

**Department of State
Division of Publications**

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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of Environment and Conservation
Division:	State Parks Operations
Contact Person:	Michael Driver
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 2nd Floor Nashville, Tennessee 37243
Phone:	(615) 253-2027
Email:	Michael.D.Driver@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 22nd Floor Nashville, Tennessee 37243
Phone:	1-866-253-5827 (toll free) or 615-532-0200 Hearing impaired callers may use the TN Relay Service 1-800-848-0298
Email:	Jennifer.Katzenmiller@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	2 nd Floor, Conference Rooms A and B		
Address 2:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date:	09/01/20		
Hearing Time:	10:00 a.m.	<input checked="" type="checkbox"/> X CST/CDT	<input type="checkbox"/> EST/EDT

The Department of Environment and Conservation is committed to the Tennessee Pledge and reopening responsibly. All individuals planning to attend this hearing are asked to follow the current recommended guidelines for social distancing, hygiene, and wearing protective equipment when appropriate.

Alternate Hearing Option (An electronic participation option is also available. If the In-Person Hearing is Prohibited or Otherwise Inappropriate the Hearing will be Electronic-Only)

Method 1:	<p>You may also join electronically.</p> <p>Join by going to this link: https://tngov.webex.com/tngov/j.php?MTID=mce2d61091e05e316bacf4bcb13970b1a</p> <p>Meeting number (access code): 161 256 4946 Meeting password: RrBaMSPg534</p>
Method 2:	<p>Join by phone 1-415-655-0003</p>

Access code: 161 256 4946

Global call-in numbers are available online at:
[Link for Global Call-in Numbers](#)

Additional Hearing Information:

If it is hard for you to read, speak, or understand English, TDEC may be able to provide translation or interpretation services free of charge. Please contact Cheryl Gracy at (615) 532-0041 for more information.

This proposed rule is intended to provide a means and guidelines under which a person may hold a special event on Tennessee State Park property. It provides the procedures for all persons intending to host a special event on state park property to obtain a permit from the Director of State Park Operations for Tennessee State Parks or the Director's designee. This chapter also provides the standards for hosting a special event on state park property.

An initial set of draft rules has been prepared for public review and comment. The "DRAFT" rules may be accessed for review using at <https://www.tn.gov/environment/ppo-public-participation/ppo-public-participation/ppo-state-parks.html>.

Oral or written comments are invited at the hearing. In addition, written comments may be submitted prior to or after the public hearing to: Tennessee Department of Environment and Conservation, State Parks, Attention: Michael D. Driver, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 2nd Floor, Nashville, Tennessee 37243; telephone (615) 253-2027 or email: Michael.D.Driver@tn.gov. However, such written comments must be received by 4:30 PM CST, September 8, 2020, in order to assure consideration. For further information, please contact Michael Driver at the above address or telephone number, or by e-mail.

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
0400-02-01	General
Rule Number	Rule Title
<u>0400-02-01-.05</u>	<u>Restrictions on Events in Non-Public Forums, Generally</u>

Chapter Number	Chapter Title
0400-02-02	Public Use and Recreation
Rule Number	Rule Title
<u>0400-02-02-.25</u>	<u>Special Events Reserved</u>

Chapter Number	Chapter Title
0400-02-11	Permits for Events and Demonstrations and Restrictions on Use of State Park Property and Facilities
Rule Number	Rule Title
0400-02-11-.01	Purpose and Scope
0400-02-11-.02	Definitions
0400-02-11-.03	Issuance or Denial of a Permit Application
0400-02-11-.04	Terms and Conditions
0400-02-11-.05	Refusal to Issue, Revocation, Suspension, and Modification of a Special Event Permit

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 0400-02-01
General

Amendment

The Table of Content of Chapter 0400-02-01 General is amended by adding a new rule 0400-02-01-.05 Restrictions on Events in Non-Public Forums, Generally so that as amended the table of contents shall read as follows:

