate routes, if requested by the department.

The PA Code is the official codification of rules and regulations issued by Commonwealth agencies. Under [67 PA Code §212.701](#), PennDOT establishes minimum criteria for processions, assemblages, and special activities on state-designated highways. The Pennsylvania Code ([67 PA Code §212.1](#)) defines “processions” as an organized group of individuals “moving along a highway on the roadway, berm or shoulder in a manner that interferes with normal movement of traffic” including “walks, runs, parades and marches.” “Assemblages” are defined as an organized gathering of people which encroaches on the street or highway interfering with the movement of pedestrians or vehicles including street fairs, block parties and other recreational events. Finally, “special activity” is defined as an “organized vehicle race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or any other type of event conducted for the purpose of making a speed record” and “those races defined in 75 PA C.S. §3367.”

These criteria are used to form the basis of the special event permit process. Some key criteria to obtain a special event permit include the following:

- If traffic must be detoured around a closed state-designated route, then an alternate route must not be more than five miles longer or five times greater in length than the normal travel distance.
- A statement that the event sponsor will fully indemnify the Commonwealth.
- A letter from the municipality where the event will occur stating that the event is approved and that the municipality will fully indemnify the Commonwealth.
- The permit request must be made in writing by the sponsor and be received by the District Executive at least three weeks before the proposed event.

In summary, [67 PA Code §212.701](#) conflicts with [75 PA C.S. §6109](#) as it relates to municipal requirements for third-party sponsored special events on state highways. Although the Consolidated Statute takes precedent over the PA Code, it may not be apparent to individuals seeking a special event permit who are unfamiliar with the process and regulations.

Federal Regulations

In addition to the state’s Consolidated Statute and Code, PennDOT must also adhere to the Federal Statute regarding the non-transportation use of property acquired using the Federal Highway Trust Fund. Under [23 U.S. Code §156](#), in the event of a proposed non-transportation use, states must charge a fair market

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value for the sale, use, lease, or lease renewal of property acquired with Federal assistance through the Highway Trust Fund. However, the U.S. Secretary of Transportation may grant an exception to this requirement for a social, environmental, or economic purpose.

The U.S. Code ([23 U.S. Code §710.405\(d\)](#)) also requires that non-highway uses of real property that are under the control of the State Department of Transportation must conform to the design standards and safety criteria for the functional classification of the highway facility. As such, special events and other alternate uses of state-owned right-of-way must adhere to highway, planning, environmental (including National Environmental Policy Act documentation), traffic, maintenance, and operations requirements.

The PA Division Office of FHWA and PennDOT Central Office have been working together to incorporate these Federal requirements into the special events permit process without overburdening the permit applicant. PennDOT Central Office is drafting a policy for charging and collecting the fair market value and formalizing the process for obtaining exceptions. In addition, PennDOT Central Office and the PA Division Office of FHWA are streamlining the National Environmental Policy Act documentation requirements into special events permits.

PennDOT's Permit Process

PennDOT has an established special event permit process that is used to authorize temporary road closures and other event-related uses of PennDOT's right-of-way. To help assist applicants in the permit process, PennDOT developed [Special Event Permit Guidance](#) that documents the process and key requirements. The guidance document also directs readers to [67 PA Code §212.701](#) as the regulations which establish the minimum criteria for special events.

The guidance document notes that the municipality or private sponsor must submit a [Special Event Permit Application \(Form TE-300\)](#) at least three (3) weeks prior to the date of the event. This requirement is established in the regulation. However, the application form specifies that if a private-sponsored special event on a state highway requires involvement of a **local road**, the municipality must be notified at least eight (8) weeks prior to the event date. In this scenario, the completed and signed application must also be submitted to the PennDOT Engineering District Office eight (8) weeks prior to the date of the event.

In addition to the application, the applicant must submit the following:

- A certificate of insurance in the name of the permit applicant showing:
 - Public liability insurance for bodily injury and property damage in the minimum amount of two hundred fifty thousand (\$250,000.00) per person and one million dollars (\$1,000,000.00) per occurrence to cover any loss that might occur as a result of the permitted use of the state highways or that might otherwise arise out of or be connected with the event;
 - occurrence-based coverage; and
 - Commonwealth of Pennsylvania named as an additional insured.
- A copy of the letter sent from the permit applicant to each municipality in which the event is to occur, requesting permission to allow the event. This is not necessary if the municipality is the applicant, and the event is within its boundary.



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- A copy of a letter from each municipality (other than the municipality themselves if they are the applicant) in which the event is to occur indicating municipal approval of the event.
- Documentation detailing the traffic control plan, including:
 - Map of special event route and the alternate traffic route. Map includes state route numbers, road names, intersections, etc.
 - Coordination of a vehicle escort service (if applicable).
 - Coordination of maintenance and protection of traffic (MPT) (if applicable). MPT can include Private Contractor, Local Police/Fire, etc.

Prior to the special event, the applicant must notify the Regional Traffic Management Center and Pennsylvania State Police of the event.

It should be noted that the insurance and indemnification requirements protect the Commonwealth from liability, which if incurred, would be paid with taxpayer money.

Guidance for Temporary Non-Highway Use of Right-of-Way Memorandum

On June 16, 2020, PennDOT Central Office issued a memorandum to provide guidance on the temporary non-highway use of department rights-of-way to assist municipal recovery during the COVID-19 pandemic. The memorandum includes three different categories of uses to create additional public areas to support social distancing and compliance with COVID-19 requirements. The memorandum was updated on July 28 to incorporate the fair market value requirements of [23 U.S. Code §156](#) and state that FHWA would approve exemptions on a case-by-case basis. The update also included minor revisions to the three categories and associated guidance.

The three categories and associated guidance to assist municipalities in planning and to implement non-highway uses of state highway facilities are as follows.

Category	Example	Guidance
Temporary Full or Partial Closures	Temporary full or partial closure of travel lanes to accommodate additional public space for tables and seats.	<ul style="list-style-type: none"> • Requires special event permit. • Municipality must submit application using Form TE-300. • Application must comply with all provisions of 67 PA Code §212.701. • The municipality is responsible for all elements of the plan. • The application must include a standard condition stating that the event will comply with COVID-19 safety mitigation guidance.

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Category	Example	Guidance
Close parking lane for public space/seating	<p>Temporary use of a parking lane to accommodate additional public space for tables and seats and/or retail activities on the pavement surface or temporarily raised platforms, commonly referred to as parklets.</p> <p>The National Association of City Transportation Officials defines parklets as public seating platforms that convert curbside parking spaces into vibrant community spaces.</p>	<ul style="list-style-type: none"> • Requires special event permit. • Municipality must submit application using Form TE-300. • All requirements for “Temporary Full or Partial Closures” also apply. • The municipality should enact parking regulations if the elimination of on-street parking is proposed. In addition, curbside delivery must be accounted for, and a new loading zone may be necessary. • The memorandum includes additional design requirements for street-level applications and parklets. • The application must include plans that demonstrate that the design requirements are met. • Access to all utilities must be maintained. • ADA compliance must be maintained. • Incorporate temporary signing, pavement markings, and traffic calming measures as necessary. • The municipality is responsible for all elements of the plan. • All parklets approved under this policy shall be considered temporary pilots.
Pedestrians shifted to parking lane	<p>Temporary use of a parking lane to accommodate pedestrian traffic when sidewalk is used for public space for tables and seats.</p>	<ul style="list-style-type: none"> • Requires the municipality to prepare and submit a Temporary Traffic Control (TTC) plan detailing the proposed changes to pedestrian access. • ADA compliance must be maintained. • Access to all utilities must be maintained. • The temporary plan must have an established set timeframe. • Advisory Speed Limit signs and traffic calming strategies may be used to slow traffic. • The municipality is responsible for setting up and maintaining all elements of the TTC plan. • PennDOT approval will be issued via a letter from the District Traffic Engineer approving the TTC plan.



Kickoff Meeting

A kickoff meeting was held on December 15, 2021, to gather insight and perspectives from the ad-hoc project committee regarding issues and challenges accessing the use of state-owned right-of-way. The meeting included representatives from PennDOT, Office of General Counsel, FHWA, Erie-Western PA Port Authority, Pennsylvania Downtown Center, Pennsylvania Department of Community and Economic Development, and Pennsylvania Department of Agriculture. During the meeting, the scope and schedule of the project were discussed, and a facilitated discussion was held to examine the current conditions of using state-owned right-of-way and how it is being addressed across Pennsylvania. As part of the facilitated discussion, alternate uses of state-owned right-of-way and issues and challenges with accessing the right-of-way were identified, and the key points of the discussion are summarized in the following tables.

