

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

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Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	University of Tennessee
Division:	
Contact Person:	Matthew Scoggins, Deputy General Counsel
Address:	719 Andy Holt Tower, 1331 Circle Park, Knoxville, TN
Zip:	37996-0170
Phone:	865-974-3245
Email:	scoggins@tennessee.edu

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1720-01-02	Use of University Property
Rule Number	Rule Title
1720-01-02-.05	No-Trespass Notices

The University of Tennessee (All Campuses)
Chapter 1720-01-02
Use of University Property

Amendments

Chapter 1720-01-02-.05 No-Trespass Notices is amended by deleting the text of the rule in its entirety and by substituting instead the following language so that, as amended, the rule in its entirety shall read:

1720-01-02-.05 No-Trespass Notices.

- (1) A No-Trespass Notice ("Notice") is a written directive requiring a non-affiliated person to leave and/or not enter all or part of University property.
- (2) A sworn law enforcement officer employed by the University may issue a Notice to a non-affiliated person:
 - (a) who is not authorized to use University property under Section .03(1), and who has refused to leave University property, or a specified part of University property, within a reasonable time after the person has received an oral request to leave by a University official;
 - (b) who has engaged in a use of University property that is prohibited by Section .03(2), and who has refused to cease the prohibited conduct within a reasonable time after receiving an oral request to do so from a University official;
 - (c) who, in the good faith judgment of the law enforcement officer issuing the Notice, poses an unreasonable threat to the health, safety, or welfare of a person(s) affiliated with the University while on University property; or
 - (d) who, in the good faith judgment of the law enforcement officer issuing the Notice, has engaged in conduct that substantially disrupts or interferes with University operations, events, or activities, or is likely to cause such a disruption or interference.
- (3) A Notice must specify: the reason for the Notice; the geographical scope of the restriction; the duration of the restriction, which may be for an indefinite period; the potential consequences of a violation of the Notice; and the process for appealing the issuance of the Notice. The scope and duration of the restriction imposed must be proportional to the underlying misconduct. In appropriate circumstances, with respect to conduct on University property, a Notice also may prohibit a non-affiliated person from contacting or being within a certain distance from a person affiliated with the University.
- (4) Appeals
 - (a) A non-affiliated person to whom a Notice has been issued may appeal the decision to the chief of police for the University's campus/institute.
 - (b) A non-affiliated person must submit the appeal in writing. The written appeal must be received by the chief of police within twenty (20) calendar days of the date on which the Notice was provided to the non-affiliated person. Any Notice mailed (or e-mailed) to a non-affiliated person shall be deemed to have been provided on the date on which it was mailed (or e-mailed). The written appeal should include the non-affiliated person's reason for being on University property, the non-affiliated person's future need to be on University property, and any other information the non-affiliated person wishes the University official who issued the Notice to consider.
 - (c) Upon receipt of a written appeal, the chief of police will consult as needed with other

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University officials to verify the non-affiliated person's need for access to University property, to gather additional information or advice, or to review the impact that granting the appeal may have on persons affiliated with the University.

- (d) Within twenty (20) calendar days of the receipt of an appeal submitted in accordance with this Chapter, the chief of police will sustain, rescind or modify the Notice in a written decision that will be mailed to the address provided by the non-affiliated person. The decision of the chief of police is final and not appealable within the University.
 - (e) The restrictions set forth in the Notice will remain in effect while an appeal of the Notice is pending.
 - (f) If the chief of police issued the Notice, then the non-affiliated person may appeal to the supervisor of the chief of police following the procedures set forth in Section .05(4)(a)-(e).
- (5) The law enforcement officer who issued the Notice (or, if the Notice is appealed, the chief of police) may rescind or modify the Notice at any time. Notification of any such rescission or modification shall be provided to the non-affiliated person to whom the Notice was issued.
 - (6) The issuance of a Notice for conduct relating to free expression activities shall be consistent with Chapter 1720-01-12 (Use of University Property by Non-Affiliated Persons for Free Expression Activities).
 - (7) Failure to comply with a Notice may result in issuance of a citation or an arrest for trespassing pursuant to applicable state criminal trespass statutes or local ordinances. Nothing in this Section .05 shall limit or be construed to limit the exercise of the statutory authority of sworn law enforcement officers of a campus police department to arrest in accordance with the laws of this state or local ordinances. Nor shall anything in this Section .05 limit or be construed to limit the authority of sworn law enforcement officers of a campus police department to issue an oral request instructing a person to leave and/or not enter all or part of University property.
 - (8) For purposes of this Section .05, the term "non-affiliated person" means any person who is not a University student, student organization, employee, or volunteer.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