0400-02-01-.01 Applicability

0400-02-01-.02 Reserved

0400-02-01-.03 Definitions

0400-02-01-.04 Penalties

0400-02-01-.05 Restrictions on Events in Non-Public Forums, Generally

Authority: T.C.A. §§ 11-1-101 and 4-5-201 through 4-5-229

Chapter 0400-02-01
General

New Rule

Chapter 0400-02-01 General is amended by adding new rule 0400-02-01-.05 Restrictions on Events in Non-Public Forums, Generally to read as follows:

0400-02-01-.05 Restrictions on Events in Non-Public Forums, Generally

- (1) The following categories of speech are not permitted in non-public forums, regardless of the type of special event, conference, demonstration, small group demonstration, or other gathering type, nor shall any special event, conference, demonstration, small group demonstration, or other gathering type be held in a non-public forum the core message of which, including taking into account the applicant or permittee's message, falls into one of these categories of speech:
 - (a) Obscene;
 - (b) Fraudulent;
 - (c) Defamatory;
 - (d) Directly advocating to incite or produce imminent lawless action and is likely to incite or produce such action;
 - (e) Divisive on the basis of race, color, national origin, or sex;
 - (f) Meant to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals; and
 - (g) Used as an integral part of conduct in violation of valid criminal statute.
- (2) For the purpose of paragraph (1) of this rule, the content of the applicant or permittee's message is determined based upon the applicant or permittee's official statements or principles, the statements of the applicant or permittee's leaders, and/or the applicant or permittee's activities.

Authority: T.C.A. §§ 11-1-101 and 4-5-201 through 4-5-229

Chapter 0400-02-02
Public Use and Recreation

Amendments

The table of contents to Chapter 0400-02-02 Public Use and Recreation is amend by replacing the title to Rule 0400-02-02-.25 Special Events with "Reserved."

Authority: T.C.A. §§ 11-1-101 and 4-5-201 through 4-5-229

Rule 0400-02-02-.25 Special Events is amended by deleting it in its entirety and substituting instead the following;

0400-02-02-.25 ~~Special Events.~~ Reserved.

~~Sports events, pageants, reenactments, regattas, entertainments and the like, characterized as public spectator attractions, are prohibited unless written permission has been given by the Park Manager. Such permits may be issued only after a finding that the issuance of such permit will not be inconsistent with the purposes for which the area is established and maintained, and will cause the minimum possible interference with use of the area by the general public. The permit may contain such reasonable conditions and restrictions as to duration and area occupied as are necessary for protection of the area and public use thereof.~~

Authority: T.C.A. §§ 11-1-101 and 4-5-201 through 4-5-229

Chapter 0400-02-11
Permits for Special Events and Restrictions on Use of State Park Property and Facilities

New Rules

Chapter 0400-02-11
Permits for Special Events and Restrictions on Use of State Park Property and Facilities

Table of Contents

0400-02-11-.01 Purpose and Scope
0400-02-11-.02 Definitions
0400-02-11-.03 Issuance or Denial of a Permit Application
0400-02-11-.04 Terms and Conditions
0400-02-11-.05 Refusal to Issue, Revocation, Suspension, and Modification of a Special Event Permit

0400-02-11-.01 Purpose and Scope

(1) Purpose

The purpose of this chapter is to provide a means by which a person may hold a special event on department property administered by the Department pursuant to T.C.A. § 11-1-108 in a manner that:

- (a) Is consistent with applicable law, rules, and department policies;
- (b) Ensures public health and safety;
- (c) Protects environmental or scenic values, natural or cultural resources, and scientific research;
- (d) Ensures the proper allocation and use of state park facilities; and
- (e) Reasonably avoids conflict among visitors to a state park.

(2) Scope

This chapter provides the procedures for all persons intending to host a special event on state park property to obtain a permit from the Director of State Park Operations for Tennessee State Parks or the Director's designee. This chapter also provides the standards for hosting a special event on state park property.

Authority: T.C.A. §§ 11-1-101 and 4-5-201 through 4-5-229

0400-02-11-.02 Definitions

When used in Rule 0400-02-11-.01 through Rule 0400-02-11-.04, the following terms have the following means:

"Commissioner" means the Commissioner of the Tennessee Department of Environment and Conservation or the Commissioner's authorized representative.

