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Sequence Number: 08-17-12
 Rule ID(s): 5285
 File Date: 8/22/12
 Effective Date: 11/20/12

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Department of General Services
Division:	
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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
0690-06-01	Procedures for Use of the Tennessee War Memorial Plaza and Courtyard
Rule Number	Rule Title
0690-06-01-.01	Statement of Intent
0690-06-01-.02	Definitions
0690-06-01-.03	General Procedures
0690-06-01-.04	Procedures for Reserving the Plaza or Courtyard

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 0690-06-01
Procedures for Use of the Tennessee War Memorial Plaza and Courtyard

New Rules

Rule 0690-06-01-.01	Statement of Intent
Rule 0690-06-01-.02	Definitions
Rule 0690-06-01-.03	General Procedures
Rule 0690-06-01-.04	Procedures for Reserving the Plaza or Courtyard

0690-06-01-.01 Statement of Intent

- (1) It is the intent of these rules that the administration and operation of the War Memorial Plaza and Courtyard shall be governed by the following principles:
 - (a) Public use of the War Memorial Plaza or Courtyard shall not adversely affect or threaten the health and safety of persons on or near the War Memorial Plaza or Courtyard.
 - (b) Public use of the War Memorial Plaza or Courtyard shall not interfere with the conduct of state business.
 - (c) Preservation of the War Memorial Plaza and Courtyard shall be carried out through the exercise of management responsibilities by the Department of General Services.
 - (d) Nothing herein shall apply to federal, state or local law enforcement personnel engaged in their official duties.
- (2) Nothing in these rules is intended to prevent the expression of free speech and peaceable assembly in a manner protected by the Constitution of the United States and the Constitution of the State of Tennessee, or to require a permit as a prerequisite for the exercise of those constitutional rights on the War Memorial Plaza or Courtyard.
- (3) The sections, clauses, sentences and parts of these rules are severable. If any one or more section, clause, sentence or part is for any reason adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions, but shall be confined in its operation to the section, clause, sentence, or part thereof directly involved in the controversy in which such judgment was rendered.

Authority: T.C.A. § 4-3-1105(8), (11) and (12).

0690-06-01-.02 Definitions

- (1) The following terms shall have the meanings set forth in this rule:
 - (a) The War Memorial Plaza ("Plaza"), located in downtown Nashville, is the open public space in front of the War Memorial Building, bounded between Union Street, Sixth Avenue and Charlotte Avenue.

- (b) The War Memorial Courtyard ("Courtyard") is open public space located adjacent to the Plaza, and is bounded on the west by Seventh Avenue.
- (c) The "Capitol Facility Administrator" is the Department of General Services employee whose duty it is to manage and maintain the Plaza and Courtyard.

Authority: T.C.A. § 4-3-1105(8), (11) and (12).

0690-06-01-.03 General Procedures

- (1) The following rules shall apply to the use, administration, and operation of the Plaza and Courtyard:
 - (a) Stepping or climbing upon statues, monuments, fences, lighting fixtures, light wells, trees, or parts of the Plaza or Courtyard not intended for such purposes is not permitted.
 - (b) Entering, wading, or swimming in any fountains is not permitted. Submerging personal belongings into the fountains is also not permitted.
 - (c) Vehicles, bicycles, skates, skateboards, sleds or similar devices shall not be used or operated on the Plaza or Courtyard. Persons with disabilities or mobility impairment, however, may use wheelchairs, scooters, or other similar devices designed for use by persons with disabilities or mobility impairments necessitating such use.
 - (d) Alcoholic beverages shall not be dispensed or consumed on the Plaza or Courtyard, unless all permits required by state and local law have been obtained and prior written approval has been granted by the Department of General Services. This approval may be obtained following the procedure outlined in part 0690-06-01-.04 of these rules.
 - (e) Open flames or fuel are not permitted on the Plaza or Courtyard, unless all permits required by state and local law have been obtained and prior written approval has been granted by the Department of General Services. This approval may be obtained following the procedure outlined in part 0690-06-01-.04 of these rules.
 - (f) Use of any electrical outlets located on the Plaza or Courtyard is not permitted, unless prior written approval has been granted by the Department of General Services or the Capitol Facility Administrator. This approval may be obtained following the procedure outlined in part 0690-06-01-.04 of these rules.
 - (g) Use of the water hose connections and water spigots located on the Plaza or Courtyard is not permitted, unless prior written approval has been granted by the Department of General Services or the Capitol Facility Administrator. This approval may be obtained following the procedure outlined in part 0690-06-01-.04 of these rules.
 - (h) Picketing or the distribution of literature shall not impede or interfere with state business or public access to and use of the Plaza or Courtyard. In order to inform persons or groups of the procedures for the use of the Plaza and Courtyard, it is recommended, but not required, that persons or groups desiring to picket or distribute literature on the Plaza or Courtyard provide the date and time of this activity to the Capitol Facility Administrator.
 - (i) Camping or sleeping overnight on the Plaza or Courtyard is not permitted.
 - 1. Camping is defined as the use of the Plaza or Courtyard for living accommodation activities such as:
 - (i) Sleeping or making preparations to sleep (including the laying down of bedding for the purpose of sleeping);

