

**RULES
OF
THE UNIVERSITY OF TENNESSEE (ALL CAMPUSES)**

**CHAPTER 1720-01-12
USE OF UNIVERSITY PROPERTY BY NON-AFFILIATED PERSONS FOR FREE EXPRESSION
ACTIVITIES**

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1720-01-12-.01 PURPOSE AND APPLICATION OF THIS CHAPTER. Purpose and Application of This Chapter. The purpose of this Chapter is to provide a uniform basis on which the University of Tennessee will regulate the use of University property by non-affiliated persons for free expression activities through reasonable, viewpoint neutral regulations consistent with and in furtherance of the University's principal missions of teaching, research, and service. To the extent of any conflict between this Chapter and Chapter 1720-01-02 (Use of University Property), Chapter 1720-01-08 (Assembly Policy), or Chapter 1720-01-07 (Solicitation on University Property), this Chapter shall control. This Chapter supersedes and replaces the "Speaker Policy" adopted by the University of Tennessee Board of Trustees on June 19, 1969.

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. **Administrative History:** Emergency rule filed July 18, 2014; effective through January 14, 2015. Original rule filed July 18, 2014; effective October 15, 2014.

1720-01-12-.02 DEFINITIONS.

- (1) The term "academic freedom" means the academic freedom of a University faculty member described in the University of Tennessee Board of Trustees' Policies Governing Academic Freedom, Responsibility, and Tenure.
- (2) The term "designated public forum" means property that has not traditionally been regarded as open to free expression activities but which has been intentionally opened by the University for the purpose of free expression activities by members of the general public.
- (3) The term "free expression activities" means expression and/or assemblies protected by the First Amendment, including, but not limited to, picketing, distributing printed materials, public speaking, demonstrations, rallies, vigils, parades, and marches.
- (4) The term "limited public forum" means property that has not traditionally been regarded as open to free expression activities but which has been intentionally opened by the University for the purpose of free expression activities by certain groups or opened by the University for the purpose of free expression activities that are dedicated solely to the discussion of certain subjects.
- (5) The term "non-affiliated person" means any person or entity who is not a University unit, student, student organization, employee, or volunteer.
- (6) The term "nonpublic forum" means property that is not a forum for free expression activities.

(Rule 1720-01-12-.02, continued)

- (7) The term “printed materials” means publications, handbills, posters, leaflets, petitions, fliers and all other types of written matter.
- (8) The term “public speaking” means:
 - (a) orally and audibly expressing;
 - (b) a message, idea, opinion, concept, principle, or belief;
 - (c) to one or more other persons;
 - (d) in public; and
 - (e) in a manner other than through a private conversation.
- (9) The term “student organization” means a student organization registered with the University in accordance with University rules.
- (10) The term “traditional public forum” means property that by tradition or by government fiat is open to assembly and debate by members of the general public, such as city streets, sidewalks, and parks.
- (11) The term “University” means the campuses, centers, and institutes of the University of Tennessee, and all their constituent parts, and the University of Tennessee system administration.
- (12) 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.
- (13) The term “University property” means all land, grounds, structures, and any other physical property owned, controlled, or operated by the University.

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. **Administrative History:** Emergency rule filed July 18, 2014; effective through January 14, 2015. Original rule filed July 18, 2014; effective October 15, 2014.

1720-01-12-.03 GENERAL RULES.

- (1) The University’s property is dedicated to the advancement of the University’s principal missions of teaching, research, and service. The University’s property is not a traditional public forum or a designated public forum and thus is not open for use by non-affiliated persons, either by tradition or by University policy, for free expression activities, except as otherwise expressly provided in this Chapter. Rather, with the exception of the streets and sidewalks described in Section .06, University property consists of a variety of limited public forums and nonpublic forums.
- (2) Free expression activities permitted by this Chapter are subject to the time, place, and manner restrictions in Section .08.

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. **Administrative History:** Emergency rule filed July 18, 2014; effective through January 14, 2015. Original rule filed July 18, 2014; effective October 15, 2014.

1720-01-12-.04 NON-AFFILIATED PERSONS INVITED TO PARTICIPATE IN THE FREE EXPRESSION ACTIVITIES OF STUDENT ORGANIZATIONS AND FACULTY MEMBERS USING LIMITED PUBLIC FORUMS.