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* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Governor Bill Haslam				x	
Commissioner Julius Johnson	x				
Commissioner Candice McQueen	x				
Dr. Joe DiPietro	x				
Charles C. Anderson, Jr.	x				
Jalen K. Blue	x				
Shannon Brown				x	
George E. Cates	x				
Spruell Driver, Jr.	x				
Dr. William E. Evans	x				
J. Brian Ferguson	x				
John N. Foy	x				
D. Crawford Gallimore	x				
Dr. David Golden	x				
Vicky B. Gregg	x				
Raja J. Jubran	x				
Brad A. Lampley	x				
James L. Murphy, III	x				
Sharon J. Pryse	x				
Rhedona Rose	x				
John D. Tickle	x				
Julia T. Wells	x				
Charles E. Wharton	x				
Tommy G. Whittaker	x				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the University of Tennessee Board of Trustees on 10/09/2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

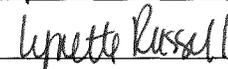
Date: 12/11/2015

Signature: 

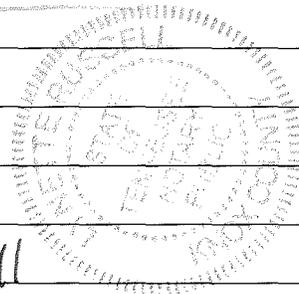
Name of Officer: Matthew Scoggins

Title of Officer: Deputy General Counsel

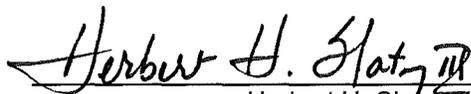
Subscribed and sworn to before me on: 12-11-15

Notary Public Signature: 

My commission expires on: 12-4-18



All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.


Herbert H. Slatery III
Attorney General and Reporter
12/23/2015
Date

Department of State Use Only

Filed with the Department of State on: 1/5/16

Effective on: 4/4/16


Tre Hargett
Secretary of State

SECRETARY OF STATE
PUBLICATIONS

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RECEIVED

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

The Regulatory Flexibility Addendum is not applicable.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The University of Tennessee anticipates that this rule change will have minimal to no impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

On August 19, 2015, the Joint Government Operations Committee of the Tennessee General Assembly voted to request the University of Tennessee Board of Trustees to amend Chapter 1720-01-02-.05 (No-Trespass Notices). A no-trespass notice is a written directive requiring a person to leave and/or not enter all or part of University property.

In response to the Committee's request, the University of Tennessee Board of Trustees adopted the following amendments to Section .05:

- Section .05 will apply only to non-affiliated persons (i.e., it will not apply to students and employees).
- Only a sworn law enforcement officer may issue a no-trespass notice.
- A person who receives a no-trespass notice may appeal to the campus/institute chief of police.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Persons who are not students or employees are most directly affected by this rule. The university has not received comments from non-students or non-employees urging adoption or rejection of this rule.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Minimal.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Matthew Scoggins
Deputy General Counsel
University of Tennessee

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Matthew Scoggins
Deputy General Counsel
University of Tennessee

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Matthew Scoggins
Deputy General Counsel
University of Tennessee
719 Andy Holt Tower
Knoxville, TN 37996-0170
scoggins@tennessee.edu
865-974-3245

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

**RULES
OF
THE UNIVERSITY OF TENNESSEE**

**CHAPTER 1720-01-02
USE OF UNIVERSITY PROPERTY**

1720-01-02-.01 DEDICATION OF UNIVERSITY PROPERTY. The University of Tennessee ("University") dedicates its property exclusively to the advancement of the University's principal missions of teaching, research, and service. The University regulates its property to preserve it for the advancement of the University's principal missions.