- (ii) Storing belongings for future use (e.g. food for consumption in the future);
 - (iii) Making any fire;
 - (iv) Using any tent or shelter or other structure or vehicle for living accommodation activities such as sleeping; or
 - (v) Carrying on cooking activities.
2. These activities constitute camping when it reasonably appears in light of all of the circumstances that the participants, in conducting these activities, are in fact using the area as a living accommodation, regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.
- (j) In order to maintain the security, safety and aesthetic appearance of the Plaza and Courtyard and to provide for regular maintenance, no improvements or alterations, such as stages and reviewing stands may be erected, unless prior approval has been granted in writing by the Capitol Facility Administrator prior to the erection of any structures.
 - (k) In case of fire, bomb threat, utility malfunction, structural failure, severe weather or any other unforeseen emergency or threat to public safety or health, the Department of Safety or the Capitol Facility Administrator may evacuate the Plaza or Courtyard and deny access to the Plaza or Courtyard for the duration of the emergency or threat to public safety or health.
 - (l) Defacing or damaging the Plaza or Courtyard, which includes, but is not limited to, trees, shrubbery, flowers, lawns, surfaces, sidewalks, fences, lighting fixtures, light wells, fire hydrants, benches, statues, monuments and plaques, is not permitted. Likewise, defacing or damaging the walls and surfaces of the Plaza or Courtyard, which include but are not limited to, the entrances, porches and staircases, is not permitted.
 - (m) Due to the presence of underground utility, electrical and drainage lines, and the protective covering of the subterranean Legislative Plaza area, no object shall be driven into the surface or ground of the Plaza or Courtyard.
 - (n) Due to the fact that many of the stones on the Plaza and Courtyard are supported on only their corners and will break if this weight limit is exceeded, items or equipment placed on the Plaza or Courtyard weighing more than four-hundred-and-fifty (450) pounds per stone are not permitted.
 - (o) Any metal or stone item or equipment brought onto the Plaza or Courtyard must have a rubber or wood buffer to prevent damage to the Plaza and Courtyard stones.
 - (p) Equipment or structures of any kind brought onto the Plaza or Courtyard in connection with an event shall be removed entirely at the conclusion of the event by the persons or group conducting the event.
 - (q) A person or group shall not remove state property from the Plaza or Courtyard, unless the removal has been previously authorized in writing by the Department of General Services.
 - (r) Any person who refuses to adhere to these conditions shall be subject to, in addition to criminal penalties provided by law, immediate removal from the Plaza or Courtyard by the Capitol Facility Administrator or any other person designated by the Capitol Facility Administrator.
 - (s) Nothing contained herein shall be construed as limiting prosecution under any existing or future law.
 - (t) Nothing contained herein is intended to supersede or negate any other state and federal laws or administrative rules.

Authority: T.C.A. §§ 4-3-1105(8), (11) and (12); and 39-14-414.

0690-06-01-.04 Procedures for Reserving the Plaza or Courtyard

(1) The Department of General Services may allow persons and groups to reserve areas of the Plaza and Courtyard. Reservations give persons and groups planning events on the Plaza and Courtyard the assurance that they will have access to, and exclusive use of, a predetermined area for a predetermined amount of time. The exclusive use of the permitted area must comply with all of the conditions of these rules, and shall not unreasonably interfere with the general public's use of areas not subject to the reservation. Additionally, the reservation process provides persons and groups planning events a procedure to obtain the proper approvals and permits necessary to carry out the activities described in rules 0690-06-01-.03(1)(d), (e), (f), and (g).

