

**THE  
THOMPSON'S STATION  
MUNICIPAL  
CODE**

Prepared by the



**Municipal Technical Advisory Service**

*In cooperation with the Tennessee Municipal League*

October 2009

*Change 3*  
*March 14, 2023*

**TOWN OF THOMPSON'S STATION, TENNESSEE**

**MAYOR**

Brian Stover

**VICE MAYOR**

Shaun Alexander

**ALDERMEN**

Kreis White  
Bob Whitmer  
Andrew Zinn

**RECORDER**

Regina Fowler

## PREFACE

The Thompson's Station Municipal Code contains the codification and revision of the ordinances of the Town of Thompson's Station, Tennessee. By referring to the historical citation appearing at the end of each section, the user can determine the origin of each particular section. The absence of a historical citation means that the section was added by the codifier. The word "modified" in the historical citation indicates significant modification of the original ordinance.

The code is arranged into titles, chapters, and sections. Related matter is kept together, so far as possible, within the same title. Each section number is complete within itself, containing the title number, the chapter number, and the section of the chapter of which it is a part. Specifically, the first digit, followed by a hyphen, identifies the title number. The second digit identifies the chapter number, and the last two digits identify the section number. For example, title 2, chapter 1, section 6, is designated as section 2-106.

By utilizing the table of contents, code index and the analysis preceding each title and chapter of the code, together with the cross references and explanations included as footnotes, the user should locate all the provisions in the code relating to any question that might arise. However, the user should note that most of the administrative ordinances (e.g. Annual Budget, Zoning Map Amendments, Tax Assessments, etc..) do not appear in the code. Likewise, ordinances that have been passed since the last update of the code do not appear here. Therefore, the user should refer to the city's ordinance book or the city recorder for a comprehensive and up to date review of the city's ordinances.

Following this preface is an outline of the ordinance adoption procedures, if any, prescribed by the city's charter.

The code has been arranged and prepared in loose-leaf form to facilitate keeping it up to date. MTAS will provide updating service under the following conditions:

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such

ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of the codes team: Emily Keyser, Program Resource Specialist; and Linda Winstead, Nancy Gibson, and Doug Brown, Administrative Specialists, is gratefully acknowledged.

Melissa Ashburn  
Codification Consultant

**ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE  
TOWN CHARTER**

1. An ordinance shall be considered and adopted on two (2) separate days; any other form of board action shall be considered and adopted on one (1) day. Any form of board action shall be passed by a majority of the members present, if there is a quorum. A quorum is a majority of the members to which the board is entitled. All ayes and nays on all votes on all forms of board action shall be recorded. (6-2-102)
  
2. Each ordinance, or the caption of each ordinance, shall be published after its final passage in a newspaper of general circulation in the municipality. No ordinance shall take effect until the ordinance or its caption is published. (6-2-101)

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**TITLE 1**

**GENERAL ADMINISTRATION<sup>1</sup>**

**CHAPTER**

1. BOARD OF MAYOR AND ALDERMEN.
2. TOWN ADMINISTRATOR.
3. CODE OF ETHICS.
4. USE OF TOWN'S LOGO AND LETTERHEAD.

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<sup>1</sup>Charter references

See the charter index, the charter itself and footnote references to the charter in the front of this code.

Municipal code references

Building code: title 12.

Fire code: title 7.

Wastewater treatment: title 18.

Zoning: title 14.

## CHAPTER 1

### BOARD OF MAYOR AND ALDERMEN<sup>1</sup>

#### SECTION

1-101. Time and place of regular meetings.

1-102. General rules of order.

1-103. Notice of meetings.

**1-101. Time and place of regular meetings.** Regular meetings of the board of mayor and aldermen of the Town of Thompson's Station, Tennessee, shall be held at 6:00 P.M. on the second Tuesday of each month, except for the months of July and December (in which there shall be no regularly scheduled meetings), in the Thompson's Station Community Center at 1555 Thompson's Station Road West, Thompson's Station, Tennessee, 37179. However, if this day falls on a holiday, or a day observed as a holiday, the regular meeting shall be held at the same time and place on the next regular workday. (Ord. #07-8, Sept. 2007, as replaced by Ord. #2017-002, March 2017 *Ch2\_8-2-21*, and Ord. #2023-003, March 2023 *Ch3\_03-14-23*)

**1-102. General rules of order.** All meetings of the mayor and board of aldermen shall be governed by the procedure known as Robert's Rules of Order, Newly Revised. (Ord. #90-3, Jan. 1991)

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#### <sup>1</sup>Charter references

For charter provisions related to the board of mayor and aldermen, see Tennessee Code Annotated, title 6, chapter 3. For specific charter provisions related to the board of mayor and aldermen, see the following sections:

City administrator: § 6-4-101.

Compensation: § 6-3-109.

Duties of Mayor: § 6-3-106.

Election of the board: § 6-3-101.

Oath: § 6-3-105.

Ordinance procedure

Publication: § 6-2-101.

Readings: § 6-2-102.

Residence requirements: § 6-3-103.

Vacancies in office: § 6-3-107.

Vice-Mayor: § 6-3-107.

**1-103. Notice of meetings.** (1) The town recorder shall be responsible for giving adequate public notice of all meetings of governmental bodies of the town as set forth herein.

(2) The town recorder shall publish notice of all regular meetings of the governmental bodies of the town on the town's website at least seven (7) days prior to the regular meeting. The town recorder shall also publish annually notice of all regular meetings of the board of mayor and aldermen in a newspaper of general circulation within the town.

(3) The town recorder shall post notices of the date, time, purpose, and place of all special called meetings of the governmental bodies of the town as soon as reasonably possible after such meeting is called. At a minimum, the recorder shall post the notice of a special called meeting on the town's website at least forty-eight (48) hours before such meeting. Whenever possible, notice of special called meetings shall be published in a newspaper of general circulation before such meeting. The town recorder shall also make a reasonable effort to provide the local media of the time, place, and purpose of such meeting.

(4) Notices of all regular and special called meetings shall also be posted at town hall, in addition to the town website. (Ord. #08-21, Nov. 2008, as amended by Ord. #2023-003, March 2023 *Ch3\_03-14-23*)

## CHAPTER 2

### TOWN ADMINISTRATOR<sup>1</sup>

#### SECTION

1-201. Office of town administrator created.

1-202. Town administrator to serve under control of board.

1-203. Duties of town administrator.

**1-201. Office of town administrator created.** There is here and now created as an officer of government the position of town administrator for the Town of Thompson's Station, Tennessee. (Ord. #005-001, Feb. 2005)

**1-202. Town administrator to serve under control of board.** The town administrator shall act and serve under the control and direction of the mayor and board of aldermen, hereinafter referred to as the "board." (Ord. #05-001, Feb. 2005)

**1-203. Duties of town administrator.** The town administrator is responsible for the efficient management and operation of the affairs of the town in accordance with state law, town ordinances and such directives, regulations, and policies as the board of mayor and aldermen may from time-to-time adopt. The specific duties and responsibilities of the town administrator are as follows:

- (1) Day-to-day operation of the town. The town administrator shall:
  - Ensure all property, real and personal, owned by the municipality is well maintained;
  - Ensure that all state, county and local ordinances and regulations are followed within the town limits;
  - Ensure a well run system of sewers;
  - Ensure stormwater quality through a comprehensive stormwater management program;
  - Manage the efficient operation of the town office;
  - Identify and, where feasible, implement new and more efficient methods of operations for town departments; and
  - Performs such other duties consistent with this office as may by vote of the BOMA be required.

(2) Reports and recommendations to board and committees. The town administrator shall:

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<sup>1</sup>Charter reference

Town administrator: § 6-4-101.

- Make recommendations to the board for improving quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the municipality;
- Keep board fully advised as to the conditions and needs of the municipality;
- Report to the board the condition of all property, real and personal, owned by the municipality and recommend repairs and replacement as needed;
- Recommend to the board and suggest priority of programs or projects involving public works or public improvements that should be undertaken by the municipality;
- Recommend specific personnel positions, as may be required for the needs and operations of the municipality, and may propose personnel policies and procedures for approval of the board; and
- Consult and cooperate with the committees of the board in the administration of the town's affairs.

(3) Manage town employees. The town administrator shall:

- Recruit, hire, evaluate, direct, and, if necessary, discipline and fire town employees;
- Examine or cause to be examined the affairs or conduct of any department or employee under his/her control to ensure the proper performance of duties and shall have access to all town records, books or papers to properly perform this function;
- Establish and maintain effective working relationships with employees;
- Conduct regular staff meetings to review progress, accomplishments, budgets, strategies, and plans for the town;
- Facilitate and work within a "team oriented" environment, being both an effective team leader and team member;
- Support other staff in the development and implementation of goals, objectives, policies, or priorities;
- Train and supervise all staff including consultants; and
- Handles confidential information with tact and discretion.

(4) Interact effectively with diverse community members. The town administrator shall:

- Establish and maintain effective working relationships with town officials, the business community, the general public and state, regional and federal officials;
- Communicate effectively with the public and development community orally and in writing;

- Educate the public on town, county, and state ordinances, regulations, and plans;
- Communicate the town's position effectively in public forums and meetings;
- Works closely with the public receiving inquiries and complaints and attending to the resolution of same;
- Seek innovative solutions to problems while implementing town regulations and goals; and
- Participate in various local and regional groups. (Ord. #05-001, Feb. 2005, as replaced by Ord. #12-008, Sept. 2012)

## CHAPTER 3

### CODE OF ETHICS<sup>1</sup>

#### SECTION

- 1-301. Applicability.
- 1-302. Definition of "personal interest."
- 1-303. Disclosure of personal interest by official with vote.
- 1-304. Disclosure of personal interest in non-voting matters.
- 1-305. Acceptance of gratuities, etc.
- 1-306. Use of information.
- 1-307. Use of municipal time, facilities, etc.
- 1-308. Use of position or authority.
- 1-309. Outside employment.

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<sup>1</sup>State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For provisions relative to the following, see the Tennessee Code Annotated (T.C.A.) sections indicated:

Campaign finance: Tennessee Code Annotated, title 2, ch. 10.

Conflict of interests: Tennessee Code Annotated, §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements: Tennessee Code Annotated, § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials: Tennessee Code Annotated, §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office): Tennessee Code Annotated, § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information: Tennessee Code Annotated, § 39-16-401 and the following sections.

Ouster law: Tennessee Code Annotated, § 8-47-101 and the following sections.

A brief synopsis of each of these laws appears in Appendix A of this municipal code.



1-310. Ethics complaints.

1-311. Violations and penalty.

**1-301. Applicability.** This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (Ord. #06-015, Dec. 2006)

**1-302. Definition of "personal interest."** (1) For purposes of §§ 1-303 and 1-304, "personal interest" means:

(a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests;

(b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).

(2) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #06-015, Dec. 2006)

**1-303. Disclosure of personal interest by official with vote.** An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself<sup>1</sup> from voting on the measure. (Ord. #06-015, Dec. 2006)

**1-304. Disclosure of personal interest in non-voting matters.** An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects

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<sup>1</sup>Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (Ord. #06-015, Dec. 2006)

**1-305. Acceptance of gratuities, etc.** An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

(1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (Ord. #06-015, Dec. 2006)

**1-306. Use of information.** (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (Ord. #06-015, Dec. 2006)

**1-307. Use of municipal time, facilities, etc.** (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality.

(3) An official or employee of the town may not use or authorize the use of town property, including the town logo or letterhead, except for official town business or as authorized by the charter, ordinance, or by action of the board. (Ord. #06-015, Dec. 2006, as amended by Ord. #2018-013, Aug. 2018 *Ch2\_8-2-21*)

**1-308. Use of position or authority.** (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized

by the charter, general law, or ordinance or policy of the municipality. (Ord. #06-15, Dec. 2006)

**1-309. Outside employment.** An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (Ord. #06-15, Dec. 2006)

**1-310. Ethics complaints.** (1) The town attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the town attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection, the town attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

(b) The town attorney may request the governing body to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the town attorney or another individual or entity chosen by the governing body.

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (Ord. #06-015, Dec. 2006)

**1-311. Violations and penalty.** An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other

applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (Ord. #06-015, Dec. 2006)

## CHAPTER 4

### USE OF TOWN'S LOGOS AND LETTERHEAD

#### SECTION

- 1-401. Town logo.
- 1-402. Town letterhead.
- 1-403. Political, personal and commercial use prohibited.
- 1-404. Service mark.
- 1-405. Violations and penalty.

**1-401. Town logo.** The town hereby adopts the following image or mark as the official logo of the Town of Thompson's Station. This logo shall be used by town officials and employees only in their official capacity and may not be used by others without the consent of the town.



In addition to the above logo, the provisions of this chapter shall also apply to any other town logos created at town expense for the promotion of the town and its services, department, and facilities. (as added by Ord. #2018-013, Aug. 2018 *Ch2\_8-2-21*)

**1-402. Town letterhead.** The official letterhead of the town, which incorporates the town logo and includes the address and phone numbers of the town, implies town approval and authority when correspondence is sent on such letterhead. Town letterhead shall only be used by officials and employees acting in their official capacity on behalf of the town. Any unauthorized use of town letterhead (or of stationery that incorporates the town logo) by officials or employees shall be deemed an improper and illegal use of town property and a violation of town's code of ethics. (as added by Ord. #2018-013, Aug. 2018 *Ch2\_8-2-21*)

**1-403. Political, personal and commercial use prohibited.** It shall be unlawful for any person or entity to use the town logo or letterhead as a part of or in connection with any political, personal or commercial purpose. Nothing herein shall be construed to prohibit a person or entity from copying or reproducing an authorized letter or other communication from the town that includes the town logo or letterhead. (as added by Ord. #2018-013, Aug. 2018 *Ch2\_8-2-21*)

**1-404. Service mark.** The town logo is a service mark of the town and no persons or entities are authorized to use the town logo or a similar image or mark without the permission of the town. (as added by Ord. #2018-013, Aug. 2018 *Ch2\_8-2-21*)

**1-405. Violations and penalty.** Any violations of this chapter may be punished by a penalty of up to fifty dollars (\$50.00) for each violation, with each day that a violation continues being a separate violation. The town's right to prosecute a violation under this section shall not affect its rights to pursue civil or injunctive relief or other remedies under federal or state law. (as added by Ord. #2018-013, Aug. 2018 *Ch2\_8-2-21*)

## TITLE 2

### BOARDS AND COMMISSIONS, ETC.

#### CHAPTER

#### 1. PARKS AND RECREATION ADVISORY BOARD.

#### CHAPTER 1

#### PARKS AND RECREATION ADVISORY BOARD

#### SECTION

2-101. Creation authority, purpose, and title.

2-102. Membership and terms.

2-103. Officers.

2-104. Function.

2-105. Administration.

2-106. Compensation and funding.

**2-101. Creation authority, purpose, and title.** Pursuant to Town of Thompson's Station Charter and Tennessee Code Annotated, § 11-24-102(b)(1), there is hereby created an advisory body, the Town of Thompson's Station Parks and Recreation Advisory Board (hereinafter as the "parks board"), for the purpose of providing the board of mayor and aldermen with planning assistance and guidance as to the effective creation, operation, and maintenance of parks and recreation facilities and/or recreation programs of the town. Except as specifically delegated in this chapter, the authority to fund, create, operate, and maintain parks and recreation facilities and to conduct recreation programs shall be retained by the board of mayor and aldermen. (as added by Ord. #2015-006, June 2015 *Ch2\_8-2-21*)

**2-102. Membership and terms.** The membership of the parks board shall consist of seven (7) members appointed by and serving at the will and pleasure of the board of mayor and aldermen. One (1) of the members of the parks board shall be an alderman of the town. The parks board members shall serve a term of three (3) years before re-appointment consideration, except that the alderman appointment shall be re-considered after each municipal election. The mayor shall serve as an ex-officio member of the parks board during his or her respective term. (as added by Ord. #2015-006, June 2015 *Ch2\_8-2-21*)

**2-103. Officers.** The members of the parks board shall elect a chairman and vice-chairman and such officers shall be appointed for the same term as their membership terms. Any vacancy in these offices shall be filled by the parks board for the remainder of such term. (as added by Ord. #2015-006, June 2015 *Ch2\_8-2-21*)

**2-104. Function.** The parks board may provide guidance and/or advise the board of mayor and aldermen and town staff on any matters related to the creation, operation,

and maintenance of parks and recreation facilities and/or recreation programs of the town. The parks board may adopt rules and regulations governing the use of parks and recreation facilities or programs. Town staff shall be solely responsible for the enforcement of any such rules. In addition, subject to funds budgeted by the board of mayor and aldermen and the town's purchasing policies, the parks board may authorize expenditures for improvements to the town's parks and recreation facilities and/or as may be necessary to attract and host events or programs at or in such facilities. The parks board shall not be responsible for the supervision of town staff, the hiring, dismissal or discipline of employees, or the expenditure of public funds. (as added by Ord. #2015-006, June 2015 **Ch2\_8-2-21**)

**2-105. Administration.** The parks board shall adopt by-laws as needed to conduct its business and shall adopt a regular meeting schedule in coordination with town staff. All parks board meetings shall be advertised and open to the public in accordance with the Tennessee Open Meetings law. Minutes shall be recorded for each meeting. (as added by Ord. #2015-006, June 2015 **Ch2\_8-2-21**)

**2-106. Compensation and funding.** All members of the parks board shall serve without pay. Incidental funding for operations of the parks board may be provided by the board of mayor and aldermen in the town's annual budget. (as added by Ord. #2015-006, June 2015 **Ch2\_8-2-21**)



**TITLE 3**

**MUNICIPAL COURT<sup>1</sup>**

**CHAPTER**

1. TOWN JUDGE.
2. CODE ENFORCEMENT IF NO JUDGE APPOINTED.
3. OFFICE OF ADMINISTRATIVE HEARING OFFICER.

**CHAPTER 1**

**TOWN JUDGE**

**SECTION**

- 3-101. Qualifications.
- 3-102. Appointment; vacancy; temporary absence.
- 3-103. Court schedule; compensation.
- 3-104. Jurisdiction.

**3-101. Qualifications.** The town judge for the Town of Thompson's Station shall be at least twenty-five (25) years of age, licensed in the State of Tennessee to practice law, and shall be a resident of Williamson County. (Ord. #07-005, June 2005, modified)

**3-102. Appointments; vacancy; temporary absence.** (1) The town judge shall be appointed by, and serve at the will and pleasure of, the governing body.

(2) Vacancies in the office of city judge shall be filled by the governing body.

(3) During the absence or disability of the town judge, the governing body may appoint a town judge pro tem to serve until the town judge returns to his duties. The judge pro tem shall have all the qualifications required of the town judge under this chapter, and shall have all the authorities and powers of the town judge. (Ord. #07-005, June 2005)

**3-103. Court schedule; compensation.** The town judge shall hold court every three (3) months and his or her compensation shall be five hundred dollars (\$500.00) per court session. (Ord. #07-005, June 2005)

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<sup>1</sup>Charter references

City Judge--City Court: § 6-4-301.

**3-104. Jurisdiction.** The town judge is an appointed judge and shall have jurisdiction only over violations of municipal ordinances. (Ord. #07-005, June 2005)

## CHAPTER 2

### **CODE ENFORCEMENT IF NO JUDGE APPOINTED**

#### **SECTION**

3-201. Enforcement by Williamson County Sheriff.

3-202. Prosecution in General Sessions Court for Williamson County.

**3-201. Enforcement by Williamson County Sheriff.** Pursuant to Tennessee Code Annotated, § 8-8-201(34) the Williamson County Sheriff's Department has the authority to enforce the ordinances of the town, provided the town has adopted an ordinance expressing its intent to have the sheriff enforce its ordinances. A certified copy of all ordinances of a penal nature shall be provided to the Williamson County Sheriff's Department and the General Sessions Court Clerk. (Ord. #08-004, April 2008)

**3-202. Prosecution in General Sessions Court for Williamson County.** Any ordinance violations may be prosecuted in the General Sessions Court for Williamson County pursuant to Tennessee Code Annotated, § 16-15-501, until such time as the town appoints a town judge. (Ord. #08-004, April 2008)

## CHAPTER 3

### OFFICE OF ADMINISTRATIVE HEARING OFFICER

#### SECTION

3-301. Creation of administrative hearing officer; number.

3-302. Jurisdiction.

3-303. Citations; procedures.

#### **3-301. Creation of administrative hearing officer; number.**

(1) Pursuant to Tennessee Code Annotated, § 6-54-1001 et seq., there is created the office of administrative hearing officer to hear building and property maintenance violations.

(2) The administrative hearing officer of the town shall be appointed for a four (4) year term but shall serve at the pleasure of the board of mayor and aldermen. Administrative hearing officers shall be qualified according to Tennessee Code Annotated, § 6-54-1006 and receive training required by Tennessee Code Annotated, § 6-54-1007. In addition, the town may also contract with the State Administrative Procedures Division to employ an administrative law judge on a temporary basis to serve as administrative hearing officer. (as added by Ord. #11-010, Jan. 2012)

**3-302. Jurisdiction.** The administrative hearing officer shall have the authority to hear cases involving violations of all municipal ordinances regulating building and property maintenance, including the International Residential Code of 2003 and the International Building Code of 2003 now or hereafter adopted by board of mayor and aldermen. In addition, the violation of any building and property maintenance ordinances, or other ordinances regulating any subject matter commonly found in the above mentioned codes, including such ordinances adopted by the town after the effective date of this chapter, may also be heard by the hearing officer. (as added by Ord. #11-010, Jan. 2012)

**3-303. Citations; procedures.** Upon the issuance of a citation for violation of a municipal ordinance referenced herein, the issuing officer and administrative hearing officer shall follow the procedures and notice requirements set forth Tennessee Code Annotated, § 6-54-1001 et seq. as maybe amended. A copy of the statute is of record in the office of the city recorder. (as added by Ord. #11-010, Jan. 2012)

## TITLE 4

### MUNICIPAL PERSONNEL

#### CHAPTER

#### 1. TRAVEL REIMBURSEMENT REGULATIONS.

#### CHAPTER 1

### TRAVEL REIMBURSEMENT REGULATIONS

#### SECTION

4-101. Enforcement.

4-102. Travel policy.

4-103. Travel reimbursement rate schedules.

4-104. Administrative procedures.

