

**RULE NO: 161-23.20**

**NOTICE OF RULES ADOPTION**

**ADOPTION DATE: September 13, 2023**

The Director of the Austin Public Health has adopted the following rule that applies to special events subject to Chapter 4-20 (*Special Events*). Notice of the proposed rule was posted on July 6, 2023. Public comment was solicited in the July 6, 2023 notice. This notice is issued under Chapter 1-2 of the City Code. Section 1-2-10 of the City Code authorizes appeals for adopted rules. Appeals are made to the City Manager.

**EFFECTIVE DATE OF ADOPTED RULE**

The rules that are the subject of this Notice are effective on November 1, 2023.

**TEXT OF ADOPTED RULES**

In response to public comments, the Austin Public Health proposes amendments to the rules that were proposed on or about July 6, 2023. The adopted rules allow the special events industry to use sanitation and water distribution systems that are systematically and technically advanced in their design and exceed what the State's mass gathering rules require. The amendments create a variance process that allows for modifications or waivers from the rules. Additionally, the amendment also allows previously approved sanitation and water supply distribution infrastructure to be utilized under certain conditions. These changes can be found in Rule 9.1.2.2. Variances.

A copy of the complete text of the adopted rules, the changes from the proposed rules, and an explanation of changes are available for public inspection and copying at the following locations. Copies may be purchased at the locations at a cost of ten cents per page.

Austin Public Health, Environmental Health Services, 1520 Rutherford Drive and  
Office of the City Clerk, City Hall, located at 301 West 2nd Street.

**BRIEF EXPLANATION OF ADOPTED RULES**

The adopted rules require Tier 2 special events that last four or more hours and include alcohol, food, or beverages, Tier 3 special events, and Tier 4 special events to obtain a review and approval from Austin Public Health as part of the special event application process. The adopted

rules also include a variance process, water requirements, toilet facilities. The adopted rules allow an event organizer to utilize, under certain conditions, a previously approved sanitation and water supply distribution infrastructure layout.

## **PUBLIC COMMENTS**

Austin Public Health received written comments regarding the rules from the following:

Connor Tester SXSW	Dan Carroll - High Five Events
Christian Mella SXSW	Adrienne at the Texas Veg Fest
Maria Gotay	Shana Gardner
Les Carnes - Friends of the Forest/Eeyore's Annual Birthday Party	Sandy Neilson, Coordinator, Cap 2k Open Water Swim
French Smith - ACL/Roadway Productions	Emmett Beliveau - C3 Presents
Pat Costigan	Nathan Cross - SXSW
Lauren Menard - Bounce Events	Jann Girard - Texas Book Festival
Chuck Smith - Pease Park Conservancy	Jackie Newell
Jordan Whittaker - Red Velvet	

A copy of the public comments and staff responses is available for public inspection and copying at the following locations:

Austin Public Health, Environmental Health Services, 1520 Rutherford Drive

## **AUTHORITY FOR ADOPTION OF PROPOSED RULE**

The authority and procedure for adoption of a rule to assist in the implementation, administration, or enforcement of a provision of the City Code is provided in City Code Chapter 1-2 (*Adoption of Rules*). Austin Center For Events authority to regulate special event requirements is established in City Code Section 4-20-2 (*Austin Center for Events*).

## **APPEAL OF ADOPTED RULE TO CITY MANAGER**

A person may appeal the adoption of a rule to the City Manager. **AN APPEAL MUST BE FILED WITH THE CITY CLERK NOT LATER THAN THE 30TH DAY AFTER THE DATE THIS NOTICE OF RULE ADOPTION IS POSTED. THE POSTING DATE IS NOTED ON THE FIRST PAGE OF THIS NOTICE.** If the 30th day is a Saturday, Sunday, or official city

holiday, an appeal may be filed on the next day which is not a Saturday, Sunday, or official city holiday.

An adopted rule may be appealed by filing a written statement with the City Clerk. A person who appeals a rule must (1) provide the person's name, mailing address, and telephone number; (2) identify the rule being appealed; and (3) include a statement of specific reasons why the rule should be modified or withdrawn.

Notice that an appeal was filed and will be posted by the city clerk. A copy of the appeal will be provided to the City Council. An adopted rule will not be enforced pending the City Manager's decision. The City Manager may affirm, modify, or withdraw an adopted rule. If the City Manager does not act on an appeal on or before the 60th day after the date the notice of rule adoption is posted, the rule is withdrawn. Notice of the City Manager's decision on an appeal will be posted by the city clerk and provided to the City Council.