Alternate Uses	Description
Dining	In response to the pandemic, restaurants began using right-of-way, such as sidewalks, on-street parking, and travel lanes, as outdoor seating areas.
Equipment Storage	There are agreements in some areas in Pennsylvania that allow private companies to store their equipment on PennDOT's right-of-way.
Open Streets Events	These are any events/programs that temporarily close streets to automobile traffic and open the streets to promote bicycling and walking, or active transportation.
Pedestrian/Transit Accommodations	There are occasions when establishing bus stops or bus stations does not fit into the existing PennDOT process, and agreements to use PennDOT's right-of-way need to be established.
Community Festivals	Communities may hold festivals that require temporary access to the right-of-way and temporary closures of roads.
Trails	In Potter and Tioga Counties, there is an All-Terrain Vehicle (ATV) Regional Trail Connector Pilot program that connects ATV riding opportunities on existing trails overseen by different governing authorities. As part of the program, ATV riders will have the opportunity for long-distance travel by permit on designated state forest trails and roads, local roads, and specific state routes in the region.
Demonstration Projects	Demonstration projects are short-term, low-cost, temporary projects to promote and advance walking and bicycling. Some states and municipalities implement short-term demonstration projects requiring access to the right-of-way. For example, there have been instances where temporary curb extensions have been piloted over a weekend.

Demand for Alternate Uses of PennDOT Right-of-Way

Issues and Challenges	Description
Indemnification and Insurance	Pennsylvania law and regulations require that sponsors indemnify and provide insurance when using the state-owned right-of-way. Indemnification ensures that the sponsor will defend Pennsylvania against any claims that arise when using the right-of-way. However, some municipalities do not have the level of counsel needed to examine, understand, and comply with the indemnification requirements. As discussed previously, although Act 36 of 2021 relieved municipalities of the requirement to indemnify the Commonwealth for a private-sponsored special event on state highways in their community, there is potential confusion about whether a municipality must indemnify Pennsylvania when there is a private event sponsor.
Detours	The regulatory requirement that the detour cannot be five times greater in length or five miles longer than the normal travel distance are difficult to comply with in many rural areas. Additionally, some of the smaller municipalities do not have detour signage readily available to properly direct traffic along a detour route. Private sponsors and smaller municipalities also may not have the expertise to plan a proper detour route or know the standards and requirements for a PennDOT-approved detour route.
FHWA Fair Market Value Requirement	A fair market value fee must be collected for any non-transportation activities that use right-of-way that was acquired with Federal assistance made available from the Highway Trust Fund. Exceptions to the fee may be granted by FHWA on a case-by-case basis due to social, environmental, and economic purposes. Prior to the COVID-19 pandemic, this fee was not collected in the Commonwealth although most of the alternative uses would qualify for an exception as a social, environmental or economic benefit. During the pandemic exceptions to the fee were granted by FHWA where requests were made to use the right-of-way to aid in social distancing for local businesses. Moving forward, the collection of this fee will be required when requesting right-of-way access if the alternative use would not qualify for an exception.
Public Electric Vehicle (EV) Charging Station Expansions	EV charging stations may become a challenge in the future as the equipment is privately owned but located on publicly owned parking areas along streets. The stations will compete for space and demand accessibility. It should be noted that PennDOT has organized a team to examine issues related to EV charging stations.
Safety and Accessibility	Safety must be ensured for all users and modes within the right-of-way. For example, if part of the sidewalk is closed for alternate use, the sidewalk must still maintain Americans with Disabilities Act (ADA) accessibility.
Legislation and Requirements Education / Variability between Districts	Traditionally, municipalities and event sponsors have contacted their PennDOT District for information and assistance regarding the special event permit application and process. The level of assistance provided in completing the special event permit application reportedly varied across Districts.

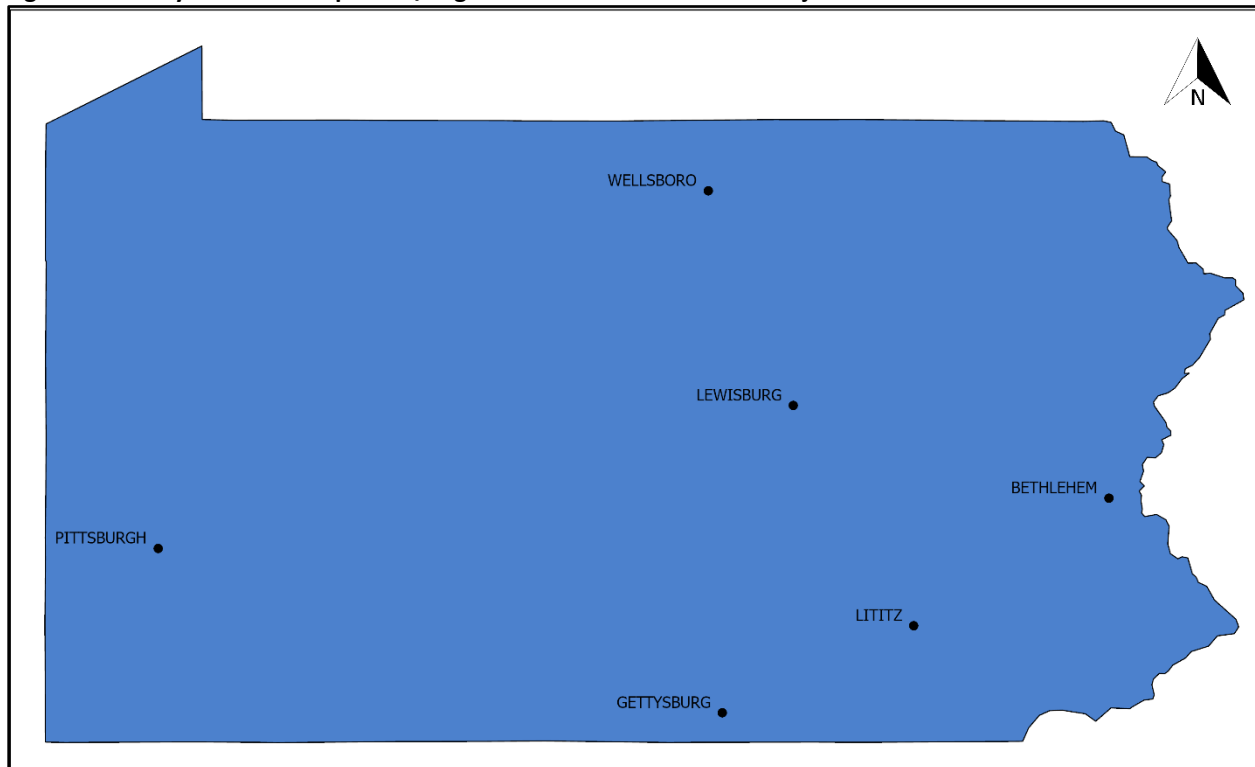


Pennsylvania Municipality Case Studies

In order to gain insight into the issues Pennsylvania municipalities are having with regard to using state-owned right-of-way, the project team, including individuals from the consultant team and PennDOT Program Center, conducted virtual interviews with several communities and organizations, listed below and shown in Figure 1.

- City of Bethlehem
- City of Pittsburgh/Lawrenceville Corporation
- Gettysburg Borough
- Lewisburg Neighborhoods
- Lititz Borough
- Wellsboro Area Chamber of Commerce

Figure 1. Pennsylvania Municipalities/Organizations Interviewed for Project Case Studies



A questionnaire was sent to each of the participants prior to the interview to help facilitate the discussion. The questionnaire included the following questions:

1. Please provide a brief summary of your experience with completing the Special Event Permit application and the Special Event Permit process.
2. Within the past five years, have there been any events held within the municipality that required an approved Special Event Permit application?
 - a. If yes, what events were held?

Demand for Alternate Uses of PennDOT Right-of-Way

- b. For each event, was the applicant the municipality or a third-party sponsor?
 - c. Did the local PennDOT District office assist with completing the Special Event Permit application?
 - d. Did any event require an approved detour or traffic management plan?
3. Has the municipality ever not held an event due to the Special Event Permit process being too difficult or having requirements that the municipality could not meet?
- a. If yes, what specific issues or challenges did the municipality encounter?
4. Do you have any recommendations or thoughts on improving the Special Event Permit process?

Each interview helped the project team understand how each municipality handles special events, their demand for alternate right-of-way usages, and issues and challenges encountered. The following sections summarize the interviews.

City of Bethlehem

The project team interviewed Tiffany Wells, the Traffic Superintendent for the City of Bethlehem.

Uses of State-Owned Right-of-Way

Events in Bethlehem are typically held on locally owned streets, but there are occasions when races are held that involve closing the Philip Fahy Memorial Bridge on State Route (SR) 3011 to vehicle traffic. Figure 2 shows the state-owned routes in downtown Bethlehem along with the Philip Fahy Bridge, circled.