- (1) The University has opened many of its outdoor spaces and indoor facilities as limited public forums for use by students and by faculty members exercising academic freedom. In accordance with well-established First Amendment law, the University does not regulate these free expression activities on the basis of viewpoint.
- (2) A student organization using a University limited public forum may invite a non-affiliated person to participate in the student organization's free expression activities, subject to the terms of the invitation and subject to the time, place, and manner restrictions in Section .08. The student organization that invites the non-affiliated person shall be responsible for ensuring that the non-affiliated person is knowledgeable about the restrictions in this Chapter.
- (3) A faculty member using a University limited public forum in the exercise of his or her academic freedom may invite a non-affiliated person to participate in the faculty member's free expression activities, subject to the terms of the invitation and subject to the time, place, and manner restrictions in Section .08. The faculty member who invites the non-affiliated person shall be responsible for ensuring that the non-affiliated person is knowledgeable about the restrictions in this Chapter.
- (4) A non-affiliated person invited pursuant to this Section .04 is not a guest of the University. Rather, the non-affiliated person is a guest of the student organization or faculty member who is using the University's limited public forum.
- (5) A student organization or faculty member deciding whom to invite or not invite as a participant in free expression activities in a University limited public forum pursuant to this Section .04 does not exercise the governmental authority of the University or the State of Tennessee (i.e., the student organization or faculty member is not acting as a governmental official deciding who is allowed to use a limited public forum). Rather, the student organization or faculty member is the user of the forum, with First Amendment rights to decide whom to include in the free expression activities. An invitation extended to a non-affiliated person by a student organization or faculty member under this Section .04 shall not be construed to imply approval or endorsement by the University of the views expressed by the non-affiliated person.
- (6) The participation of a non-affiliated person in free expression activities under this Section .04 is by invitation initiated by a student organization or faculty member. Nothing in this Chapter shall be construed to grant a non-affiliated person a right to solicit such an invitation from a student organization or faculty member or require a student organization or faculty member to respond to such a solicitation from a non-affiliated person.

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. **Administrative History:** Emergency rule filed July 18, 2014; effective through January 14, 2015. Original rule filed July 18, 2014; effective October 15, 2014.

1720-01-12-.05 NON-AFFILIATED PERSONS INVITED TO PARTICIPATE IN FREE EXPRESSION ACTIVITIES IN CONNECTION WITH AN OFFICIAL ACTIVITY OF A UNIVERSITY UNIT.

- (1) A University unit may invite a non-affiliated person to participate in free expression activities in connection with an official activity of the University unit (e.g., lecture, presentation, debate, panel, symposium) if the head of the University unit determines that the non-affiliated person's participation would advance one or more of the University's principal missions of teaching, research, and service. In making such a determination, the head of the University

(Rule 1720-01-12-.05, continued)

unit is deciding how to use University property to advance the University's mission. That decision is government speech, which is not subject to the restrictions of the First Amendment's Free Speech Clause.

- (2) The participation of a non-affiliated person in free expression activities under this Section .05 is by invitation initiated by a University unit. Nothing in this Chapter shall be construed to grant non-affiliated persons a right to solicit such an invitation or to require a University unit to respond to such a solicitation from a non-affiliated person.

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. **Administrative History:** Emergency rule filed July 18, 2014; effective through January 14, 2015. Original rule filed July 18, 2014; effective October 15, 2014.

1720-01-12-.06 UNIVERSITY STREETS AND SIDEWALKS.

- (1) Subject to the time, place, and manner restrictions in Section .08, the following University property may be used by a non-affiliated person for free expression activities:
 - (a) A street owned or controlled by the University;
 - (b) A sidewalk owned or controlled by the University that runs parallel to a street owned or controlled by the University; or
 - (c) A sidewalk owned or controlled by the University that runs parallel to a street owned or controlled by a municipality, county, or the State of Tennessee.
- (2) Section .06(1) does not include: University access or service roads (i.e., roads with the primary function of providing for the movement of vehicular traffic between a street and a University facility or parking lot); parking lots; ramps; alleys; mass transit loading zones or waiting areas; driveways; or any property with the primary function of providing for the movement of pedestrian traffic, such as sidewalks not described in Section .06(1), pedestrian malls, pedestrian bridges, greenways, and trails.
- (3) This Chapter does not apply to streets, sidewalks, or other traditional or designated public forums owned by a municipality, county, or the State of Tennessee, the uses of which are subject to compliance with federal, state, or local law, rule, regulation, or ordinance.
- (4) For purposes of this Section .06, the term "State of Tennessee" does not include the University.
- (5) Each campus shall publish on its website a map that indicates the streets and sidewalks described in Section .06(1).

