

1 **Notice of Adoption of Administrative Rules**

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3 In accord with Chapter 1-2 of the City Code, the Management Services Department (the  
4 "Department") hereby adopts the attached "Rules for Public Use of City Properties" (the  
5 "Rules"). In accord with Sections 1-2-7 and 1-2-8 of the City Code, the Department provides  
6 the following information:  
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- 8 1. The Rules are hereby adopted, effective September 21, 2015.  
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10 2. The full text of the Rules is attached to this Notice. Copies of the Rules may be obtained  
11 from the Office of the City Clerk during normal business hours.  
12  
13 3. On August 5, 2015, the City Clerk posted a notice of the Department's intent to adopt  
14 proposed administrative rules for public use of City buildings (the "Proposed Rules"), in  
15 accord with City Code Section 1-2-4. The Proposed Rules were posted for a minimum of 31  
16 days. There were no written comments received from the public in response to the posting  
17 of the Proposed Rules. The Rules adopted by this Notice are the same as the Proposed  
18 Rules, and the Rules contain no changes from the text of the Proposed Rules.  
19  
20 4. The Rules are adopted under the authority of the City Manager as provided in the City  
21 Charter.  
22  
23 5. Adoption of the Rules may be appealed in accord with the provisions of City Code Chapter  
24 1-2. A person may appeal the adoption of the Rules by written notice filed with the City  
25 Clerk within 30 days after the date this Notice is posted by the City Clerk. The written  
26 notice shall specify the person's name and contact information, identify the part(s) of the  
27 Rules being appealed, and state the specific reason(s) why the Rules should be modified or  
28 withdrawn. Other requirements for an appeal are set out in City Code Sections 1-2-10  
29 through 1-2-16.  
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34   
35 Marc A. Ott, City Manager

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38 **CERTIFICATION**

39 In accord with City Code Section 1-2-8(5), the City Attorney has reviewed the Rules and  
40 certifies that the Rules are within the authority of the Management Services Department to  
41 adopt.  
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43   
44 B. Lee Crawford, City Law Department  
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3 **City of Austin**  
4 **Rules for Public Use of City Properties**  
5 **(Effective September 21, 2015)**

6 **1. Purpose.**

- 7 (A) The City recognizes its duty to the citizens of Austin to be a responsible  
8 steward of the public properties and lands under its ownership or control, to  
9 maintain these public properties and lands in a manner that promotes public  
10 safety and health, and to provide City-owned facilities where the City and the  
11 public can conduct business and other approved activities free from unlawful  
12 and disruptive interference.
- 13 (B) The City also recognizes the right of its citizens to engage in legitimate  
14 activities protected by the First Amendment to the U.S. Constitution that may  
15 occur in or on public Properties and lands owned by the City.
- 16 (C) Under the City's Charter, the City Manager has the authority and responsibility  
17 to control and maintain the City's public properties and lands in accord with  
18 these interests.
- 19 (D) Except as provided, these rules apply to all City properties. A City department  
20 may adopt more stringent rules under Chapter 1-2 of the City Code for City  
21 property under the department's control. Rules adopted by a department under  
22 Chapter 1-2 are cumulative of these rules.
- 23 (E) These rules do not apply to conduct that occurs during meetings of the Austin  
24 City Council, which is addressed separately in the Austin City Code and rules  
25 adopted by the Council.

26 **2. Definitions.**

- 27 (A) Except as provided, in these rules words and phrases mean what the words and  
28 phrases mean in the City Code.
- 29 (B) In these rules:
- 30 (1) "director" means a department director responsible for a City property;
- 31 (2) "designee" means an assistant director or other manager to whom a director  
32 has made a written delegation of authority to deny physical access to a city  
33 property for which the director has responsibility.

- 1 (3) "employee" means a City employee, contractor, or volunteer in the conduct  
2 of City duties, and includes security personnel;
- 3 (4) "person" means a person who is present on a city property, other than an on-  
4 duty City employee; and
- 5 (5) "city property" means a property or part of a property which the City owns  
6 or controls, including the entrance ways and adjacent lawns, landscaping,  
7 and parking areas.

8 **3. Not a Public Forum.** Except for areas that are traditional public forums, such as  
9 parks and sidewalks, and areas specifically designated in writing as limited or full-  
10 purpose public forums, city properties and workplaces are not public forums.

11 **4. Conduct.**

12 (A) A person may not:

- 13 (1) enter an area of a city property that is not open to the public without the  
14 permission of a person authorized to permit such entry;
- 15 (2) block access to an entrance or passageway at a city property, or a resource  
16 on a city property; or
- 17 (3) disrupt the normal provision of City services to the public, disrupt the use or  
18 enjoyment of a city property by the public or other persons, disrupt a public  
19 meeting, or disrupt the conduct of business in a City workplace.