**4-101. Enforcement.** The chief administrative officer (CAO) of the town or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #93-3, Sept. 1993)

**4-102. Travel policy.** (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on town business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the town. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the town for registration fees, air fares, meals, lodging, conferences, and similar expenses.

Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must

immediately reimburse the town. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

(5) The travel expense reimbursement form will be used to document all expense claims.

(6) To qualify for reimbursement, travel expenses must be:

(a) Directly related to the conduct of the town business for which travel was authorized, and

(b) Actual, reasonable, and necessary under the circumstances. The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of five dollars (\$5.00) or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

(8) Any person attempting to defraud the town or misuse town travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the town aren't ordinarily considered eligible expenses for reimbursement. (Ord. #93-3, Sept. 1993)

**4-103. Travel reimbursement rate schedules.** Authorized travelers shall be reimbursed according to the federal travel regulation rates. The town's travel reimbursement rates will automatically change when the federal rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #93-3, Sept. 1993)

**4-104. Administrative procedures.** The town adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the town recorder. (Ord. #93-3, Sept. 1993)

**TITLE 5****MUNICIPAL FINANCE AND TAXATION<sup>1, 2</sup>****CHAPTER**

1. MISCELLANEOUS.
2. PRIVILEGE TAXES.
3. WHOLESALE BEER TAX.
4. PURCHASING POLICY.
5. HOTEL AND MOTEL PRIVILEGE TAX.

**CHAPTER 1****MISCELLANEOUS****SECTION**

5-101. Official depository for town funds.

**5-101. Official depository for town funds.** The First Tennessee Bank Franklin, Tennessee, is hereby designated as the official depository for all funds of the Town of Thompson's Station. (Ord. #90-5, Jan. 1991)

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<sup>1</sup>Charter references

For specific charter provisions on depositories of municipal funds, see Tennessee Code Annotated, § 6-4-402.

<sup>2</sup>The Town of Thompson's Station Investment Policy, attached as Exhibit A to Ord. #2021-013 (01-11-22), and any amendments thereto, may be found in the recorder's office.

## CHAPTER 2

### PRIVILEGE TAXES

#### SECTION

5-201. Tax levied.

5-202. License required.

5-203. Privilege tax on retail sale of alcohol.

**5-201. Tax levied.** Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, §§ 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on all businesses, business activities, vocations, and occupations carried on within the town at the rates and in the manner prescribed by the Business Tax Act. (Ord. #05-20, Dec. 2005)

**5-202. License required.** No person shall exercise any such privilege within the town without a currently effective privilege license, as shall be issued by the town recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax. Violation of this section shall subject the person failing to obtain a privilege license to a fine of fifty dollars (\$50.00) each day constituting a separate offense. (Ord. #05-20, Dec. 2005)

**5-203. Privilege tax on retail sale of alcohol.** Pursuant to Tennessee Code Annotated, § 57-4-301(b)(2), a privilege tax is here and now levied and shall be collected from every person or entity who engages in the business of selling at retail within the municipal limits of the Town of Thompson's Station for consumption of alcoholic beverages on premises. Said tax shall be an annual privilege tax. The sum(s) which shall hereafter become due and payable unto the Town of Thompson's Station, Tennessee are fully set forth in Tennessee Code Annotated, §§ 57-4-301, et seq., all of which is incorporated by reference as a part of this chapter. The amount of sum(s) to be paid to the municipality are the maximum amounts of the stated 2003 level, as set forth in said statutory provision, as amended. (Ord. #04-9, Jan. 2005)



**CHAPTER 3****WHOLESALE BEER TAX****SECTION**

5-301. To be collected.

**5-301. To be collected.** The mayor is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.<sup>1</sup>

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of seventeen percent (17%) on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

## CHAPTER 4

### PURCHASING POLICY

#### SECTION

- 5-401. Definitions.
- 5-402. Purchasing agent.
- 5-403. General procedures.
- 5-404. Rejection of bids.
- 5-405. Sealed bid requirements for purchases of \$10,000.00 or greater.
- 5-406. Bid deposit.
- 5-407. Record of bids.
- 5-408. Considerations in determining bid awards.
- 5-409. Statement when award not given to low bidder.
- 5-410. Award in case of tie bids.
- 5-411. Emergency purchases.
- 5-412. Waiver of the competitive bidding process.
- 5-413. Goods and services exempt from competitive bidding.
- 5-414. Leases or lease-purchases beyond fiscal year.
- 5-415. Additional forms and procedures.
- 5-416. Effective date.
- 5-417. Severability.
- 5-418. Repealer.

**5-401. Definitions.** For the purpose of implementing this chapter, the following definitions shall apply:

(1) "Bid." A vendor's response to an invitation for bids or request for proposal; the information concerning the price or cost of materials or services offered by a vendor.

(2) "Bidder." Any individual, company, firm, corporation, partnership or other organization or entity bidding on solicitations issued by the town and offering to enter into contracts with the town.

(3) "Bid bond." An insurance agreement in which a third party agrees to be liable to pay a certain amount of money should a specific vendor's bid be accepted and the vendor fails to sign the contract as bid.

(4) "Bid opening." The opening and reading of the bids, conducted at the time and place specified in the invitation for bids and in the presence of anyone who wishes to attend.

(5) "Bid solicitation." Invitations for bids.

(6) "Capital items." Equipment which has a life expectancy of one (1) year longer and a value in excess of ten thousand dollars (\$10,000.00).

(7) "Competitive bidding." Bidding on the same undertaking or material items by more than one (1) vendor.

(8) "Evaluation of bid." The process of examining a bid to determine a bidder's responsibility, responsiveness to requirements, qualifications, or other characteristics of the bid that determine the eventual selection of a winning bid.

(9) "Fiscal year." An accounting period of twelve (12) months, July 1 through June 30.

(10) "Invitation for bid." All documents utilized for soliciting bids.

(11) "Invoice." A written account of merchandise and process, delivered to the purchaser; a bill.

(12) "Local bidder." A bidder who has and maintains a business office located within the corporate limits of Thompson's Station, Tennessee.

(13) "Pre-bid conference." A meeting held with potential vendors a few days after an invitation for bids has been issued to promote uniform interpretation of work statements and specifications by all prospective contractors.

(14) "Public purchasing unit." The State of Tennessee, any county, town, town, governmental entity and other subdivision of the State of Tennessee, or any public agency, or any other public authority.

(15) "Purchase order." A legal document used to authorize a purchase from a vendor. A purchase order, when given to a vendor, should be pre-numbered and contain statements about the quantity, description, and price of goods or services ordered, agreed terms of payment, discounts, date of performance, transportation terms, and all other agreements pertinent to the purchase and its execution by the vendor.

(16) "Reject." Refuse to accept, recognize, or make use of; repudiate, to refuse to consider or grant.

(17) "Responsive bidder." One who has submitted a bid which conforms in all materials respects to the invitation for bids.

(18) "Safe source procurement." An award for a commodity which can only be purchased from one (1) supplier, usually because of its technological, specialized, or unique character.

(19) "Town." The Town of Thompson's Station, Tennessee.

(20) "Vendor." The person who transfers property, goods, or services by sale. (Ord. #08-023, Jan. 2009)

**5-402. Purchasing agent.** The town administrator shall be the purchasing agent for the municipality. Except as otherwise provided in this policy, all supplies, materials, equipment, and services of any nature shall be approved and acquired by the purchasing agent or his/her representative. Purchases by other employees or officers of the town are prohibited unless approved by the purchasing agent. (Ord. #08-023, Jan. 2009)

**5-403. General procedures.** The following procedures shall be followed by all town employees when purchasing goods or services on behalf of the town. For all purchases over one thousand dollars (\$1,000.00), a written purchase

order for the item(s) to be purchased shall be created and delivered to the purchasing agent. Such request shall include a brief description of the item(s) to be purchased, specifications for the item being purchased, the estimated cost of the items, and shall indicate whether the item(s) have been approved in the annual budget.

(1) For purchases under five hundred dollars (\$500.00), the purchasing agent shall use his/her best offers to obtain the best value for the town, but shall not be required to obtain competitive prices for these purchases. For purchases between five hundred dollars (\$500.00) and one thousand dollars (\$1,000.00), the purchasing agent shall contact at least two (2) vendors, but shall not be required to obtain and record formal quotes for competitive pricing before authorizing such purchase.

(2) For purchases between one thousand dollars (\$1,000.00) and two thousand five hundred dollars (\$2,500.00), the purchasing agent shall obtain at least two (2) verbal or written quotes, documented and filed including the name of the vendor, date and amount of quote. Bids for these purchases may be solicited by phone, direct mail, fax, email or any other method reasonably calculated to obtain competitive bids.

(3) For purchases between two thousand five hundred (\$2,500.00) and ten thousand dollars (\$10,000.00), the purchasing agent shall obtain at least two (2) written quotes and shall receive the approval of the mayor before making such purchase. Bids for these purchases may be solicited by phone, direct mail, fax, email or any other method reasonably calculated to obtain competitive bids.

(4) For purchases in excess of ten thousand dollars (\$10,000.00), competitive sealed bids shall be obtained as set forth in § 5-405 below.

Nothing within this section shall prohibit the purchasing agent from obtaining quotes or conducting competitive bidding for purchases of less than the amounts set forth above. (Ord. #08-023, Jan. 2009)

**5-404. Rejection of bids.** The purchasing agent shall have the authority to reject any and all bids, parts of bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby. The purchasing agent may choose not to accept the bid of a vendor or contractor who is in default on the payment of taxes, licenses, fees or other monies of whatever nature that may be due the town by said vendor or contractor. (Ord. #08-023, Jan. 2009)

**5-405. Sealed bid requirements for purchases of \$10,000.00 or greater.** (1) On all purchases and contracts estimated to be in excess of ten thousand dollars (\$10,000.00), except as otherwise provided in this chapter, formal sealed bids shall be submitted at a specified time and place to the purchasing agent. The purchasing agent shall submit all such bids for award by the board of mayor and aldermen at the next regularly scheduled board meeting

or special-called meeting together with the recommendation as to the lowest responsive bidder.

(2) Notice inviting bids shall be published at least once in a newspaper of general circulation in Williamson County, and at least five (5) days preceding the last day to receive bids. The newspaper notice shall contain a general description of the article(s) to be secured, and the date, time, and place for opening bids.

(3) In addition to publication in a newspaper, the purchasing agent may take other actions deemed appropriate to notify all prospective bidders of the invitation to bid, including, but not limited to, advertisement in community bulletin boards, metropolitan newspapers, professional journals, and electronic media. (Ord. #08-023, Jan. 2009)

**5-406. Bid deposit.** When deemed necessary, bid deposits may be prescribed and noted in the public notices inviting bids. The deposit shall be in such amount as the purchasing agent shall determine and unsuccessful bidders shall be entitled to a return of such deposits within ten (10) calendar days of the bid opening. A successful bidder shall forfeit any required deposit upon failure on his/her part to enter a contract within ten (10) days after the award. (Ord. #08-023, Jan. 2009)

**5-407. Record of bids.** The purchasing agent shall keep a record of all bids submitted in competition thereon, including a list of the bidders, the amount bid by each, and the method of solicitation and bidding, and such records shall be open to public inspection and maintained in the town recorder's office. As a minimum, the bid file shall contain the following information:

- (1) Request to start bid procedures.
- (2) A copy of the bid advertisement.
- (3) A copy of the bid specifications.
- (4) A list of bidders and their responses.
- (5) A copy of the purchase order.
- (6) A copy of the invoice. (Ord. #08-023, Jan. 2009)

**5-408. Considerations in determining bid awards.** The following criteria shall be considered in determining all bid awards:

- (1) The ability of the bidder to perform the contract or provide the material or service required.
- (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience, and efficiency of the bidder.
- (4) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.

(5) The quality of performance of previous contracts or services, including the quality of such contracts or services in other municipalities, or performed for private sector contractors.

(6) The sufficiency of financial resources and the ability of the bidder to perform the contract or provide the service.

(7) The ability of the bidder to provide future maintenance and service for the use of the supplies or contractual service contracted.

(8) Compliance with all specifications in the solicitation for bids.

(9) The ability to deliver and maintain any requisite bid bonds or performance bonds.

(10) Total cost of the bid, including life expectancy of the commodity, maintenance costs, and performance. (Ord. #08-023, Jan. 2009)

**5-409. Statement when award not given to low bidder.** When the award for purchases and contracts in excess of one thousand dollars (\$1,000.00) is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with all the other papers relating to the transaction. (Ord. #08-023, Jan. 2009)

**5-410. Award in case of tie bids.** When two (2) or more vendors have submitted the low bid, the following criteria shall be used to award the bid:

(1) If all bids received are for the same amount, quality of service being equal, the purchase contract shall be awarded to the local bidder.

(2) If two (2) or more local bidders have submitted the low bid, quality of service being equal, the purchase contract shall be awarded by a coin toss or drawing lots.

(3) If no local bids are received and two (2) or more out-of-town bidders have submitted the low bid, quality of service being equal, the purchase contract shall be awarded by a coin toss or drawing lots.

(4) When the award is to be decided by coin toss or drawing lots, representatives of the bidders shall be invited to observe. In no event shall such coin toss or drawing lots be performed with less than three (3) witnesses. (Ord. #08-023, Jan. 2009)

**5-411. Emergency purchases.** When in the judgment of the purchasing agent an emergency exists, the provisions of this chapter may be waived; provided, however, the purchasing agent shall report the purchases and/or contracts to the board of mayor and aldermen at the next regular board meeting stating the item(s) purchased, the amount(s) paid, from whom the purchase(s) was made, and the nature of the emergency. (Ord. #08-023, Jan. 2009)

**5-412. Waiver of the competitive bidding process.** Upon the recommendation of the mayor, and the subsequent approval of the board of mayor and aldermen, that it is clearly to the advantage of the town not to contract by competitive bidding, the requirements of competitive bidding may be waived; provided that the following criteria are met and documented in a written report to the board of mayor and aldermen:

(1) Single source of supply. The availability of only one (1) vendor of a product or service within a reasonable distance of the town as determined after a complete and thorough search by the using department and the purchasing agent.

(2) State department of general services. A thorough effort was made to purchase the product or service through or in conjunction with the state department of general services or via a state contract, such effort being unsuccessful.

(3) Purchase from other governmental entities. A thorough effort was made to purchase the product or service through or in conjunction with other municipalities or from any federal or state agency. These purchases may be made without competitive bidding and public advertisement.

(4) Purchases from non-profit organizations. A thorough effort was made to purchase the goods or services from any non-profit organization whose sole purpose is to provide goods and services specifically to municipalities.

(5) Purchases from Tennessee state industries. A thorough effort was made to purchase the goods or services from Tennessee state industries (prison industries).

(6) Purchases from instrumentalities created by two or more co-operating governments. An effort was made to purchase the goods or services from a co-op or group of governments which was formed to purchase goods and services for their members. (Ord. #08-023, Jan. 2009)

**5-413. Goods and services exempt from competitive bidding.** The following goods and services need not be awarded on the basis of competitive bidding; provided, however, that the purchasing agent and/or the department head shall make a reasonable effort to assure that such purchases are made efficiently and in the best interest of the town:

(1) Certain insurance. The town may purchase tort liability insurance, without competitive bidding, from the Tennessee Municipal League or any other plan offered by a governmental entity representing cities and counties. All other insurance plans, however, are to be awarded on the basis of competitive bidding.

(2) Certain investments. The town may make investments of municipal funds in, or purchases from, the pooled investment fund established pursuant to Tennessee Code Annotated, § 9-17-105.

(3) Motor fuel, fuel products, or perishable commodities. Such commodities may be purchased without competitive bidding.

(4) Professional service contracts. Any services of a professional person or firm, including attorneys, accountants, physicians, architects, engineers, and other consultants required by the town, whose fee is less than two thousand five hundred dollars (\$2,500.00), may be hired without competitive bidding. In those instances where such professional service fees are expected to exceed two thousand five hundred dollars (\$2,500.00), a written contract shall be developed and approved by the board of mayor and aldermen prior to the provision of any goods or services. Contracts for professional services shall not be awarded on the basis of competitive bidding; rather, professional service contracts shall be awarded on the basis of recognized competence and integrity. (Ord. #08-023, Jan. 2009)

**5-414. Leases or lease-purchases beyond fiscal year.** All leases or lease-purchase contracts which would extend beyond the current fiscal year shall be approved by the board of mayor and aldermen. (Ord. #08-023, Jan. 2009)

**5-415. Additional forms and procedures.** The purchasing agent is hereby authorized and directed to develop such forms and procedures as are necessary to comply with this chapter. (Ord. #08-023, Jan. 2009)

**5-416. Effective date.** This chapter shall be in full force and effect from and after its date of passage by the board of mayor and aldermen. (Ord. #08-023, Jan. 2009)

**5-417. Severability.** Should any section, paragraph, sentence, clause, or phrase of this chapter or its application to any person or circumstance be declared unconstitutional or invalid for any reason, or should any portion of this chapter be preempted by state or federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of this chapter or its application to other persons or circumstances. (Ord. #08-023, Jan. 2009)

**5-418. Repealer.** All ordinances or parts of ordinances which are inconsistent with the provisions of this chapter are hereby repealed to the extent of such inconsistency. (Ord. #08-023, Jan. 2009)



## CHAPTER 5

### HOTEL AND MOTEL PRIVILEGE TAX

#### SECTION

- 5-501. Definitions.
- 5-502. Privilege tax levied: use.
- 5-503. Payment of tax.
- 5-504. Interest and penalty for late payment.
- 5-505. Compensation to the Hotel.
- 5-506. Records Requirement.
- 5-507. Enforcement and severability.

**5-501. Definitions.** As used in this chapter:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever;

(2) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration;

(3) "Occupancy" means the use or possession, or the right to use or possession, of any room, lodgings or accommodations in any hotel;

(4) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

(5) "Persons" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit; and

(6) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days. (as added by Ord. #2021-011, Aug. 2021 *Ch2\_8-2-21*)

**5-502. Privilege tax levied: use.** (1) Pursuant to the provisions of Tennessee Code Annotated, § 67-4-1401 through 67-4-1425, there is hereby levied a privilege of occupancy tax in any hotel of each transient, from and after the operative date of this chapter. The rate of the levy shall be four percent (4%) of the consideration charged by the operator. This privilege tax shall be collected pursuant to and subject to the provisions of these statutory provisions. The town administrator, or his or her designee, shall be designated as the authorized

collector to administer and enforce this ordinance and these statutory provisions.

(2) The proceeds received from this tax shall be designated for use by the town for tourism and tourism development. Proceeds of this tax may not be used for any other purpose, including as a subsidy in any form to any hotel or motel. (as added by Ord. #2021-011, Aug. 2021 **Ch2\_8-2-21**)

**5-503. Payment of tax.** The tax levied shall be remitted by all operators who lease, rent or charge for rooms or spaces in hotels within the Town of Thompson's Station, Tennessee, to the town administrator, or his or her designee, of the Town of Thompson's Station, Tennessee. The payment of such tax to be remitted not later than the twentieth (20th) day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the Town of Thompson's Station, Tennessee, for the amount of tax for which credit was given shall be that of the operator. (as added by Ord. #2021-011, Aug. 2021 **Ch2\_8-2-21**)

**5-504. Interest and penalty for late payment.** (1) Taxes collected by an operator which are not remitted to the authorized collector on or before the due date designated herein shall be delinquent.

(2) The hotel operator shall be liable for interest on any delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and in addition, for the penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. (as added by Ord. #2021-011, Aug. 2021 **Ch2\_8-2-21**)

**5-505. Compensation to the hotel.** For the purpose of compensating the operator in accounting for and remitting the tax levied pursuant to this chapter, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the officer in the form of a deduction in submitting the operator's report and paying the amount due by such operator; provided, that the amount due was not delinquent at the time of payment. (as added by Ord. #2021-011, Aug. 2021 **Ch2\_8-2-21**)

**5-506. Records requirement.** The hotel operator must keep records for three (3) years, with the right of inspection by the town at any reasonable time. (as added by Ord. #2021-011, Aug. 2021 **Ch2\_8-2-21**)

**5-507. Enforcement and severability.** (1) The town administrator, or his or her designee, in administering and enforcing the provisions of this chapter shall have as additional powers those powers and duties with respect to

collecting taxes as provided in Tennessee Code Annotated, title 67, or otherwise provided by law.

(2) The provisions of this chapter are hereby declared to be severable. If any of its sections, provisions, exceptions, or parts be held unconstitutional or void, the remainder of the chapter shall continue to be in full force and effect, it being the legislative intent now hereby declared, that this chapter would have been adopted even if such unconstitutional or void matter had not been included herein. (as added by Ord. #2021-011, Aug. 2021 **Ch2\_8-2-21**)

**TITLE 6**

**LAW ENFORCEMENT**

**[RESERVED FOR FUTURE USE]**

## TITLE 7

### FIRE PROTECTION AND FIREWORKS<sup>1</sup>

#### CHAPTER

1. FIRE CODE.
2. FIREWORKS.

#### CHAPTER 1

#### FIRE CODE

#### SECTION

- 7-101. Fire code adopted.
- 7-102. Enforcement.
- 7-103. Violations and penalty.

**7-101. Fire code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to firefighters and emergency responders during emergency operations, the NFPA1 Uniform Fire Code and the NFPA 101 Life Safety Code,<sup>2</sup> 2015 editions, as recommended by the National Fire Protection Association, are hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of each of these codes has been filed with the town recorder and is available for public use and inspection. Said codes are adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (Ord. #04-008, Nov. 2004, modified, as amended by Ord. #14-008, Dec. 2014 *Ch2\_8-2-21* and Ord. #2017-016, Jan. 2018 *Ch2\_8-2-21*)

**7-102. Enforcement.** The fire code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal.

**7-103. Violations and penalty.** It shall be unlawful for any person to violate any of the provisions of this chapter or the codes herein adopted, or fail

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

<sup>2</sup>Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

to comply therewith. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions.

## CHAPTER 2

### FIREWORKS

#### SECTION

- 7-201. Sales prohibited generally.
- 7-202. Retailers permitted on August 1, 2004.
- 7-203. Temporary use permit.
- 7-204. Permit fee.
- 7-205. Location.
- 7-206. Unlawful activity.
- 7-207. Permit not transferable.