1720-01-02-.02 DEFINITIONS

- (1) The term "University property" means all land, grounds, structures, and any other physical property owned, controlled, or operated by the University of Tennessee.
- (2) The term "University unit" means any academic, administrative, or auxiliary department or division of the University or any other official entity of the University, functioning through University employees acting within the scope of their University employment.

1720-01-02-.03 AUTHORIZED USERS AND PERMISSIBLE USES.

- (1) The use of University property is limited to the following persons, subject to Section .03(2) and Section .05:
 - (a) University students;
 - (b) University employees;
 - (c) Members of the Board of Trustees;
 - (d) Government officials acting in their official capacities;
 - (e) A person or entity invited by a University unit, including but not limited to, a person or entity who has a contract to provide services to the University, provided that the use of University property shall not exceed the scope of the University unit's invitation;
 - (f) A person who has been invited by a University student, student organization, or employee in his/her personal capacity, to join the student, student organization, or employee in the use of University property (e.g., friends and family), but not including the use of University property for free expression activities, provided that the use of University property shall not exceed the scope of the invitation;
 - (g) A non-affiliated person using University property for free expression activities pursuant to Chapter 1720-01-12 (Use of University Property by Non-Affiliated Persons for Free Expression Activities);
 - (h) Volunteers of the University, as defined by University policy, within the scope of their volunteer work;

- (i) Prospective students visiting University property and persons accompanying prospective students for purposes reasonably necessary to evaluate the University as an educational institution;
 - (j) Alumni visiting University property and persons accompanying alumni;
 - (k) A person who has a right of access to University property under Tennessee Code Annotated § 8-50-1001 or any other statutory provisions permitting access to University property;
 - (l) Any person or entity engaged in one of the following uses of University property:
 1. The use of University property for the purpose of attending a University activity or event that is open to attendance by the members of the general public at a designated place and time (e.g., athletic contests, plays, lectures, concerts);
 2. The use of University-owned streets, or University-owned sidewalks bordering University-owned streets, as thoroughfares while traveling from one location to another location;
 3. The use of University property that is open to the general public (e.g., campus bookstore, library, museum);
 4. The use of University property consistent with the terms of a lease agreement with the University; or
 5. The use of University property for a purpose relating to obtaining medical treatment from the University.
- (2) The use of University property shall be consistent with the University's principal missions of teaching, research, and service. A person using University property shall not:
- (a) block or substantially impede vehicular, bicycle, pedestrian, or other traffic;
 - (b) block or substantially impede entrances or exits to University property;
 - (c) substantially disrupt or interfere with University operations, events, or activities;
 - (d) substantially disrupt or interfere with the ability of a student to sleep or study in a University residence hall between the hours of 10:00 p.m. and 6:00 a.m. during an academic term;
 - (e) substantially disrupt or interfere with the ability of a student to study in a University library;
 - (f) violate a federal, state, or local law, rule, regulation, or ordinance;
 - (g) violate University rules, policies, or procedures;
 - (h) engage in speech that is obscene; is defamatory; consists of fighting words; communicates an objectively serious expression of intent to commit an act of unlawful violence to a particular individual or group; or is directed to inciting or producing imminent lawless action and is likely to incite or produce such action;

- (i) engage in camping in violation of Tennessee law, the Equal Access to Public Property Act of 2012, unless the area on which camping occurs has been specifically designated by the University as available for camping;
 - (j) unreasonably threaten the health or safety of another person; or
 - (k) damage or deface University property, including, but not limited to, grass, shrubs, trees, or other landscaping.
- (3) Nothing in Section .03(2) shall be construed to prohibit a use of University property that has been expressly authorized by the University (e.g., a construction project that temporarily interferes with the use of a street);

