

Department of State Division of Publications 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower Nashville, TN 37243 Phone: 615-741-2650 Email: publications.information@tn.gov	For Department of State Use Only Sequence Number: <u>05-02-15</u> Rule ID(s): <u>5953</u> File Date: <u>05/04/15</u> Effective Date: <u>08/02/15</u>
--	---

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207, and 4-5-229 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 ninety (90) days of 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.

Pursuant to T.C.A. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Department of State
Division:	Publications
Contact Person:	Cody Ryan York
Address:	312 Rosa L. Parks Avenue, Snodgrass Tower, 8 th Floor, Nashville, TN 37243
Zip:	37243
Phone:	615-741-2650
Email:	Cody.York@tn.gov

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
1360-01-08	Filing for Inclusion on the No Trespass Public Notice List Maintained by the Department of State
Rule Number	Rule Title
1360-01-08-.01	Purpose and Scope
1360-01-08-.02	Definitions
1360-01-08-.03	Application and Required Documents
1360-01-08-.04	Application Correction and Withdrawal Process
1360-01-08-.05	Publication
1360-01-08-.06	Fees

New Rules

CHAPTER 1360-01-08
FILING FOR INCLUSION ON THE NO TRESPASS
PUBLIC NOTICE LIST

TABLE OF CONTENTS

- 1360-01-08-.01 Purpose and Scope
- 1360-01-08-.02 Definitions
- 1360-01-08-.03 Application and Required Documents
- 1360-01-08-.04 Application Correction and Withdrawal Process
- 1360-01-08-.05 Publication
- 1360-01-08-.06 Fees

1360-01-08-.01 PURPOSE AND SCOPE.

- (1) The purpose of these rules is to provide a procedure for employers to file information and documents with the Department of State to be included on the "No Trespass Public Notice List" in accordance with T.C.A. § 39-14-405(f). These rules are also promulgated for the purpose of specifying what information and documents must be filed with the Department of State for inclusion on the "No Trespass Public Notice List," and for implementing and establishing fees to be charged for filing with the Department of State in connection with same.

Authority: T.C.A. § 39-14-405.

1360-01-08-.02 DEFINITIONS.

- (1) "Application" means the application to be filed with the Division of Publications to be included on the NTPN List.
- (2) "Duly recorded" means that a document has been recorded by the County Register of Deeds for the County in which the property at issue is located, and that the document contains a stamp on its face evidencing recording by the County Register of Deeds, or is accompanied by a certification provided by the County Register of Deeds which indicates that the document has been recorded.
- (3) "Department of State" means the Office of the Secretary of State.
- (4) "Division of Publications" means the Division of Publications of the Department of State.
- (5) "Employer" means a person or entity that operates a business with a physical location in the State of Tennessee.
- (6) "NTPN List" means the No Trespass Public Notice List.
- (7) "Secretary" means the Secretary of State.

Authority: T.C.A. § 39-14-405.

1360-01-08-.03 APPLICATION AND REQUIRED DOCUMENTS.

- (1) Application. Applications may be requested in person from the Division of Publications located at 312 Rosa L. Parks Avenue, 8th Floor, Snodgrass Tower, Nashville, TN 37243, or by telephone at (615) 741-2650. Applications are also available online at www.tn.gov/sos/pub/index.htm.
- (2) Hours of Operation. Applications will be accepted for filing by the Division of Publications during its regular office hours of 8:00 a.m. to 4:30 p.m. central time.
- (3) Required Information. An applicant must supply the following information on the Application:

- (a) The full legal name, business address, phone number, and email address of the employer filing the Application.
 - (b) If the employer is a corporate entity, the name, business address, phone number and email address of a member, officer, partner or other individual with authority to act on behalf of the corporate entity.
 - (c) The address and legal description of the property, which shall consist of one of the following:
 - 1. Metes and bounds description;
 - 2. Lot number;
 - 3. Map and parcel number; or
 - 4. Any other description which was accepted for recording by the County Register of deeds at the time of the most recent duly recorded filing for that property and that is contained in the body of the duly recorded document.
 - (d) A description of the employer's legal basis to assert private property rights over the property, e.g., a leasehold interest or ownership by warranty deed of the property.
 - (e) Affirmation that the applicant is an employer who is requesting the employer's established private property rights be recognized and recorded against criminal trespassers under T.C.A. § 39-14-405(a).
 - (f) A declaration that the information and documents provided by the employer are true and accurate.
- (4) Required Documents. An applicant must submit a copy of a document or document(s) evidencing the employer's private property rights. This document may be one or more of the following:
- (a) A deed that has been duly recorded with the County Register of Deeds of the County in which the property is located and which lists the employer as a grantee of the property.
 - (b) A duly recorded contract/purchase agreement which lists the employer as a purchaser.
 - (c) A duly recorded easement listing the employer as the person or entity entitled to the easement.
 - (d) A power of attorney listing the employer as the grantee, in combination with a duly recorded document evidencing a property ownership interest of the grantor.
 - (e) A lease agreement listing the employer as a lessee and the property owner as the lessor, along with a document (as set forth above) evidencing the property owner's ownership interest in the property.
 - (f) A trust instrument evidencing the employer as the trustee or beneficiary of the trust.
 - (h) Any other duly recorded document evidencing employer's legal basis to assert private property rights over the property.
- (5) Verification of Information and Documents. The employer, or the individual authorized to act on behalf of the corporate employer, must affirm through his or her signature on the Application that the information and documents supplied to the Division of Publication are true and accurate. The employer's signature on the Application must be notarized. The Division of Publications is ministerial in function with regard to the filing of the Application and supporting documents and is not responsible for verifying the accuracy or authenticity of the information or documents supplied.

Authority: T.C.A. § 39-14-405.

1360-01-08-.04 APPLICATION CORRECTION AND WITHDRAWAL PROCESS.

- (1) Correction of Application. The Division of Publications will notify any employer submitting an application of facial deficiencies in the application, i.e., any missing information or apparent errors. The employer must thereafter correct any deficiencies in the application prior to being included on the NTPN List.
- (2) Withdrawal of Application. An employer may withdraw its application at any time upon the filing of a Notice of Withdrawal, the form for which is available from the Division of Publications as set forth in Rule 1360-01-08-.03(1) above. Upon receipt of the Notice of Withdrawal, the Division of Publications will contact the employer to confirm withdrawal of the Application, will remove the employer's name from the NTPN List published on the website, and will update the NTPN List prior to distribution to law enforcement agencies on January 15 and July 15 of each year.

Authority: T.C.A. § 39-14-405.

1360-01-08-.05 PUBLICATION.

- (1) Public Records. The Application and all documents filed with it will become public records pursuant to the Tennessee Public Records Act, T.C.A. § 10-7-501 et seq. upon filing with the Division of Publications. The name of the employer and the address for which the employer intends to assert private property rights will be published online on the NTPN List.
- (2) Distribution to Law Enforcement. The Division of Publications will distribute the name of the employer and the address for which the employer intends to assert private property rights on January 15 and July 15 of each year to each law enforcement agency having jurisdiction over policing or regulating criminal trespassing for the employers listed on the NTPN List. Distribution will be made via email to those law enforcement entities that have provided the Division of Publications with an email address. Otherwise, distribution will be made by U.S. mail.

Authority: T.C.A. § 39-14-405.

1360-01-08-.06 FEES.

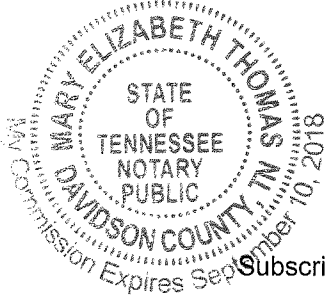
- (1) Effective July 1, 2015, the fee for submitting an Application to the Division of Publications is twenty-five dollars (\$25).
- (2) There is no fee for submitting a Notice of Withdrawal as provided in 1360-01-08-.04.
- (3) Filing fees may be paid by check, cashier's check, or money order made payable to the Department of State.

Authority: T.C.A. § 39-14-405.

* 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)

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on _____ (date as mm/dd/yyyy), 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 filing of the proposed rule with the Secretary of State.



