

Process for the Adoption of Rules Relating to Ordinances - Jan. 2011
(http://www.amlegal.com/austin_tx/)

TITLE 1. GENERAL PROVISIONS.

CHAPTER 1-2. ADOPTION OF RULES.

§ 1-2-1 APPLICABILITY.

(A) This chapter applies to a department with administrative duties under the Code, an ordinance, or another law.

(B) A department may adopt rules to implement, administer, enforce, or comply with the Code, an ordinance, or another law for which the department is responsible.

(C) A rule is not valid unless adopted in substantial compliance with this chapter.

Source: 1992 Code Section 1-2-1; Ord. 031106-11; Ord. 031211-11.

§ 1-2-2 POSTED NOTICES; DUTIES OF THE CITY CLERK.

(A) The city clerk shall post notices that are required to be posted by this chapter on the bulletin board used for notice of public meetings, and shall record on the notice the date and time that the notice was posted.

(B) The city clerk shall post notices required by this chapter not later than the next business day after the day the information required to be posted is received by the city clerk.

Source: 1992 Code Section 1-2-2; Ord. 031106-11; Ord. 031211-11.

§ 1-2-3 NOTICE BY MAIL.

(A) The department shall mail a copy of a notice posted under this chapter to a person if the person:

(1) makes a written request to the department to be notified by mail, and

(2) pays the fee established by ordinance for the notice.

(B) Notice under this section shall be mailed not later than the sixth day after the date the notice is required to be posted.

Source: 1992 Code Section 1-2-3; Ord. 031106-11; Ord. 031211-11.

Process for the Adoption of Rules Relating to Ordinances - Jan. 2011
(http://www.amlegal.com/austin_tx/)

§ 1-2-4 NOTICE OF PROPOSED RULE.

(A) Before a department may adopt a rule, the department must provide public notice as provided by this section.

(B) A department proposing a rule for adoption must file with the city clerk a notice, signed by the director of the department proposing the rule. The notice must include:

(1) the text of the proposed rule, indicating changes from the current text, if any, or a statement that the text is available from the department for public inspection or copying, and the manner and cost of obtaining a copy;

(2) a brief explanation of the rule, or a statement that the explanation of the rule is available from the department for public inspection or copying, and the manner and cost of obtaining a copy;

(3) an explanation of the authority under which the rule is proposed for adoption, and a certification that the rule was reviewed by the city attorney and found to be within the department's authority to adopt; and

(4) a request for comments on the rule from the public, listing the name, address, and telephone number of the person to whom comments should be submitted and the last date by which comments may be submitted.

Source: 1992 Code Section 1-2-4; Ord. 031106-11; Ord. 031211-11.

§ 1-2-5 PERIOD FOR COMMENTS.

Public comments on a proposed rule must be received not later than the 31st day after the date that public notice of the rule was posted by the city clerk.

Source: 1992 Code Section 1-2-5; Ord. 031106-11; Ord. 031211-11.

§ 1-2-6 RESPONSE TO COMMENTS.

Before a rule is adopted, the department shall prepare:

Process for the Adoption of Rules Relating to Ordinances - Jan. 2011
(http://www.amlegal.com/austin_tx/)

(1) a list showing the name of each person who filed a written comment on the rule, and, if it can be determined, whether the person was for or against adoption of the rule as proposed;

(2) a summary of written comments received from the public; and

(3) a justification of the adopted rule, and the reasons why the department may disagree with written comments that it received.

Source: 1992 Code Section 1-2-6; Ord. 031106-11; Ord. 031211-11.

§ 1-2-7 ADOPTION OF A RULE.

(A) After the period for public comment under Section [1-2-5](#) (*Period For Comments*) has expired, a department may adopt a rule as proposed or it may adopt an amended version of a proposed rule.

(B) To adopt a rule, the director of the department adopting the rule shall file a notice of rule adoption with the city clerk.

(C) This section does not apply to an emergency rule adopted under Section [1-2-17](#) (*Adoption Of An Emergency Rule*).

Source: 1992 Code Section 1-2-7; Ord. 031106-11; Ord. 031211-11.

§ 1-2-8 NOTICE OF RULE ADOPTION.