On or before the 16th day after the city clerk posts notice of the City Manager's decision, the City Manager may reconsider the decision on an appeal. Not later than the 31st day after giving written notice of an intent to reconsider, the City manager shall make a decision.

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**CERTIFICATION BY CITY ATTORNEY**

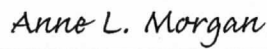
By signing this Notice of Rule Adoption, the City Attorney certifies the City Attorney has reviewed the rules and finds that adoption of the rules is a valid exercise of the Director's administrative authority.

**REVIEWED AND APPROVED**



Date: 9/12/2023

Adrienne Sturup  
Austin Public Health, Director



Date: 9/13/23

Anne L. Morgan  
City Attorney

## 9.1 General Requirements

### 9.1.2 Health Review Process

9.1.2.1 An approved health review from ACE-APH is required for the following events:

- 9.1.2.1.1 Tier 2 events that last four or more hours and include alcohol, food, or beverages;
- 9.1.2.1.2 Tier 3 events; and
- 9.1.2.1.3 Tier 4 events.

9.1.2.2 Variances. The Health Authority may grant a variance to this rule if the Health Authority determines that a health hazard will not result from the variance.

- 9.1.2.2.1 A variance may modify or waive a requirement of this rule.
- 9.1.2.2.2 A person requesting a variance must provide a description of the requested variance, a citation to the relevant section of this rule, and a description of how the person plans to prevent potential health hazards if the variance is granted.
- 9.1.2.2.3 When a special event organizer proposes to use a sanitation and water supply distribution infrastructure layout that was previously approved, the event organizer is not required to obtain a variance if the proposal matches the previously approved infrastructure layout, the proposed attendance at one time and flow is consistent with or less than the number of attendees at one time and flow of prior events, and a health hazard will not result from its use.

## 9.2. Water Supply

9.2.1 The water to be supplied shall be from sources that comply with the Public Water rules found in Texas Administrative Code Title 30, Part 1, Chapter 290.

9.2.2 Water shall be provided at the rate of at least one pint per hour for each person present at the site.

9.2.3 Water shall be delivered to the dispensing points in such a manner as to preclude the possibility of contamination. All water conveyor facilities shall be cleaned and disinfected prior to being used and any containers used for water delivery shall be covered to prevent the entrance of dust, insects, or other contaminants.

9.2.4 A suitable water outlet or water container shall be provided for each 100 persons and be conveniently located for dispensing the water. If containers are utilized for water distribution, the containers shall be properly covered, and provisions made for keeping the covers locked. A chlorine residual of at least 0.2 milligram per liter (mg/L) free chlorine or 0.5 mg/L chloramine (measured as total chlorine) shall be maintained at all times at each water distribution point.

9.2.5 The use of the common drinking cup is prohibited. At least one dispensable cup shall be provided for each person per hour of attendance.

### 9.3 Toilet Facilities

9.3.2 Toilet facilities shall be provided at a rate of no more than 50 persons per toilet seat (recommend at least 5 percent of the total number of toilets, but not less than one toilet, be compliant with requirements under the Americans with Disability Act). Such facilities shall be designed to shield the occupants from public view.

9.3.3 Privies, if provided, shall be structurally sound and shall be designed to prevent access of flies to deposited excreta.

9.3.4 Portable type toilets, if provided, shall have waste therefrom collected at intervals of sufficient frequency to preclude overflow and the wastes therefrom shall be disposed of in a manner that does not create a health hazard or nuisance.

9.3.5 Handwashing (to include soap and water maintained in adequate supply) and drying facilities shall be provided in the vicinity of each toilet building or location. Waste produced from such handwashing facilities shall be collected and properly disposed of either by holding tanks or subsurface absorption fields.

9.3.6 The Event Organizer must plan for and implement a cleaning frequency which will maintain sanitary conditions of the toilet facilities and other event infrastructure.

9.4 Food Safety. An Event Organizer shall comply with City Code Chapter 10-3. (*Food and Food Handlers*); and Texas Administrative Code Title 25, Part 1, Chapter 228 (*Texas Food Establishment Rules*) and the currently adopted version of the U.S. Food and Drug Administration Food Code (Food Code) and the Supplement to the Food Code, referenced therein.

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