**7-201. Sales prohibited generally.** It is hereby declared unlawful to sell fireworks, wholesale or retail, within the municipal limits of the Town of Thompson's Station, Tennessee. (Ord. #05-10, May 2005)

**7-202. Retailers permitted on August 1, 2004.** (1) Any seasonal retailer who lawfully held a permit and engaged in the seasonal retail sale of fireworks at a permitted location within the municipal limits on Aug. 1, 2004 shall be entitled to sell fireworks on a seasonal retail basis subject to the regulatory measures hereinafter set out.

(2) A seasonal retailer for the sale of common fireworks who owns real property or is the lessee under a valid lease and who has heretofore been a permit holder under subsection (1) above may engage in the seasonal retail sale of fireworks within a zone district permitting the same. (Ord. #06-001, April 2006)

**7-203. Temporary use permit.** (1) A seasonal retailer must first obtain from the town a temporary use permit, exhibiting thereto evidence of ownership of the real property or leasehold rights upon which seasonal retail sales will be conducted. Seasonal retail sale period(s) shall be from June 20 through July 5 and December 15 through January 1 of each year.

(2) Any seasonal retailer making application for a temporary use to sell fireworks within the municipal limits, as heretofore stated, must further comply with all state and federal regulations and obtain, pursuant to Tennessee Code Annotated, title 68, chapter 104, a seasonal retailer fireworks permit.

(3) All permits issued are temporary in nature for sales within the stated seasonal retail periods and permits for the temporary site shall not exceed thirty (30) days. Any approved sale site must at all times be free of litter and debris. (Ord. #06-001, April 2006)

**7-204. Permit fee.** In conjunction with the issuance of a temporary use permit, the seasonal retailer shall pay the sum of one thousand dollars

(\$1,000.00) to the town, annually, in advance of the seasonal retail periods. (Ord. #06-001, April 2006, modified)

**7-205. Location.** Permissible sale of common fireworks shall be in a location or facility in accordance with the regulations of the State Fire Marshal's Office and in compliance with the standard fire codes adopted by the town. (Ord. #06-001, April 2006)

**7-206. Unlawful activity.** (1) It shall be unlawful to sell fireworks to children under the age of ten (10) years or to any intoxicated person. Further, no fireworks shall be ignited at the location or facility where seasonal retail fireworks are sold.

(2) Fireworks may only be used during the following times:

(a) On July 4 between the hours of 12:00 P.M. until 10:00 P.M.

(b) On December 31 through January 1, between the hours of 8:00 P.M. through 12:00 P.M.

The denotation of fireworks at other times is hereby prohibited. (Ord. #06-001, April 2006, as replaced by Ord. #2017-11, Aug. 2017 **Ch2\_8-2-21**)

**7-207. Permit not transferable.** Upon the transfer of ownership or change of use as to permitted location the rights to thereafter obtain a permit for seasonal retail sales of fireworks shall lapse and cannot be transferred to another location. (Ord. #06-001, April 2006)



## TITLE 8

### ALCOHOLIC BEVERAGES<sup>1</sup>

#### CHAPTER

1. BEER.
2. INTOXICATING LIQUORS.
3. ON-PREMISES CONSUMPTION OF INTOXICATING LIQUORS.

#### CHAPTER 1

### BEER<sup>2</sup>

#### SECTION

- 8-101. Beer board established.
- 8-102. Meetings of the beer board.
- 8-103. Record of beer board proceedings to be kept.
- 8-104. Requirements for beer board quorum and action.
- 8-105. Powers and duties of the beer board.
- 8-106. "Beer" defined.
- 8-107. Permit required for engaging in beer business; privilege tax; notice and collection.
- 8-108. Beer permits shall be restrictive.
- 8-109. Types of permits.
- 8-110. Interference with public health, safety, and morals prohibited.
- 8-111. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-112. Prohibited conduct or activities by beer permit holders.
- 8-113. Suspension and revocation of beer permits.
- 8-114. Civil penalty in lieu of revocation or suspension.
- 8-115. Revocation of clerk's certification for sale to minor.

**8-101. Beer board established.** There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be chairman of the beer board. (Ord. #96-001, April 1996, as replaced by Ord. #2020-002, Feb. 2020 *Ch2\_8-2-21*)

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

<sup>2</sup>State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982).

**8-102. Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the town hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman; provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #96-001, April 1996 as replaced by Ord. #2020-002, Feb. 2020 *Ch2\_8-2-21*)

**8-103. Record of beer board proceedings to be kept.** The town recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: the date of each meeting; the names of the board members present and absent; the names of the members introducing and recording motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Ord. #96-001, April 1996, as replaced by Ord. #2020-002, Feb. 2020 *Ch2\_8-2-21*)

**8-104. Requirements for beer board quorum and action.** The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #96-001, April 1996, as replaced by Ord. #2020-002, Feb. 2020 *Ch2\_8-2-21*)

**8-105. Powers and duties of the beer board.** The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this town in accordance with the provisions of this chapter. (Ord. #96-001, April 1996, as replaced by Ord. #2020-002, Feb. 2020 *Ch2\_8-2-21*)

**8-106. "Beer" defined.** The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (Ord. #96-001, April 1996, as replaced by Ord. #2020-002, Feb. 2020 *Ch2\_8-2-21*)

**8-107. Permit required for engaging in beer business; privilege tax; notice and collection.** (1) It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making applications to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said

fee shall be in the form prescribed by the town recorder and made payable to the Town of Thompson's Station, Tennessee. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter.

(2) Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer, an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and on or before each successive January 1, to the Town of Thompson's Station, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date.

(3) Notice and collection of the privilege tax. Pursuant to Tennessee Code Annotated, § 57-5-104(a)(3), the town shall mail written notice to each permit holder of the payment date of the annual tax at least thirty (30) days prior to Jan. 1. Notice shall be mailed to the address specified by the permit holder on its permit holder on its permit application, or at such other address as provided by the permit holder to the town. If a permit holder does not pay the tax by January 31 or within thirty (30) days after written notice of the tax was mailed by the town, whichever is later, then the town shall notify the permit holder by certified mail, return receipt requested, that the tax payment is past due. If a permit holder does not pay the tax within ten (10) days after receiving notice of its delinquency by certified mail, then the town may suspend or revoke the permit or impose a civil penalty pursuant to Tennessee Code Annotated, § 57-5-108. (Ord. #96-001, April 2006, as replaced by Ord. #2020-022, Feb. 2020 **Ch2\_8-2-21**, and amended by Ord. #2021-006, April 2021 **Ch2\_8-2-21**)

**8-108. Beer permits shall be restrictive.** (1) All beer permits shall be restrictive as to the type of beer a business is authorized to sell under the permit. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit authorized by the beer board.

(2) A beer permit issued hereunder shall be issued only in the name of the individual, manager or employee applicant. A permit, except as authorized stated in this chapter, shall continue to be valid so long as that individual, manager or employee is engaged in business at the location authorized in the permit. The individual, manager or employee is charged with compliance of this chapter at the permit location. A permit does not run with the land or business. (Ord. #96-001, April 2006, as replaced by Ord. #2020-002, Feb. 2020 **Ch2\_8-2-21**)

**8-109. Types of permits.** Permits issued by the beer board shall consist of five (5) types:

(1) Manufacturers. A manufacturer's permit to a manufacturer of beer, for the manufacture, possession, storage, sale, distribution, and transportation of the product of the manufacturer which product may be consumed upon the premises of the manufacturer to the extent permitted by state law of general application.

(2) Off-premises. An "off-premises" permit is required for any person, entity, or legal organization engaged in the sale of beer where it is not to be consumed by the purchaser upon or near the premises of the seller.

(3) On-premises. An "on-premises" permit is required for any person or legal organization engaged in the sale of beer where it is to be consumed by the purchaser or guests upon the premises of the seller; and provided beer may also be sold in hotel rooms of regularly conducted hotels and in regularly incorporated clubs and lodges upon their obtaining the required permit.

(a) Anyone applying for or obtaining an on-premises permit may also sell beer to go so a patron may take beer with him purchased at such place after consuming beer. This will be known as a "joint" permit and shall cost an additional two hundred fifty dollars (\$250.00) at the time the application is made, or at any subsequent time when it is sought to change the permit.

(b) No alcoholic beverage shall be consumed in the parking lot of any establishment possessing an on-premises permit, except that, with the prior approval of the beer board, through the application and approval of a special permit, as defined under this chapter, for special events no longer than three (3) consecutive calendar days, permittees may allow consumption of alcoholic beverages sold by the permittee within an area that is roped off or otherwise separated by a continuous fence or other type of barrier from the remaining portion of their parking lot, both ends of which terminate at the permittee's building, deck, porch, patio, or other such attached structure; and provided further, that such permittee provides for an adequate number of private security personnel, as regulated by the Town of Thompson's Station, to prevent unlawful use or possession of alcoholic beverages and to enhance public safety.

(c) Subsection (b) above notwithstanding, beer may be sold and/or consumed in parking lot or lots owned by the permit holder without a special permit; provided that:

(I) Said parking lot or lots, or designated portions thereof, are at least one hundred feet (100') from a public road; and

(ii) When alcoholic beverages are being consumed in the lot or lots, the permit holder provides for an adequate number of private security personnel to prevent unlawful use or possession of alcoholic beverages and to enhance public safety.

(d) All on-premises permit holders are required to serve food and non-alcoholic beverages at all times beer is sold.

(4) Special events permit. A "special events" permit is required for any person, entity, or organization engaged in the sale of such beverages where they are to be consumed by the purchaser or his guests upon the premises of the seller, including, but not limited to, any location the purchaser has rented for the purposes of the special event. The special events permit will be issued for the fee of one hundred dollars (\$100.00), after approval by the Town of Thompson's Station Beer Board. Prior notification must be made in writing thirty (30) days prior to the event, and such notification shall include the organization holding the event and location where the event is to be held, among other information required by the town recorder. Each permit will be issued for a specific date and a specific period of time, not to exceed three (3) days unless approved by the beer board. The specific period of time will not contradict any existing state or town ordinances or regulations.

(5) Caterer permit. A "caterer" permit to any person, entity, or legal organization conducting a food and beverage catering business who or which has been previously issued a liquor by the drink catering license, or other similar certificate, from the Tennessee Alcoholic Beverage Commission. The liquor by the drink catering license must be current and not expired or revoked at the time of the application for the caterer permit. The caterer permit will be issued for the fee of one hundred dollars (\$100.00), after approval by the Town of Thompson's Station Beer Board. (Ord. #96-001, April 1996, as amended by Ord. #08-012, June 2008, as replaced by Ord. #2020-002, Feb. 2020 *Ch2\_8-2-21*, and Ord. #2021-006, April 2021 *Ch2\_8-2-21*)

**8-110. Interference with public health, safety, and morals prohibited.** No permit authorizing the sale of beer will be issued when such business(es) would cause congestion of traffic or would interfere with public health, safety and morals. In no event will a permit be issued authorizing the storage, sale or manufacture of beer by the permit holder within two hundred feet (200') of any school or church as measured in a straight line from the nearest corner of the school or church to the nearest corner of the structure where the beer is to be stored, sold or manufactured. (Ord. #05-004, March 2008, as replaced by Ord. #2020-002, Feb. 2020 *Ch2\_8-2-21*, amended by Ord. #2021-006, April 2021 *Ch2\_8-2-21* )

**8-111. Issuance of permits to persons convicted of certain crimes prohibited.** No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture or transportation of intoxicating liquor or any crime involving moral turpitude, within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or

transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (Ord. #96-001, April 1996, as replaced by Ord. #2020-002, Feb. 2020 **Ch2\_8-2-21**)

**8-112. Prohibited conduct or activities by beer permit holders.**

It shall be unlawful for any beer permit holder to:

- (1) Make or allow sale of beer between the hours of 12:00 midnight and 6:00 A.M.;
- (2) Allow any loud, unusual or obnoxious noises to emanate from the premises, which shall not include locations designed and used for live music;
- (3) Make or allow any sale of beer to a person under twenty-one (21) years of age;
- (4) Make or allow any sale of beer to any intoxicated person or to any mentally incapacitated person;
- (5) Allow drunk persons to loiter about the premises;
- (6) Serve, sell or allow the consumption on the premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight, unless the permit holder has an active liquor license from the Tennessee Alcoholic Beverage Commission;
- (7) "Off-premises" permit holders shall not allow the consumption of alcohol in or about their premises whatsoever;
- (8) Allow gambling on the premises;
- (9) "On-premises and special event" permit holders shall not fail to provide and maintain sanitary toilet facilities; and/or
- (10) Allow an employee of the permit holder who is under the age of eighteen (18) years to sell beer. (Ord. #96-001, April 1996, as amended by Ord. #07-009, Sept. 2007, replaced by Ord. #2020-002, Feb. 2020 **Ch2\_8-2-21**, and amended by Ord. #2021-006, April 2021 **Ch2\_8-2-21**)

**8-113. Suspension and revocation of beer permits.** (1) The beer board shall have the power to suspend or revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be suspended or revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Suspension or revocation proceedings may be initiated by any member of the beer board upon said member's written request to the chairman of the beer board. Said request shall be in writing, and a notice to the beer permit holder of the initiation of such proceedings shall be sent by certified mail. The notice shall include the basis of such initiation, and the date, time and location of any such public hearing for consideration of such suspension or revocation.

(2) Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under

the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (Ord. #96-001, April 1996, as amended by Ord. #07-009, Sept. 2007, as replaced by Ord. #2021-002, Feb. 2020 *Ch2\_8-2-21*)

**8-114. Civil penalty in lieu of revocation or suspension.**

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, §§ 57-5-601, et seq.

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the town may impose. (Ord. #07-009, Sept. 2007, as replaced by Ord. #2021-002, Feb. 2020 *Ch2\_8-2-21*)

**8-115. Revocation of clerk's certification for sale to minor.** If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the

beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (Ord. #07-009, Sept. 2007, as replaced by Ord. #2021-002, Feb. 2020 *Ch2\_8-2-21*)



## CHAPTER 2

### ALCOHOLIC BEVERAGES OTHER THAN BEER

#### SECTION

- 8-201. Definitions.
- 8-202. Application of chapter.
- 8-203. Powers and duties of town administrator generally.
- 8-204. Classes of certificates issued; restrictions generally.
- 8-205. Retailer's certificates.
- 8-206. Wholesaler's certificate, salesman's and employee's permits, fees, etc.
- 8-207. Books to be kept by wholesalers; inspection fee.
- 8-208. Regulations as to purchase and sale, location of premises, etc.
- 8-209. Certificate of compliance fee to be paid by applicant; penalty.
- 8-210. Employment of minors.
- 8-211. Sales to minors.
- 8-212. Effect of conviction of felony involving moral turpitude.
- 8-213. Effect of conviction of violating laws relating to alcoholic beverages.
- 8-214. Sales to persons intoxicated, etc.
- 8-215. Inspection fee on retailers.
- 8-216. Violations.

**8-201. Definitions.** Whenever used in this chapter, unless the context requires otherwise:

(1) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, or wine and capable of being consumed by a human being, other than patented medicine, beer, or wine, where the latter two (2) contain an alcoholic content of five percent (5%) by weight, or less.

(2) "Certificate or certificate of compliance" means the certificate of compliance issued pursuant to this chapter and required by Tennessee Code Annotated, §§ 57-3-208 and/or 57-3-806, as the same may be amended, supplemented, or replaced. Once signed by the town, the certificate must be submitted by the applicant to the Tennessee Alcoholic Beverage Commission.

(3) "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale.

(4) "Retailer" means any person who sells at retail any beverage for the sale of which a certificate of compliance is required under the provisions of this chapter.

(5) "Town administrator" means the town administrator of the town.

(6) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

(7) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a certificate of compliance is required under the provisions of this chapter.

(8) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic saccharine and seasonal conditions, and including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be deemed "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine. (as added by Ord. #2016-012, Aug. 2016 **Ch2\_8-2-21**, as replaced by Ord. #2022-014, Nov. 2022 **Ch3\_03-14-23**)

**8-202. Application of chapter.** It shall be lawful to store, transport, sell, distribute, possess and receive alcoholic beverages in the town, in accordance with the provisions of Tennessee Code Annotated, title 57, chapter 3, subject to the certificate, payment of taxes, limitations, regulations, and conditions herein provided. Nothing in this chapter is intended to relate to the transportation, storage, sale, distribution, possession or receipt of, or tax upon, any beverage of alcoholic content of five percent (5%) by weight, or less, and no provision relating thereto shall be considered or construed as modified by this chapter. (as added by Ord. #2016-012, Aug. 2016 **Ch2\_8-2-21**, as replaced by Ord. #2022-014, Nov. 2022 **Ch3\_03-14-23**)

**8-203. Powers and duties of town administrator generally.** The town administrator shall have authority to employ additional necessary clerical help, whose compensation shall be paid out of the funds or receipts collected under this chapter. The town administrator, or his or her designee, shall enforce and administer the provisions of this chapter and the rules and regulations made by him. He shall have and exercise the following functions, duties, and powers:

To cause to be issued all certificates in respect to, or for the importation, bottling, keeping, giving away, furnishing, possession, transportation, sale, and delivery of alcoholic beverages, and to revoke any certificate of compliance whatsoever, the issuance of which is authorized by this chapter; provided, that the revocation of any certificate of compliance shall be made by the board of mayor and aldermen only on account of the violation of or refusal to comply with any of the provisions of this chapter, informing such holder of the time and place of the hearing to be held in respect thereto, and all further procedure with reference to the revocation of any certificate of compliance as shall be fixed and prescribed in the rules and regulations adopted and promulgated by the board of mayor and aldermen, which may be repealed or amended from time to time; provided, that in all cases it shall be the mandatory duty of the town administrator to revoke any wholesaler's or retailer's certificate of compliance

after final judgment or conviction of any offense defined, or upon a finding by him of a violation of this chapter for the second time, whether judgment or conviction ensue or not; provided, further, that no person shall be deemed to have a property right in any certificate of compliance issued hereunder, nor shall the certificate of compliance itself, or the enjoyment thereof, be considered a property right. No retail certificate of compliance shall be issued except to an individual operating as such, or to individuals operating a general or limited partnership, other entity recognized by the state of Tennessee. (as added by Ord. #2016-012, Aug. 2016 **Ch2\_8-2-21**, as replaced by Ord. #2022-014, Nov. 2022 **Ch3\_03-14-23**)

**8-204. Classes of certificates issued; restrictions generally.** The town administrator may cause to be issued, under the provisions of this chapter, the following classes of certificates of compliance:

(1) Classes. Certificates of compliance in relation to alcoholic, spirituous beverages exclusively shall consist of the following classes only:

- (a) Liquor wholesaler's certificate of compliance.
- (b) Liquor retailer's certificate of compliance.

(2) Transfer; duration. The holder of a certificate of compliance or license may not sell, assign, or transfer such certificate of compliance or license to any other person, and said certificate of compliance shall expire at the end of each calendar year and, subject to the provisions of this chapter, may be renewed each calendar year by the payment of the certificate of compliance fee herein provided; provided, however, that applicants who are serving in the military forces of the United States in time of war may appoint an agent to operate under the certificate of compliance of the applicant during the absence of the applicant.

(3) Issuance of certificate of compliance where former certificate of compliance has been revoked. Where a certificate of compliance is revoked, no new certificate of compliance shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date such revocation becomes final and effective. (as added by Ord. #2016-012, Aug. 2016 **Ch2\_8-2-21**, as replaced by Ord. #2022-014, Nov. 2022 **Ch3\_03-14-23**)

**8-205. Retailer's certificate of compliance.** For the retail sale of alcoholic, spirituous beverages, a certificate of compliance may be issued as herein provided, and such certificate of compliance shall be required prior to the issuance of a license by the state alcoholic beverage commission. Any person desiring to sell alcoholic, spirituous beverages to patrons or customers, shall make application to the town administrator for a retailer's certificate of compliance, which application shall be in writing, and verified, on forms herein authorized to be prescribed and furnished; and the town administrator may,

subject to the restrictions of this chapter, cause such retailer's certificate of compliance to be issued.

(1) Fee; citizenship requirements. Such retailer's certificate of compliance shall not be issued unless and until the applicant therefor shall pay to the town a certificate of compliance fee of two hundred and fifty dollars (\$250.00).

(2) Limitation on number of certificates to be issued. No person, firm, or other entity shall be licensed under this chapter, through a certificate of compliance, to engage in the sale or distribution of alcoholic beverages in excess of two (2). (as added by Ord. #2016-012, Aug. 2016 *Ch2\_8-2-21*, as replaced by Ord. #2022-014, Nov. 2022 *Ch3\_03-14-23*)

**8-206. Wholesaler's certificate of compliance, salesman's and employee's permits, fees, etc.** Any person or other entity desiring to sell at wholesale any alcoholic, spirituous beverages shall make application to the town administrator for a certificate of compliance, which application shall be in writing and verified, on the forms herein authorized to be prescribed and furnished. Thereupon the town administrator may cause to be granted such certificate of compliance subject to the restrictions of this chapter. No wholesale alcoholic, spirituous beverage certificate of compliance shall be issued until the applicant has secured a basic permit to engage in the wholesale liquor business from the federal and/or state government. The sole purpose for the wholesaler certificate of compliance is to ensure the town is aware of each and every wholesaler who conducts business within the municipal limits of the town and to ensure said wholesaler collects, records, and remits the required inspection fee, as defined herein. (as added by Ord. #2016-012, Aug. 2016 *Ch2\_8-2-21*, as replaced by Ord. #2022-014, Nov. 2022 *Ch3\_03-14-23*)

**8-207. Books to be kept by wholesalers; inspection fee.** All wholesalers of spirituous liquor shall keep a book in which they shall cause each purchaser of spirituous liquor to enter his name, address, and the amount, serial and stamp number of such liquor. (as added by Ord. #2022-014, Nov. 2022 *Ch3\_03-14-23*)

**8-208. Regulations as to purchase and sale, location of premises, etc.** (1) Certificate of compliance required for sale or purchase. No retailer shall purchase any alcoholic beverages from anyone other than a wholesaler who has received a certificate of compliance under this chapter. No wholesaler shall sell any alcoholic beverages to anyone other than a retailer who has received a certificate of compliance under this chapter.

(2) Retailer limited to one place of business. No retailer shall, directly or indirectly, operate more than one (1) place of business, and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest, or otherwise.