Figure 2. Downtown Bethlehem showing State-Owned Routes (Green) and Philip Fahy Memorial Bridge (Circled)





Experience with Special Events Permit Process

In Bethlehem, the event sponsors are responsible for the application, insurance, and any additional liability; however, the City of Bethlehem works closely with the event sponsors to help plan road closures and detours. Races are the main events that require access to the state-owned roads since the routes often involve the Fahy Bridge, which connects the north and south sections of Bethlehem that the Lehigh River bisects. Because the bridge was used so frequently for events, the municipality worked with District 5-0 a few years ago to develop an acceptable detour route for when the bridge is closed. After the route was approved, the City fabricated signs for that specific detour route.

Alternate Uses During COVID-19

A multitude of restaurants utilized the sidewalks for outdoor dining; however, none of the sidewalks were on state-owned roads and the requests were handled by the City of Bethlehem.

Issues and Challenges

One of the main challenges for the City of Bethlehem was the detour routes and the requirements for establishing a detour route. When the City was working on the permanent detour route for the Fahy Bridge, the City worked with the District to discuss the signage requirements. City officials believed that the amount of signage that was required for the detour route was too much and were able to work with the District and scale back the requirements because police would be present throughout the detour.

Another challenge noted was that while the City itself does not submit the application, the application can be intimidating, especially for first-time applicants. As a result, applicants would often contact the City for information and assistance, which takes staff time away from other municipal duties.

Finally, the City requires event sponsors to provide insurance and indemnify the City for all events. If the event is held on a state-owned route, the sponsor must insure and indemnify both the City and PennDOT. These insurance and indemnification requirements are potential challenges, especially for smaller organizations.

Recommendations and Key Points

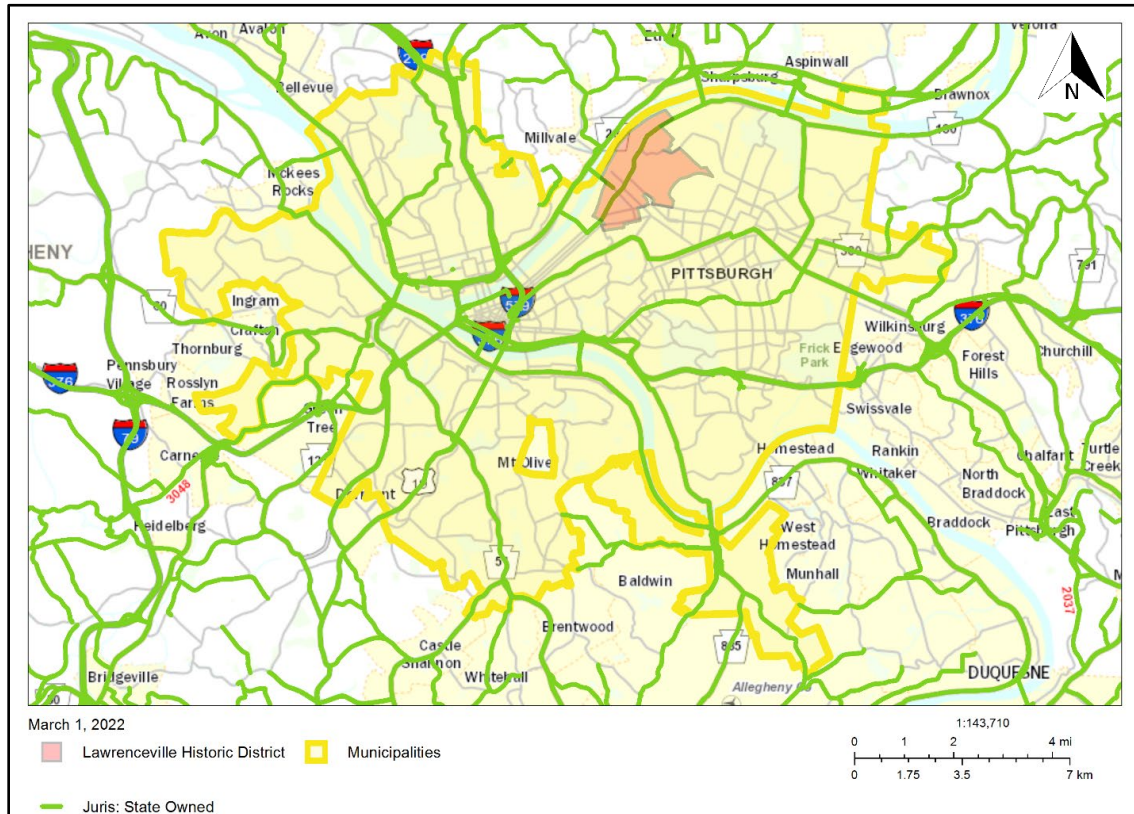
The City of Bethlehem emphasized that municipalities should try to steer events and event sponsors away from state-owned routes and onto the local roads to avoid the PennDOT special event permit process. In addition, by redirecting events to the local roads, the event sponsors only need to provide insurance and indemnification for the City. This approach is feasible within the City of Bethlehem because the downtown area does not have as many state-owned routes as other municipalities.

City of Pittsburgh/Lawrenceville Corporation

The project team interviewed Rachel Webber, City of Pittsburgh Nighttime Economy Coordinator, Lauren Connelly, Executive Director of Lawrenceville Corporation, and Abi Gildea, Business District Manager of Lawrenceville Corporation. Figure 3 shows Lawrenceville, a neighborhood within the City, in relation to the city proper.

Demand for Alternate Uses of PennDOT Right-of-Way

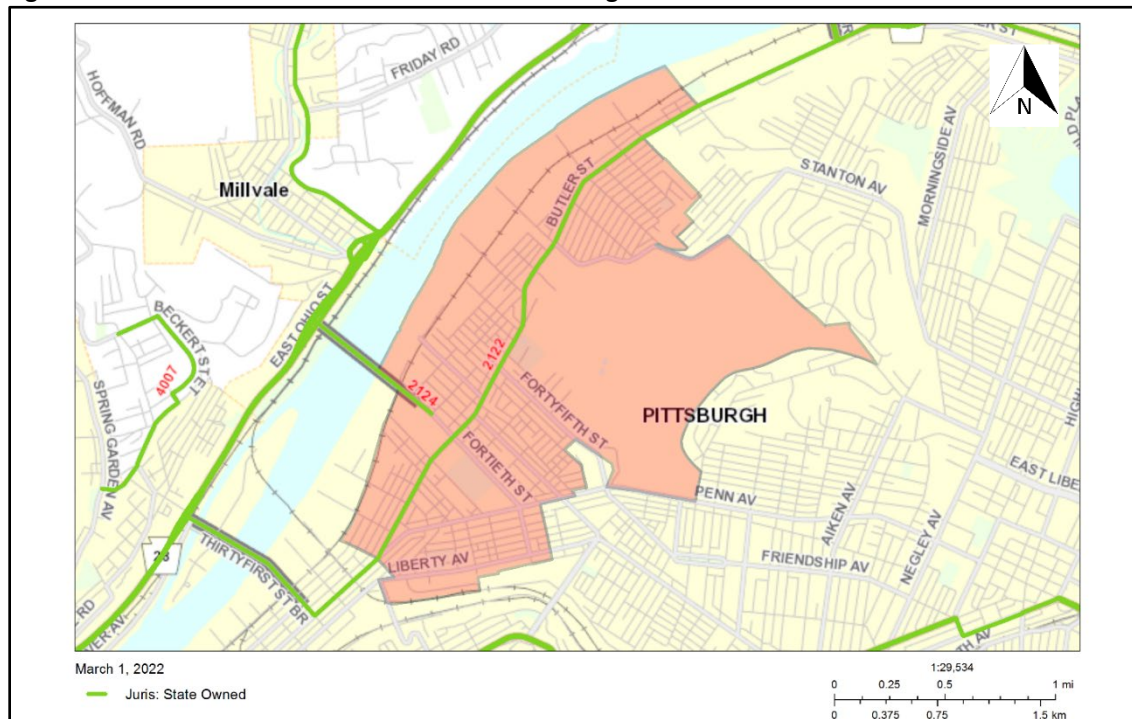
Figure 3. Lawrenceville Neighborhood in Relation to the City of Pittsburgh



Lawrenceville is one of the largest neighborhoods in the City of Pittsburgh, and Butler Street (SR 2122) is the main street through the neighborhood's business district. Figure 4 shows Butler Street and other state-owned routes highlighted in green in, and around, Lawrenceville, which is highlighted in red.