20 (B) While at a city property, a person may not:

- 21 (1) harass, sexually harass, abuse, threaten, assault, or fight with a person;
- 22 (2) threaten to damage the city property;
- 23 (3) incite a breach of the peace;
- 24 (4) carry or display a weapon, except as expressly permitted by the City Code,  
25 or by state or federal law;
- 26 (5) violate any local, state, or federal criminal law; or
- 27 (6) vandalize, steal, or recklessly or intentionally damage city property or City-  
28 owned personal property at that city property.
- 29

1       **5.     Violations.**

- 2           (A) If a person violates these rules, an employee responsible for the city property  
3           shall orally warn the person to stop the behavior. If the person fails to stop the  
4           prohibited behavior, the employee shall ask the person to leave the city  
5           property for the remainder of the current day.
- 6           (B) If an employee determines that a person's violation of these rules is so serious  
7           that the person remaining on the city property creates an immediate danger to  
8           the city property, employees, or to other persons, or interferes with the use and  
9           enjoyment of the city property by other persons, the employee may ask the  
10          person to leave without an initial oral warning.
- 11          (C) If a person refuses a request to leave the city property, the employee should  
12          immediately seek the assistance of security or law enforcement personnel.

13       **6.     Denial of physical access to a city property.**

- 14          (A) This section does not apply to a limited or full-purpose public forum.
- 15          (B) A director or designee shall deny physical access to a city property to a person  
16          as provided in this section if the person is asked to leave the city property for  
17          any violation of Section 4 three times in a six month period.
- 18          (C) A director or designee may deny physical access to a city property for any  
19          violation of Section 4(B) that involves actual damage to a City property,  
20          physical injury to any person, the theft of City-owned personal property, or an  
21          actual breach of the peace at a city property.
- 22          (D) The period for which a person is denied physical access to a city property  
23          under this section is one year, beginning on the effective date of the denial.
- 24          (E) Before a person is denied physical access to a city property, the director or  
25          designee must give written notice to the person of the denial, the specific city  
26          property to which access is denied, the reason for the denial, and the  
27          opportunity for a hearing on the denial.
- 28                (1) The person may request a hearing in writing no later than the fifth business  
29                day after the date the person receives the written notice.
- 30                (2) If a person requests a hearing in writing, the director or designee shall  
31                promptly schedule a hearing. The hearing may be before the director or  
32                designee, or before a hearing examiner at the discretion of the director or

1           designee. The person conducting the hearing shall provide for an audio  
2           recording of the hearing.

3           (3) If, after the hearing, the director or designee finds that the grounds in  
4           Subsection (B) of this section are met, the director or designee shall make  
5           the denial of access final, and notify the person in writing.

6           (4) If, after the hearing, the director or designee finds that the grounds in  
7           Subsection (B) of this section are not met, the director or designee shall  
8           rescind the denial of access, and notify the person in writing.

9           (F) Except in the case of an alleged violation of Section 4(B), a denial of physical  
10          access is not effective until the earlier of :

11          (1) the sixth business day after the person is provided written notice of the  
12          denial; or

13          (2) in the case of a person who requests a hearing, the date the denial is made  
14          final by the director or designee.

15          (G) A person who is alleged to have violated Section 4(B) is entitled to a hearing in  
16          the manner provided by this rule. However, because a violation of Section 4(B)  
17          demonstrates an immediate danger to the safety of staff, other people, or City  
18          property, in the case of a person who is alleged to have violated Section 4(B) a  
19          denial of physical access is effective when the written notice is provided to the  
20          person, and remains in effect until a final decision in any hearing requested  
21          under Section 4(C). The director shall make a reasonable effort to hold any  
22          requested hearing promptly.

23          (H) A person who requests and attends a hearing as provided in part (E), above,  
24          may make a written request for review of a final determination by a director or  
25          designee denying access to a city property. If the final determination denying  
26          access was made by a director, the request shall be made to the Assistant City  
27          Manager over that department. If the final determination was by a designee,  
28          the request shall be made to the director of that department. Any such request  
29          shall be made within two business days of the receipt by the person of notice  
30          that the denial of access is made final. The review shall be based on the audio  
31          recording from the hearing and any other materials from that hearing, and no  
32          new information or material may be considered. A decision on the request for  
33          review shall be made within seven business days. A request for review as  
34          provided in this part does not suspend the operation of a final decision denying  
35          access to a city property.

1 (I) A person who is denied physical access to a city property may continue to  
2 access City services and programs at the city property in ways that do not  
3 require physical access to the city property, so long as the person meets other  
4 requirements for access to the services and programs. The director shall  
5 provide a reasonable accommodation under applicable law in the case of any  
6 person with a disability.

7 (J) The City Manager (or designee) may enforce the denial of physical access by a  
8 criminal trespass notice, and may provide further direction to staff by an  
9 administrative bulletin.

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