"Conference" means a group meeting, seminar, or other gathering held at a state park conference center, or other similar state park facility, that handles its booking through the use of group contracts rather than a special event

"Department" means the Tennessee Department of Environment and Conservation.

"Director" means the Director of State Park Operations for Tennessee State Parks or the Director's designee.

"Divisive" means tending to cause disagreements that separate people into opposing groups.

"Non-public forum" means any area designated as a non-public forum by Rule 0400-02-12-.03.

“Park manager” means the highest ranking manager responsible for oversight and management of a respective state park or the park manager’s designee.

“Permittee” means any person or entity that holds a permit issued by the Director for a special event or a demonstration.

“Special event” means a sports event, seminar, group meeting, pageant, celebration, historical reenactment, regatta, entertainment event, exhibition, parade, fair, festival, party, or any other similar event, which is not a demonstration or small-group demonstration as defined in Rule 0400-02-12-.02, is not a conference as defined in this rule, is not a commercial park activity as defined in Rule 0400-02-13-.01, and which is engaged in by one or more individuals.

“State park” means any land operated or managed by the Department pursuant to T.C.A. § 11-1-108, including state parks and state natural areas.

Authority: T.C.A. §§ 11-1-101 and 4-5-201 through 4-5-229

0400-02-11-.03 Issuance or Denial of a Permit Application

- (1) Persons planning to host a special event shall apply for and obtain a valid permit prior to hosting a special event in a state park. No special events are allowed in a state park at any time without a valid permit issued by the Director.
- (2) The special event authorized by a permit issued by the Director shall be consistent with applicable law, rules, and department policies, and based upon a determination that public health and safety, environmental or scenic values, natural or cultural resources, scientific research, implementation of management responsibilities, proper allocation and use of facilities, and the avoidance of conflict among visitors will not be adversely impacted. A special event permit shall be for a term of not more than 10 days.
- (3) The Director may issue a permit authorizing a special event in a state park to the person required to obtain a permit under paragraph (1) of this rule, subject to the conditions contained in the permit and upon receipt of a completed application on a form approved by the Director. The application form shall include, at a minimum:
 - (a) The name and contact information of the applicant;
 - (b) The date, time, duration, nature and place of the proposed special event;
 - (c) An estimate of the number of persons expected to attend;
 - (d) A statement of equipment and facilities to be used;
 - (e) If any type of structure is to be placed or erected on state park property for any special event or if any other ground-disturbing activity is to be conducted for the special event, a complete site plan that:
 1. Clearly displays all structures, including food, beverage and first-aid tents, sound and lighting towers, generators and cable runs, and security or crowd-control fencing; and
 2. If required by the park manager for more complex set-ups, contains more precise drawings or other additional materials to allow the park manager to appropriately review the proposed special event;
 - (f) A sign or sponsorship plan, if exemption from subparagraph (1)(s) of Rule 0400-02-11-.04 is being requested, that justifies how the authorized sponsor recognition is consistent with department policy, rules, and law;
 - (g) If food and beverages are to be provided during the special event other than from the Department, the names of each vendor to provide food or beverages; and
 - (h) Any other information requested by the Director or park manager to appropriately and reasonably assess the proposed special event at the state park.