(A) The notice of rule adoption shall be signed by the director of the department adopting the rule, and must include:

(1) a statement that the rule is adopted and the effective date;

(2) the text of the adopted rule, indicating changes, if any, from the text of the rule as originally proposed, or a statement that the text is available from the department for public inspection or copying, and the manner and cost of obtaining a copy;

(3) if the adopted rule is different than the proposed rule, a brief explanation of the reasons for the changes, or a statement that the explanation is available from the department for public inspection or copying, and the manner and cost of obtaining a copy;

(4) a statement of whether written comments were received from the public; and if comments were received, the department's response to

Process for the Adoption of Rules Relating to Ordinances - Jan. 2011
(http://www.amlegal.com/austin_tx/)

the comments, or a statement that a copy of the comments and the department's response to the comments are available from the department for public inspection or copying, and the manner and cost of obtaining a copy;

(5) an explanation of the authority under which the rule is proposed for adoption, and a certification that the rule was reviewed by the city attorney and found to be within the department's authority to adopt; and

(6) A statement that the adopted rule may be appealed to the city manager in accordance with the procedures set forth in this chapter, and a brief explanation of the appeal procedure.

(B) The city clerk shall post the notice of rule adoption.

Source: 1992 Code Section 1-2-8; Ord. 031106-11; Ord. 031211-11.

§ 1-2-9 FAILURE TO ADOPT A RULE.

If a proposed rule is not adopted in accordance with Section [1-2-7](#) (*Adoption Of A Rule*) on or before the 90th day after notice of the proposed rule was posted by the city clerk, the rule may not be adopted until a new notice and comment period is provided in accordance with Sections [1-2-4](#) (*Notice Of Proposed Rule*) and [1-2-5](#) (*Period For Comments*).

Source: 1992 Code Section 1-2-9; Ord. 031106-11; Ord. 031211-11.

§ 1-2-10 APPEAL OF ADOPTED RULE TO CITY MANAGER.

(A) A person may appeal the adoption of a rule to the city manager by filing with the city clerk a written statement that:

(1) states the name, mailing address, and telephone number of the person appealing the rule;

(2) identifies each rule being appealed; and

(3) states the specific reason why the rule should be modified or withdrawn.

(B) An appeal must be received by the city clerk not later than the 30th day after the date that the notice of rule adoption was posted by the city clerk.

Process for the Adoption of Rules Relating to Ordinances - Jan. 2011
(http://www.amlegal.com/austin_tx/)

Source: 1992 Code Section 1-2-10; Ord. 031106-11; Ord. 031211-11.

§ 1-2-11 NOTICE OF APPEAL OF AN ADOPTED RULE.

(A) On receipt of an appeal, the city clerk shall provide a copy of the appeal to the city manager, the director of the department adopting the rule being appealed, and each member of the council.

(B) The city clerk shall post a notice that an adopted rule was appealed. The notice shall state the name of the person appealing the rule, the rule being appealed, the date and time the appeal was received by the city clerk, and a statement that a copy of the appeal may be inspected in the city clerk's office.

Source: 1992 Code Section 1-2-11; Ord. 031106-11; Ord. 031211-11.

§ 1-2-12 SUSPENSION OF APPEALED RULE.

An appealed rule may not be enforced until the city manager makes a decision under Section [1-2-13](#) (*Decision On Appeal Of An Adopted Rule Notice*).

Source: 1992 Code Section 1-2-12; Ord. 031106-11; Ord. 031211-11.

§ 1-2-13 DECISION ON APPEAL OF AN ADOPTED RULE NOTICE.

(A) The city manager may affirm, amend, or withdraw the appealed rule by filing the notice prescribed by Section [1-2-15](#) (*Notice Of Decision On Appeal Of An Adopted Rule*).

(B) Before the city manager decides an appeal, the city manager shall prepare a justification of the city manager's decision, including:

(1) a summary of the specific reasons included in the appeal as to why the rule should be amended or withdrawn; and

(2) the city manager's statement of why the city manager may have disagreed with any of those reasons.

Source: 1992 Code Section 1-2-13; Ord. 031106-11; Ord. 031211-11.

§ 1-2-14 FAILURE TO DECIDE AN APPEAL.

Process for the Adoption of Rules Relating to Ordinances - Jan. 2011
(http://www.amlegal.com/austin_tx/)

If the city manager does not act on the appeal on or before the 60th day after public notice of rule adoption is posted by the city clerk, the rule is withdrawn.