(3) Requirements as to wholesalers. No alcoholic beverage for sale to the retailer or his representative, shall be sold except by a licensed wholesaler, who sells for resale on his premises and who carries on no other business, directly or indirectly, and whose wholesale business in alcoholic beverages is not operated as an adjunct to, or supplementary to, the business of any other person, either by way of lease of such wholesale premises or otherwise, for any business other than that permitted by the terms of his wholesale license.

(4) Location of premises; entrances and exits. No wholesaler or retailer shall be located except on the ground floor and shall have one (1) main entrance opening on a public street; such place of business shall have no other entrance for use by the public except as hereafter provided. (as added by Ord. #2022-014, Nov. 2022 *Ch3\_03-14-23*)

**8-209. Certificate of compliance fee to be paid by applicant; penalty.** The certificate of compliance fee for every certificate of compliance, as applicable, issued under this chapter shall be payable by the person making application for such certificate of compliance and to whom it is issued, and no other person shall pay for any certificate of compliance issued under this chapter. In addition to all other penalties provided for violations of this chapter, a violation of this section shall authorize and require the revocation of the certificate of compliance the fee for which was paid by another, and also the revocation of the certificate of compliance, if any, of the person so paying for the certificate of compliance of another. (as added by Ord. #2022-014, Nov. 2022 *Ch3\_03-14-23*)

**8-210. Employment of minors.** No wholesaler or retailer, or any employee thereof, engaged in the physical storage, sale, or distribution of alcoholic beverages shall be a person under the age of eighteen (18) years. It shall be unlawful for any wholesaler or retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under such age on his place of business to engage in the storage, sale, or distribution of alcoholic beverages. (as added by Ord. #2022-014, Nov. 2022 *Ch3\_03-14-23*)

**8-211. Sales to minors.** No retailer shall sell any alcoholic beverages to a person known to be a minor. (as added by Ord. #2022-014, Nov. 2022 *Ch3\_03-14-23*)

**8-212. Effect of conviction of felony involving moral turpitude.** No wholesaler or retailer shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the concern with which he is connected shall receive a certificate of compliance; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or

judgment of infamy has been removed by a court of competent jurisdiction and in case of any such conviction occurring after a certificate of compliance has been issued and received, the certificate of compliance shall immediately be revoked, if such convicted felon be an individual applicant, and, if not, the partnership, corporation, or association with which he is connected shall immediately discharge him. (as added by Ord. #2022-014, Nov. 2022 **Ch3\_03-14-23**)

**8-213. Effect of conviction of violating laws relating to alcoholic beverages.** None of the certificates of compliance provided by this chapter, or which may be issued hereunder, shall under any condition be issued to any person who, within ten (10) years preceding application for such certificate of compliance or permit shall have been convicted of any offense under the laws of the State of Tennessee, of any other state, or the United States, prohibiting or regulating the sale, possession, transportation, storing, or otherwise handling alcoholic beverages or who has during said period been engaged in business, alone or with others, in violation of any of such laws or rules and regulations promulgated pursuant thereto, as they exist at the time of the adoption of provisions in this chapter or may exist hereafter. (as added by Ord. #2022-014, Nov. 2022 **Ch3\_03-14-23**)

**8-214. Sales to persons intoxicated, etc.** No retailer shall sell any alcoholic beverages to any person who is visibly intoxicated, nor to any person accompanied by a person who is visibly intoxicated. (as added by Ord. #2022-014, Nov. 2022 **Ch3\_03-14-23**)

**8-215. Inspection fee on retailers.** (1) Pursuant to Tennessee Code Annotated, § 57-3-501, there is hereby levied upon every licensed retailer of alcoholic beverages located and doing business within the municipal limits of the Town of Thompson's Station, Tennessee, an inspection fee of five percent (5%) of the wholesale price, paid by such retailer to a wholesaler, of all alcoholic beverages supplied by a wholesaler of alcoholic beverages to such retailer: said fee to be collected by the wholesaler as hereinafter provided.

(2) The inspection fee shall be collected by the wholesaler from the retailer following notice given the wholesaler by the town administrator, or his or her designee, of the Town of Thompson's Station, Tennessee, of the existence of this section. The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages.

(3) Every wholesaler making sale of alcoholic beverages to retailers thereof located and doing business within the corporate limits of the Town of Thompson's Station, Tennessee, shall furnish the town a report monthly, which report shall contain a list of the alcoholic beverages sold to each retailer located within the municipality, the wholesale price of the alcoholic beverages sold to each retailer and the amount of tax due. Such monthly reports shall be

furnished the Town of Thompson's Station not later than the 20th day of the month following the month in which the sales were made. All inspection fees collected by a wholesaler from any retailer located within the Town of Thompson's Station shall be paid to the town at the time the monthly report is made. Wholesalers collecting and remitting the above inspection fee to the Town shall be entitled to reimbursement for this collection service of a sum equal to five percent (5%) of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to the town.

(4) Failure of any such wholesaler to collect or timely report and/or pay the inspection fee collected to the town, as aforesaid, shall result in a penalty of ten percent (10%) of the inspection fees due the town, which shall be payable to the town.

(5) The Town of Thompson's Station, Tennessee, shall have the authority to audit the records of all wholesalers and retailers subject to the provisions of this chapter in order to determine the accuracy of the reports of the wholesalers.

(6) The inspection fee herein provided for shall be in lieu of all other gross receipt inspection fees imposed upon wholesalers or retailers of alcoholic beverages by the town. (as added by Ord. #2022-014, Nov. 2022 *Ch3\_03-14-23*)

**8-216. Violations.** (1) Any violation of the terms of this chapter shall constitute a civil misdemeanor and shall be punished by a fine of fifty dollars (\$50.00) per violation per day in addition to any other remedy available to the town at law.

(2) Misrepresentation of a material fact, or concealment of a material fact required to be shown in the application for a certificate of compliance, shall be a violation of this title. The town may refuse to issue a certificate if, upon investigation, the town finds that the applicant for a certificate has concealed or misrepresented in writing or otherwise any material fact or circumstance concerning the operation of the business, or if the interest of any person in the operation of the business is not truly stated in the application, or in case of any fraud or false statements by the applicant pertaining to any matter relating to the operation of the business. All data, written statements, affidavits, evidence or other documents submitted in support of an application are part of the application.

(3) If the provisions of this chapter are alleged to have been violated, the town may revoke any certificate which has been issued, after first providing an opportunity for the applicant or licensee to refute such allegations and/or show cause why the certificate should not be revoked. Any such revocation shall require a majority vote of the board of mayor and alderman. (as added by Ord. #2022-014, Nov. 2022 *Ch3\_03-14-23*)

## CHAPTER 3

### ON PREMISES CONSUMPTION OF INTOXICATING LIQUORS

#### SECTION

8-301. Definition of alcoholic beverages.

8-302. Consumption of alcoholic beverages on premises.

8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.

8-304. Annual privilege tax to be paid to the town clerk.

**8- 301. Definition of alcoholic beverages.** As used in this chapter, unless the context indicates otherwise: alcoholic beverages mean and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less. (as added by Ord. #2022-014, Nov. 2022 *Ch3\_03-14-23*)

**8-302. Consumption of alcoholic beverages on premises.** Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption, which are regulated by the said code when such sales are conducted within the corporate limits of Fairview, Tennessee. It is the intent of the board of commissioners that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Town of Thompson's Station, Tennessee, the same as if said code sections were copied herein verbatim. It shall be legal to sell and consume alcoholic beverages on premises in the Town of Thompson's Station, Tennessee, in accordance with the provisions of this chapter notwithstanding any provision of any previous ordinance(s) of the Town of Thompson's Station, Tennessee, to the contrary.(as added by Ord. #2022-014, Nov. 2022 *Ch3\_03-14-23*)

**8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.** Pursuant to the authority contained in Tennessee Code Annotated, 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the Town of Thompson's Station, Tennessee, General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the Town of Thompson's Station, Tennessee, alcoholic beverages for consumption on the premises where sold. (as added by Ord. #2022-014, Nov. 2022 *Ch3\_03-14-23*)



**8-304. Annual privilege tax to be paid to the town clerk.** Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the Town of Thompson's Station, Tennessee, shall remit annually to the town clerk the appropriate tax described in § 8-303. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (as added by Ord. #2022-014, Nov. 2022 ***Ch3\_03-14-23***)

**TITLE 9**

**BUSINESS, PEDDLERS, SOLICITORS, ETC.**

**[RESERVED FOR FUTURE USE]**

**TITLE 10**

**ANIMAL CONTROL**

**[RESERVED FOR FUTURE USE]**

**TITLE 11**

**MUNICIPAL OFFENSES<sup>1</sup>**

**CHAPTER**

**1. OFFENSES AGAINST THE PEACE AND QUIET.**

**CHAPTER 1**

**OFFENSES AGAINST THE PEACE AND QUIET**

**SECTION**

11-101. Hours of construction work.

**11-101. Hours of construction work.** (1) Definitions. For purposes of this section the following words shall have the meanings set forth herein.

(a) "Construction work." Any site preparation, excavation, grading assembly, erection, paving, substantial repair, alteration or similar action, but excluding demolition, for or of any structures, utilities, public or private rights-of-way or other property.

(b) "Demolition work." Any dismantling, intentional destruction or removal of structures, utilities, public or private rights-of-way or other property.

(c) "Federal holidays." All days designated by the United States government as federal holidays.

(2) Construction or demolition work. The carrying on of any construction or demolition work is prohibited at any time on Sundays and federal holidays, or at any time other than between the hours of 7:00 A.M. and 6:00 P.M. prevailing time, on any other days. The provisions of this section shall not apply to interior or exterior repairs or interior alterations when the work is actually performed by a homeowner or occupant between the hours of 8:00 A.M. and 9:00 P.M. prevailing time; provided the work is done without creating any noise disturbance across a residential real property boundary. (Ord. #08-016, Aug. 2008, as replaced by Ord. #2017-003, March 2017 *Ch2\_8-2-21*)

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<sup>1</sup>Municipal code references

Housing codes: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

Streets and sidewalks (non-traffic): title 16.

## TITLE 12

### BUILDING, UTILITY, ETC. CODES

#### CHAPTER

1. CODES ADOPTED BY REFERENCE.
2. DELETED.
3. BUILDING PERMITS.
4. IMPACT FEES.

#### CHAPTER 1

### CODES ADOPTED BY REFERENCE<sup>1</sup>

#### SECTION

- 12-101. Codes adopted.  
 12-102. Definitions.  
 12-103. Available in recorder's office.  
 12-104. Penalties.

**12-101. Codes adopted.** (1) Adoption of 2015 International Building Code. That the 2015 International Building Code and its appendices is hereby adopted by reference with one (1) amendment to section 105.5, and that all conflicting codes and ordinances are hereby repealed. A complete copy of the 2015 International Building Code is available for inspection and review at town hall.

Amendment to section 105.5. Insert: In order to obtain approval of an extension, the applicant shall diligently pursue completion of the project within one hundred eighty (180) days as determined by the building official. Additional fees will apply. Upon approval of the extension, work shall be conducted continuously and will be subject to review by the building official.

(2) Adoption of the 2015 International Residential Code. That the 2015 International Residential Code and its appendices is hereby adopted by reference and that all conflicting codes and ordinances are hereby repealed, with one (1) exception; the town opts out of section P, the requirement to install a sprinkler system in single-family residential units. A complete copy of the 2015

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<sup>1</sup>Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Wastewater: title 18.

International Residential Code is available for inspection and review at town hall.

(3) Adoption of the 2015 International Plumbing Code. That the 2015 International Plumbing Code and its appendices is hereby adopted by reference and that all conflicting codes and ordinances are hereby repealed. A complete copy of the 2015 International Plumbing Code is available for inspection and review at town hall.

(4) Adoption of the 2015 International Mechanical Code. That the 2015 International Mechanical Code and its appendices is hereby adopted by reference and that all conflicting codes and ordinances are hereby repealed. A complete copy of the 2015 International Mechanical Code is available for inspection and review at town hall.

(5) Adoption of the 2015 International Fuel Gas Code. That the 2015 International Fuel Gas Code and its appendices is hereby adopted by reference and that all conflicting codes and ordinances are hereby repealed. A complete copy of the 2015 International Fuel Gas Code is available for inspection and review at town hall.

(6) Adoption of the 2015 International Energy Conservation Code. That the 2015 International Energy Conservation Code and its appendices is hereby adopted by reference and that all conflicting codes and ordinances are hereby repealed. A complete copy of the 2015 International Energy Conservation Code is available for inspection and review at town hall.

(7) Adoption of the 2015 International Swimming Pool and Spa Code. That the 2015 International Swimming Pool and Spa Code and its appendices is hereby adopted by reference and that all conflicting codes and ordinances are hereby repealed. A complete copy of the 2015 International Swimming Pool and Spa Code is available for inspection and review at town hall.

(8) Adoption of the 2015 International Existing Building Code. That the 2015 International Existing Building Code and its appendices is hereby adopted by reference and that all conflicting codes and ordinances are hereby repealed. A complete copy of the 2015 International Existing Building Code is available for inspection and review at town hall.

(9) Adoption of the 2021 International Property Maintenance Code. That the 2021 International Property Maintenance Code and its appendices is hereby adopted by reference and that all conflicting codes and ordinances are hereby repealed. A complete copy of the 2021 International Property Maintenance Code is available for inspection and review at town hall.

The following sections are hereby revised.

Section 101.1. Insert: Town of Thompson's Station

Section 103.5. Insert: Schedule of fees.

Section 111.2. Delete and substitute the following: The board of appeals shall consist of three (3) members of the town's planning commission appointed by mayor.

Section 111.2.1 Delete and substitute the following: The mayor shall appoint two (2) members of the planning commission to serve as an alternate member who shall be called by the board chairman to hear appeals during the absence or disqualification of a member.

Section 112.4, Insert: Fifty dollars (\$50.00) and one thousand dollars (\$1,000.00).

Section 302.2. Delete.

Section 302.4. Delete.

Section 302.5. Delete.

Section 302.8. Delete.

Section 302.9. Delete.

Section 303. Delete.

Section 304.3. Delete.

Section 304.12. Delete.

Section 304.13. Delete.

Section 304.13.2. Delete.

Section 304.14. Delete.

Section 304.15. Delete.

Section 702.3. Insert: International Building Code.

Section 305. Delete.

Section 307. Delete.

Chapter 4. Delete.

Chapter 5. Delete.

Chapter 6. Delete.

Chapter 7. Delete. (Ord. #04-008, Nov. 2004, modified, as replaced by Ord. #374-008, Dec. 2014 **Ch2\_8-2-21** and Ord. #2017-016, Jan. 2018 **Ch2\_8-2-21**, amended by Ord. #2019-010, Jan. 2020 **Ch2\_8-2-21**, and replaced by Ord. #2022-0010, Sept. 2022 **Ch3\_03-14-23**)

**12-102. Definitions.** Whenever the building code refers to the "Building Official" or "Director of Public Works," it shall, for the purposes of the building code, mean the building official or building inspector of the Town of Thompson's Station, appointed or designated to administer and enforce the provisions of the building code, or his designee. (Ord. #04-008, modified)

**12-103. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #04-008, Nov. 2004, modified)

**12-104. Penalties.** Any person who shall violate a provision of the building and property maintenance code of the city, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Such fines shall be fifty dollars (\$50.00) per day

of violation, and shall hereafter be cited as the Town of Thompson Station's general penalty clause. Each day of violation after due notice shall be deemed as a separate offense. (as replaced by Ord. #2019-010, Jan 2020)



**CHAPTER 2**

**DELETED**

(This chapter was deleted by Ord. #14-008, Dec. 2014 *Ch2\_8-2-21*)

## CHAPTER 3

### BUILDING PERMITS

#### SECTION

12-301. Fee schedule.

12-302. Building official to issue permits.

12-303. Failure to obtain permit.

12-304. Calculation of permit fees; reinspection fees.

**12-301. Fee schedule.** All permit fees and collection of fees shall be established by resolution or ordinance adopted by the mayor and board of aldermen and shall be payable to the Town of Thompson's Station, Tennessee. The fee schedule shall be available for viewing in the office of the recorder. (Ord. #04-008, Nov. 2004, modified)

**12-302. Building official to issue permits.** The building official, upon payment of sums according to the town's fee schedule, will issue a permit for all new structures erected, either built on site or off site, or to be constructed or placed, as well as structures or buildings to be altered, repaired, remodeled, used and occupied or any appurtenance connected or attached to any building or structure, or construction requiring improvements for which an inspection is required, or for construction or placement of accessory structures, demolition of structures, connection of driveways to a structure connecting to a public street, installation of swimming pools, retaining walls, certain fences, temporary use structures, moving of structures, site preparation requiring grading, excavation or blasting. (Ord. #04-008, Nov. 2004, modified)

**12-303. Failure to obtain permit.** In the event that work has commenced for which a permit is required, prior to obtaining a requisite permit, all fees shall double, but payment of double fees shall not relieve any persons from fully complying with the requirements of all building codes in the execution if the work or prevent the levy of a civil penalty.

The building official is authorized to issue any necessary stop work orders for failure to secure a permit and for failure to comply with any and all building codes. (Ord. #04-008, Nov. 2004, modified)

**12-304. Calculation of permit fees; reinspection fees.** For purposes of definition, "built space," as to be calculated on a per square foot basis for issuance of a permit, shall mean all space under roof, enclosed or not, basement and garage areas, but shall not include attic area not intended for use as a living area or capable of being converted to a future use living area by plan or design submitted by an applicant for permit issuance.

Reinspection fees are authorized for failure of an applicant to perform work in accordance with the building code for any scheduled inspection required and said reinspection fee must be paid prior to requesting reinspection. (Ord. #04-008, Nov. 2004, modified)

## CHAPTER 4

### IMPACT FEES

#### SECTION

- 12-401. Title, authority, applicability.
- 12-402. Definitions.
- 12-403. Intent and purposes.
- 12-404. Basis for fees.
- 12-405. Use of fees.
- 12-406. Fee calculations.
- 12-407. Payment of fee; appeals.
- 12-408. Credits.

**12-401. Title, authority, applicability.** (1) This chapter shall be known and may be cited as the "impact fee ordinance."

(2) Authority to implement this chapter is granted under the general law mayor-aldermanic charter, and such other additional powers granted to municipalities by the state legislature. The enumeration of particular powers in this chapter is not exclusive of others, not restrictive of general words or phrases granting powers and all powers shall be construed so as to permit the town to exercise freely any one (1) or more such powers.

(3) Except as provided herein, this chapter shall be applicable to all new buildings constructed or additions to existing buildings constructed after the effective date of this chapter.

(4) This chapter is intended to impose an impact fee at the time of building permit or certificate of occupancy issuance, in an amount based upon the demand generated by new development. The town will meet, to the extent finances permit through the use of general revenues, all capital improvement needs associated with existing development. This chapter shall be uniformly applicable to development that occurs within the town limits and the urban growth boundary. (as added by Ord. #13-016, Sept. 2013, and replaced with Ord. #2020-003, Feb. 2020 *Ch2\_8-2-21*)

**12-402. Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Board" or "BOMA." The duly constituted governing body of the town, or the board of mayor and aldermen.

(2) "Building permit." The permit required for new construction and additions pursuant to the International Building Code heretofore adopted. The term "building permit," as used herein, shall not be deemed to include permits required for remodeling, rehabilitation or other improvements to an existing

structure or rebuilding a damaged or destroyed structure; provided, there is no increase in gross floor area or number of dwelling units resulting therefrom.

(3) "Building." Any permanent structure having a roof and used or built for the enclosure or shelter of persons, animals, vehicles, goods, merchandise, equipment, materials or property of any kind.

(4) "Capital improvements."

(a) Public facilities that are treated as capitalized expenses according to generally accepted accounting principles and does not include costs associated with the operation, administration, maintenance or replacement of capital improvements.

(b) Any and/or all of the following, and including acquisition of land, construction, improvements, equipping and installing of same and which facilities are identified in the capital improvements plan to be financed by the imposition of an impact fee:

(i) Parks and recreational facilities;

(ii) Road systems; and/or

(iii) Other facilities the costs of which may be substantially attributed to new development.

(5) "Development." Any human-made change to improved or unimproved real property, the use of any principal structure or land or any other activity that requires issuance of a building permit.

(6) "Gross floor area." The total square feet of enclosed space on the floor or floors comprising the structure. The total of the gross horizontal area of all floors that will be heated or cooled, including usable basements, cellars and attics, below the roof and within the outer surface of the main walls of principal or accessory buildings or the centerlines of a party wall separating such buildings or portions thereof, or within lines drawn parallel to and two feet (2') within the roof line of any building or portions thereof without walls, but excluding enclosed parking areas, farm buildings, and arcades, porticoes and similar open areas that are accessible to the general public and are not designed or used as sales, display, storage, service or production areas.

(7) "Impact fee." Any construction privilege tax charge, fee or assessment levied as a condition of issuance of a building permit or development approval for the purpose of funding any portion of the costs of capital improvements or any public facilities attributable to accommodating the additional demands created by new development.

(8) "Site." The land on which development takes place.

(9) "Town." The Town of Thompson's Station, a duly constituted political subdivision of the State of Tennessee. (as added by Ord. #13-016, Sept. 2013, and replaced with Ord. #2020-003, Feb. 2020 *Ch2\_8-2-21*)

**12-403. Intent and purposes.** (1) The board of mayor and aldermen has determined that the rapid growth rate which the town has experienced and is expected to experience in the foreseeable future necessitates capital

improvements and makes it necessary to regulate land development and building activity that generates increased traffic and other impacts within the town. It is the intent of the town that the capacity of the road network in the community should handle the traffic demands generated by new development, thus maintaining a satisfactory quality of life in Thompson's Station. Additionally, the demands on the public parks and recreational facilities caused by new development must be addressed to maintain a satisfactory quality of life in Thompson's Station.

(2) In order to finance the necessary capital improvements required to meet the traffic demands, park demands, and recreational facility demands, as well as other capital improvement projects, created by growth in population and business activity, a variety of financial sources shall be used to fund the planning, engineering, and construction of future capital improvement projects.

(3) It shall be the purpose of this chapter to establish a regulatory system and method by which the town calculates, collects, and obligates a regulatory fee hereinafter referred to as the impact fee. Except as otherwise provided for in this chapter, this fee shall be assessed on each new building or addition to an existing structure constructed within the town. The fee shall provide a portion of the revenues required to complete infrastructure and public works projects necessary to service this new development.