- (4) A completed application for a permit shall be submitted to the park manager of the state park at which the proposed special event is to take place during normal state business hours of 8:00 a.m. to 4:30 p.m., Monday through Friday and at least 72 hours in advance of the first day of the proposed special event. If the special event would require a site plan or a sign and sponsorship plan, then the application must be submitted at least 30 days in advance of the opening day of the proposed special event.
- (5) The park manager shall review the application for completeness. If the application, in the opinion of the park manager, is not complete, the park manager shall notify the applicant of any deficiency and give the applicant an opportunity to complete the application and resubmit it for review by the park manager to determine whether to recommend granting the permit.
- (6) If the application is provided to a park manager who determines the application is complete, the park manager shall make a recommendation to the Director that the permit be either issued or denied. A park manager's recommendation to the Director for a denial shall include the reasons the special event permit should be denied. A park manager's recommendation to the Director that a special event permit be issued shall include the suggested terms, conditions, and limitations the park manager determines are appropriate to comply with this chapter.
- (7) The Director shall review any completed application for a special event permit and shall either:
 - (a) Issue the permit upon such terms and conditions as the Director determines are appropriate and as required by these rules; or
 - (b) Deny the application in writing.
- (8) The Director's decision pursuant to paragraph (7) of this rule shall be final. However, the Director may, in the Director's sole discretion, reconsider such a decision for good cause upon written request by the applicant within 30 calendar days of the issuance of a denial by the Director.
- (9) The Director shall provide an applicant the basis for a denial in writing upon written request by the applicant.

Authority: T.C.A. §§ 11-1-101 and 4-5-201 through 4-5-229

0400-02-11-.04 Terms and Conditions

- (1) To minimize the risk of danger to the public health and safety and to protect existing natural and cultural resources and landscapes, the following terms and conditions apply to all special events:
 - (a) All pathways and roadways must remain open and unobstructed, unless approved in writing by the park manager.
 - (b) No open fires (cooking or otherwise) are permitted on state park property, unless approved in writing by the park manager.
 - (c) No propane will be permitted for purposes of cooking or heating, unless approved in writing by the park manager, who may restrict the number and size of propane cylinders present on state park property.
 - (d) Except when driven on established public vehicular roadways, logistical equipment and vehicles, including gas and electric carts, must not exceed 5 miles per hour. All trucks with a gross vehicle weight of 7,500 pounds or more and equipment such as bucket trucks, platform lifts, forklifts, and cranes, must be accompanied by a walking spotter when moving or operating in an area accessible to the public.
 - (e) Stakes for tents, staging, towers, signs, or other structures shall not be driven more than 18 inches into the ground, if staking is permitted at the state park where the event is to occur, and must avoid all underground pipes and fixtures. The host of the special event may ask the park manager to mark such underground pipes and fixtures. If staking is not permitted at a state park, then staking shall be prohibited as a term of any special event held at that state park unless approved in writing by the park manager.
 - (f) In lieu of stakes, water-filled ballast tanks shall be used to secure tents, staging, towers, signs, or other structures on any state park hardscape surfaces, including plazas and other areas

comprised of asphalt, concrete, granite, wood, or other hard surface.

- (g) No digging or trenching is permitted.
- (h) No attachments may be made to existing landscape features or pass through or be affixed to existing trees or other vegetation.
- (i) No erecting of structures or parking or operation of equipment is permitted within a tree canopy (root zone) area. As a condition of the permit, the host of the special event may be required to install tree-protection fencing.
- (j) In an effort to reduce impact to turf areas, the host of the special event may be required to provide and install temporary equipment roadways, pedestrian walkways, or tent flooring fabricated from commercially available interlocking plastic composite materials or other protective material approved in advance by the park manager. Plywood shall not be used for temporary walkways or equipment roadways.
- (k) A permittee shall, at the request of the Director or park manager, be required to contact the park manager any time prior to the special event to schedule an appointment to meet the park manager at the state park where the special event is to be held to discuss any applicable site plan, logistic concerns, and any other permit conditions. During this meeting, the host of the special event may also schedule the post-event site inspection with the park manager.
- (l) No construction or site work may begin without prior approval from the Director or park manager.
- m) The permittee shall comply with the approved site plan, if applicable.
- (n) The possession and consumption of alcoholic beverages is prohibited, except as specifically allowed by the permit or other state park rules. If allowed by the permit, the permittee is solely responsible for obtaining any additional alcohol permits required by any applicable regulatory authority.
- (o) First-aid and emergency response systems beyond that typically provided by the respective state park must be organized by the permittee at permittee's sole cost. This includes any first aid tents, CPR/AED certified personnel, and necessary equipment. Permittees for special events with large crowds shall coordinate with local emergency units for ambulance services and professional emergency medical staff to be present on-site during the permitted special event. Permittees shall follow guidelines of the local fire and emergency medical services. The following guidelines, established according to the number of people anticipated at an event, will help ensure that appropriate medical response is provided throughout the event:
 - 1. 1 – 1,999 attendees - Permittee may rely on local emergency response agencies. The permit may require the permittee to arrange for a local life-support ambulance or emergency response personnel to remain on-site for events of 500 or more people if the Director determines it reasonably necessary under the circumstances of the special event and its location;
 - 2. 2,000 – 9,999 attendees - Permittee shall have a stationary first-aid site with certified and licensed first-aid personnel who will remain on site throughout the special event; and
 - 3. 10,000 or more attendees - Permittee shall have one stationary first-aid site with certified and licensed first-aid personnel who will remain on site throughout the special event and a basic life-support ambulance (licensed in the local county) that is able to transport 1 or more people to an appropriate medical facility.
- (p) If attendance at a special event is reasonably expected to exceed the capacity of existing public restroom facilities at the respective state park, or if none exist in or near the requested state park area, the permittee must provide portable toilets with sufficient capacity to accommodate anticipated attendance at permittee's sole cost. The permittee shall submit its contract or other documentation showing the provision of portable toilets to the Director or park manager at least 14 days in advance of the opening day of the special event or at the time of application for a special event permit, whichever is later. The following chart establishes the guidelines under which portable toilets shall be provided, of which 20% shall be handicap accessible:

Portable Restrooms Planning Guidelines

AVERAGE CROWD SIZE	AVERAGE HOURS AT THE EVENT*									
	1	2	3	4	5	6	7	8	9	10
500	2	4	4	5	6	7	9	9	10	12
1,000	4	6	8	8	9	9	11	12	13	13
2,000	5	6	9	12	14	16	18	20	23	25
3,000	6	9	12	16	20	24	26	30	34	38
4,000	8	13	16	22	25	30	35	40	45	50
5,000	12	15	20	25	31	38	44	50	56	63
10,000	15	25	38	50	63	75	88	100	113	125
15,000	20	38	56	75	94	113	131	150	169	188
20,000	25	50	75	100	125	150	175	200	225	250
25,000	38	69	99	130	160	191	221	252	282	313
30,000	46	82	119	156	192	229	266	302	339	376
35,000	53	96	139	181	224	267	310	352	395	438
40,000	61	109	158	207	256	305	354	403	452	501
45,000	68	123	178	233	288	343	398	453	508	563
50,000	76	137	198	259	320	381	442	503	564	626
55,000	83	150	217	285	352	419	486	554	621	688
60,000	91	164	237	311	384	457	531	604	677	751
65,000	98	177	257	366	416	495	575	654	734	813
70,000	106	191	277	362	448	533	619	704	790	876
75,000	113	205	296	388	480	571	663	755	846	938
80,000	121	218	316	414	512	609	707	805	903	1001
85,000	128	232	336	440	544	647	751	855	959	1063
90,000	136	246	356	466	576	686	796	906	1016	1126
95,000	143	259	375	491	607	724	840	956	1072	1188
100,000	151	273	395	517	639	762	884	1006	1128	1251

Based on "Portable Restroom Requirements at Special Events and Crowd Gathering"
Center for Business and Industrial Studies, University of Missouri-St. Louis

*For each sewerer toilet available onsite, subtract 1 from the previous calculated number.

*If alcoholic beverages are to be served, add 25% to the base number.

*For peak crowd numbers that fall between chart numbers, round up to the next base number.

*Table based on units being serviced daily.