Figure 4. Butler Street in Relation to Lawrenceville Neighborhood



In April 2020, the City of Pittsburgh Department of Mobility and Infrastructure (DOMI) formed an advisory committee to develop ideas and recommendations on how streets and mobility services could be used to support business and community health during the COVID-19 pandemic. The committee included representatives from the City, Lawrenceville Corporation, and other community organizations, local businesses, PennDOT District 11-0, and others. The committee convened several times in April and May and issued a report of recommendations, several of which formed the basis for the City of Pittsburgh’s outdoor dining policies. DOMI formalized the policies into a pilot [Temporary Outdoor Dining and Retail Program](#), allowing restaurants and other businesses to apply for temporary sidewalk cafés, parking lane dining, full street closures, and curbside pick-up zone permits. The City of Pittsburgh plans to make the temporary outdoor dining and retail program a permanent program. As of February 2022, the program is being deliberated by City Council.

Experience with Special Events Permit Process

In the summer of 2020, Lawrenceville Corporation, a community non-profit organization, planned a sidewalk extension. The parking lane along Butler Street between 40th and 43rd Streets would be closed to provide outdoor seating. The Corporation hired an events company to help design the space and to assist with the application for DOMI’s Temporary Outdoor Dining and Retail Program and PennDOT’s special events permit.

The Corporation submitted a design for outdoor seating in the parking lane to DOMI, but the design was rejected. According to the Corporation, DOMI told the Corporation that the parking lane could not include seating due to the plan not complying with the Americans with Disabilities Act requirements. Lawrenceville Corporation revised its plan so that the parking lane would be closed to provide more space

Demand for Alternate Uses of PennDOT Right-of-Way

for pedestrians. They resubmitted their plan, which included water barriers to separate the pedestrian traffic in the closed parking lane from vehicular traffic. DOMI told the Corporation that the barriers needed to be concrete barriers, and Lawrenceville Corporation revised and resubmitted its plan. The conceptual design of the sidewalk extension along Butler Street is shown in Figure 5.

Figure 5. Lawrenceville Corporation Design for Sidewalk Extension on Butler Street



Lawrenceville Corporation noted that the revisions, resubmissions, and reviews occurred over several months. In the fall of 2020, DOMI notified the Corporation that a Temporary Traffic Control plan was required for the sidewalk extension and that the City would procure an engineering firm to complete the TTC plan.

By the spring of 2021, some businesses along Butler Street indicated to the City and Lawrenceville Corporation that they preferred the parking lane to remain open for curbside pick-up and take-out. As a result, the sidewalk extension was not pursued any further.



PennDOT District 11-0 Perspective

On October 22, 2020, PennDOT District 11-0 received a TE-300 form submitted by DOMI to close the parking lane of Butler Street from 41st Street to 43rd Street for additional pedestrian space. The application included the conceptual design shown in Figure 5.

PennDOT District 11-0 reviewed the application and determined that, in accordance with the “Guidance for Temporary Non-Highway Use of Right-of-Way” memorandum, the application for the sidewalk extension fell in the “pedestrians shifted to parking lane” category. The District informed the City that a TTC plan was required, in addition to other items required as stated in the memorandum for that category. PennDOT District 11-0 also noted that they had sent the memorandum to the City of Pittsburgh on June 23, 2020, and provided updated versions of the memorandum on August 3 and October 5, 2020.

On March 4, 2021, an engineering firm contacted District 11-0 stating they were preparing information to resubmit the application for the sidewalk extension, and PennDOT provided the aforementioned guidance documents. PennDOT District 11-0 stated that, as of March 2022, they had not received any other submissions from DOMI or Lawrenceville Corporation for the sidewalk extension, aside from the original submission on October 22, 2020.

Issues and Challenges

Although Lawrenceville Corporation was provided the “Guidance for Temporary Non-Highway Use of Right-of-Way” memorandum, from their perspective, they did not have a clear understanding of the guidelines and standards that needed to be followed in order to implement the sidewalk extension. Along those lines, the several rounds of revisions and resubmissions were additional challenges. Each round of submission, review, revisions, and resubmission spanned several months. By the time the engineering firm hired by the City to complete the TTC plan had begun work, there was no longer a need or desire for the sidewalk extension.

Additional Comments

Lawrenceville Corporation noted that they incurred a cost to hire the company to assist with the implementation, only for it to not occur. Due to their challenges, sunken cost, and time spent on this experience, the Corporation and community may be more reluctant to invest their time and money into a similar project.

Gettysburg Borough

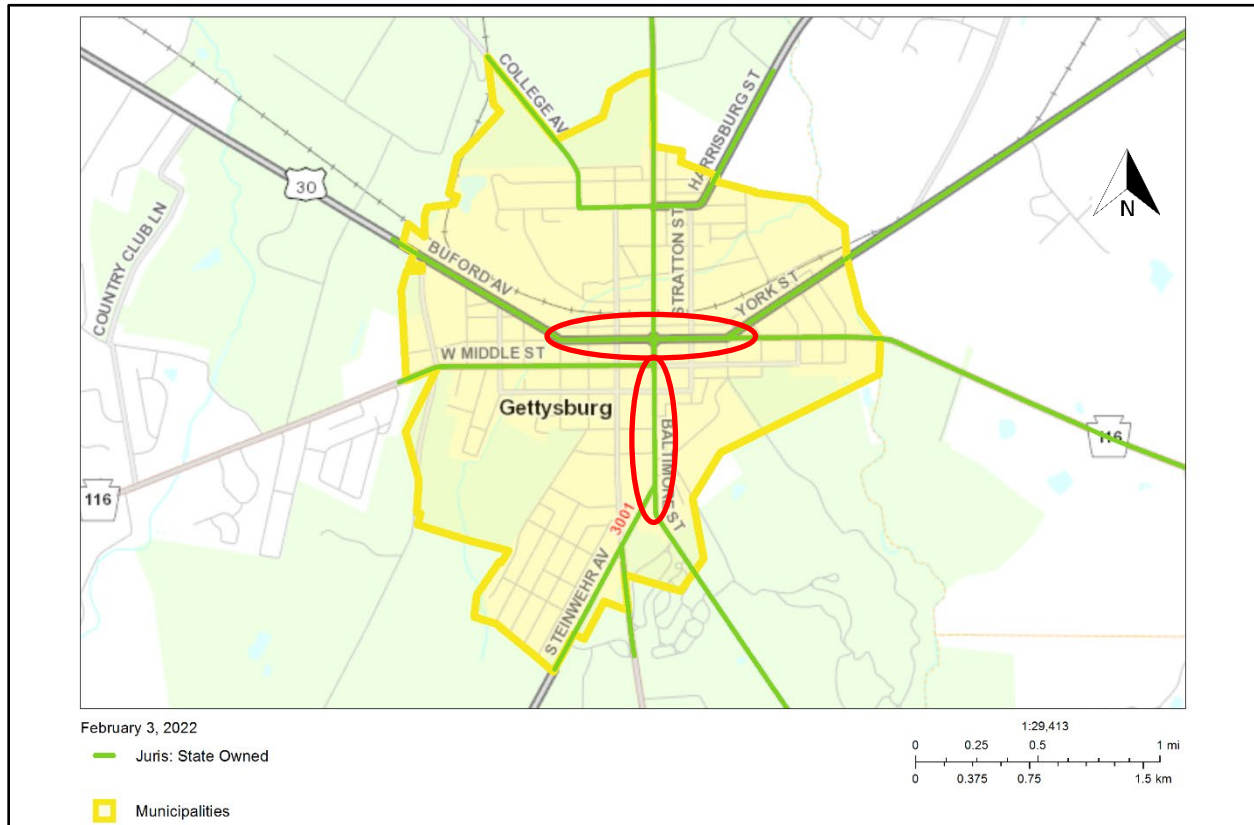
The project team interviewed Charles Gable, the Gettysburg Borough Manager, Robert Glenn, the Gettysburg Police Chief, and Carly Marshall, the Gettysburg Planning Director.

Uses of State-Owned Right-of-Way

The Borough has several regularly occurring special events held on state-owned routes, particularly Lincoln Highway (SR 0030) and Baltimore Street (SR 3001), which intersect to create Lincoln Square in downtown Gettysburg. The two streets are shown circled in Figure 5.

Demand for Alternate Uses of PennDOT Right-of-Way

Figure 6. Lincoln Highway and Baltimore Street (Circled) in Downtown Gettysburg



Some of the regularly occurring special events are summarized in the following table.

Alternate Uses	Description
Halloween Parade	The annual parade from Gettysburg Area Middle School travels along Baltimore Street and York Street and ends at the intersection of Lefever and Liberty Street.
Memorial Day Parade	Since 1867, the Memorial Day Parade has been an annual parade that starts at Lefever Street and heads northeast to Middle Street before turning onto Baltimore Street and ending at the Soldier's National Cemetery.
Remembrance Day Parade	The Remembrance Day Parade is an annual parade running since 1956. The parade travels along Baltimore Street and ends at the Gettysburg National Cemetery.
Christmas Festival	Gettysburg Christmas Festival is an annual holiday celebration along Baltimore Street from Lincoln Square to Steinwehr Avenue.
Christmas Parade	A parade starts from Gettysburg Area Middle School and travels along Middle Street, Baltimore Street and Steinwehr Avenue, and ends at Culp Street.
Long, Long, Long, Long Dinner Party	A potluck dinner along Baltimore Street from Lincoln Square to South Street.