(4) The public health, safety, and general welfare is protected when adequate financial resources are available to fund the public works projects needed to handle traffic demand generated from land development activities and the construction of new buildings in the town.

(5) The intent of this chapter is to allow for continued land development and new building construction in accordance with orderly fulfillment of appropriate capital improvement projects.

(6) The impact fee shall be assessed to each new land development and building based on a reasonably estimated proportionate share of the anticipated cost of future public works projects attributable to new development. (as added by Ord. #13-016, Sept. 2013, and replaced with Ord. #2020-003, Feb. 2020 *Ch2\_8-2-21*)

**12-404. Basis for fees.** The impact fee schedule shall be based upon use of available land use planning data related to the town, other transportation studies in the vicinity and other available transportation related studies and traffic general analysis and basic assumptions as updated by the Institute of Transportation Engineers (ITE), as well as any other information relevant to traffic, roadways, public parks, and recreational facilities, including census data and other reliable metrics. (as added by Ord. #13-016, Sept. 2013, and replaced with Ord. #2020-003, Feb. 2020 *Ch2\_8-2-21*)

**12-405. Use of fees.** The impact fees generated by this chapter shall be used to pay for the public infrastructure required by new development, to

include roadways, public parks, and recreational facilities. Upon the recommendation of the town administrator, the board shall approve all impact fee fund expenditures as related to the costs of capital improvements. The impact fees shall be segregated into trust funds for each type of impact fee. Road impact fee funds shall be used only for capacity-expanding improvements to arterial and collector roads. Park impact fee funds shall be used only for new or expanded parks and recreational facilities. (as added by Ord. #13-016, Sept. 2013, and replaced with Ord. #2020-003, Feb. 2020 ***Ch2\_8-2-21***)

**12-406. Fee calculations.** (1) A schedule of impact fees, based on the method of calculation promulgated by this chapter, shall be adopted herewith.

(2) For each land use, a demand factor shall be determined for use in calculating the appropriate impact fee. Such demand factors shall be based on the average travel demand generated by new development, with regard to roads, and based on the applicable service unit or equivalent dwelling unit used at the time by the town, with regard to public parks and recreation facilities.

(3) The impact fee schedule shall be based upon a written analysis that demonstrates that the adopted fees do not exceed the proportionate share of the costs required to accommodate the increased demands on public facilities likely to be generated by new development.

(4) The following fees are the maximum amounts calculated in the Road and Park Impact Fee Study prepared by Duncan Associates in 2019. These fees are hereby adopted at one hundred percent (100%) of the maximum amounts.

**Impact Fee per Development Unit**

<b><u>Land Use</u></b>	<b><u>Unit</u></b>	<b><u>Roads</u></b>	<b><u>Parks</u></b>	<b><u>Total</u></b>
Single-Family Detached	Dwelling	\$3,593.00	\$488.00	\$4,081.00
Multi-Family	Dwelling	\$2,786.00	\$327.00	\$3,113.00
Mobile Home Park	Pad	\$1,093.00	\$488.00	\$2,109.00
Senior Adult Housing, Detached	Dwelling	\$1,621.00	\$488.00	\$2,109.00
Senior Adult Housing, Attached	Dwelling	\$1,408.00	\$327.00	\$1,735.00
Golf Course	Acre	\$1,028.00	\$0.00	\$1,028.00

<b><u>Land Use</u></b>	<b><u>Unit</u></b>	<b><u>Roads</u></b>	<b><u>Parks</u></b>	<b><u>Total</u></b>
Hotel/Motel	Room	\$2,230.00	\$0.00	\$2,230.00
Retail/ Commercial/ Shopping Center	1,000 square feet	\$5,601.00	\$0.00	\$5,601.00
Restaurant, Standard	1,000 square feet	\$10,744.00	\$0.00	\$10,744.00
Restaurant, Drive- Through	1,000 square feet	\$23,904.00	\$0.00	\$23,904.00
Gas Station with Convenience Market	Pump	\$9,274.00	\$0.00	\$9,274.00
Office/ Institutional	1,000 square feet	\$4,238.00	\$0.00	\$4,238.00
Elementary/ Secondary School	1,000 square feet	\$1,312.00	\$0.00	\$1,312.00
Community College	1,000 square feet	\$2,963.00	\$0.00	\$2,963.00
Day Care Center	1,000 square feet	\$3,487.00	\$0.00	\$3,487.00
Hospital	1,000 square feet	\$3,275.00	\$0.00	\$3,275.00
Nursing Home	1,000 square feet	\$1,997.00	\$0.00	\$1,997.00
Place of Worship	1,000 square feet	\$2,119.00	\$0.00	\$2,119.00
Industrial	1,000 square feet	\$1,590.00	\$0.00	\$1,590.00
Warehouse	1,000 square feet	\$823.00	\$0.00	\$823.00

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<u>Land Use</u>	<u>Unit</u>	<u>Roads</u>	<u>Parks</u>	<u>Total</u>
Mini-Warehouse	1,000 square feet	\$711.00	\$0.00	\$711.00

Note: square feet based on gross floor area; definitions of land uses are provided in the impact fee study, which is attached hereto and incorporated herein as Exhibit "A."

(5) The fee schedule shown above in subsection (4) above shall be adjusted on January 1 of each year by the percentage change in the Engineering News-Record Construction Cost Index for the most recent available twelve (12) month period; provided that updated fees have not been adopted based upon a new impact fee study within the preceding eight (8) months. If the aforementioned index becomes unavailable, an alternative and reasonably comparable cost index shall be used as determined by the BOMA by resolution. The town recorder shall ensure that:

(a) A notice of the adjusted impact fee schedule is posted on the town's website at least two (2) weeks prior to the January 1 effective date of the adjusted fees; and

(b) The current fees are at all times available to the public on the town's website and by request.

(6) Within sixty (60) days of January 1 in odd-numbered years, beginning in 2023, the BOMA shall review the then effective impact fee schedule under this chapter and determine if said schedule should be adjusted in the best interests of the town.

(7) In the event of redevelopment or change of use, each type of fee shall be assessed based on the net impact of the proposed development compared to the previously-existing development. This will be determined as the total potential road or park fee for the proposed development less the total fee under the current fee schedule for the previous development. No road fee will be due and no refund will be provided if the net impact on roads is negative. Similarly, no park fee will be due and no refund will be provided if the net impact on parks is negative. (as added by Ord. #13-016, Sept. 2013, and replaced with Ord. #2020-003, Feb. 2020 **Ch2\_8-2-21**)

**12-407. Payment of fee; appeals.** (1) Payment of the impact fee shall be made at the time that a building permit is issued by the town. No building permit shall be issued for a development unless the impact fee is imposed and calculated pursuant to this chapter.

(2) Appeals. (a) A person may challenge the calculation or application of a fee imposed pursuant to this chapter by filing with the town administrator a written notice of appeal with a full statement of the grounds and an appeal fee of two hundred fifty dollars (\$250.00) or such other amount as may be fixed from time to time by resolution of the

board. Notwithstanding the appeal, the building permit for the land use may be issued if the notice of appeal is accompanied by a bond, cashier's check or other security acceptable to the town administrator in an amount equal to the fee. Appeals filed pursuant to this section must be submitted prior to issuance of the building permit or within ten (10) days thereafter.

(b) The appellant bears the burden of demonstrating that the amount of the fee was not calculated or applied according to the procedures established in this chapter.

(c) The board of zoning appeals shall hear the appeal at a regularly scheduled meeting or special called meeting which falls within thirty (30) days following receipt of the notice of appeal by the town administrator. The determination of the board of zoning appeals shall be announced at the conclusion of the hearing or at the next regular meeting of the board of zoning appeals. The determination of the board of zoning appeals shall be final. (as added by Ord. #13-016, Sept. 2013, and replaced with Ord. #2020-003, Feb. 2020 *Ch2\_8-2-21*)

**12-408. Credits.** (1) A property owner may elect, with written permission of the board, to construct an eligible capital improvement listed in the capital improvements plan. If the property owner elects to make such improvement, the property owner must enter into an agreement with the town prior to issuance of any building permit. The agreement must establish the estimated cost of the improvement, the schedule for initiation and completion of the improvement, a requirement that the improvement be completed to town standards, and such other terms and conditions as deemed necessary by the town. The town must review the improvement plan, verify costs and time schedules, determine if the improvement is an eligible improvement, and determine the amount of the applicable credit for such improvement to be applied to the otherwise applicable impact fee prior to issuance of any building permit. In no event may the town provide a refund for a credit that is greater than the applicable impact fee. If, however, the amount of the credit is calculated to be greater than the amount of the impact fee due, the property owner may utilize such excess credit toward the impact fees imposed on other building permits for development on the same site and in the same ownership. Credits shall only be applied against the type of impact fee (e.g., roads, parks) that is the same as the type of the improvement.

(2) No credits shall be given for the construction of local on-site facilities required by zoning, subdivision or other town regulations. (as added by Ord. #2020-003, Feb. 2020 *Ch2\_8-2-21*)

**TITLE 13****PROPERTY MAINTENANCE REGULATIONS****CHAPTER****1. OVERGROWN AND DIRTY LOTS.****CHAPTER 1****OVERGROWN AND DIRTY LOTS****SECTION**

13-101. Definitions.

13-102. Prohibited practices.

13-103. Duty of owner and occupant to clear on notice.

13-104. Hearing rights; appeals.

13-105. Town's right to remedy violations; collection of costs.

13-106. Violation and penalty.

13-107. Enforcement by town recorder.

**13-101. Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Building materials" means any materials or other substances accumulated as a result of repairs or additions to existing buildings or structures, construction of new buildings, demolition of existing buildings or moving of buildings.

(2) "Garbage" means the byproduct of animal or vegetable foodstuffs resulting from handling, preparation, cooking and consumption of food, or other matter which is subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors, or which during or after decay, may serve as breeding or feeding material for flies or other insects or animals.

(3) "Improved property" means a parcel less than five (5) acres containing any manmade, immovable structure intended for or suitable for occupancy by humans which becomes part of, is placed upon, or is affixed to real estate, whether such structure has been completed or not.

(4) "Litter" means all discarded manmade materials, including, but not limited to, building materials, trash, garbage, industrial waste, refuse and other solid waste.

(5) "Parcel" means a subdivided lot or tract of land which may be improved property or vacant.

(6) "Refuse" means solid waste consisting of garbage or trash.

(7) "Trash" means accumulation of waste from households, yards or businesses.

(8) "Vacant parcel" means undeveloped land that currently does not have a structure suitable for occupancy by humans or is presently used or could be used solely for agricultural purposes. (Ord. #08-015, Aug. 2008)

**13-102. Prohibited practices.** Pursuant to the authority granted municipalities by Tennessee Code Annotated, § 6-54-113 and the powers and authority granted by the charter of the town, as the same may be amended or replaced, it shall be unlawful for any property owner or occupant of property to:

(1) Fail to cut grass, weeds and other overgrowth vegetation on improved property or on vacant parcels less than five (5) acres when such vegetation is of a height greater than one foot (1') on the average, such condition being declared a nuisance in that it may permit the property to serve as a refuge for rodents, snakes and/or other vermin, or create a fire hazard. All other vacant parcels adjacent to improved property shall be similarly kept cut within one hundred feet (100') of such improved property. Weeds and grass on heavily wooded parcels where equipment cannot maneuver because of the natural density of the vegetation are exempt from these provisions. In addition, the tilling, planting and harvesting of agricultural crops are exempt from the provisions stated herein.

(2) Permit or cause trash, garbage or miscellaneous refuse, or any other substance which may cause foul odor to accumulate on improved property or vacant parcels so as to serve as a refuse for rodents, snakes and/or other vermin. Such condition is or may become a nuisance, or may endanger or threaten the health, safety and/or welfare of residents or occupants of nearby property.

(3) Have on their premises materials that would create or permit a littered condition such as but not limited to dilapidated furniture, appliances, machinery, equipment, building material, automobile parts, tires, or any other items which are in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition, which are not completely enclosed within a building, dwelling or opaque fencing/screening. Such materials may endanger or cause injury to the residents or occupants of nearby property. (Ord. #08-015, Aug. 2008)

**13-103. Duty of owner and occupant to clear on notice.** (1) Within ten (10) days' written notice of a violation of this chapter from the town's code enforcement supervisor or his designee, it shall be the duty of the owner and occupant to cut and remove all grass, weeds and other overgrowth vegetation and to remove all trash, litter, materials and other offending conditions from the property. The notice shall include a brief statement of this section and the consequences of failing to remedy the noted condition; the person, office, address and telephone number of the person giving official notice; a cost estimate for remedying the noted condition; and a place where the notified party may request a hearing to appeal the enforcement action.

(2) If the property owner is a carrier engaged in the transportation of personal property or is a utility transmitting communications, electricity, gas, liquids, steam, sewerage or other materials, the ten (10) day period of this section shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays. (Ord. #08-015, Aug. 2008)

**13-104. Hearing rights; appeals.** (1) Should the owner or occupant of any property notified of a violation of this chapter request a hearing, the town shall provide for a hearing by the town administrator or his designee. A request for such hearing must be made within ten (10) days following the receipt of the notice issued pursuant to this chapter. Failure to make the request within this time shall without exception constitute a waiver of the right to a hearing.

(2) Any person aggrieved by an order or act of the town under the provisions of this chapter may seek judicial review of the order or act. The time period established in this chapter shall be stayed during the pendency of the hearing. (Ord. #08-015, Aug. 2008)

**13-105. Town's right to remedy violations; collection of costs.**

(1) Should the owner or occupant of any parcel fail to remove such weeds, trash, garbage, grass or other objects or substances within ten (10) days after notice of violation of this chapter, thereafter the town shall have the authority to enter onto such parcel and immediately cause the offending conditions to be remedied or removed; and to charge the cost or expense of such action, including associated legal fees and/or other administrative costs, against such owner and/or occupant. The town is authorized to use either internal labor and equipment or private contractors at its discretion to enforce the provisions of this chapter.

(2) If the owner fails to pay the expense of the cleanup within thirty (30) days from receipt of a certified invoice, the amount shall be certified to the town attorney who shall process a lien with the register of deeds on the properties upon which the expenditure was made. These costs shall be collected by the municipal tax collector at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. (Ord. #08-015, Aug. 2008)

**13-106. Violation and penalty.** In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable by civil penalty not to exceed fifty dollars (\$50.00). Each day a violation occurs shall constitute a separate offense. Nothing herein shall prohibit the town from seeking other remedies, including injunctive relief or claims for damages to its rights-of-way, to enforce the purposes of this chapter. (Ord. #08-015, Aug. 2008)

**13-107. Enforcement by town recorder.** The city recorder of the Town of Thompson's Station, Tennessee is hereby designated as the appropriate department or person to carry out the provisions of this chapter, to promote the general welfare of the municipality as it pertains to the removal of vegetation and debris from parcels of property lying within the municipality. (Ord. #91-005, Oct. 1991, modified)

**TITLE 14****ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. [DELETED].
3. LAND DEVELOPMENT ORDINANCE.
4. REVIEW CHARGES AND INSPECTION FEES.
5. [DELETED.]

**CHAPTER 1****MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Creation.
- 14-102. Membership and terms.
- 14-103. Duties.
- 14-104. Training required.
- 14-105. Powers.

**14-101. Creation.** Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101, there is here and now created and established a municipal planning commission for the municipality consisting of seven (7) members residing within the municipal limits of the town. The municipal planning commission shall be known as the Thompson's Station Municipal Planning Commission. (Ord. #03-004, Dec. 2003, as amended by Ord. #06-017, Jan. 2007)

**14-102. Membership and terms.** One (1) of the members shall be mayor of the municipality or a person designated by the mayor and one (1) of the members shall be one (1) of the aldermen of the town to be selected by the chief legislative body, the mayor and board of aldermen. All other members shall be appointed by the mayor, who shall strive to ensure racial composition of the planning commission which is at least proportionately reflective of the municipality's racial minority population. The appointed members from the citizenry of the town shall be of such length whereby the term of one (1) member shall expire each year. By virtue of the expansion of the size of membership of the municipal planning commission, the additional two (2) membership terms shall be for one (1) and two (2) years and thereafter, shall be for an appointment term of three (3) years. Any vacancy in an appointed member shall be filled for the unexpired term by the mayor of the municipality, who shall also have the authority to remove any appointed member at the mayor's pleasure. The mayor

shall, upon expiration of a member's term(s), either reappoint a member(s) for an additional three (3) year term(s) or make a new appointment of a citizenry member for a three (3) year term. The alderman of the chief legislative body's term serving on the municipal planning commission shall be for that alderman's term of office as a member of the chief legislative body. (Ord. #06-017, Jan. 2007)

**14-103. Duties.** Pursuant to Tennessee Code Annotated, § 13-4-102, the planning commission of the municipality shall elect a chair among its appointed members. The terms of the chair shall be one (1) year with eligibility for re-election. The planning commission shall adopt rules for the transactions, findings and determinations, which shall be a public record. The planning commission shall adopt by-laws at its organizational meeting, appoint such employees and staff as it may deem necessary for its work and funding for the planning commission shall be within amounts appropriated for the purpose by the mayor and board of aldermen.

The secretary of the municipal planning commission shall keep an official record of all minutes and other documents filed and acted upon by the municipal planning commission and shall execute, as required, approvals made by said body. (Ord. #03-004, Dec. 2003)

**14-104. Training required.** Each planning commissioner shall, within one (1) year of initial appointment and each calendar year thereafter, attend a minimum of four (4) hours of training and continuing education in one (1) or more of the subjects as listed in Tennessee Code Annotated, § 13-4-101(c)(5). Certification shall be made by December 31 of each calendar year. The requisite attendance by written statement filed with the secretary of such individual's respective planning commission. Each such requisite statement shall identify the date of the program attended, its subject matter, location, sponsors and the time spent in each program. The town shall be responsible for paying the training and continuing education course registration and travel expenses for each planning commissioner. (Ord. #03-004, Dec. 2003)

**14-105. Powers.** The planning commission shall have all powers to promote municipal planning as set forth in Tennessee Code Annotated, §§ 13-4-103, et seq., to carry out all planning functions for the municipality within the parameters of state law. The planning commission shall also be designated as the town's design review commission, as set forth in Tennessee Code Annotated, § 6-54-133, et seq., to carry out all design review responsibilities for the municipality within the parameters of state law. (Ord. #03-004, Dec. 2003, as amended by Ord. #2023-004, March 2023 *Ch3\_03-14-23*)



**CHAPTER 2**

**[DELETED]**

(as deleted by Ord. #2023-004, March 2023 *Ch3\_03-14-23*)

**CHAPTER 3****LAND DEVELOPMENT ORDINANCE****SECTION**

14-301. Land development ordinance.

**14-301. Land development ordinance.** Land use and development within the town shall be governed and regulated by the land development ordinance, including the sector map and zoning map contained therein, adopted by Ord. #2015-007 and any amendments thereto. Said ordinance and any amendments thereto are published as separate documents, but are included herein by reference and shall not be amended or repealed by an update of the municipal code.<sup>1</sup> (as replaced by Ord. #2015-007, Sept. 2015 ***Ch2\_8-2-21***)

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<sup>1</sup>Ordinance #2015-007, and any amendments thereto, are published as separate documents and are of record in the office of the town recorder.

## CHAPTER 4

### REVIEW CHARGES AND INSPECTION FEES

#### SECTION

- 14-401. Costs for review and inspection to be paid by developer or owner.
- 14-402. Reimbursement required.
- 14-403. Charges due when application filed.

**14-401. Costs for review and inspection to be paid by developer or owner.** All owners, developers and applicants, individually or by their authorized agents, employees or servants, seeking municipal approval for any proposed development/improvement of land by: subdivision, planned unit development, site plan, special exceptions approved by the board of zoning appeals, use changes, landscape plans, sketch plats, preliminary plats, final plats, construction plans, grading plans, roadway plans, drainage plans, wastewater facility plans, matters requiring the establishment of performance bonding, dedication of easements and facilities/structures associated with any of the foregoing, shall be responsible for the reimbursement to the Town of Thompson's Station for all actual review charges including, but not limited to, engineering review, engineering oversight and project site inspection charges/fees for services incurred by said town by virtue of, and as relate to the foregoing, by the town's designated consulting engineer and/or his appointed designee, town attorney or any other designated consultant rendering services ancillary to the foregoing for and on behalf of the municipality.

Such charges and fees are not deemed to be taxes, but rather offset actual incurred engineering expenses of the municipality for an owner, developer and applicant seeking development of land and improvement of lands within the municipality. (Ord. #04-001, April 2004, modified)

**14-402. Reimbursement required.** All actual charges to be reimbursed to the municipality shall be paid within fifteen (15) days from the date of billing by the municipality. In the event said reimbursed charges are not paid, timely, any permit or approval before given or issued shall become void and default may be declared upon any performance bonding posted with the Town of Thompson's Station. (Ord. #04-001, April 2004)

**14-403. Charges due when application filed.** Notwithstanding the foregoing, certain charges shall be paid at the time of submittal or time application is made to the town or its planning commission as a base minimum. The schedule of such charges to be paid in advance, as set by ordinance, shall be maintained in the town recorder's office. (Ord. #04-001, April 2004, modified)

**CHAPTER 5**

**[DELETED]**

(This chapter was deleted by Ord. #13-016, Sept. 2013)

**TITLE 15****MOTOR VEHICLES, TRAFFIC AND PARKING<sup>1</sup>****CHAPTER**

1. MISCELLANEOUS.
2. SPEED LIMITS.
3. HEAVY TRUCK REGULATIONS.
4. PARKING.
5. ENFORCEMENT.

**CHAPTER 1****MISCELLANEOUS****SECTION**

15-101. Adoption of state traffic statutes.

**15-101. Adoption of state traffic statutes.** By the authority granted under Tennessee Code Annotated, § 16-18-302, the Town of Thompson's Station adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in Tennessee Code Annotated, §§ 55-8-101 to 55-8-131, and §§ 55-8-133 to 55-8-180. Additionally, the Town of Thompson's Station adopts Tennessee Code Annotated, §§ 55-8-181 to 55-8-193, §§ 55-9-601 to 55-9-606, and § 55-12-139 by reference as if fully set forth in this section. (Ord. #08-018, Oct. 2008)

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<sup>1</sup>Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

## CHAPTER 2

### SPEED LIMITS

#### SECTION

- 15-201. In general.
- 15-202. On U.S. Highway 31.
- 15-203. In school zones.
- 15-204. Residential subdivisions.
- 15-205. Alteration of speed limits.