- (q) The permittee may provide a generator or battery or solar-operated equipment for electrical power. All generator refueling must take place off of state park property unless specifically approved in the permit. The permit may restrict the times, dates, and locations of the on-site refueling. No storage of fuels is allowed on state park property unless specifically allowed in the permit in limited small quantities.
- (r) Vehicles may not be driven on turf or parked on any turf areas without prior approval in writing by the park manager. No vehicles shall be driven on the turf within 48 hours following substantial rainfall or if the ground is determined by the park manager to be too soft to allow vehicular travel without incurring damage. The permittee shall contact the park manager prior to beginning any set-up or disturbing any area on state park property to ensure that turf conditions are suitable for vehicle traffic. Parking is limited to designated parking areas open to the general public, unless otherwise approved in writing by the park manager. In some cases a limited number of reserved parking areas for vehicles required for logistical support may be provided by the park manager. Requests for reserved parking areas must be addressed during the planning meeting in accordance with subparagraph (k) of this paragraph and included in the site plan required by part (3)(e)2 of Rule 0400-02-11-.03.
- (s) The following requirements apply to the use of signs and advertising during special events:
 1. No commercial advertisements shall be placed, posted, or distributed at a special event and no structures representing commercial products or replications of commercial

products or merchandise may be displayed unless otherwise allowed in the permit;

2. The permit may authorize the recognition of sponsors or organizers of the special event; and
3. The overall size, number, and design of any signs or banners shall be appropriate to the park setting and may be limited by the park manager. Signs and banners may not be affixed to existing trees or other park facilities or structures unless otherwise allowed by the permit.

(t) Special events shall have on-site supervision and security as determined by the Director and the permittee shall:

1. Comply promptly with all reasonable instructions given by department personnel that are assigned by the Director for on-site supervision and public safety for the duration of the special event;
2. Reimburse the Department for the use of its personnel related directly to the conduct of the special event attendees above normal operating expenses during special events based on the hourly rate of pay for each respective department personnel plus an additional five percent for administrative expenses and any other incidental costs associated with such personnel for the special event such as travel and meals. Nothing in this part shall be construed to allow for any charge for the use of personnel not directly related to the conduct of the special event attendees, such as those risks caused by the actions or potential actions of third-party, non-attendees of the special event;
3. Provide law enforcement personnel at the special event in a number at least equal to that shown in the following chart, unless the Director, at the Director's discretion, requires the permittee to use the Department's law enforcement staff as available or restricts the use of third-party law enforcement personnel for a special event;

<u>Anticipated Crowd Size</u>	<u>Law Enforcement Personnel*</u>
100 - 500	2
500 – 1,000	4
1,000 – 2,000	5
2,000 – 3,000	6
3,000 – 4,000	8
4,000 – 5,000	12
5,000 – 10,000	15
10,000 – 15,000	20
15,000 – 20,000	25
20,000 – 25,000	38
25,000+	To be determined by the Director based on location and circumstances of event.
* additional 50% law enforcement personnel required if alcoholic beverages are provided during the special event	

4. (i) If required by the Director, provide additional law enforcement personnel above that listed in part 3 of this subparagraph where the conduct of the special event attendees presents a heightened risk to health and public safety based upon the following circumstances:
 - (I) The time of year of the special event;
 - (II) The time of day of the special event;
 - (III) The estimated number of participants in the special event, including news media;