Source: 1992 Code Section 1-2-14; Ord. 031106-11; Ord. 031211-11.

§ 1-2-15 NOTICE OF DECISION ON APPEAL OF AN ADOPTED RULE.

(A) Notice of the city manager's decision on an appeal of an adopted rule must be signed by the city manager, filed with the city clerk, and include:

(1) if the text of the adopted rule was amended, the text of the amended rule, indicating the changes, or a statement that a copy of the text is available from the department for public inspection or copying, and the manner and cost of obtaining a copy;

(2) the city manager's justification under Section [1-2-13\(B\)](#) (*Decision On Appeal Of An Adopted Rule Notice*), or a statement that a copy of the justification is available from the department for public inspection or copying, and the manner and cost of obtaining a copy;

(3) if the text of the adopted rule was amended, a certification that the amended rule was reviewed by the city attorney and found to be a valid exercise of the city manager's administrative authority; and

(4) if the text of the adopted rule was amended, the effective date of the amended rule.

(B) The city clerk shall post the notice of the city manager's decision.

Source: 1992 Code Section 1-2-15; Ord. 031106-11; Ord. 031211-11.

§ 1-2-16 RECONSIDERATION OF APPEAL.

(A) On or before the 16th day after the city clerk posts a notice under Section [1-2-15](#) (*Notice Of Decision On Appeal Of An Adopted Rule*), the city manager may reconsider a decision on an appeal by providing written notice of the manager's intent to reconsider the decision to the city clerk and to the council.

(B) Not later than the 31st day after providing notice under Subsection (A), the city manager shall make a decision. The decision shall be made and noticed in accordance with Sections [1-2-13](#) (*Decision On*

Process for the Adoption of Rules Relating to Ordinances - Jan. 2011
(http://www.amlegal.com/austin_tx/)

Appeal Of An Adopted Rule Notice) and [1-2-15](#) (*Notice Of Decision On Appeal Of An Adopted Rule*).

Source: 1992 Code Section 1-2-16; Ord. 031106-11; Ord. 031211-11.

§ 1-2-17 ADOPTION OF AN EMERGENCY RULE.

(A) The city manager may adopt an emergency rule with less than 30 days for public comment if the city manager finds:

(1) that an imminent peril to the public health, safety, or welfare requires adoption of the rule on an emergency basis; or

(2) that adoption of a rule on an emergency basis is necessary or desirable to implement, administer, enforce, or comply with an ordinance or another law.

(B) A rule adopted under Subsection (A)(2) that enforces or administers an ordinance may not be adopted with less than 30 days for public comment if the effective date of the ordinance that the rule enforces or administers is on or before the 31st day before the effective date of the rule.

Source: 1992 Code Section 1-2-17; Ord. 031106-11; Ord. 031211-11.

§ 1-2-18 NOTICE OF AN EMERGENCY RULE.

(A) Notice of an emergency rule adopted under Section [1-2-17](#) (*Adoption Of An Emergency Rule*) shall be signed by the city manager, and must include:

(1) the text of the rule;

(2) the city manager's statement of reasons why the emergency adoption is authorized under Section [1-2-17](#) (*Adoption Of An Emergency Rule*); and

(3) an explanation of the authority under which the rule is adopted, and a certification that the rule was reviewed by the city attorney and found to be within the city manager's authority to adopt.

(B) The city clerk shall post the notice of the emergency rule.

Source: 1992 Code Section 1-2-18; Ord. 031106-11; Ord. 031211-11.

Process for the Adoption of Rules Relating to Ordinances - Jan. 2011
(http://www.amlegal.com/austin_tx/)

§ 1-2-19 EFFECTIVE DATE AND EXPIRATION OF EMERGENCY RULE.

(A) The effective date of an emergency rule adopted under Section [1-2-17](#) (*Adoption Of An Emergency Rule*) may not be earlier than the date on which notice of the rule is filed with the city clerk.

(B) Unless the rule is withdrawn or the city manager provides an earlier expiration date, an emergency rule adopted under Section [1-2-17](#) (*Adoption Of An Emergency Rule*) expires on the 121st day after the date on which it becomes effective.

(C) The city manager may renew a rule that expires under Subsection (B) one time only. If the rule is renewed, it expires on the 61st day after the date on which it is renewed.

Source: 1992 Code Section 1-2-19; Ord. 031106-11; Ord. 031211-11.