(a) Persons or groups seeking to reserve areas of the Plaza and Courtyard must submit a written application and an administration fee in the amount of sixty-five dollars (\$65.00) per reservation day to the Department of General Services.

1. This application is available upon request from the Department of General Services' website, or by contacting the Department of General Services at:

Department of General Services
312 Rose L. Parks Ave., 22nd Floor
Nashville, TN 37243
615.741.2228

2. The address and phone number for the Department of General Services provided in rule 0690-06-02.04(1)(a)(1.) may be changed with notice placed on the Department of General Services' website.

b. Applications to reserve the Plaza and Courtyard are subject to written approval by the Department of General Services. The decision to approve an application to reserve the Plaza or Courtyard will be based upon a determination that public health and safety, natural or cultural resources, implementation of management responsibilities, proper allocation and use of facilities, public enjoyment of the grounds, and the avoidance of conflict among visitor use activities will not be adversely impacted.

c. The Department of General Services may also deny an application to reserve the Plaza or Courtyard on any of the following grounds:

1. The application for reservation (including any required attachments and submissions) is not fully completed and executed;
2. The applicant has not tendered the required application fee with the application or has not tendered the required indemnification agreement or insurance certificate;
3. The application for reservation contains a material falsehood or misrepresentation;
4. The applicant is legally incompetent to contract or to sue and be sued;
5. The applicant or the person, on whose behalf the application to reserve was made, has on prior occasions damaged the Plaza or Courtyard;
6. The applicant has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of a prior reservation issued to, or on behalf of, the applicant;

7. The proposed use or activity would present an unreasonable danger to the health or safety of the applicant, other users of the Plaza and Courtyard, or the public; and
 8. The use or activity intended by the applicant is prohibited by state or federal laws or administrative rules promulgated thereunder.
- d. If an application to reserve the Plaza or Courtyard is denied, the Department of General Services may suggest alternative times, dates and locations.
 - e. Any applicant, whose application for reservation is denied, may file an appeal to the Commissioner of the Department of General Services within fourteen (14) days after the denial. The applicant may appeal an adverse ruling by the Commissioner by petitioning the Chancery Court for Davidson County, Tennessee for Writ of Certiorari (See T.C.A. §27-8-101).
 - f. Since the areas available for events are limited and the demand is, at times, high, it is recommended, but not required, that requests be made at least one month in advance. The Department of General Services shall decide whether to grant or deny an applicant's request for reservation within fourteen (14) days after receipt of a fully completed application, unless, by written notice to the applicant, the Department of General Services extends the period an additional fourteen (14) days.

1. Requests for information about reserving use of the War Memorial Courtyard or Plaza in conjunction with the rental of the War Memorial Auditorium should be made to:

Tennessee Performing Arts Center ("TPAC")
505 Deaderick Street, 3rd Floor
Nashville, TN 37243
615.782.4000

2. Requests for information about reserving use of the War Memorial Courtyard or Plaza not in conjunction with the use or the rental of the War Memorial Auditorium should be made to:

Department of General Services
312 Rose L. Parks Ave., 22nd Floor
Nashville, TN 37243
615.741.2228

3. The addresses and phone numbers for TPAC and the Department of General Services provided in rules 0690-06-02.04(1)(f)(1.) and (2.) may be changed with notice placed on the respective entity's website.

- (2) The following procedures shall be followed in the administration and operation of the Plaza and Courtyard for persons and groups seeking to reserve parts of the Plaza and Courtyard:
 - (a) In the case of fire, bomb threat, utility malfunction, structural failure, severe weather or other unforeseen emergency or threat to public safety or health, the Capitol Facility Administrator may cancel, delay or postpone any scheduled event until the emergency or threat no longer exists.
 - (b) Persons or groups reserving use of any area of the Plaza or Courtyard shall either: (1) indemnify and hold harmless the State of Tennessee, its departments, agents and employees from and against any and all suits, damages, claims and other liabilities due to personal injury or death, damage to or loss of property to the State and to others, and for any other injury or damage arising out of or resulting from the use of the Plaza or Courtyard; or, (2) agree to carry \$1,000,000.00 general liability insurance naming the State of Tennessee, Department of General Services, as an additional insured in said policy.
 - (c) Food and beverages may be served at a reserved event provided that the following criteria are met:

1. The applicant receives prior written approval from the Department of General Services to serve food or beverages;
 2. The applicant specifies in writing, prior to the event, the type of food and beverages to be served and the desired service area;
 3. The applicant assumes responsibility for the preparation, service, and consumption of all food and beverages provided during the event, as well as clean-up following the event;
 4. The food and beverage service will not result in physical or aesthetic damage to the Plaza or Courtyard; and
 5. Alcoholic beverages may only be dispensed or consumed on the Plaza or Courtyard, if all permits required by state and local law have been obtained and prior written approval has been granted by the Department of General Services.
- (d) If equipment for an event is required by the applicant, the applicant may notify the Capitol Facility Administrator's Office which has limited equipment for use at events on the Plaza or Courtyard. Arrangements may be made for the Capitol Facility Administrator to provide such equipment, if available, upon payment of reasonable charges by the persons or groups responsible for the event. Otherwise, equipment shall be provided by the persons or groups sponsoring events. Persons or groups planning to bring equipment onto the Plaza or Courtyard for an event must receive prior written approval from the Capitol Facility Administrator for both the equipment and its location. Persons or groups using the equipment of the Capitol Facility Administrator's Office are responsible for any damage to, or loss of, that equipment.
- (e) All items, materials, and food must be removed promptly after an event by the person or group holding the event. Equipment or structures of any kind that are placed on the Plaza or Courtyard in connection with an event shall be removed at the conclusion of the event by the persons or group holding the event.
- (f) The Department of Safety is responsible for providing security of the Plaza and Courtyard. (See T.C.A. § 4-3-2006). The Department of Safety may require, based on reasonable concerns for public health and safety, persons or groups planning an event to pay the cost of security, which will be based upon the size and scope of the event. If security is deemed necessary, the Department of Safety will determine whether security should be provided by State Troopers or by private security guards duly licensed by the State of Tennessee. Security must be on duty one-half hour prior to an event opening until one-half hour after the event closes. The cost of this security, provided by either State Troopers or by private security guards, shall be paid by the persons or groups holding the event.
- (g) No charges will be made to persons or groups for use of the Plaza and Courtyard other than fees charged for an application to reserve use of the premises, the use of equipment, power and labor to set-up the event, operation and removal of equipment, security, and the repair of any damage to the Plaza and Courtyard by the persons or groups during the event.

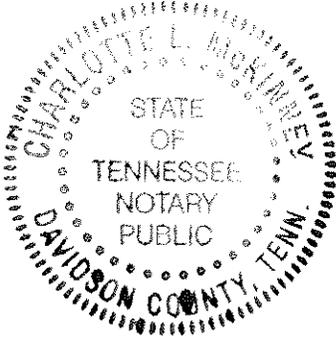
Authority: T.C.A. §§ 4-3-1105 (8), (11), and (12), and 4-3-2006(a)(2).

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of General Services (board/commission/ other authority) on 08/07/2012 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 02/24/12

Rulemaking Hearing(s) Conducted on: (add more dates). 04/16/12



Date: 08/07/12

Signature: [Handwritten Signature]

Name of Officer: Steven G. Cates

Title of Officer: Commissioner of General Services

Subscribed and sworn to before me on: 8/7/12

Notary Public Signature: [Handwritten Signature]

My commission expires on: May 5, 2015

All rulemaking hearing 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.

[Handwritten Signature]
Robert E. Cooper, Jr.
Attorney General and Reporter
8-21-12

Date

Department of State Use Only

Filed with the Department of State on: 8/22/12

Effective on: 11/20/12

[Handwritten Signature]
Tre Hargett
Secretary of State

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SECRETARY OF STATE
ADMINISTRATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

A rulemaking hearing was held on April 16, 2012 in Legislative Plaza, Room 30. There were nine (9) speakers making public comments at the hearing, and the record was left open for forty-eight (48) hours following the hearing, allowing for the submission of written comments, of which there were over a dozen. The following is a summary of the comments (many of which were made by more than one individual), both written and oral, with responses. In the following section, the Department of General Services will be referred to as the "Department."