**15-201. In general.** It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street within the Town of Thompson's Station at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (Ord. #99-002, Oct. 1999)

**15-202. On U.S. Highway 31.** The maximum speed limit upon U.S. Highway 31 beginning at a point which is two-fifths (2/5) of a mile north of Thompson's Station Road and continuing in a southerly direction to the southernmost corporate limit of the town shall hereinafter be forty-five (45) miles per hour. (Ord. #99-002, Oct. 1999)

**15-203. In school zones.** Pursuant to Tennessee Code Annotated, § 55-8-152, a special school zone speed limit is here and now established as twenty (20) miles per hour and shall be in effect only when proper signs have been posted with appropriate warning flashers in operation. It shall be unlawful for any person to violate such special school limit exceeding the speed of twenty (20) miles per hour when passing a school with warning flashers in operation ninety (90) minutes before and after the opening of school or a period of ninety (90) minutes before and after the closing of school. (Ord. #99-002, Oct. 1999)

**15-204. Residential subdivisions.** It shall be unlawful for any person to operate or drive a motor vehicle upon any roadway or street located within the bounds of any residential subdivision within the Town of Thompson's Station at a rate of speed in excess of twenty (20) miles per hour, except where official signs have been posted indicating other speed limits. (as added by Ord. #2020-012, Nov. 2020 *Ch2\_8-2-21*)

**15-205. Alteration of speed limits.** (1) State highways. Whenever the board of mayor and aldermen determines on the basis of an engineering and traffic investigation that the maximum speed permitted by law on a highway designated as a state highway is greater than is reasonable and safe under the conditions found to exist upon the highway, or part of such highway, the board

of mayor and aldermen may by resolution determine and declare a lower maximum speed limit thereon.

(2) Town roads and streets. Whenever the board of mayor and aldermen determines that the maximum speed permitted on a town road or street other than a highway designated as a state highway is greater or less than is reasonable and safe under the conditions found to exist upon the street, or part of such street, the board of mayor and aldermen may by resolution determine and declare a reasonable and safe maximum limit thereon. Before passing such resolution, the board of mayor and aldermen may request an engineering and traffic investigation.

(3) Special speed zones. Engineering and traffic investigations used to establish special speed zone locations and speed limits under this section shall be made in accordance with established traffic engineering practices and in a manner that conforms to the Tennessee Manual on Uniform Traffic Control Devices, as amended. Documentation of the investigation shall be maintained in the town's records.

(4) Effective time. Any altered speed limit established as authorized in this section shall be effective at all times when appropriate signs giving notice thereof are erected upon such street or highway. (as added by Ord. #2021-008, May 2021 *Ch2\_8-2-21*)

## CHAPTER 3

### HEAVY TRUCK REGULATIONS

#### SECTION

- 15-301. Heavy trucks defined.
- 15-302. Prohibited on certain streets.
- 15-303. Exceptions; limitations.
- 15-304. Application to use restricted street.
- 15-305. Violations and penalty.

**15-301. Heavy trucks defined.** Heavy trucks shall be defined as any vehicle:

- (1) With a gross vehicle weight in excess of fourteen (14) tons; or
- (2) Any loaded vehicle with three (3) or more axles. (Ord. #07-013, Nov. 2007)

**15-302. Prohibited on certain streets.** All heavy trucks shall be prohibited from operating upon the following streets: Thompson's Station Road East and Thompson's Station Road West. In addition, the town's engineer is hereby authorized to direct the posting of official traffic signs on any street, alley, or other public way or portion thereof in which there is an inadequate base or foundation to withstand heavy truck traffic. (Ord. #07-013, Nov. 2007)

**15-303. Exceptions; limitations.** Nothing herein shall be deemed to prohibit the operation of a heavy truck on such streets with the sole purpose of making a routine pick-up or delivery upon such street. A "routine pick-up or delivery" shall mean the operation of not more than eight (8) such truck trips over a restricted street within a twenty-four (24) hour period. More than eight (8) trips over the same street within a twenty-four (24) hour period by the same heavy truck, or by multiple heavy trucks owned by the same individual(s) or entity, is prohibited.

The operation of heavy trucks owned by the town or operated pursuant to contract with the town are exempt from this chapter. (Ord. #07-013, Nov. 2007)

**15-304. Application to use restricted street.** For truck operations which would require multiple trips on any restricted street, the truck operator shall make application with the town engineer for a permit to use the restricted street. The operator shall be required to post a cash bond or irrevocable letter of credit with the town to cover the costs to repair any damage to the road foundations, surfaces, or structures which the town engineer determines may result from the proposed truck operations. The town administrator shall have



the discretion to exempt businesses located within the town limits from the bond or letter of credit requirement. (Ord. #07-013, Nov. 2007)

**15-305. Violations and penalty.** A violation of this chapter shall be punishable by civil penalty of up to fifty dollars (\$50.00) per violation. Nothing herein shall limit the town's ability to seek other remedies including claims for damages to the town's roads. (Ord. #07-013, Nov. 2007)

## CHAPTER 4

### PARKING

#### SECTION

- 15-401. Application of chapter provisions.
- 15-402. Obstructing traffic prohibited.
- 15-403. Stopping, standing, or parking - prohibited locations.
- 15-404. Angle parking.
- 15-405. Parking within bicycle lanes prohibited.
- 15-406. Occupancy of more than one space.
- 15-407. Disabled or unlicensed vehicles.
- 15-408. Parking of commercial vehicles in residential zones prohibited.
- 15-409. Parking on narrow streets.
- 15-410. Stopping, standing, or parking at hazardous or congested places.
- 15-411. Parking within public parks.
- 15-412. Presumption with respect to illegal parking.
- 15-413. Placement and erection of signs.

**15-401. Application of chapter provisions.** The provisions of this chapter prohibiting the standing or parking of a vehicle shall apply at all times, or at the times herein specified, or as indicated on official signs or pavement markings except when it is necessary to stop a vehicle to avoid conflict with other traffic, or in compliance with the directions of a police officer or traffic-control device. (as replaced by Ord. #2021-002, Feb. 2021 *Ch2\_8-2-21*)

**15-402. Obstructing traffic prohibited.** (1) It is unlawful to leave any vehicle standing in any public street when such vehicle constitutes a hazard to public safety or an obstruction to the normal flow of traffic.

(2) Whenever any vehicle is standing or parked upon or beside a roadway, no person shall open any door of such vehicle on that side of the vehicle nearest the flow of traffic on such street, whenever the opening of such door shall constitute a hazard or obstruction to vehicles moving on the street in a lawful manner. (as added by Ord. #2021-002, Feb. 2021 *Ch2\_8-2-21*)

**15-403. Stopping, standing, or parking - prohibited locations.**

(1) No person shall stop, stand or park a vehicle:

- (a) On a sidewalk;
- (b) Upon any median, buffer strip, planting strip or landscape strip located between a sidewalk and roadway;
- (c) Within an intersection or within twenty-five feet (25') thereof, except to this shall have no application to:

- (i) Intersections at which the flow of traffic is controlled by either a traffic light (providing the customary red, yellow and green signals) or a stop sign; and
- (ii) Designated parking spaces when properly signed and marked.
- (d) On a crosswalk or between sidewalk pedestrian ramps;
- (e) On any controlled-access highway;
- (f) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed;
- (g) Upon any bridge or other elevated structure, underpass or within a street tunnel; or
- (h) On a path or crosswalk within any park.
- (2) No person shall stop, stand, or park a vehicle:
  - (a) At any place where official signs or pavement markings prohibit stopping, standing, or parking;
  - (b) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
  - (c) Within an alley except during the necessary and expeditious loading and unloading of merchandise or freight, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the normal flow of traffic;
  - (d) Without its right-hand wheels of the vehicle parallel to and within eighteen inches (18") of the right-hand curb;
  - (e) In front of a public or private driveway;
  - (f) Within fifteen feet (15') of a fire hydrant;
  - (g) Within fifty feet (50') of a railroad crossing;
  - (h) In any area designated as a fire lane pursuant to the terms of the International Fire Code adopted and codified by the town;
  - (i) In such a way as to obstruct access to any mailbox; or
  - (j) Within a clear sight triangle, as established in section 3.9.12 of the land development ordinance. (as added by Ord. #2021-002, Feb. 2021 *Ch2\_8-2-21*)

**15-404. Angle parking.** On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle or vehicle with a trailer attached thereto that blocks the normal flow of traffic. (as added by Ord. #2021-002, Feb. 2021 *Ch2\_8-2-21*)

**15-405. Parking within bicycle lanes prohibited.** Motor vehicles shall not be parked, stopped or left standing in a bicycle lane except as otherwise designated by official signage. (as added by Ord. #2021-002, Feb. 2021 *Ch2\_8-2-21*)

**15-406. Occupancy of more than one space.** No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space. (as added by Ord. #2021-002, Feb. 2021 *Ch2\_8-2-21*)

**15-407. Disabled or unlicensed vehicles.** It shall be unlawful to leave any vehicle parked on any public way or place for more than twenty-four (24) consecutive hours when such vehicle is not in running condition or does not have a current state license plate. Any vehicles parked in violation of this section shall be towed and stored at the expense of the owner. (as added by Ord. #2021-002, Feb. 2021 *Ch2\_8-2-21*)

**15-408. Parking of commercial vehicles in residential zones prohibited.** (1) No person shall park any motor vehicle licensed and/or primarily used for commercial purposes continuously for more than fifteen (15) days within a residential zoning district, on a public street.

(2) Emergency service vehicles and other service vehicles parked in residential districts, including moving vans and vehicles needed for construction purposes, shall be allowed so long as said vehicles are actively performing a service. (as added by Ord. #2021-002, Feb. 2021 *Ch2\_8-2-21*)

**15-409. Parking on narrow streets.** (1) The town administrator, or his or her designee, is hereby authorized to erect signs indicating no parking upon any street when the width of the street or roadway does not exceed twenty feet (20'), or upon one (1) side of a street when the width of the roadway does not exceed thirty feet (30').

(2) Whenever official signs prohibiting parking are erected upon narrow streets as authorized by the town administrator, or his or her designee, no person shall park a vehicle upon any such street in violation of any such sign. (as added by Ord. #2021-002, Feb. 2021 *Ch2\_8-2-21*)

**15-410. Stopping, standing, or parking at hazardous or congested places.** (1) The town administrator, or his or her designee, is hereby authorized to determine and designate by proper signs places not exceeding one hundred fifty feet (150') in length in which the stopping, standing, or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(2) Whenever official signs are erected at hazardous or congested places as authorized by this section, no person shall stop, stand, or park a vehicle in any such designated place. (as added by Ord. #2021-002, Feb. 2021 *Ch2\_8-2-21*)

**15-411. Parking within public parks.** It shall be unlawful to leave any vehicle parked on any public way or place within any park located within the town overnight. For the purposes of this section, overnight shall mean between the hours of 12:00 A.M. and 5:00 A.M. (as added by Ord. #2021-002, Feb. 2021 *Ch2\_8-2-21*)

**15-412. Presumption with respect to illegal parking.** When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (as added by Ord. #2021-002, Feb. 2021 *Ch2\_8-2-21*)

**15-413. Placement and erection of signs.** It shall be the responsibility of the town administrator, or his or her designee, to place appropriate signs in appropriate locations in accordance with this chapter. (as added by Ord. #2021-002, Feb. 2021 *Ch2\_8-2-21*)

**CHAPTER 5****ENFORCEMENT****SECTION**

15-501. Violations and penalty.

15-502. Illegal parking.

**15-501 Violations and penalty.** Any violation of this title shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense, in addition to any other penalty provided herein. (as added by Ord. #2021-001, Feb. 2021 *Ch2\_8-2-21*)

**15-502. Illegal parking.** Whenever any motor vehicles without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicles shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation during the hours and at a place specified in the citation. (as added by Ord. #2021-001, Feb. 2021 *Ch2\_8-2-21*)

## TITLE 16

### STREETS AND SIDEWALKS, ETC.<sup>1</sup>

#### CHAPTER

1. EXCAVATIONS AND CUTS.
2. WIRELESS COMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY.
3. STREET STANDARDS AND SPECIFICATIONS.
4. PARADES AND ALL OTHER RIGHT-OF-WAY OCCUPANCY AND OBSTRUCTION REGULATED.

#### CHAPTER 1

### EXCAVATIONS AND CUTS

#### SECTION

- 16-101. Intent and purpose.
- 16-102. Permit required.
- 16-103. Applications.
- 16-104. Failure to apply.
- 16-105. Deposit.
- 16-106. Manner of excavating; barricades, signage and lights.
- 16-107. Restoration of public rights-of-way.
- 16-108. Existing facilities in rights-of-way.
- 16-109. Perpetual care.
- 16-110. Inspection.
- 16-111. Specifications.
- 16-112. Insurance.
- 16-113. Indemnification.
- 16-114. Time limits.
- 16-115. Supervision.
- 16-116. Stop work order.
- 16-117. Facility relocation.
- 16-118. Violations and penalty.

**16-101. Intent and purpose.** In order to provide for the public health, safety and welfare of the citizens of the Town of Thompson's Station, as well as to ensure the structural integrity of the town's streets and related

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<sup>1</sup>Municipal code references

Related motor vehicle and traffic regulations: title 15.

Heavy trucks regulations: title 15, chapter 3.

infrastructures; to minimize the disruption to the traveling public; and to ensure the costs incurred by the town to maintain and manage the rights-of-way and that they are properly allocated among the various users of the rights-of-way, the town hereby establishes standards for authorizing and managing the placement of facilities in rights-of-way; performing installation, maintenance, and other work in the rights-of-way; and appropriately recovering costs incurred by the town related to such activities. (Ord. #07-015, Sept. 2007)

**16-102. Permit required.** (1) It shall be unlawful for any person, firm, corporation, public or private utility, association, or others to make any cut or excavation in any street, curb, sidewalk, alley, or public rights-of-way in the town, whether wholly or partially located within the town, without having first obtained a rights-of-way construction permit, as herein required, and without complying with the provisions of this chapter; and it shall be unlawful to violate, or to vary from, the terms of any such permit; provided, however, any person maintaining existing pipes, lines, driveways, or other facilities in or under the surface of any public rights-of-way may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately; provided the permit could not reasonably and practicably have been obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the town administrator is open for business, and said permit shall be retroactive to the date when the work was begun; however, the town administrator or his designee shall have the authority to waive emergency permits.

(2) No one shall cut, build, or maintain a commercial or residential driveway across public rights-of-way without first obtaining a right-of-way construction permit from the town administrator or his designee and receiving the necessary lines and grades from the town engineer. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. (Ord. #07-015, Sept. 2007, as amended by Ord. #2022-013, Oct. 2022 *Ch3\_03-14-23*)

**16-103. Applications.** Applications for such permits shall be made to the town administrator, or such person designated by him to receive such applications, and shall include, but not be limited to, the following:

- (1) Name of the owner or operator of the facility;
- (2) A sketch or drawing of the project;
- (3) Dates of the construction activity, the proposed start and stop times and any proposal to temporarily reopen any roadway for any "peak hour" period;
- (4) The names of any known subcontractors working on the proposed project under the applicant's responsibility and authority;



(5) Proof of payment of all money due the town for rights-of-way construction permit fees and any invoiced cost, loss, damage, or expense suffered by the town as a result of the applicant's prior construction activity including, but not limited to, any emergency action taken by the town;

(6) Evidence that the applicant has obtained the insurance coverage required by § 16-112;

(7) A traffic control plan if traffic is going to be impacted;

(8) A list of the applicant's emergency providers, including name of company, local contact person, mailing and e-mail address, twenty-four (24) hour emergency phone number, and pager or fax number. This information shall be kept current by written notice to the town administrator or his designee; and

(9) For major projects, as determined by the town administrator or his designee the following may be required:

(a) Detailed engineering plans. The plans shall show the location and area of the proposed project, the locations of all existing and proposed equipment and/or facilities, the height and/or depth of the proposed equipment and/or existing facilities, and the spatial relationship with any adjacent infrastructure, rights-of-way line, easement, utility, and/or other physical features. The plans shall be prepared under the direction of and signed by a registered professional engineer, and shall meet the size and scale as set forth in the Department of Public Works' Standard Design Criteria Manual;

(b) A copy of the engineering plans in an electronic format acceptable to the town administrator or his designee; and

(c) The applicant shall meet with the town administrator or his designee for a pre-work conference prior to issuance of a rights-of-way construction permit. (Ord. #07-015, Sept. 2007)

**16-104. Failure to apply.** Any person that fails to comply with § 16-103 shall be precluded from obtaining any rights-of-way construction permit or performing any further construction within the town's rights-of-way for up to three (3) months from the date of notification, in addition to any monetary penalty imposed by the town.

The fee for such rights-of-way construction permits shall be set by resolution as adopted by the Board of Mayor and Aldermen of the Town of Thompson's Station. (Ord. #07-015, Sept. 2007)

**16-105. Deposit.** It shall be the responsibility of the permittee to place with the Town of Thompson's Station a cash deposit or a surety bond either by the job or activity or on an annual basis. The amount of the deposit shall be determined by the town administrator or his designee based upon the size and nature of the permitted work within the rights-of-way. The town may use the deposit to cover its cost should a failure of restoration work occur to the public rights-of-way facility. (Ord. #07-015, Sept. 2007)

**16-106. Manner of excavating; barricades, signage and lights.** Any person, firm, corporation, public or private utility, association, or others making any excavation or tunnel shall do so according to the specifications and standards issued by the Town of Thompson's Station and must comply with the provisions of the Tennessee Underground Utility Damage Prevention Act (Tennessee Code Annotated, §§ 65-31-101, et seq.). Sufficient and proper barricades, signage, and lights shall be maintained to protect persons and property from injury by or because of the excavations being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. It shall be the responsibility of the permittee to adhere to the manual on uniform traffic-control devices. (Ord. #07-015, Sept. 2007)

**16-107. Restoration of public rights-of-way.** Any person, firm, corporation, public or private utility, association or others making any excavation or tunnel in or under any street, curb, alley, gutter, or public rights-of-way in the town shall backfill said street, curb, alley or public rights-of-way and restore the same, including final surfacing, to town specifications and standards promptly upon the completion of the work for which the excavation or tunnel is made. Final surfacing may be done by the town at the expense of the entity for which the excavation or tunnel is made, if requested; providing that town crews can schedule the work within twenty-four (24) hours of this request: If not, the entity will be required to place final surfacing in accordance with the requirements of this chapter. No excavation or tunnel in or under any street, curb, sidewalk, alley, or public rights-of-way shall be permitted to obstruct the flow of traffic unless the permit holder coordinates with the town engineer or town administrator and provides a plan to address the impact on traffic flow. In the event final resurfacing cannot be completed immediately after backfilling, the entity shall use temporary resurfacing materials such as coldmix or steel plate or an approved detour around such opening or excavation which would aid the flow of traffic.

Any detour must be approved by the town administrator, or his or her designee, prior to establishing any such detour. Such detour routes must be adequately signed and marked according to the Manual on Uniform Traffic-Control Devices. Maintenance of signage and markings will be the responsibility of the permittee.

In the event any person, firm, corporation, public or private utility, association or others, who intend to make an excavation or tunnel in or under any street, curb, alley, gutter, or public right-of-way in the town, remove any tree during such excavating or tunnelling, the same shall restore any tree removed in accordance with the town's land development ordinance. Prior to the removal of any tree, each tree shall be marked and measured, and the town administrator, or his or her designee, must be notified of the list of trees and their specifications, per the land development ordinance, intended to be removed

prior to the removal of said tree(s). (Ord. #07-015, Sept. 2007, as amended by Ord. #2022-013, Oct. 2022 *Ch3\_03-14-23*)

**16-108. Existing facilities in rights-of-way.** Each existing right-of-way occupant with more than one hundred linear feet (100') of facilities shall provide the town the following information:

(1) The name, address, telephone number and form of business of the individual, company or corporation owning facilities within the public rights-of-way of the Town of Thompson's Station, and the names and addresses of all persons authorized to act on behalf of the individual, company or corporation;

(2) The name, address and telephone number of a responsible person whom the town may notify or contact at any time concerning the rights-of-way occupant's facilities;

(3) A detailed description of the physical facilities owned, operated, managed or leased by the rights-of-way occupant. Detailed description is to include, but not be limited to, as built drawings and plans of existing facilities showing the locations of the facilities, including any manholes or overhead poles, the size, type and depth of any conduit or other enclosures, and the relationship of the system to all other existing poles, utilities, sidewalks, pavement, telecommunication facilities, and other improvements within the rights-of-way.

Such information must be submitted in hard copy and, if available, digitally. Any individuals, companies and corporations who have failed to provide the information required in this section shall be prohibited from making extensions, modifications or improvements to any existing facilities within the rights-of-way of the Town of Thompson's Station and will not be approved to install any new facilities within the rights-of-way of the Town of Thompson's Station until the information required in this section is provided. Nothing in this section shall be construed as granting permission or authority for an unauthorized facility to remain in the town's rights-of-way. (Ord. #07-015, Sept. 2007)

**16-109. Perpetual care.** Any person, firm, corporation, public or private utility, association, or others affecting a public rights-of-way within the town, shall be responsible for any defects which occur to the public facility within the public rights-of-way due to workmanship or materials. The cost for repairs shall be the responsibility of the utility owners of the facility which was placed within the Town of Thompson's Station rights-of-way. The town engineer will be responsible for making the repairs or having the work contracted. The town may allow the utility to make the repair if requested to do so. Repairs shall be made in accordance with specifications furnished by the Town of Thompson's Station or the town's engineering consultants. (Ord. #07-015, Sept. 2007)

**16-110. Inspection.** It shall be the responsibility of any person, firm, corporation, public or private utility, association, or others to call the director of public works for an inspection of the permitted facility as required by the rights-of-way construction permit. The permit shall specify, based upon the size and scope of the permitted work, the type of inspection to be required. The cost of all inspections shall be borne by the owner of the permitted work whether the work is performed by the staff of the Town of Thompson's Station or by a third party service. The permittee is to be bound by the rules and regulations as specified on the permit. (Ord. #07-015, Sept. 2007)

**16-111. Specifications.** Each rights-of-way construction permit shall be assigned a set of restoration specification standards. These specifications will be referenced by number and so indicated on the permit. It shall be the responsibility of the town engineer to maintain and provide the specification standards. The permittee may request a copy as required. The cost of the specification shall be limited to reproduction cost and paid by the permittee. (Ord. #07-015, Sept. 2007)

**16-112. Insurance.** In addition to making the deposit hereinbefore provided to be made, each person applying for a rights-of-way construction permit shall file a certificate of insurance or other suitable instrument indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the town administrator in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury in effect shall not be in an amount less than the current limits found in the Tennessee Governmental Tort Liability Act (Tennessee Code Annotated, §§ 29-20-101, et seq.). (Ord. #07-015, Sept. 2007)

**16-113. Indemnification.** Each rights-of-way occupant and permittee shall, at its sole cost and expense, indemnify, hold harmless, and defend the town, its elected and appointed officials, officers, boards, commissions, commissioners, agents, employees, and volunteers against any and all claims, suits, causes of action (whether frivolous or otherwise) proceedings, and judgments for damages or equitable relief arising out of the installation, construction, maintenance, or operation of facilities by the rights-of-way occupant or permittee; the conduct of the rights-of-way occupant's business in the town; or in any way arising out of the rights-of-way occupant's enjoyment or exercise of the privileges granted by the town or applicable law, regardless of

whether the act or omission complained of is authorized, allowed, or prohibited by the town, other applicable law, or the terms of any grant to occupy the rights-of-way.