1720-01-02-.04 USE OF UNIVERSITY PROPERTY FOR FREE EXPRESSION ACTIVITIES. Chapter 1720-01-12 (Use of University Property by Non-Affiliated Persons for Free Expression Activities) governs the use of University property for free expression activities by persons who are not affiliated with the University. To the extent of any conflict between this Chapter and Chapter 1720-01-12, Chapter 1720-01-12 shall control.

1720-01-02-.05 NO-TRESPASS NOTICES.

- (1) A No-Trespass Notice ("Notice") is a written directive requiring a ~~person~~ non-affiliated person to leave and/or not enter all or part of University property.
- (2) ~~The following persons are authorized to issue a Notice:~~
 - (a) ~~The President of the University;~~
 - (b) ~~The chief executive officer of a University campus or institute (e.g., Chancellor);~~
 - (c) ~~The chief academic officer of a University campus or institute;~~
 - (d) ~~The chief business officer of a University campus or institute;~~
 - (e) ~~The chief human resources officer of a University campus or institute;~~
 - (f) ~~The chief student affairs officer of a University campus or institute; and~~
 - (g) ~~Sworn law enforcement officers employed by the University.~~
- (3)(2) A sworn law enforcement officer employed by the University University official authorized under Section .05(2) may issue a Notice to a non-affiliated person:
 - (a) ~~a person~~ who is not authorized to use University property under Section .03(1), and who has refused to leave University property, or a specified part of University property, within a reasonable time after the person has received an oral request to leave by a University official;
 - (b) ~~a person~~ who has engaged in a use of University property that is prohibited by Section .03(2), and who has refused to cease the prohibited conduct within a reasonable time after receiving an oral request to do so from a University official;
 - (c) ~~a person~~ who, in the good faith judgment of the ~~University official~~ law enforcement

officer issuing the Notice, poses an unreasonable threat to the health, safety, or welfare of a person(s) affiliated with the University while on University property;
or

- (d) ~~a person who, in the good faith judgment of the University official law enforcement officer issuing the Notice, has engaged in conduct that substantially disrupts or interferes with University operations, events, or activities, or is likely to cause such a disruption or interference;~~
- (e) ~~a University student who has been suspended or expelled from the University in accordance with the University's student conduct rules, policies, or procedures, and the suspension or expulsion has not been lifted;~~
- (f) ~~a University employee who, in accordance with the University's employment policies and procedures, has been temporarily suspended, has been placed on administrative leave, or whose employment is being terminated; or~~
- (g) ~~a person who is a former employee or volunteer whose employment or volunteer status was terminated by the University for misconduct in accordance with University rules, policies, or procedures, or who resigned in lieu of termination.~~

~~(4)~~(3) A Notice must specify: the reason for the Notice; the geographical scope of the restriction; the duration of the restriction, which may be for an indefinite period; the potential consequences of a violation of the Notice; and the process for appealing the issuance of the Notice. The scope and duration of the restriction imposed must be proportional to the underlying misconduct. In appropriate circumstances, with respect to conduct on University property, a Notice also may prohibit a non-affiliated person from contacting or being within a certain distance from a person affiliated with the University.

~~(5)~~(4) Appeals

- (a) A non-affiliated person to whom a Notice has been issued may appeal the decision to the chief of police for the University's campus/institute~~University official who issued the Notice.~~
- (b) A non-affiliated person must submit the appeal in writing. The written appeal must be received by the University official who issued the Notice~~chief of police~~ within twenty (20) calendar days of the date on which the Notice was provided to the non-affiliated person. A Notice mailed (or e-mailed) to a non-affiliated person shall be deemed to have been provided on the date on which it was mailed (or e-mailed). The written appeal should include the non-affiliated person's reason for being on University property, the non-affiliated person's future need to be on University property, and any other information the non-affiliated person wishes the University official who issued the Notice to consider.
- (c) Upon receipt of a written appeal, the University official who issued the Notice~~chief of police~~ will consult as needed with other University officials to verify the non-affiliated person's need for access to University property, to gather additional information or advice, or to review the impact that granting the appeal may have on persons affiliated with the University.
- (d) Within twenty (20) calendar days of the receipt of an appeal submitted in accordance with this Chapter, the University official who issued the Notice~~chief of~~