- Comment:** Several commenters believed incorrectly that the proposed rules required permits for any use of the Plaza and Courtyard.
- Response:** The Department maintains that the rules do not require permits for the use of the Plaza and Courtyard. In response to these comments, Section 0690-06-01-.01 "Statement of Intent" was added to lay out the governing principles of these rules, as well as to clarify that no permit is necessary for individuals to exercise their constitutional rights on the Plaza or Courtyard (See Rulemaking Hearing Rules 0690-06-01-.01(2)).
- Comment:** Several commenters felt that the proposed rules should not charge any fees for permitted use of the Plaza and Courtyard or require a liability policy or security, since such rules would discriminate against groups or individuals without the requisite funds.
- Response:** The Department maintains that the rules do not require permits for the use of the Plaza and Courtyard. (See Rulemaking Hearing Rules 0690-06-01-.01(2)). Therefore, no changes should be made.
- Comment:** Several commenters felt that clarification was needed to show that a permit under these rules grants only exclusive use of the permitted area and does not interfere with constitutionally protected speech.
- Response:** The Department maintains that the rules do not interfere with constitutionally protected speech. In response to this comment, the Department changed the rules to clarify that a permit under these rules grants only exclusive use of the permitted for area and that this use "shall not unreasonably interfere with the general public's use of areas not subject to reservation" (See Rulemaking Hearing Rules 0690-06-01-.04(1)).
- Comment:** Several commenters felt that the rules needed to affirmatively state that the level of law enforcement attention given to the Plaza and Courtyard should be maintained during times of protest, at a minimum, at the levels of law enforcement given to the Plaza and Courtyard when no protest is present.
- Response:** The Department maintains that the Department of Safety is statutorily bound to carry out law enforcement duties on the Plaza and Courtyard at all times. Therefore, no change should be made.
- Comment:** A commenter felt that proposed rule 0690-06-01-.02(1)(l) should not put the responsibility to pick up and dispose of discarded literature on the Plaza and Courtyard on those persons or groups distributing the literature.
- Response:** The Department, in response to this comment, has removed the language requiring those distributing literature to be responsible for removing all discarded items from the Plaza and

Courtyard upon the conclusion of their literature distribution (See Rulemaking Hearing Rules 0690-06-01-.03(1)(h)).

- Comment: Several commenters felt that the rules should require restroom facilities in the Plaza and Courtyard vicinity to be made available twenty-four (24) hours a day, seven (7) days a week, when an around the clock First Amendment activity is in progress.
- Response: The Department maintains that it is not required to provide restrooms in this manner. Therefore, no change should be made.
- Comment: Several commenters felt that proposed rule 0690-06-01-.02(1)(d), which stated that sound amplifying equipment which can be clearly heard by unimpaired auditory senses fifty (50) feet or more from any electromechanical speaker cannot be used without prior written approval by the Department, was vague.
- Response: The Department, in response to this comment, has removed this section related to the prohibition of sound amplifying equipment.
- Comment: A commenter felt that the use in the proposed rules of the phrases "health and safety" and "impede the conduct of state business" is vague and overbroad.
- Response: The Department maintains that the use of these phrases, in the context of the rules as a whole, is not vague and overbroad.
- Comment: A commenter felt that the description of an "application fee" was too vague and needed clarification as to purpose and amount.
- Response: The Department, in response to this comment, clarified that the fee is an "administrative fee" and is set in the amount of sixty-five dollars (\$65.00) per reservation day (See Rulemaking Hearing Rules 0690-06-01-.04(a)).
- Comment: Several commenters felt that proposed rules 0690-06-01-.02(h), (i), (j), and (k), were unclear as to the process for obtaining approval from the Department of General Services to allow the otherwise prohibited activities on the Plaza and Courtyard of alcoholic beverage consumption/dispensing, open flames and fuel use, electrical outlet use, and water hose connection/spigot use.
- Response: The Department, in response to these comments, clarified that those wishing to perform the aforementioned activities requiring approval, obtain it "by following the procedure outlined in rule 0690-06-01-.04 (See Rulemaking Hearing Rules 0690-06-01-.03(1)(d), (e), (f), and (g) and 0690-06-01-.03(1)).
- Comment: Several commenters would like the State to provide to the general public access to water and electrical utilities on the Plaza and Courtyard, with or without requiring reasonable reimbursement of utility costs.
- Response: The Department maintains that the State is under no duty to provide to the general public access to water and electrical utilities on the Plaza and Courtyard. Therefore, no changes are required.
- Comment: Several commenters felt that the permit procedure required clarification as to how permits would be obtained.
- Response: The Department, in response to these comments, clarified where the application may be found (See Rulemaking Hearing Rules 0690-06-01-.04(1)(a) and (b)).
- Comment: A commenter felt that the guidelines determining security decisions made by the Department of Safety needed to be clarified.
- Response: The Department maintains that the rules provide guidance that the Department of Safety has the ability to make certain security decisions based on reasonable concerns for public health and

safety. Therefore, no change should be made (See Rulemaking Hearing Rules 0690-06-01-.04(2)(f)).