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Alternate Uses	Description
Gettysburg College Freshman First-Year Walk	The First-Year Walk is a tradition that started in 2003 where freshmen recreate the walk made by Gettysburg College students and the community from Gettysburg College to the Soldier's National Cemetery, along Baltimore Street, to hear Lincoln's Gettysburg Address.
Salsa on the Square	Salsa on the Square is an annual event on Carlisle Street between Lincoln Square and Railroad Street and celebrates Gettysburg's partnership with Leon, Nicaragua, and Latino culture in Gettysburg.
Annual Christmas Tree Lighting	The Christmas Tree Lighting is an annual event that occurs on Lincoln Square.

Experience with Special Events Permit Process

In Gettysburg, the event sponsors are responsible for submitting the special event permit application; however, Gettysburg Borough provides all sponsors with a Borough Indemnity Letter, stating that the Borough will indemnify PennDOT and the Commonwealth on behalf of the event sponsors. While this may be an additional risk that the Borough undertakes, the Borough is willing to accept this risk, acknowledging that special events are beneficial to Gettysburg and help stimulate the local economy. The Borough also helps assist private sponsors in completing the application, especially in regard to street and road closures and developing the detour route. Due to the number of parades in Gettysburg, the Borough worked with the Borough Council to establish three detour routes for the parades with set costs for traffic control.

Issues and Challenges

Road closures and detour routes are one of the main issues the Borough experiences with the special event application. Often, private event sponsors are not familiar with the requirements for a detour and require the Borough's assistance in completing the application, placing more strain on the Borough's small administrative staff. Additionally, the event sponsors often are unaware of the cost and effort of setting up the detour.

Another major challenge Gettysburg faces with special events is accommodating large commercial vehicle traffic when detours are in place. This requires more police personnel and often increases the cost of setting up detours.

Recommendations

Gettysburg recommends developing an interactive map that automatically develops a detour route for road closures. The map could also include the signage, channeling devices, and barriers required to establish the detour and road closures.

Lewisburg Neighborhoods

The project team interviewed Samantha Pearson, currently with the Pennsylvania Downtown Center, but formerly the Director of Lewisburg Neighborhoods (2013 to 2021).

Demand for Alternate Uses of PennDOT Right-of-Way

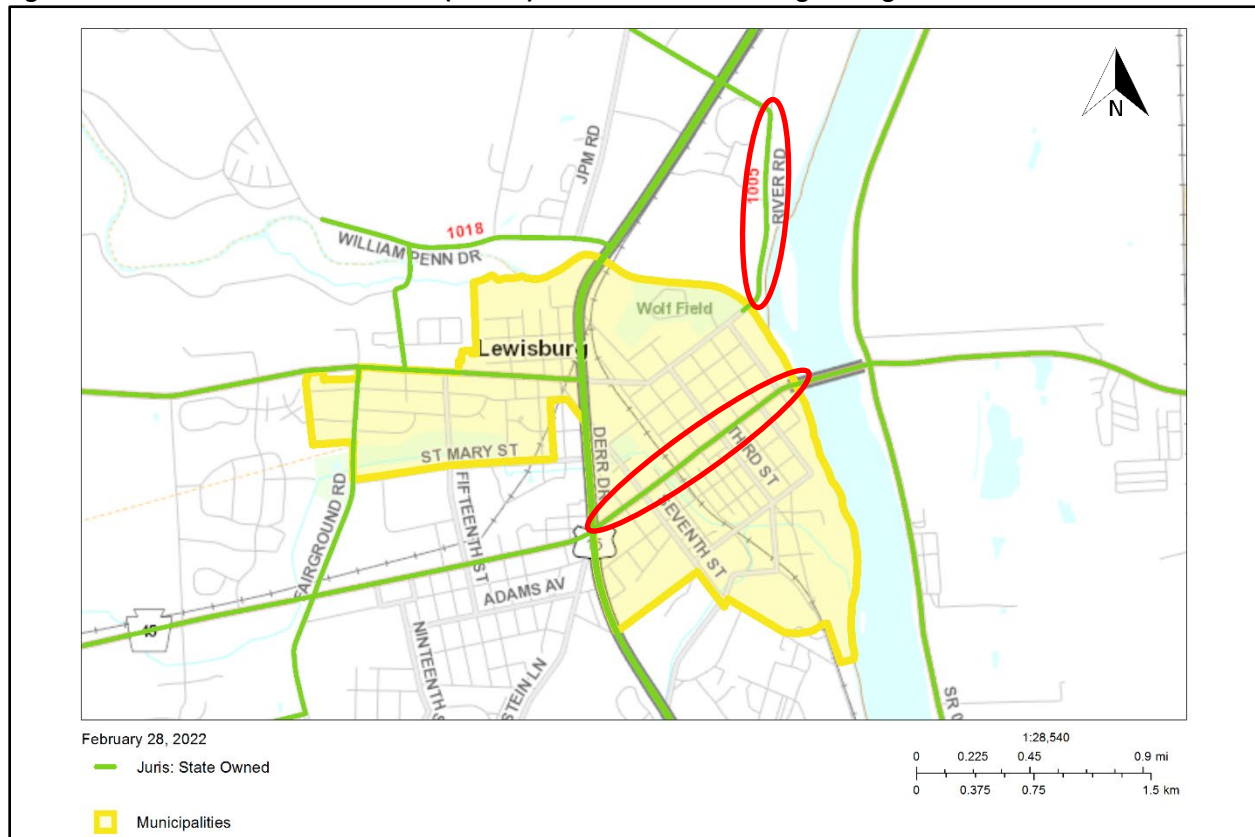
Uses of State-Owned Right-Of-Way

Most of the interview discussion centered around two special events, one that is organized by the Lewisburg Arts Council with assistance from Lewisburg Neighborhoods and one that is organized by Lewisburg Neighborhoods itself. These events are described in the table below.

Alternate Uses	Description
River Road Holiday	An Open Streets Event that closes River Road (SR 1005) north of Lewisburg from Water Street to Winter Farm Lane (in Kelly Township).
Lewisburg Festival of the Arts	Festival of the Arts is a two-week event running for more than 40 years. During the festival, there is a one-day street fair on Market Street (SR 0045).

River Road and Market Street are highlighted in the following map of Lewisburg.

Figure 7. River Road and Market Street (Circled) in Relation to Lewisburg Borough



Experience with Special Events Permit Process

In Lewisburg, the event sponsors are responsible for submitting the special events permit application. Lewisburg Neighborhoods was able to submit the special events application for the River Road Holiday and provide all the detour requirements with the help of volunteers and transportation students at Bucknell University. Lewisburg Neighborhoods was also able to work with a corporation that provided the detour signage for the road closures at no cost.



Alternate Use to Overcome COVID

Lewisburg Borough officials considered promoting outdoor dining during the pandemic; however, they ultimately decided against setting up outdoor dining on any state-owned routes, including Market Street, to avoid the special event permit process. Lewisburg did close a local road for dining. The road abuts SR 0045, and the Borough set up proper traffic control with jersey barriers and Type 3 signs to denote the road closure.

Issues and Challenges

One of the issues Lewisburg experienced was establishing detours and the cost associated with those detours. While special event applications are free, the cost to sign the closed roads and detours in order to comply with the requirements are an added expense. For the River Road Holiday, the signage and road closures cost approximately \$2,000. In recent years, Lewisburg Neighborhoods has been working with a traffic signage company that provides and sets up the traffic control signs as a donation to the event. Additionally, Lewisburg has been working with students at Bucknell University to develop the detour plan; however, universities are establishing more stringent legal restrictions on the use of student work because of liability. Due to these additional restrictions, student resources may not be as accessible, and Lewisburg Neighborhoods will need to look to other resources to develop the detour plan. The detour plan is resubmitted each year and usually has additional suggestions and updates sent back from the District reviewer.

Lewisburg Neighborhoods also had issues with municipalities not indemnifying the Commonwealth even if they were not the event sponsors. In 2021, prior to the passing of Act 36, the River Road Holiday did not take place because Kelly Township, where the closure would take place, did not want to agree to indemnify.

Lewisburg Neighborhoods also had some difficulties obtaining insurance for the River Road Holiday. When the event first started in 2010, the organization used another non-profit organization's insurance and obtained insurance riders for the specific day of the event. If the event was postponed, a new rider would need to be obtained. More recently, Lewisburg Neighborhoods has purchased insurance through the National Trust for Historic Preservation, which provides insurance coverage for events year-round rather than for specific days.