police will sustain, rescind or modify the Notice in a written decision that will be mailed to the address provided by the non-affiliated person. The decision of the University official who issued the Notice chief of police is final and not appealable within the University.

~~(e)~~ The restrictions set forth in the Notice will remain in effect while an appeal of the Notice is pending.

~~(f)~~ If the chief of police issued the Notice, then the non-affiliated person may appeal to the supervisor of the chief of police following the procedures set forth in Section .05(4)(a)-(d).

~~(e)~~ Other University rules, policies and procedures, rather than this Section .05(5), shall govern appeals filed by University students or employees.

~~(6)~~(5) The University employee who issued a Notice law enforcement officer who issued the Notice (or, if the Notice is appealed, the chief of police) may rescind or modify the Notice at any time. Notification of any such rescission or modification shall be provided to the non-affiliated person to whom the Notice was issued.

~~(7)~~(6) The issuance of a Notice for conduct relating to free expression activities shall be consistent with Chapter 1720-01-12 (Use of University Property by Non-Affiliated Persons for Free Expression Activities).

~~(8)~~(7) Failure to comply with a Notice may result in issuance of a citation or an arrest for trespassing pursuant to applicable state criminal trespass statutes or local ordinances. Nothing in this Section .05 shall limit or be construed to limit the exercise of the statutory authority of sworn law enforcement officers of a campus police department to arrest in accordance with the laws of this state or local ordinances. Nor shall anything in this Section .05 limit or be construed to limit the authority of sworn law enforcement officers of a campus police department to issue an oral request instructing a person to leave and/or not enter all or part of University property.

~~(9)~~ Nothing in this Section .05 shall limit or be construed to limit the ability of a University official to issue a lawful directive to an employee whom he/she supervises not to enter certain parts of University property.

~~(10)~~(8) For purposes of this Section .05, the term "non-affiliated person" means any person who is not a University student, student organization, employee, or volunteer.

1720-01-02-.06 USE OF UNMANNED AIRCRAFT.

(1) The purpose of the restrictions in this Section .06 is to ensure the safe and orderly use of unmanned aircraft on, at, inside, or above University property.

(2) For purposes of this Section .06, the term "unmanned aircraft" means a device that is used or is intended to be used for flight in the air without an individual in or on the device (e.g., drone, model aircraft).

(3) Unmanned aircraft shall not be used:

(a) By a person who is not authorized to use University property under Chapter 1720-01-03.01;

- (b) At a time, in a place, or in a manner prohibited under Chapter 1720-01-03-.02;
 - (c) Inside University buildings or facilities;
 - (d) On or above University-owned streets or University-owned sidewalks;
 - (e) Above a human being who is either not directly participating in the operation of the unmanned aircraft or not located under a covered structure that can provide reasonable protection from a falling unmanned aircraft;
 - (f) On or above a University campus within four hours prior to the scheduled kickoff time of an intercollegiate football game on that campus, during the game, or within two hours after the conclusion of the game;
 - (g) Outside the hours of official sunrise and sunset; or
 - (h) In a manner that violates federal or state law, including, without limitation, regulations issued by the Federal Aviation Administration.
- (4) This Section .06 does not apply to unmanned aircraft used by a University unit, including faculty conducting research using unmanned aircraft, or a person or entity with whom the University has contracted to operate an unmanned aircraft; provided, however, that unmanned aircraft shall be used in accordance with federal and state law, including, without limitation, regulations issued by the Federal Aviation Administration.