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. **Administrative History:** Emergency rule filed July 18, 2014; effective through January 14, 2015. Original rule filed July 18, 2014; effective October 15, 2014.

1720-01-12-.07 OTHER FREE EXPRESSION ACTIVITIES.

- (1) Subject to the time, place, and manner restrictions in Section .08, a non-affiliated person may communicate a message on "The Rock" at the University of Tennessee, Knoxville.
- (2) Subject to the time, place, and manner restrictions in Section .08, nothing in this Chapter shall be construed to prohibit a non-affiliated person who is engaged in a use of University property permitted under Chapter 1720-01-02 (Use of University Property) from engaging in

(Rule 1720-01-12-.07, continued)

free expression activities such as a private conversation, gesturing, operating a vehicle displaying written expression, standing, or wearing expressive clothing, accessories, buttons, or stickers.

- (3) Certain University activities and events are open to attendance by non-affiliated persons at a designated place and time, such as athletic contests, plays, lectures, and concerts. Subject to the time, place, and manner restrictions in Section .08, nothing in this Chapter shall be construed to prohibit a non-affiliated person from attending and participating in such an activity or event and participating in free expression activities germane to the activity or event (e.g., cheering at a football game, singing at a concert).
- (4) The University may designate certain University property as available for lease to non-affiliated persons for free expression activities under standard terms and conditions and subject to the time, place, and manner restrictions in Section .08. In the event of any inconsistency between this Chapter and the terms of a lease agreement between the University and a non-affiliated person, the terms of the lease agreement shall control over this Chapter.

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. **Administrative History:** Emergency rule filed July 18, 2014; effective through January 14, 2015. Original rule filed July 18, 2014; effective October 15, 2014.

1720-01-12-.08 TIME, PLACE, AND MANNER RESTRICTIONS.

- (1) The University will regulate the time, place, and manner of free expression activities in order to prevent substantial disruption of the advancement of the University's teaching, research, or service missions; prevent substantial disruption of normal or scheduled uses of University property by persons affiliated with the University; facilitate traffic on University property; preserve residential tranquility for students; preserve an atmosphere conducive to learning; preserve University property and prevent the use of University property contrary to law or University policies; and protect the health, safety, and welfare of persons affiliated with the University and/or persons using University property pursuant to Chapter 1720-01-02 (Use of University Property).
- (2) A non-affiliated person using University property shall not:
 - (a) block or substantially impede vehicular, bicycle, pedestrian, or other traffic, as the right of way of streets, sidewalks, and pedestrian malls must be maintained;
 - (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, or the ability of a student to study in a University library;
 - (e) violate a federal, state, or local law, rule, regulation, or ordinance;
 - (f) 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;

(Rule 1720-01-12-.08, continued)

- (g) 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;
 - (h) unreasonably threaten the health or safety of another person; or
 - (i) damage or deface University property, including, but not limited to, grass, shrubs, trees, or other landscaping.
- (3) A non-affiliated person permitted to distribute printed materials under this Chapter shall refrain from littering and may be held responsible for costs incurred as a result of littering.
- (4) A non-affiliated person shall not place any signs, banners, posters, or other displays on or against, attach them to, or write on any structure or natural feature of University property, including, but not limited to, doors, buildings, windows, walls, the surface of walkways or roads, fountains, utility poles, lampposts, waste receptacles, trees, street signs, ash urns, benches, bus stops, University-owned signage, emergency phones, railings, newsstands, and utility boxes. Nor may any chalk, paint, or permanent markings be placed on or against, attached to, or written on such structures or natural features. Signs, banners, posters, and other displays causing ground penetration are prohibited. This Section .08(4) shall not apply to "The Rock" at the University of Tennessee, Knoxville.
- (5) A non-affiliated person shall not distribute printed materials on motor vehicles parked on University property.

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. **Administrative History:** Emergency rule filed July 18, 2014; effective through January 14, 2015. Original rule filed July 18, 2014; effective October 15, 2014.