Each rights-of-way occupant and permittee shall indemnify and hold harmless the town, and its elected and appointed officers, officials, boards, commissions, commissioners, employees, agents, and volunteers from and against any and all claims, demands, suits, or causes of action (whether frivolous or otherwise) of any kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees sustained by the town arising out of, or by reason of, or resulting from or of the acts, errors, or omissions of the rights-of-way occupant or permittee, or its agents, independent contractors, or employees related to or in any way arising out of the construction, operation or repair of the facilities in question.

The indemnity provision of this section includes, but is not limited to, the town's reasonable attorneys' fees incurred in defending against any such action, claim, suit (whether frivolous or otherwise), or proceeding, as well as the reasonable value of any services rendered by the town attorney, or town staff or employees.

Nothing in this chapter shall be construed to waive any immunity the town enjoys under applicable law, or the Tennessee Constitution.

Acceptance of the provisions of this section shall be a condition of all rights to occupy town rights-of-way or to obtain a rights-of-way construction permit. (Ord. #07-015, Sept. 2007)

**16-114. Time limits.** Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the town if the town restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the town administrator. (Ord. #07-015, Sept. 2007)

**16-115. Supervision.** The town administrator or his designee shall monitor all excavations and tunnels being made in or under any public street, curb, sidewalk, alley, or other public rights-of-way in the town and see to the enforcement of the provisions of this chapter. Notice shall be given to him before the work of refilling any such excavation or tunnel commences and said work may not commence until the inspector arrives at the site or gives verbal permission to proceed. (Ord. #07-015, Sept. 2007)

**16-116. Stop work order.** If at any time that any person, firm, corporation, public or private utility, association, or others is making any cut or excavation in any street, curb, alley, or public rights-of-way, or is tunneling under any street, curb, alley, or public rights-of-way in the town and it is

determined by the town administrator or his designee that the work being performed is not in compliance with the town's regulations, state or federal regulations or recognized construction and/or safety practices, the town administrator or his designee shall issue a stop work order and the person, firm, corporation, public or private utility, association, or others that is making the cut or excavation in any street, sidewalk, curb, alley, or public rights-of-way, or is tunneling under any street, sidewalk, curb, alley, or public rights-of-way shall cease work in the town's rights-of-way until corrective measures are taken and the town administrator or his designee rescinds the stop work order. (Ord. #07-015, Sept. 2007)

**16-117. Facility relocation.** A rights-of-way occupant shall, within three (3) months from the date of notification, at its own expense, permanently relocate, protect, or modify any part of its facility when required by the town by reason of traffic safety, public safety, road construction, change of street grade, installation of water, stormwater, or sanitary pipes, traffic signal devices, or any other types of town improvement projects. The town administrator may recommend such actions in order to prevent interference by the rights-of-way occupant's facilities with: a present or future town use of the town's rights-of-way; or a capital improvement project funded and scheduled to be undertaken by the town; or an economic development project in which the town has an interest or investment. The town administrator may also recommend such actions: when the public health, safety and welfare require it; or when necessary to prevent interference with the safety and convenience of ordinary travel over the rights-of-way, both vehicular and pedestrian; or when above-ground equipment is located in such a manner as to create an obstruction to a driver's line of sight. The rights-of-way occupant may for due cause make application to the town administrator or his designee for an extension to complete such relocation as required by this section.

Failure by the rights-of-way occupant to relocate its facilities within the three (3) months from date of notification shall result in the rights-of-way occupant being assessed liquidated damages for each day of the delay. The daily amount of liquidated damages shall be determined by the liquidated damages contained in any construction contract(s) the town may have entered into in conjunction with infrastructure improvements that necessitate the need for the rights-of-way occupant to relocate its facilities. In those cases where the town is performing the infrastructure improvements with town forces, the amount of the daily liquidated damages shall be the average of the daily liquidated damages amounts found in all town contracts for the past two (2) years commencing with the date of notification referenced above. If the rights-of-way occupant fails to pay the town for the liquidated damages as charged, the total amount of liquidated damages (daily amount x the number of days delayed) shall be attached to the cost of any future permit the rights-of-way owner may apply for, to install, extend or improve their facilities within the town's

rights-of-way and no permit shall be issued until the total costs are paid.  
(Ord. #07-015, Sept. 2007)

**16-118. Violations and penalty.** In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable by civil penalty not to exceed fifty dollars (\$50.00). Each day a violation occurs shall constitute a separate offense. Nothing herein shall prohibit the town from seeking other remedies, including injunctive relief or claims for damages to its rights-of-way to enforce the purposes of this chapter.  
(Ord. #07-015, Sept. 2007)

**CHAPTER 2****WIRELESS COMMUNICATIONS FACILITIES IN THE PUBLIC  
RIGHT-OF-WAY****SECTION**

- 16-201. Purpose and scope.
- 16-202. Definitions.
- 16-203. Permitted use; application and fees.
- 16-204. Facilities in the ROW; maximum height; other requirements.
- 16-205. Effect of permit.
- 16-206. Maintenance, removal, relocation or modification of small wireless facility and fiber in the ROW.
- 16-207. Public right-of-way rates—attachment to town-owned/leased PSSs and new PSSs installed within the public right-of-way or town-owned/leased property.
- 16-208. Remedies; violations.
- 16-209. General provisions.

**16-201. Purpose and scope.** (1) Purpose. In accordance with Tennessee Code Annotated §§ 13-24-401, et seq., known as "Competitive Wireless Broadband Investment, Deployment, and Safety Act of 2018," the purpose of this chapter is to establish policies and procedures for the placement of small wireless facilities in the public rights-of-way within the town's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the town's rights-of-way and to the town as a whole.

(2) Intent. In enacting this chapter, the town is establishing uniform standards to address issues presented by small wireless facilities, including, without limitation, to:

- (a) Prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
- (b) Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
- (c) Prevent interference with the facilities and operations of facilities lawfully located in public rights-of-way or public property;
- (d) Protect against environmental damage, including damage to trees;
- (e) Preserve the character of the neighborhoods, areas, and zones in which facilities are installed; and
- (f) Facilitate rapid deployment of small wireless facilities to provide the benefits of advanced wireless services.



(3) Conflicts with other chapters. This chapter supersedes all chapters or parts of chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict. (as added by Ord. #2019-009, Nov. 2019 **Ch2\_8-2-21**)

**16-202. Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Aesthetic plan." Any publicly available written resolution, regulation, policy, site plan, or approved plat establishing generally applicable aesthetic requirements within the town or designated area within the town. An aesthetic plan may include a provision that limits the plan's application to construction or deployment that occurs after adoption of the aesthetic plan. For purposes of this part, such a limitation is not discriminatory as long as all construction or deployment occurring after adoption, regardless of the entity constructing or deploying, is subject to the aesthetic plan.

(2) "Antenna." communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

(3) "Applicable codes." Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons to the extent not inconsistent with the terms of this chapter.

(4) "Applicant." Any person or entity who submits an application pursuant to this part.

(5) "Application." A request submitted by an applicant to the Town of Thompson's Station:

(a) For a permit to deploy or collocate small wireless facilities in the rights-of-way; or

(b) To approve the installation or modification of a Potential Support Structure (PSS) associated with deployment or collocation of small wireless facilities in the rights-of-way.

(6) "Authority-owned PSS" or "Town-owned PSS." A PSS owned or leased by the town in the rights-of-way, including:

(a) A utility pole that provides lighting or traffic control functions, including light poles, traffic signals, and structures for traffic cameras or signage; and

(b) A pole or similar structure owned/leased by the town in the rights-of-way that supports only wireless facilities. Authority-owned PSS does not include a PSS owned by a distributor of electric power, regardless of whether an electric distributor is investor-owned, cooperatively-owned, or government-owned.

(7) "Collocate," "collocating," and "collocation." In their respective noun and verb forms, to install, mount, maintain, modify, operate, or replace small

wireless facilities on, adjacent to, or related to a PSS. "Colocation" does not include the installation of a new PSS or replacement of authority-owned PSS;

(8) "Communications facility." The set of equipment and network components, including wires and cables and associated facilities, used by a communications service provider to provide communications service.

(9) "Communications service." Cable service as defined in 47 U.S.C. § 522(6), telecommunications service as defined in 47 U.S.C. § 153(53), information service as defined in 47 U.S.C. § 153(24) or wireless service.

(10) "Communications service provider." A cable operator as defined in 47 U.S.C. § 522(5), a telecommunications carrier as defined in 47 U.S.C. § 153(51), a provider of information service as defined in 47 U.S.C. § 153(24), a video service provider as defined in § 7-59-303, or a wireless provider.

(11) "Day." Calendar day.

(12) "Fee." A one (1) time, non-recurring charge.

(13) "Micro wireless facility." A small wireless facility that:

(a) Does not exceed twenty-four inches (24") in length, fifteen inches (15") in width, and twelve inches (12") in height; and

(b) The exterior antenna, if any, does not exceed eleven inches (11") in length.

(14) "Permittee." An applicant who has been granted a permit.

(15) "Person." An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a governmental entity.

(16) "Potential support structure for a small wireless facility" or "PSS." A pole or other structure used for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, including poles installed solely for the colocation of a small wireless facility. When "PSS" is modified by the term "new," then "new PSS" means a PSS that does not exist at the time the application is submitted, including, but not limited to, a PSS that will replace an existing pole. The fact that a structure is a PSS does not alone authorize an applicant to collocate on, modify, or replace the PSS until an application is approved and all requirements are satisfied pursuant to this part.

(17) "Rate." A recurring charge.

(18) "Residential neighborhood." An area within the town's geographic boundary that is zoned or otherwise designated by the town for general purposes as an area primarily used for single-family residences and does not include multiple commercial properties and is subject to speed limits and traffic controls consistent with residential areas.

(19) "Right-of-way" or "ROW." The space in, upon, above, along, across, and over all public streets, highways, avenues, roads, alleys, sidewalks, tunnels, viaducts, bridges, skywalks under the control of the town, and any unrestricted public utility easement established, dedicated, platted, improved, or devoted for utility purposes and accepted as such public utility easement by the authority

that are contiguous to paved roads, but excluding lands other than streets that are owned by the town.

(20) "Right-of-way use permit" or "permit." A permit for the construction or installation of wireless facilities, small wireless facilities, wireless backhaul facilities, fiber optic cable, conduit, and associated equipment necessary to install wireless facilities in the right-of-way.

(21) (a) "Small wireless facility." A wireless facility with:

(i) An antenna that could fit within an enclosure of no more than six (6) cubic feet in volume; and

(ii) Other wireless equipment in addition to the antenna that is cumulatively no more than twenty-eight (28) cubic feet in volume, regardless of whether the facility is ground-mounted or pole-mounted. For purposes of this subdivision, "other wireless equipment" does not include an electric meter, concealment element, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, or a vertical cable run for the connection of power and other services.

(b) "Small wireless facility" includes a micro wireless facility.

(22) "Town." Town of Thompson's Station, Tennessee.

(23) "Wireline backhaul facility." A communications facility used to transport communications services by wire from a wireless facility to a network;

(24) (a) "Wireless facility." Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including:

(i) Equipment associated with wireless communications; and

(ii) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

(b) "Wireless facility" does not include:

(i) The structure or improvements on, under, or within which the equipment is collocated;

(ii) Wireline backhaul facilities; or

(iii) Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

(c) "Wireless facility" includes small wireless facilities.

(25) "Wireless infrastructure provider." Any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities or PSSs, but that is not a wireless services provider.

(26) "Wireless provider." A wireless infrastructure provider or a wireless services provider.

(27) "Wireless services." Any service using licensed or unlicensed spectrum, including the use of Wifi, whether at a fixed location or mobile, provided to the public.

(28) "Wireless services provider." A person who provides wireless services. (as added by Ord. #2019-009, Nov. 2019 *Ch2\_8-2-21*)

**16-203. Permitted use; application and fees.** (1) Permitted use. Collocation of a small wireless facility or installation of a new, replacement, or modified PSS shall be a permitted use, subject to the restrictions in this title.

(2) Permit required. No person may construct, install, and/or operate wireless facilities that occupy the right-of-way without first obtaining a right-of-way use permit from the town. Any right-of-way use permit shall be reviewed, issued, and administered in a non-discriminatory manner, shall be subject to such reasonable conditions as the town may from time to time establish for effective management of the right-of-way, and otherwise shall conform to the requirements of this chapter and applicable law.

(3) Permit applications. All applications for right-of-way use permits filed pursuant to this chapter shall be on a form, paper or electronic, provided by the town. The applicant may include up to twenty (20) small wireless facilities within a single application. The applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

(4) Application requirements. The application shall be made by the wireless provider or its duly authorized representative and shall contain the following:

(a) The applicant's name, address, telephone number, and e-mail address;

(b) The names, addresses, telephone numbers, and e-mail addresses of all consultants, contractors and subcontractors, if any, acting on behalf of the applicant with respect to the filing of the application or who may be involved in doing any work on behalf of the applicant;

(c) A site plan for each proposed location with a diagram or engineering drawing depicting the design for installation of the small wireless facility with sufficient detail for the town to determine that the design of the installation and any new PSS or any modification of a PSS is consistent with all generally applicable safety and design requirements;

(d) The location of the site(s), including the latitudinal and longitudinal coordinates of the specific location(s) of the site;

(e) Identification of any third party upon whose PSS the applicant intends to collocate and certification by the applicant that it has obtained approval from the third party;

(f) The applicant's identifying information and the identifying information of the owner of the small wireless facility and certification by the applicant or the owner that such person agrees to pay applicable fees and rates, repair damage, and comply with all non-discriminatory and generally applicable ROW requirements for deployment of any associated infrastructure that is not a small wireless facility and the contact information for the party that will respond in the event of an emergency related to the small wireless facility;

(g) The applicant's certification of compliance with surety bond, insurance, or indemnification requirements (as set forth below); rules requiring maintenance of infrastructure deployed in ROW; rule requiring relocation or timely removal of infrastructure in ROW no longer utilized; and any rules requiring relocation or repair procedures for infrastructure in ROW under emergency conditions, if any, that the town imposes on a general and non-discriminatory basis upon entities that are entitled to deploy infrastructure in ROW no longer utilized; and any rules requiring relocation or repair procedures for infrastructure in ROW under emergency conditions, if any, that the town imposes on a general and non-discriminatory basis upon entities that are entitled to deploy infrastructure in the ROW;

(h) The applicant's certification that the proposed site plan and design plans meet or exceed all applicable engineering, materials, electrical, and safety standards, including all standards related to the structural integrity and weight-bearing capacity of the PSS and small wireless facility. Those standards relevant to engineering must be certified by a licensed professional engineer; and

(i) A statement that all wireless facilities shall comply with all applicable codes.

(5) Approval or denial of application; response time. The town responds to the applications for permit per the timelines prescribed in federal law and in Tennessee Code Annotated, § 13-24-409(b), as may be amended, regarding the approval or denial of applications, and the town shall respond to applications per the specific requirements of Tennessee Code Annotated, § 13-24-409(b)(3), as may be amended. The town reserves the right to require a surcharge as indicated in Tennessee Code Annotated, § 13-24-409(b)(7)(F)(i), as may be amended, for high-volume applicants.

(6) Deployment after permit. An applicant must complete deployment of the applicant's small wireless facilities within nine (9) months of approval of applications for the small wireless facilities unless the town and the applicant agree to extend the period, or a delay is caused by a lack of commercial power or communications transport facilities to the site. If an applicant fails to complete deployment within the time required pursuant to this subsection, then the town may require that the applicant complete a new application and pay an application fee associated with the new application.

(7) Multiple permit applications at same location. If the town receives multiple applications seeking to deploy or collocate small wireless facilities at the same location in an incompatible manner, then the town may deny the later filed application, as priority for locations shall be given on a first come, first served bases and as allowed.

(8) Bridge and/or overpass special provision. If the applicant's site plan includes any collocation design that includes attachment of any facility or structure to a bridge or overpass, then the applicant must designate a safety contact. After the applicant's construction is complete, the applicant shall provide to the safety contact a licensed professional engineer's certification that the construction is consistent with the applicant's approved design, that the bridge or overpass maintains the same structural integrity as before the construction and installation process, and that during the construction and installation process neither the applicant nor its contractors have discovered evidence of damage to or deterioration of the bridge or overpass that compromises its structural integrity. If such evidence is discovered during construction, then the applicant shall provide notice of the evidence to the safety contact.

(9) Information updates. Except as otherwise provided herein, any amendment to information contained in a permit application shall be submitted in writing to the town within thirty (30) days after the change necessitating the amendment.

(10) Application fees. Unless otherwise provided by law, all permit applications for small wireless facility pursuant to this chapter shall be accompanied by a fee in accordance with Tennessee Code Annotated, § 13-24-407. This fee shall be one hundred dollars (\$100.00) each for the first five (5) small wireless facilities and fifty dollars (\$50.00) each for additional small wireless facilities included in a single application. There shall also be a fee of two hundred dollars (\$200.00) for all first-time applicants. Applications fees shall increase by ten percent (10%) on January 1, 2020, and every five (5) years thereafter, rounded to the nearest dollar. (as added by Ord. #2019-009, Nov. 2019 *Ch2\_8-2-21*)

**16-204. Facilities in the ROW; maximum height; other requirements.** (1) Aesthetic plan. Unless otherwise determined by town staff, in an attempt to blend into the built environment, all small wireless facilities, new or modified utility poles, PSSs for the collocation of small wireless facilities, and associated equipment shall be consistent in size, mass, shape, and color to similar facilities and equipment in the immediate area, and its design for the PSS shall meet the adopted aesthetic plan, subject to following requirements:

(a) Collocation is recommended, when possible. Should the wireless provider not be able to collocate, the wireless provider shall provide justification in the application;

(b) When unable to match the design and color of existing utility poles/PSSs in the immediate area small wireless facilities and/or new PSSs shall be designed using stealth or camouflaging techniques, to make the installation as minimally intrusive as possible including stealth poles that are black or bronze in color, powder-coated and that do not exceed sixteen inches (16") in diameter. The town reserves the right to require a street light on the PSS. New wooden PSSs shall be strictly prohibited;

(c) When an applicant seeks to deploy a small wireless facility, and associated equipment, within a residential neighborhood, then the applicant must deploy the facility in the right-of-way within twenty-five feet (25') of the property boundaries separating residential lots larger than three-fourths (3/4) acres and within fifteen feet (15') of the property boundaries separating residential lots if lots are three-fourths (3/4) acres or smaller; and

(d) New small wireless facilities, antennas, and associated equipment shall be consistent in size, mass, and color to similar facilities and equipment in the immediate area of the proposed facilities and equipment, minimizing the physical and visual impact to the community.

(2) Compliance with underground facilities. Subject to waivers as determined by the Town of Thompson's Station Planning Commission, an applicant must comply with existing requirements to place all electric, cable, and communications facilities underground in a designated area of a ROW, as determined by the town's zoning regulations.

(3) Replacing an existing town-owned PSS. Town-owned PSS may be replaced for the collocation of small wireless facilities. When replacing a PSS, any replacement PSS must reasonably conform to the design aesthetics of the PSS being replaced, and must continue to be capable of performing the same function in a comparable manner as it performed prior to replacement.

(a) When replacing a town-owned PSS, the replacement PSS becomes the property of the town, subject to Tennessee Code Annotated, § 13-24-408(g), as may be amended.

(b) The town reserves the right to require a street light on the new PSS.

(4) Maximum height. A new PSS installed or an existing PSS replaced in the ROW shall not exceed the greater of:

(a) Ten feet (10') in height above the tallest existing PSS in place as of the effective date of this part that is located within five hundred feet (500') of the new PSS in the ROW and, in residential neighborhoods, the tallest existing PSS that is located within five hundred feet (500') of the new PSS and is also located within the same residential neighborhood as the new PSS in the ROW;

(b) Fifty feet (50') above ground level; or

(c) For a PSS installed in a residential neighborhood, forty feet (40') above ground level.

(5) Maximum height for small wireless facilities. Small wireless facilities shall not extend:

(a) More than ten feet (10') above an existing PSS in place as of the effective date of this part; or

(b) On a new PSS, ten feet (10') above the height permitted for a new PSS under this section.

(6) Construction in the rights-of-way. All construction, installation, maintenance, and operation of wireless facilities in the right-of-way by any wireless provider shall conform to the requirements of the following publications, as from time to time amended: The Rules of Tennessee Department of Transportation Right-of-Way Division, the National Electrical Code, and the National Electrical Safety Code, as might apply.

(7) Town of Thompson's Station Planning Commission approval. Unless otherwise provided in this chapter, the Town of Thompson's Station Planning Commission approval shall be required for:

(a) Any wireless provider that seeks to construct or modify a PSS or wireless facility that is determined to not comply with the height, diameter, design, color standards and expectations set forth in subsections (1) through (6) above.

(b) New PSSs shall not be permitted to be installed in the rights-of-way in areas in which no utility poles, streetlight poles, or PSSs exist at the time of application without prior approval by the Town of Thompson's Station Planning Commission.