- (IV) The existence and amount of alcohol available to participants;
 - (V) The estimated duration of the special event;
 - (VI) The estimated number of vehicles at the special event; and
 - (VII) Any inherent risks or threats to public health and safety associated with the event; and
- (ii) Nothing in this part shall be construed to require any person conducting a special event to pay for additional law enforcement personnel not directly related to the conduct of the special event attendees, such as those risks caused by the actions or potential actions of third-party, non-attendees of the special event; and
5. Be responsible for ensuring that no equipment or materials are left unattended at any time, including overnight, beginning with event set-up, and continuing throughout the permit term until tear-down is completed. This can be accomplished by providing qualified persons from the permittee's organization, by contracting with a commercial security firm, or by making prior arrangements with the park manager to assist with security service.
- (u) Insurance.
1. The permittee is required to obtain and keep in force a policy or policies of general public liability insurance with minimum limits of \$300,000 per person and \$1,000,000 per accident for injuries to persons and property, which names the State of Tennessee and the Department as additional insureds of such policy(s) for a special event if:
 - (i) Attendance is reasonably anticipated attendance to be 250 or more attendees;
 - (ii) Alcohol is served as part of the special event; or
 - (iii) The special event, in the opinion of the Director, reasonably presents inherent risks or threats to public health and safety.
 2. Proof of liability coverage shall be in the form of certificate, policy rider, or binder and shall be furnished to the Director or park manager at least 14 days prior to the scheduled special event or upon application for a special event permit, whichever is later. The policy documents shall show that the period of coverage is for the same time and place as the special event.
 3. The permittee shall notify the Department of any cancellation of such policy at least 10 days prior to the effective date of cancellation.
 4. For good cause and in the Director's sole discretion, the Director may take either of the following actions as appropriate:
 - (i) Increase the minimum limits outlined in part 1 of this subparagraph; or
 - (ii) Require the permittee procure additional forms of insurance in the amount sufficient to cover additional risks presented based on the nature of the special event.
 5. The Director or the park manager shall notify the permittee as soon as possible of any changes required to part 4 of this subparagraph.
- (v) Food and beverages provided by anyone outside the Department shall not be made available by the permittee or under arrangements by the permittee, except in accordance with the special event permit.
1. Any foods prepared off-site must be prepared in an establishment with current state and local food service certification requirements. Each on-site food vending operation must be supervised by at least one state or local certified food handling supervisor at all times during the preparation and sale of the food items. Documentation of the on-site

supervisor's state or local regulatory agency food-handling certification is required in order to be allowed by the permit. The permittee is responsible for scheduling any required inspections by the local health department or other regulatory authority as may be required by law or regulation.

2. The Department may assess a vendor fee for each vendor for each day the special event is open to the public. The vendor fee shall be paid prior to the special event. Following the special event, the permittee may seek reimbursement of the vendor fee for any vendors that did not attend the special event, in accordance with subparagraph (y) of this paragraph. The Department may deny the use of vendors beyond the number of vendors disclosed on the special use permit application or may allow some or all of the additional vendors to attend and may bill the permittee for the appropriate vendor fee for the additional vendors. For purposes of this subparagraph (v), the term "vendor" means any person or entity authorized to sell or make available food, merchandise, goods, or services at a special event, or any person or entity authorized to distribute information to special event attendees for a commercial purpose.
- (w) News coverage of the special event is allowed without additional permits unless significant or disruptive equipment is involved and which was not included in the permittee's application or site plan. If the permittee anticipates news media attendance, the permittee shall seek to make arrangements with the Director or park manager to accommodate news media coverage of the special event at least seven days before the opening day of the special event or at the time of application for the special event permit, whichever is earlier. Commercial taping or filming requires a permit from the Tennessee Film, Entertainment & Music Commission, which may require additional charges.
- (x) No special event permit the issuance of which would affect, impact, or authorize use of any site designated by the Commissioner as an archaeological site pursuant to T.C.A. § 11-6-110, shall be issued unless the Director first receives approval of the issuance of such permit from the state archaeologist or the state archaeologist's designee.
- (y) The following conditions as to cost shall apply to all permits:
1. (i) In the event that the Director determines that it is necessary, a permittee shall provide a cost recovery deposit (in the form of a credit card, cash, certified check, or money order made payable to the Department) to cover costs incurred:
 - (I) When department personnel or contractors are required to work for special event supervision, set-up, or take-down;
 - (II) For site restoration and damage repair following the special event to return the park grounds or facilities to the condition they were in immediately prior to the special event;
 - (III) To ensure safe conduct by and safety of the special event attendees;
 - (IV) To staff the special event; and
 - (V) Any other costs above normal operating expenses directly resulting from the special event.
 - (ii) Nothing in this part shall be construed to require any person conducting a special event to provide a costs recovery deposit based in any part on costs not directly related to the conduct of the special event attendees, such as those risks caused by the actions or potential actions of third-party, non-attendees of the special event.
2. The Director or park manager, in collaboration with the Director, will estimate the cost recovery deposit amount by determining any reasonably anticipated costs associated with the special event, including all items outlined in part 1 of this subparagraph.
 3. The Director or park manager may require a cost recovery deposit up to 100% of reasonably anticipated costs to the Department resulting from the special event. The Director or park manager shall notify the permittee of the cost recovery deposit at least

30 calendar days prior to the permitted special event or on the same day that the Director issues a special event permit to the permittee, whichever is later. The permittee shall pay the deposit at least 24 hours before any special event activities are conducted on the state park property. Failure to pay the deposit renders any permit issued null and void.