Additional Comments

In Ms. Pearson's opinion, the regulatory requirements of detour routes not being five miles longer or five times greater in length than the normal travel route are too stringent for rural areas with a less dense roadway network and do not consider total travel time. Furthermore, the requirements are based on vehicles traveling only from one end of the closure to the other, but there may be instances where motorists choose a different travel route to bypass the closure and detour without substantially increasing the overall travel time to their destination.

Lititz Borough

The project team interviewed Rebecca Branle, the Executive Director of Venture Lititz, and Kerry Nye, Lititz's Chief of Police.

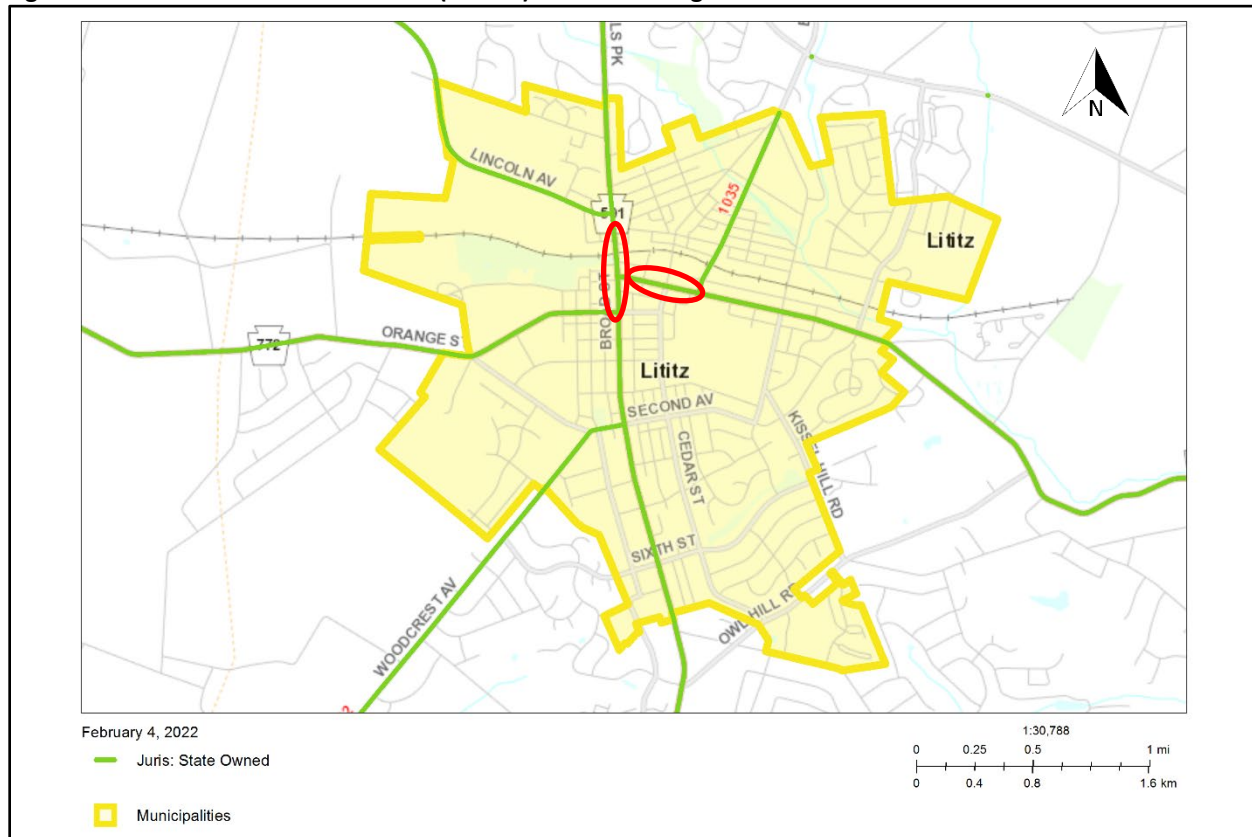
Demand for Alternate Uses of PennDOT Right-of-Way

Use of State-Owned Right-of-Way

Lititz holds various special events, but the two most popular are the Fire and Ice Festival and the Rotary Club of Lititz Craft Show, both of which are described in the following table.

Alternate Uses	Description
Fire and Ice Festival	Fire and Ice Festival is an annual winter event showcasing ice sculptures throughout downtown Lititz. The downtown streets, Broad Street (SR 0501), and Main Street (SR 0772) are closed to traffic for the event. The two streets are shown circled in Figure 7.
Rotary Club of Lititz Craft Show	One of the largest craft shows on the East Coast, the Lititz Craft Show, is held on the second Saturday in August along Main Street and Broad Street.

Figure 8. Broad Street and Main Street (Circled) in Lititz Borough



Experience with Special Events Permit Process

In Lititz, the police department handles all special permit requests. The department dedicates staff time to coordinate all application submissions, establish detour routes, and help with traffic control when streets are closed. In order to hold a special event, sponsors must complete a municipal-developed application and submit it to the department. The department then reviews the form and submits it to Borough Council for approval. If approved, the department will fill out the PennDOT special event



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application and have the sponsor sign and provide the necessary insurance and indemnification. All coordination with PennDOT is done through the police department.

Alternate Use to Overcome COVID

During the pandemic, there have not been many requests to use the sidewalk and roadway for outdoor dining. Outdoor dining was done on restaurant-owned property. Due to the large commercial vehicle traffic, the police department did not feel comfortable with tables on the roads. Tables were instead located on the sidewalk but set up so that they did not encroach the sidewalk. Parking meters were also bagged as 15-minute spots, giving customers a place to temporarily park and pick up food for take-out.

Issues and Challenges

Lititz has not experienced any issues with accessing PennDOT's right-of-way for events. A majority of the events that occur are annual events that have been held for many years, such as the Rotary Club of Lititz Craft Show. In addition, event sponsors do not seem to have an issue with acquiring insurance and indemnifying the Commonwealth.

Recommendations

Lititz recommends establishing permanent PennDOT-approved detour routes to help make the special event permit process less burdensome. Additionally, Lititz recommends having buy-in from the municipality and departments since events are an investment to benefit the community. Lititz recommends reaching out to the police department or establishing a volunteer committee to help assist with the special event permits process.

Wellsboro Area Chamber of Commerce

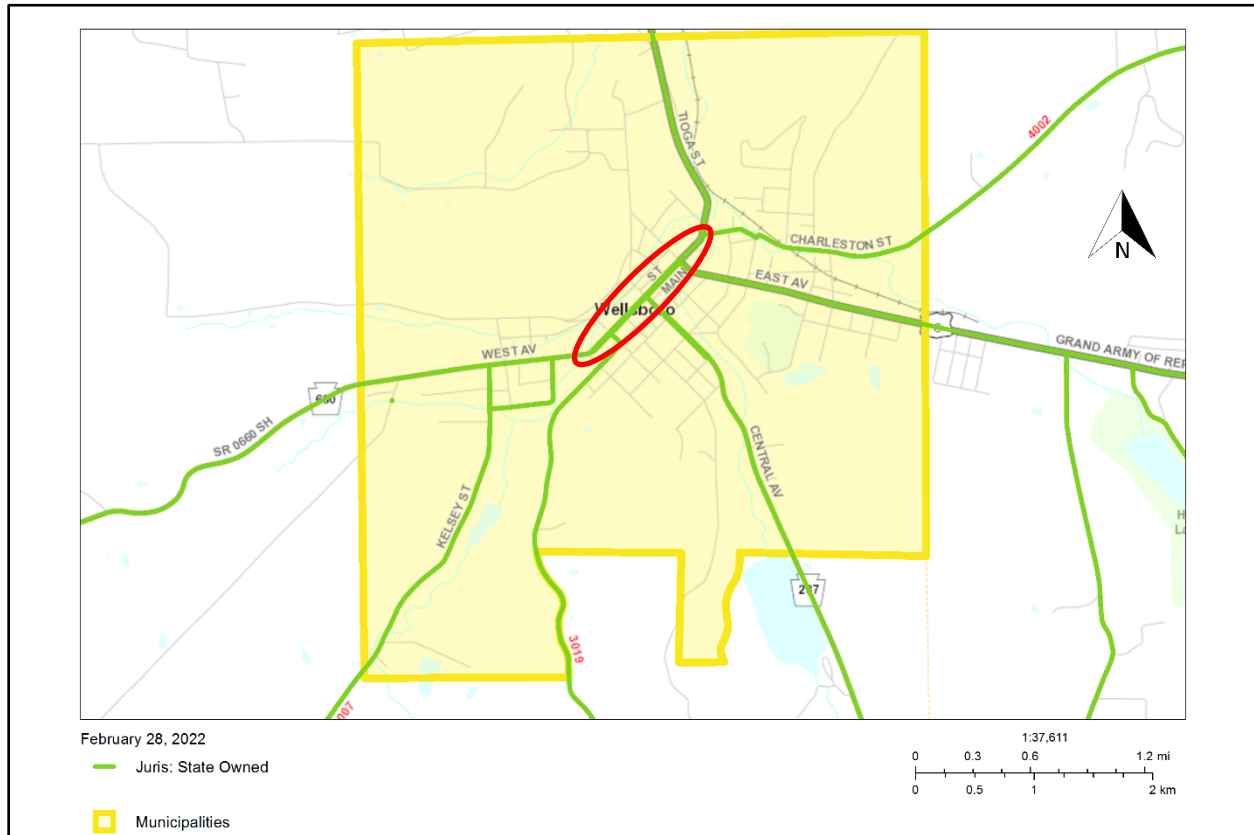
The project team interviewed Julie Henry, Executive Director of the Wellsboro Area Chamber of Commerce.