Date: 2-19-15

Signature: Cody Ryan York

Name of Officer: Cody Ryan York

Title of Officer: Dir. of Publications

Subscribed and sworn to before me on: 2/19/15

Notary Public Signature: Mary Elizabeth Thomas

My commission expires on: 9/10/2018

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
Herbert H. Slatery III
Attorney General and Reporter
4/29/2015
Date

Department of State Use Only

Filed with the Department of State on: 05/04/15

Effective on: 08/02/15

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED
2015 MAY -4 AM 9:48
SECRETARY OF STATE
PUBLICATIONS

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.

The proposed rules will not have any adverse impact on small businesses.

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 proposed rules do not have any effect beyond the current effect of T.C.A. § 39-14-405(f)(a), which states that law enforcement agencies throughout the state will be provided a list of employers who have filed registration documents with the Department of State to maintain for use in responding to criminal trespass under T.C.A. § 39-14-405(a). If the employer is listed on the No Trespass Public Notice List, the law enforcement officer is not required to further establish an employer's rights before taking action, and may take appropriate and lawful action against a person committing criminal trespass to have such person leave the property or cease blocking ingress or egress. These proposed rules simply set forth the process for an employer to file documents to effectuate registration, as well as the distribution of the list.

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;

This proposed rule sets forth the application process and guidelines for employers requesting to be included on the Secretary of State's No Trespass Public Notice List under Chapter 956 of the Public Acts of 2014 and T.C.A. § 39-14-405(f).

- (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;

The Department of State is required to establish the No Trespass Public Notice List pursuant to T.C.A. § 39-14-405(f) and is adopting rules in accordance with T.C.A. § 4-5-202.

- (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;

Any employer in the state of Tennessee can ask to be included on the No Trespass Public Notice List. "Employer" is not specifically defined in the legislation, thus, any person, organization, corporation, or governmental entity that is an employer could utilize these proposed rules. We have not received any communication from any entity 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;

The fiscal impact is minimal.

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

Cody Ryan York
Department of State

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

Cody Ryan York, Mary Beth Thomas
Department of State

- (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

Cody Ryan York, Division of Publications, 312 Rosa L. Parks Avenue, Snodgrass Tower, 8th Floor, Nashville, TN 37243. 615-741-2650. Mary Beth Thomas, Department of State, State Capitol, Nashville, TN 37243. 615-741-2819

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

Department of State
Division of Publications
 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 07-05-15
 Rule ID(s): NA
 File Date: 7/2/15
 Effective Date: 7/2/15

Filing Form for Stay of Effective Date on Rules, Withdrawal of Stay, and Withdrawal of Rules

Agency/Board/Commission:	Department of State
Division:	Publications
Contact Person:	Cody Ryan York
Address:	312 Rosa L. Parks Avenue, Snodgrass Tower, 8 th Floor, Nashville, TN 37243
Zip:	37243
Phone:	615-741-2650
Email:	<u>Cody.York@tn.gov</u>

Type of Action on Rule:

Stay of Effective Date of Rules

Rule Filing Date: (mm/dd/yy)
 Rule Original Effective Date: (mm/dd/yy)
 Length of Stay (not to exceed 75 days): _____
 New Effective Date of Rule Filing: (mm/dd/yy)

Notice of Withdrawal of Stay

Stay Filing Date: (mm/dd/yy)
 Stay Effective Date: (mm/dd/yy)
 New Effective Date of Rule Filing: (mm/dd/yy)

Notice of Withdrawal of Rules

Rule Filing Date: 05/04/15
 Rule Effective Date: 08/02/15

Rule(s) (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
1360-01-08	Filing for Inclusion on the No Trespass Public Notice List Maintained by the Department of State
Rule Number	Rule Title
1360-01-08-.01	Purpose and Title
1360-01-08-.02	Definitions
1360-01-08-.03	Application and Required Documents

1360-01-08-.04	Application and Required Documents
1360-01-08-.05	Application Correction and Withdrawal Process
1360-01-08-.06	Fees

Date: 7-2-15

Signature: [Handwritten Signature]

Name of Officer: Cody Ryan York

Title of Officer: Director of Publications



Subscribed and sworn to before me on: 7/2/15

Notary Public Signature: Mary Elizabeth Thomas

My commission expires on: 9/10/18

Department of State Use Only

Filed with the Department of State on: 7/7/15

Tre Hargett by [Signature]
PSA Tre Hargett
Secretary of State

RECEIVED
2015 JUL -2 PM 2:07
SECRETARY OF STATE
PUBLICATIONS