4. The Department will attempt to conduct damage and cost assessments within three business days immediately following the close of the special event, or as soon as reasonably able to do so under the circumstances. The permittee may attend the damage and cost assessment with department personnel if the permittee requests to do so prior to the actual assessment.
 5. The Department will conduct a reasonable accounting of charges incurred as a result of the special event within 30 days following the close of the special event period. Any costs to the Department shall be itemized and deducted from any cost recovery deposit. Any remaining deposit balance will be returned to the permittee. If necessary, the Department will issue the permittee a bill for any costs in excess of the cost recovery deposit, which bill shall be paid in full to the Department within 30 calendar days following the permittee's receipt of the bill. Any funds not so paid shall be subject to collection at permittee's expense.
- (2) A park manager may, upon written authorization by the Director, require different timelines than those required under this chapter in order to meet the unique needs of a particular park. If a state park has timelines that are different than those listed in this chapter, the park shall update all special event documentation used at the state park to reflect the state park's timelines. No change in timelines shall apply retroactively to any special event that was approved or any application submitted prior to the approval of the new timelines, or to any application received within thirty days of the new timelines becoming effective.
- (3) The Director may require such other terms, conditions, and limitations, including reasonable limitations on the use of equipment and the time and area within which the special event is allowed to occur, as the Director deems necessary or to comply with this chapter and all other laws, rules, and state park rules.

Authority: T.C.A. §§ 11-1-101 and 4-5-201 through 4-5-229

0400-02-11-.05 Refusal to issue, revocation, suspension, and modification of a special event permit

- (1) The following shall be grounds upon which the Director may refuse to issue a special event permit and the Commissioner may refuse to issue, revoke, suspend, or modify a special event permit:
- (a) The designated capacity for an area or facility would be exceeded based on the permit;
 - (b) The special event authorized is being operated in a manner that:
 1. Is contrary to the purposes for which the natural, historic, recreational, or special use areas exist in a state park; or unreasonably impairs the atmosphere of peace and tranquility maintained in natural, historic, hospitality, recreational, or commemorative areas in a state park;
 2. Unreasonably interferes with interpretive, visitor service, or other program activities, or with the administrative activities of a state park;
 3. Substantially impairs the operation of public use facilities or services of state park concessioners or contractors;
 4. Presents a clear and present danger to public health and safety based solely on the conduct of the special event attendees and not those risks caused by the actions or potential actions of third-party, non-attendees of the special event; or
 5. Results in significant conflict with other existing uses of a state park;
 - (c) A special event requested to be authorized is reasonably anticipated to be operated in a manner in violation of this chapter;
 - (d) The applicant or permittee has failed to comply with any term or condition of a special event

permit;

- (e) The applicant or permittee has violated any law, rule, or state park rule in its operation of a special event;
 - (f) The applicant or permittee has not paid all costs associated with a previous special events permit; or
 - (g) The applicant or permittee provided materially false or incorrect information to the Department in connection with an application for a permit.
- (2) Any hearing to revoke, suspend, or modify a special event permit under this rule shall be conducted pursuant to the Administrative Procedures Act, (T.C.A. §§ 4-5-101, et seq., 4-5-201 et seq., and 4-5-301 et seq.).
- (3) The Commissioner may initiate the process of summary suspension of the special event permit when the Commissioner believes that an emergency action is necessary to protect public health, safety, or welfare.

Authority: T.C.A. §§ 11-1-101 and 4-5-201 through 4-5-229

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: July 10, 2020

Signature: _____

Name of Officer: Michael D. Driver

Title of Officer: Senior Associate Counsel

Department of State Use Only

Filed with the Department of State on: _____

Tre Hargett
Secretary of State