Uses of State-Owned Right-of-Way

Wellsboro holds several events on Main Street (SR 0287), which is shown in Figure 8.

Demand for Alternate Uses of PennDOT Right-of-Way

Figure 9. Main Street (Circled) in Downtown Wellsboro



A few of the most popular events held in Wellsboro are described in the table below.

Alternate Uses	Description
Dickens of a Christmas	Dickens of a Christmas has been running for the past 38 years and transforms Wellsboro’s Main Street into a Victorian marketplace.
Laurel Festival	First held in 1938, the Laurel Festival is an annual week-long event celebrating the blooming of the state flower. The event includes an arts and craft fair, foot races, a queen’s pageant, and the traditional two-hour Laurel Festival Parade.
Susquehannock Trail Performance Rally (STPR)	STPR is an annual rally race in Wellsboro. The rally takes place at the Waste Management Complex, with a ceremonial parade starting on Main Street in Wellsboro.

Experience with Special Events Permit Process

The Wellsboro Area Chamber of Commerce serves as the event sponsor for the special events and works with the municipality to obtain the permit. The municipality helps provide the detour for the events, but the Chamber of Commerce submits the application and procures the insurance and indemnification requirements.

A majority of the events in Wellsboro are reoccurring events and are very well run as a result. Many of the permits have been previously established, and Wellsboro has established primary and secondary



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detour routes. Additionally, the Chamber of Commerce has a working relationship with the police department and the Borough and investment from multiple departments and agencies, making coordination easier.

Alternate Use to Overcome COVID

During the pandemic, restaurants set up outdoor dining without having to encroach on the right-of-way. Multiple businesses already had outdoor dining tucked against their building and some businesses put seating behind their building. A few businesses had outdoor dining set up on their sidewalks along Main Street, but due to the width of the sidewalks in Wellsboro, there was still ample space between the seating and the street to maintain pedestrian accessibility.

Issues and Challenges

Wellsboro has not had any major issues with obtaining permits for events.

Additional Related Activities in Pennsylvania

PennDOT reports that the Boroughs of West Chester, Chester County (2020 and 2021) and Lock Haven, Clinton County (2021) received special event permits for closures of state highways for outdoor dining and other community activities. PennDOT worked closely with these municipalities to plan and permit multi-block closures complying with the department's "Guidance for Temporary Non-Highway Use of Right-of-Way". In accordance with [23 U.S. Code §156](#), the department requested and received exemptions from the FHWA for the requirement to collect fair market value for the non-transportation uses of the right-of-way.

Other State Case Studies

In addition to the municipal outreach, the project team also engaged with other state DOTs to obtain perspectives on how other states have addressed alternate uses of state-owned right-of-way. Virtual interviews were held with Maryland DOT and Florida DOT. To facilitate the discussion, the following questions were sent to each of the participants prior to the interview:

1. Are most special event permit applications municipalities, private third-parties, or a mix of both?
2. After the COVID-19 pandemic started, many restaurants offered outdoor dining on state-owned right-of-way to adhere to social distancing requirements. Were any changes made to the special event permit process to accommodate this alternate use or was the existing process sufficient?
3. Does your local DOT office or Local Technical Assistance Program provide training or outreach to support municipalities with completing the special event permit application process?
4. Are you aware of any potential applicants not proceeding with a special event permit application due to the permit process being too difficult or there being requirements that the applicant could not meet? Examples of requirements include indemnification, insurance, and traffic management/detour plan.
5. Do municipalities typically contract support to complete special event applications? As an example, a municipality may contract with a local traffic engineering firm to develop a detour plan for an event.
6. When commercial activity takes place on state-owned right-of-way that was acquired using Federal funds, the state must collect a fair market value for this activity.
 - a. Does your state have a process for determining and collecting this fair market value?
 - b. Does your state assist special event applicants in obtaining a waiver of this fee from Federal Highway Administration due to the COVID-19 pandemic?

Florida Department of Transportation

The project team spoke with Jason Garner, Robyn Wilson, and Robert Jessee from Florida Department of Transportation (FDOT) Office of Right-of-Way Production.

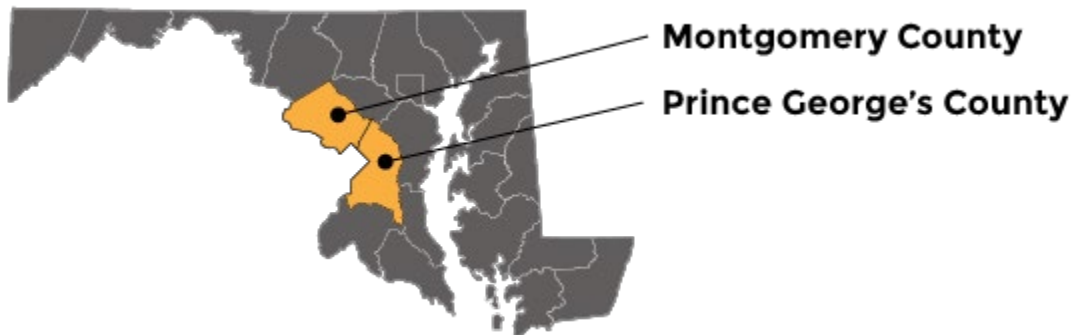
FDOT is composed of seven separate districts and the Turnpike District. While FDOT has a statewide uniform application for special events, FDOT is largely decentralized, and each District handles the special events permit process separately. FDOT does require all applicants to indemnify, defend, and save harmless the State of Florida and FDOT.

During the pandemic, restaurants requested access to the state-owned right-of-way for outdoor dining. FDOT treated the request and approval of the use as a property lease rather than completing a special event permit. FDOT treated the request as if the restaurants were expanding the footprint of their restaurant and needed more long-term access to the right-of-way. As part of the process for the property lease, FDOT conducts an appraisal to determine a fair market value for the right-of-way lease, in accordance with [23 U.S. Code §156](#).



Maryland Department of Transportation State Highway Administration (MDOT SHA)

The project team spoke with Joseph Moges, a consultant for MDOT SHA District 3, which includes Montgomery and Prince George's County.



Two different examples were cited in which MDOT used the right-of-way for alternate uses – Georgia Avenue Closure in Silver Spring and MD 193 Multi-Modal Shared Street Bike Project. In response to the pandemic, Downtown Silver Spring closed one lane on Georgia Avenue between Silver Spring and Thayer Avenue to allow for outdoor dining. The street closure was a collaborative effort between MDOT SHA, Montgomery County Department of Transportation (MCDOT), Silver Spring Urban District, and Silver Spring Regional Services Office. It was a long-term special event permit from June to October 2020. While Montgomery County submitted the permit application, the District paid and installed the traffic control for the right lane closure and taper. After some time, some restaurants believed the closure caused congestion and problems with drop-offs, and pick-ups and the special event permit ended in October 2020. The study team asked if MDOT SHA collected the fair market value fee for the non-transportation use in accordance with [23 U.S. Code §156](#), but the interviewee was not aware of the requirements or any collection.

The MD 193 Multi-Modal Shared Street Bike Project was initiated by bike advocates in the area and MDOT worked with the bike advocates to determine the most cost-effective design for temporary bike lanes on MD 193. Using an alternate funding source, MDOT SHA was able to design a temporary bike lane in each direction with delineators along the roadway to separate vehicle and bike lanes. The project was a short-term pilot lasting six months, from June to December 2021.

During the interview, it was noted that special event sponsors must obtain a \$1 million liability insurance policy, and indemnification of the State of Maryland and its agents is required and standard language as part of the special event permit. Maryland does not have any specific requirements or limitations for detours.

Findings and Recommendations

From the interviews with the municipalities, local organizations, and DOTs, a draft list of recommendations was established. Follow-up meetings with the ad hoc committee took place on February 7, March 22, and June 6, 2022, to refine the draft list and brainstorm new recommendations. This section details the final list of recommendations to help alleviate some of the issues and challenges of the special events permit process and facilitate alternate uses of state-owned right-of-way. The recommendations are grouped into three categories: recommendations for PennDOT, recommendations for individual municipalities and local organizations, and recommendations for organizations dedicated to assisting municipal elected officials and staff.