Comment: The Tennessee Performing Arts Center ("TPAC") submitted a written statement for public comment. TPAC is very much in favor of the new rules.

TPAC's comments requested a few additional changes to the proposed rules related to the operation of TPAC's operation including: i) a change in the rules to recognize that the public use of the Plaza and Courtyard shall not impede the use of TPAC or the War Memorial Auditorium for educational, cultural and public events; ii) the addition of a list of permitted catering uses under Proposed Rule 0690.06-01-.02(h)(i); and (iii) a qualifier added to proposed Rule 0690-06-01-.02 such that picketing and the distribution of literature would be prohibited if it impeded or interfered with public access to and use of the War Memorial Auditorium and TPAC.

Response: The Department maintains that the rules appropriately address TPAC's concerns that it will be unable to effectively operate and administer the performing arts spaces within the James K. Polk State Office Building and Cultural Center and War Memorial Auditorium for the benefit of the citizens of the state of Tennessee. Therefore, no changes should be made.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rulemaking process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-203(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

These rules should have no impact on small businesses.

- (2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

These rules should have no reporting, recordkeeping, or other administrative costs.

- (3) A statement of the probable effect on impacted small businesses and consumers.

These rules should not have any effect on small businesses and consumers.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

These rules are neither burdensome nor costly and should have no impact on small business.

- (5) A comparison of the proposed rule with any federal or state counterparts.

These rules are necessary regardless of the recent passage of the "Equal Access to Public Property Act" (See T.C.A. § 39-14-414). The aforementioned statute addresses only camping provisions on state owned property and covers none of the other topics addressed in these rules. These rules are in compliance with the language of T.C.A. § 39-14-414.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

These rules should have no affect on small businesses, therefore no exemption should be necessary.

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)

These rules are not projected to have an 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;

These rules serve to guide the use, administration, and operation of the War Memorial Plaza and Courtyard.

- (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;

These rules are lawfully adopted by the Department of General Services in accordance with T.C.A. §§4-3-1105(8), (11) and (12), providing for the Department of General Services to maintain, supervise and exercise general custodial care over the War Memorial Plaza and Courtyard.

- (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;

Those most directly affected by this rule are the general public, desiring to use the War Memorial Plaza and Courtyard, as well as the Department of General Services, in fulfilling their statutory duties to maintain, supervise and exercise general custodial care over the War Memorial Plaza and Courtyard and the Department of Safety, in fulfilling its statutory duties to provide law enforcement services to the War Memorial Plaza and Courtyard.

The public hearing for the proposed rules resulted in oral comments from nine (9) speakers, many of whom were opposed to all or part of the proposed rules. Additionally, there were nineteen (19) different written comments submitted, eighteen of which were in opposition to all or part of the proposed rules. These public comments were all taken into consideration when revising the rules.

Many of the commenters, both oral and written, represented themselves only but acknowledged their involvement or support of the "Occupy" movement. These commenters were opposed to all or part of the rules.

The Tennessee Performing Arts Center ("TPAC") submitted a written comment in support of the rules.

The Department of General Services urges adoption of these rules in order for the Department to be able to meet its statutory duty to maintain, supervise, and exercise general custodial care over the War Memorial Plaza and Courtyard.

The Department of Safety urges adoption of these rules in order for the Department to be able to meet its statutory duty to provide law enforcement services to the War Memorial Plaza and Courtyard.

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

Thomas v. Chicago Park District, 534 U.S. 316 (2002); Clark v. Community for Creative Non-Violence, 468 U.S. 288 (1984).

- (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;

The fiscal impact on the Department of General Services and the Department of Safety shall be minimal (based on the definition of minimal provided in question (E) located above. There will, however, be funds saved through these rules by both the Department of General Services, in maintenance costs of the War Memorial Plaza and Courtyard, as well as to the Department of Safety, in the provision of law enforcement services for the War Memorial Plaza and Courtyard.

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

Thaddeus E. Watkins, III
General Counsel
Department of General Services

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

Thaddeus E. Watkins, III
General Counsel
Department of General Services

- (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

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