Recommendations for PennDOT

1. Explore the feasibility of authorizing PennDOT County Maintenance offices to coordinate with municipalities holding special events to use County Maintenance signs, changeable message signs, and other traffic control devices. Note that if this practice is deemed feasible, the coordination and use of County Maintenance equipment will be determined on a case-by-case basis, subject to the availability of equipment and other considerations.
2. For third parties requesting the use of state-owned right-of-way for non-transportation commercial activities, determine if entering into a lease between the third party and PennDOT would be more appropriate than completing the special event permit process. One example of this is a restaurant requesting the use of state-owned right-of-way for outdoor dining. Entering into leases with third parties would require coordination with the Right-Of-Way Division, and, as of June 2022, PennDOT is in the process of evaluating this recommendation.
3. Finalize the policy for charging and collecting the fair market value fee for the sale, use, lease, or lease renewal of real property acquired with Federal assistance from the Highway Trust Fund.
4. Consider adding an action to the [Special Event Permit Application \(TE-300\)](#) form that event sponsors must notify the County Emergency Management Center of the special event. Knowledge of the event will provide situational awareness to dispatch operators in the Center.
5. The [PennDOT Local Technical Assistance Program \(LTAP\)](#) is dedicated to transferring transportation technology through training, technical assistance, and other customer services to municipal elected officials and their staff. Develop a training course through LTAP to provide instruction on traffic detours. Since traffic detours have more implications than just special events, the training would benefit many areas, such as transportation management for work zones and traffic incident management.
6. Clarify and simplify the [Special Event Permit Guidance](#) document and [Special Event Permit Application \(TE-300\)](#) form. It should be noted that PennDOT is currently (as of March 2022) updating both the document and form.



7. Formalize the roles and responsibilities of PennDOT Central Office, the PennDOT Engineering Districts, and municipalities with regard to application submission and the review and issuance of Special Event Permits to ensure consistency and remove variations Statewide.
8. Update and develop additional resources, guidance, and instructions for the special event permit process on the PennDOT [website](#). For example, a “Frequently Asked Questions” section could be added to answer common questions, such as:
 - Is it necessary to have a Professional Engineer prepare the detour plan for my event?
 - Are there requirements for temporary signs that are used to detour traffic?
 - What happens if I do not obtain a permit for a special event on state-owned right-of-way?
9. The “Guidance for Temporary Non-Highway Use of Right-of-Way” memorandum introduces important guidance for non-highway uses that may or may not require a special events permit. Evaluate if this guidance should be further developed into a formal PennDOT policy document.
10. Through LTAP, investigate the possibility of developing an online tool to assist those completing the special event permit application, particularly if a detour route is required. Some potential features of the tool could include:
 - A mapping tool that suggests appropriate detours. PennDOT’s hauling permit system, APRAS, has a very similar tool that analyzes and suggests appropriate routes for special hauling permit applicants. It may be possible to adapt this system to analyze and suggest detour routes around a state-owned roadway closure.
 - A rough estimate of the quantity of signs, barricades, and other traffic control devices that may be needed in accordance with PennDOT Publication 213: Temporary Traffic Control Guidelines.
 - A conceptual cost estimate for the traffic control devices that are suggested.
11. Update [67 PA Code §212.701](#) and PennDOT [Publication 212 \(Official Traffic Control Devices\)](#) to coincide with [75 PA C.S. §6109\(j\)](#). Specifically, remove the requirement from the Code stating that municipalities must also indemnify the Commonwealth if there is a separate entity sponsoring a special event for which is providing indemnification. It should be noted that updating the PA Code is a time-intensive process. In the interim, PennDOT is updating the Special Event Permit Guidance document and Special Event Permit Application (TE-300) form to explain and clarify the difference between the PA Code and the PA Consolidated Statutes, and state that the Consolidated Statutes take precedence over the Code.

Recommendations for Municipalities/Local Organizations

1. With increasing demand for Active Transportation Plans and multimodal design solutions, local authorities are encouraged to develop, execute, and enforce actions to manage safety and mobility for all modes of travel. For example, the Municipalities Planning Code authorizes zoning

Demand for Alternate Uses of PennDOT Right-of-Way

actions and the adoption of comprehensive plans and ordinances to encourage municipalities to proactively plan for the implementation of multimodal improvements. Deviating from or granting exceptions to comprehensive plans, zoning ordinances, or codes may result in the need to implement costly design solutions post construction.

2. If a special event must close a portion of a state route, select the route and limits to be used for all future special events. Once a permit is granted for a state route closure, use the same detour route for future events. While detour routes are still subject to PennDOT's final approval, using the same detour route for all special events will help streamline the application process.
3. Encourage sponsors to hold special events on local roads rather than state routes. State routes typically have the highest traffic volumes in a municipality, and their closure, even if temporary, will have the most significant impact on mobility and safety. In addition, if the event can be held on a municipal-owned local street, PennDOT approval for the special event is not necessary.
4. Engage with local universities and places of higher learning to assist with transportation planning for special events and alternate uses. For example, students in a traffic engineering course could contribute to considerations of where to hold an Open Streets event.
5. If municipalities have existing insurance policies, municipal officials should explore the possibility of using the policy for special events. Municipalities may also join organizations, such as the Pennsylvania Intergovernmental Risk Management Association ([PIRMA](#)) and [Delaware Valley Trusts](#), that are risk sharing pools that offer comprehensive liability and property coverages to Pennsylvania public entities. Third-party event sponsors may be able to obtain insurance from national organizations, such as the National Trust for Historic Preservation or USA Cycling for bicycle races. Additionally, local chapters of national organizations, such as the Lions Club, may obtain insurance through their parent organization. If special event specific policies are being obtained, try to obtain a year-round policy, especially if there are multiple events throughout the year.
6. Prior to special events and any road closure, send a press release to the PA Motor Truck Association to help divert commercial vehicle traffic around the event. Similarly, notify PennDOT's Regional Traffic Management Center of the event, as required by the special event permit.
7. Engage with municipal departments and the local community to garner support and assistance with the special events process. Promote the fact that there are upfront costs to holding special events, but they are an investment to improve the quality of life for the community and stimulate the local economy.

Recommendations for Municipal Organizations

Several organizations and programs exist throughout Pennsylvania that are dedicated to assisting municipal elected officials and staff. Some of these organizations include:

- [Pennsylvania State Association of Boroughs \(PSAB\)](#) – PSAB is a statewide, non-partisan, non-profit



Pennsylvania State Transportation Advisory Committee

organization dedicated to serving 956 borough governments through legislative advocacy, research, education, and other services.

- [Pennsylvania State Association of Township Supervisors \(PSATS\)](#) – PSATS is dedicated to serving townships of the second class by lobbying state and federal lawmakers and educating and informing its members through workshops, an annual conference, and an exhibit show, and award-winning publications.
- [Pennsylvania Municipal League \(PML\)](#) – PML is a non-profit, non-partisan organization that advocates for Pennsylvania’s third-class cities. PML oversees the administration of a wide array of municipal services, including legislative advocacy (on both the state and federal levels), publications designed to educate and inform, education and training certification programs, membership research and inquiries, consulting-based programs, and group insurance trusts.
- [Pennsylvania Association of Councils of Governments \(PACOG\)](#) – PACOG is a voluntary organization of Councils of Governments created to foster a cooperative effort to solve common municipal problems. PACOG strives to provide a forum for the exchange of ideas, to ensure effective communication, to facilitate agreements and cooperative actions, to improve efficiency and service of joint efforts, to provide technical aid and services to member Councils of Governments, and to promote legislation for the advancement of local governments.

While representatives from these organizations were not interviewed as part of this study, there is an opportunity for the organizations to implement the following recommendations to assist their membership. The organizations could apply the following recommendations individually, or they could coordinate and implement the recommendations together. Since special events and alternate uses of state-owned right-of-way are important to all levels of municipalities in Pennsylvania, it may be more appropriate for the organizations to work together in implementation.

1. In conjunction with PennDOT Recommendation #5, coordinate with LTAP to develop a training course to provide instruction on traffic detours.
2. Create a central resource for municipalities to pool and share resources, such as detour signage.
3. Create a database of information and references that municipalities can use to help with the special events process. The database could include:
 - Contact information of solicitors, engineering firms, and traffic control companies with expertise in the special events process.
 - Previously approved special event permit applications.
 - Example detour plans that have been used.
 - The cost of deploying traffic control devices for past detours and special events. The costs should be presented by PennDOT District to account for variations in costs across different regions.
 - Best practices and lessons learned from past events and applications.
4. In conjunction with PennDOT Recommendation #10, coordinate with LTAP to investigate the possibility of developing an online tool to assist those completing the special event permit application.