(8) Additional criteria regarding the location, type, and/or design of small cell facilities and utility poles shall be subject to change. All changes shall be made available to the public for thirty (30) days prior to their effective date and compiled into a set of guidelines titled, "Town of Thompson's Station Guidelines for Wireless Communications Facilities in the Public Right-of-Way." In no case shall any guidelines be retroactive. Facilities approved for which right-of-way use permits have been issued prior to the effective date of a new guideline shall not be affected. (as added by Ord. #2019-009, Nov. 2019 *Ch2\_8-2-21*)

**16-205. Effect of permit.** (1) Authority granted; no property right or other interest created. A permit authorizes an applicant to undertake only certain activities in accordance with this chapter and does not create a property right or grant authority to the applicant to impinge upon the rights of others who may already have an interest in the rights-of-way.

(2) Duration. No permit issued under this chapter shall be valid for a period longer than twelve (12) months unless construction has commenced within that period and is thereafter diligently pursued to completion. In the event that construction begins but is inactive for more than ninety (90) days, the permit expires.



(3) Termination of permit. In all other circumstances, the permit expires in twelve (12) months. (as added by Ord. #2019-009, Nov. 2019 *Ch2\_8-2-21*)

**16-206. Maintenance, removal, relocation or modification of small wireless facility and fiber in the ROW.** (1) Notice. Within ninety (90) days following written notice from the town, the permittee shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless facilities and support structures within the rights-of-way whenever the town has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any town improvement in or upon, or the operations of the town in or upon, the rights-of-way. The town agrees to use good faith efforts to accommodate any such disconnection, removal, relocation, change, or alteration and to assist with identifying and securing a mutually agreed upon alternative location,

(2) Maintenance of existing facilities. With respect to each wireless facility installed pursuant to a right-of-way use permit, permittee is hereby permitted to enter the right-of-way at any time to conduct repairs, maintenance or replacement not substantially changing the physical dimension of the wireless facility. Permittee shall comply with all rules, standards and restrictions applied by the town to all work within the right-of-way. If required by the town, permittee shall submit a "maintenance of traffic" plan for any work resulting in significant blockage of the right-of-way. However, no excavation or work of any kind may be performed without a permit, as provided herein, except in the event of an emergency. In the event of emergency, permittee shall attempt to provide advance written or oral notice to the public works director or other town designee.

(3) Removal of existing facilities. If the permittee removes any wireless facilities, it shall notify the town of such change within sixty (60) days.

(4) Damage to facilities or property. A permittee, including any contractor or subcontractor working for a permittee, shall avoid damage to any wireless facilities and/or public or private property. If any wireless facilities and/or public or private property are damaged by permittee, including any contractor or subcontractor working for permittee, the permittee shall promptly commence such repair and restore (to a comparable or better condition) such property within ten (10) business days unless such time period is extended by the public works director or his designee. Permittee shall utilize the Tennessee One Call System prior to any disturbance of the rights-of-way and shall adhere to all other requirements of the Tennessee Underground Utility Damage Prevention Act.

(5) Emergency removal or relocation of facilities. The town retains the right and privilege to cut or move any small wireless facility located within the rights-of-way of the town, as the town may determine to be necessary,

appropriate or useful in response to any serious public health or safety emergency. If circumstances permit, the town shall notify the wireless provider in writing and provide the wireless provider a reasonable opportunity to move its own wireless facilities prior to cutting or removing a wireless facility and shall notify the wireless provider after cutting or removing a wireless facility. Any removal shall be at the wireless provider's sole cost. Should the wireless facility be collocated on property owned by a third-party, the town shall rely on the third-party to remove the wireless facility and shall be provided adequate notice and time to facilitate such removal.

(6) Abandonment of facilities. Upon abandonment of a small wireless facility within the rights-of-way of the town, the wireless provider shall notify the town within ninety (90) days. Following receipt of such notice the town may direct the wireless provider to remove all or any portion of the small wireless facility if the town reasonably determines that such removal will be in the best interest of the public health, safety and welfare. Should the wireless facility be collocated on property owned by a third-party, the town shall rely on the third-party to remove the wireless facility and shall be provided adequate notice and time to facilitate such removal. Any removal shall be at the wireless providers sole cost.

(7) No application, fee, rate, and/or approval is required for the installation, placement, maintenance, operation, or replacement of a micro wireless facility that is suspended on cables that are strung between existing PSSs, in compliance with the National Electrical Safety Code as set out in Tennessee Code Annotated, § 68-101-104. (as added by Ord. #2019-009, Nov. 2019 *Ch2\_8-2-21*)

**16-207. Public right-of-way rates—attachment to town-owned/leased PSSs and new PSSs installed within the public right-of-way or town-owned/leased property.** (1) Annual rate. The rate to place a small wireless facility on a town-owned or leased PSS in the rights-of-way shall be one hundred dollars (\$100.00) per year for all town-owned or leased PSSs in the rights-of-way. All equipment attached to a town-owned pole shall constitute a single attachment and therefore a single use of a town-owned PSS. Such compensation, for the first year or for any portion thereof, together with the application fee specified in this chapter shall be the sole compensation that the wireless provider shall be required to pay the town. This rate will be due January 1 of each year of the permit.

(2) A wireless provider authorized to place a new PSS within public right-of-way on town-owned or leased property shall pay to the town for use of the right-of-way or property in the amount of one hundred dollars (\$100.00). This rate will be due January 1 of each year of the permit. (as added by Ord. #2019-009, Nov. 2019 *Ch2\_8-2-21*)

**16-208. Remedies; violations.** In the event a reasonable determination is made that a person has violated any provision of this chapter, or a right-of-way use permit, such person shall be provided written notice of the determination and the specific, detailed reasons therefor. Except in the case of an emergency, the person shall have thirty (30) days to commence to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the town, in its reasonable judgment, may extend the time period to cure, provided that the person has commenced to cure and is diligently pursuing its efforts; to cure. If the violation has not been cured within the time allowed, the town may take all actions authorized by this chapter and/or Tennessee law and regulations. (as added by Ord. #2019-009, Nov. 2019 *Ch2\_8-2-21*)

**16-209. General provisions.** (1) Insurance. Each permittee shall, at all times during the entire term of the right-of-way use permit, maintain and require each contractor and subcontractor to maintain insurance with a reputable insurance company authorized to do business in the State of Tennessee and which has an AA Best rating (or equivalent) no less than "A" indemnifying the town from and against any and all claims for injury or damage to persons or property, both real and personal, caused by the construction, installation, operation, maintenance or removal of permittee's wireless facilities in the rights-of-way. The amounts of such coverage shall be not less than the following:

(a) Worker's compensation and employer's liability insurance. Tennessee statutory requirements.

(b) Comprehensive general liability. Commercial general liability occurrence form, including premises/operations, independent contractor's contractual liability, product/completed operations; X, C, U coverage; and personal injury coverage for limits as specified in Appendix A - Comprehensive Fees and Penalties but in no case less than one million dollars (\$1,000,000.00) per occurrence, combined single limit and two million dollars (\$2,000,000.00) in the aggregate.

(c) Commercial automobile liability. Commercial automobile liability coverage for all owned, non-owned and hired vehicles involved in operations under this article XII for limits as specified in Appendix A - Comprehensive Fees and Penalties, but in no case less than one million dollars (\$1,000,000.00) per occurrence combined single limit each accident.

(d) Commercial excess or umbrella liability. Commercial excess or umbrella liability coverage may be used in combination with primary coverage to achieve the required limits of liability.

The town shall be designated as an additional insured under each of the insurance policies required by this section except worker's compensation and employer's liability insurance. Permittee shall not cancel any required insurance policy without obtaining alternative insurance in conformance with this section.

Permittee shall provide the town with at least thirty (30) days' advance written notice of any material changes or cancellation of any required insurance policy, except for non-payment of premium of the policy coverages.

Permittee shall impose similar insurance requirements as identified in this section on its contractors and subcontractors.

(2) Indemnification. Each permittee, its consultant, contractor, and subcontractor, shall, at its sole cost and expense, indemnify, defend and hold harmless the town, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the permittee, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of permittee's wireless system or wireless facilities in the rights-of-way. Each permittee shall defend any actions or proceedings against the town in which it is claimed that personal injury, including death, or property damage was caused by the permittee's construction, installation, operation, maintenance or removal of permittee's wireless system or wireless facilities in the rights-of-way. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other reasonable costs of indemnification.

(3) As-built maps. As the town controls and maintains the right-of-way for the benefit of its citizens, it is the responsibility of the town to ensure that such public right-of-way meet the highest possible public safety standards. Upon request by the town and within thirty (30) days of such a request, a permittee shall submit to the engineering department (or shall have otherwise maintained on file with the department) as-built maps and engineering specifications depicting and certifying the location of all its existing small wireless facilities within the right-of-way, provided in standard electronic or paper format in a manner established by the town, or his or her designee. Such maps are, and shall remain, confidential documents and are exempt from public disclosure under the Tennessee Public Records Act (Tennessee Code Annotated, §§ 10-7-101, et seq.) to the maximum extent of the law. After submittal of the as-built maps as required under this section, each permittee having small wireless facilities in the town rights-of-way shall update such maps as required under this chapter upon written request by the town.

(4) Right to inspect. With just and reasonable cause, the town shall have the right to inspect all of the small wireless facilities, including aerial facilities and underground facilities, to ensure general health and safety with respect to such facilities and to determine compliance with the terms of this chapter and other applicable laws and regulations. Any permittee shall be required to cooperate with all such inspections and to provide reasonable and relevant information requested by the town as part of the inspection.

(5) Proprietary information. If a person considers information it is obligated to provide to the town under this chapter to be a business or trade secret or otherwise proprietary or confidential in nature and desires to protect the information from disclosure, then the person shall mark such information as proprietary and confidential. Subject to the requirements of the Tennessee Public Records Act (Tennessee Code Annotated, §§ 10-7-101, et seq.) as amended, and other applicable law, the town shall exercise reasonable good faith efforts to protect such proprietary and confidential information that is so marked from disclosure to the maximum extent of the law. The town shall provide written notice to the person in the following circumstances:

(a) If the town receives a request for disclosure of such proprietary and confidential information and the town attorney determines that the information is or may be subject to disclosure under applicable law; or

(b) If the town attorney determines that the information should be disclosed in relation to its enforcement of this chapter or the exercise of its police or regulatory powers. In the event the person does not obtain a protective order barring disclosure of the information from a court of competent jurisdiction within thirty (30) days following receipt of the town's notice, then the town may disclose the information without further written notice to the person.

(6) Duty to provide information. Within ten (10) days of a written request from the town, a permittee shall furnish the town with information sufficient to demonstrate the following: that the permittee has complied with all requirements of this chapter; that all fees due to the town in connection with the services provided and wireless facilities installed by the permittee have been properly paid by the permittee; and any other information reasonably required relating to the permittee's obligations pursuant to this chapter.

(7) No substitute for other required permissions. No right-of-way use permit includes, means, or is in whole or part a substitute for any other permit or authorization required by the laws and regulations of the town for the privilege of transacting and carrying on a business within the town or any permit or agreement for occupying any other property of the town.

(8) No waiver. The failure of the town to insist on timely performance or compliance by any permittee holding a right-of-way use permit shall not constitute a waiver of the town's right to later insist on timely performance or compliance by that permittee or any other permittee holding such right-of-way use permit. The failure of the town to enforce any provision of this chapter on any occasion shall not operate as a waiver or estoppel of its right to enforce any provision of this chapter on any other occasion, nor shall the failure to enforce any prior ordinance or town charter provision affecting the right-of-way, any wireless facilities, or any user or occupant of the right-of-way act as a waiver or estoppel against enforcement of this chapter or any other provision of applicable law.

(9) Policies and procedures. The town is authorized to establish such written policies and procedures consistent with this chapter as the town reasonably deems necessary for the implementation of this chapter.

(10) Police powers. The town, by granting any permit or taking any other action pursuant to this chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the town under applicable federal, state and local laws and regulations.

(11) Severability. If any section, subsection, sentence, clause, phrase or word of this chapter is for any reason held illegal or invalid by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not render the remainder of this chapter invalid. (as added by Ord. #2019-009, Nov. 2019 ***Ch2\_8-2-21***)

## CHAPTER 3

### STREET STANDARDS AND SPECIFICATIONS

#### SECTION

16-301. Intent and purpose.

16-302. Town street standards and specifications.

**16-301. Intent and purpose.** In order to provide for the public health, safety, and welfare of the citizen of the Town of Thompson's Station, as well as to ensure the town's streets are constructed to a consistent minimum standard. These standards apply to streets and roads, interchangeably. (as added by Ord. #2023-002, Feb. 2023 *Ch3\_03-14-23*)

**16-302. Town street standards and specifications.** Town staff shall create and keep a set of technical standards and specifications related to the construction, reconstruction, repair, maintenance, and all other aspects of town roadways, sidewalks, drainage structures, curb-and-gutters, paths, and any other element of infrastructure that may be within a town right-of-way, existing or proposed. These standards and specifications shall also apply to any and all private streets within developments, as private road shall be built to public standards. This does not include driveways and drive aisles, only to private streets built within private right-of-way. (as added by Ord. #2023-002, Feb. 2023 *Ch3\_03-14-23*)

## CHAPTER 4

**PARADES AND OTHER RIGHT-OF-WAY OCCUPANCY  
AND OBSTRUCTION REGULATED****SECTION**

16-401. Permit required.

16-402. Application.

**16-401. Permit required.** It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, occupancy, or exhibition on the public streets without an authorized representative of said club, organization, or similar group first securing a street closure permit from the board. (as added by Ord. #2023-002, Feb. 2023 *Ch3\_03-14-23*)

**16-402. Application.** Application for a street closure permit shall be made to town staff prior to a board meeting. Town staff shall place the requested permit on the next available board agenda. There shall be no fee associated with this permit. The applicant shall provide such information specified by town staff, including but not limited to: safety plan to include Williamson County Sheriff or other law enforcement to ensure safety along the route and to demonstrate that such requested activity will not unreasonably interfere with traffic or emergency services; detour routes; parking plan for spectators/participants; insurance coverage to indemnify the town; and agreement to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out the agreement immediately to clean up the resulting litter. The town may bill the applicant if additional cleaning is necessary. (as added by Ord. #2023-002, Feb. 2023 *Ch3\_03-14-23*)



**TITLE 17**

**REFUSE AND TRASH DISPOSAL**<sup>1</sup>

**[RESERVED FOR FUTURE USE]**

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<sup>1</sup>Municipal code reference  
Property maintenance regulations: title 13.

**TITLE 18****WATER AND SEWERS<sup>1</sup>****CHAPTER**

1. WASTEWATER RECLAMATION AND REUSE.
2. WASTEWATER SYSTEM USER RATES.
3. WASTEWATER CAPACITY RESERVATION.
4. WASTEWATER TAP RESERVATION AND ASSIGNMENT.
5. UTILITY BOARD.

**CHAPTER 1****WASTEWATER RECLAMATION AND REUSE****SECTION**

- 18-101. Purpose.
- 18-102. Authority.
- 18-103. Jurisdiction.
- 18-104. Policy.
- 18-105. Development and cost responsibility.
- 18-106. Ownership.
- 18-107. Interpretation, conflict, and separability.
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- 18-109. Definitions.
- 18-110. Requirements for proper wastewater discharge.
- 18-111. Maintenance of building sewers.
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- 18-113. User discharge requirements.
- 18-114. User charges.
- 18-115. Enforcement.
- 18-116. Conformance with subdivision regulations.
- 18-117. Concurrent TDEC approval.
- 18-118. Requirements for sketch plan.
- 18-119. Requirements for preliminary plan.
- 18-120. Requirements for final plat.
- 18-121. Requirements prior to construction.
- 18-122. Construction inspection.
- 18-123. Final inspection.

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<sup>1</sup>Municipal code references

Building and housing codes: title 12.

- 18-124. Acceptance by town.
- 18-125. Assurance for completion and operation of improvements: bonding requirements.
- 18-126. Easements and access.
- 18-127. Design criteria -- in general.
- 18-128. TDEC design criteria.
- 18-129. Reclamation and reuse system design.
- 18-130. Applicability.
- 18-131. Other requirements.
- 18-132. Requirements for drip emitter systems.
- 18-133. Collection system design criteria.
- 18-134. Grinder pump wastewater systems.

**18-101. Purpose.** Thompson's Station recognizes the need to manage wastewater that is generated within the town's service area, which is deemed to be the municipal corporate limits of the town. The reclamation and reuse of wastewater is identified as a viable means for providing public sewer service to new development(s) within the town and potentially to serve existing residences and businesses. Thompson's Station also recognizes that these wastewater reclamation and reuse systems must be properly designed, constructed, and financed to protect the public health, safety, and general welfare of the residents of the town.

This chapter sets forth the minimum standards for wastewater reclamation and reuse systems that will be located within the Thompson's Station service area. This chapter is not intended to replace the role of the Tennessee Department of Environment and Conservation, Division of Water Pollution Control. It sets forth some provisions that relate the reclamation and reuse systems within Thompson's Station to the unique environmental conditions and the development goals of the town. It is imperative that plans and designs comply with the Tennessee Department of Environment and Conservation's Design Criteria for Sewage Systems and the additional provisions that have been added to the Tennessee Design Criteria to include items not currently addressed in the Division of Water Pollution Control Standards. (These provisions are referenced in this chapter.)

**18-102. Authority.** The Town of Thompson's Station Board of Mayor and Aldermen is authorized to adopt by majority vote of the board, ordinances, including requirements for the posting of performance bonds and maintenance bonds, governing the operation and maintenance of nontraditional sewage systems (wastewater reclamation and reuse) that serve more than one (1) household. Such regulations shall be consistent with or more stringent than the Water Quality Control Act, compiled in Tennessee Code Annotated, title 69, chapter 3, part 1. Such regulations adopted pursuant to the Water Quality Control Act shall be approved in writing by the commissioner of environment

and conservation. As used in this chapter, "nontraditional sewage disposal systems that serve more than one (1) household" does not include subsurface sewage disposal systems that are subject to the permitting requirements of Tennessee Code Annotated, title 68, chapter 221, part 4 ("Subsurface Sewage Disposal Systems") or to wastewater treatment facilities owned or operated by a governmental entity or public utility. Such authority is expressly granted in Tennessee Code Annotated, § 68-221-607(16) (1999).

Pursuant to Tennessee Code Annotated, §§ 7-35-401, *et seq.*, the mayor and board of aldermen, the governing body of the municipality, shall serve and perform as the authorized board of the town's wastewater works systems and facilities. Said mayor and board of aldermen are empowered and shall control the supervision of construction and operation of such works systems within the town, all in conformity with Tennessee Code Annotated, § 7-35-406. (Ord. #04-003, April 2004, as amended by Ord. #05-012, August 2005)

**18-103. Jurisdiction.** This chapter shall govern all new developments within the Town of Thompson's Station's service areas.

No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of this chapter and the referenced State of Tennessee statutes or rules/regulations. (Ord. #04-003, April 2004)

**18-104. Policy.** It is intended that this chapter shall be consistent with and assist efforts to implement the provisions contained in the town's zoning ordinance, major thoroughfare plan, subdivision regulations, and the open space planning program. (Ord. #04-003, April 2004)

**18-105. Development and cost responsibility.** Following the procedures outlined herein, the developer shall be responsible for the planning, design, permitting, and construction of all wastewater reclamation and reuse systems. The cost of planning, design, permitting, and construction of all wastewater reclamation and reuse systems shall be borne by the developer. (Ord. #04-003, April 2004)

**18-106. Ownership.** All of the components of the wastewater reclamation and reuse system, including the collection system, shall be dedicated, owned and operated by the Town of Thompson's Station or a designated agent. Conveyance shall be made to the town in fee simple, free, clear and unencumbered, by warranty or special warranty deed. The land area for the irrigation reuse shall be developed as multipurpose open space and be dedicated to the town so it may be integrated into a town-wide park system which would provide multiple benefits to the town, including the reuse of wastewater (no discharge of pollutants), detention of stormwater runoff

(mitigation of non-point pollution) and recreation open space for the general welfare of the residents. (Ord. #04-003, April 2004)

**18-107. Interpretation, conflict and separability.** (1) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for promotion of the public health, safety and general welfare.

(2) It is established that this chapter is not intended to interfere with, abrogate or annul any regulations, statutes or laws. In any case where this chapter imposes restrictions different from those imposed by any other provision herein or another ordinance, or any other regulation, law or statute, whichever provision is more restrictive or imposes stricter standards shall control.

(3) If any part or provision of this chapter or application thereof is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in all controversy in which such judgment was rendered. The remainder of this chapter shall be considered valid and in full force and effect. (Ord. #04-003, April 2004)

**18-108. Saving provisions.** This chapter shall not be construed as altering, modifying, vacating or nullifying any action now pending or any rights or obligations obtained by any person, firm, or corporation by lawful action of Town of Thompson's Station and/or the Town of Thompson's Station prior to the adoption of this chapter. (Ord. #04-003, April 2004)

**18-109. Definitions.** For the purpose of this chapter, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this section. Where words within this chapter have not been defined, the standard dictionary definition shall prevail.

Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; and words in the plural include the singular.

(1) "Buffer zone." Minimum distance from the irrigation reuse area, or other portions of the treatment facilities or any system component as may be defined in other sections of this chapter to a property line, habitable structure, water well, right-of-way line, watercourse or other location as may be defined.

(2) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(3) "Domestic wastewater." Wastewater having a quality typical to that generated in an average home with BOD, loading equal to or less than two hundred fifty (250) milligrams per liter (mg/l).

(4) "Easement." Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

(5) "Effluent." The reclaimed water discharged from wastewater reclamation and reuse system applied to the irrigation reuse area(s).

(6) "Final plat." Plat map or plan of record of a subdivision and any accompanying material, as described in subdivision regulations.

(7) "Irrigation area or irrigation reuse area." The land area on which reclaimed water is applied at properly controlled rates to enhance vegetation growth (agricultural, silvicultural, or aquacultural products).

(8) "Lot." A parcel of land that:

(a) Is undivided by any street or private road;

(b) Is occupied by or designated to be developed for buildings or principal uses which must meet all zoning and subdivision requirements.

(c) Contains the accessory buildings or uses customarily incidental to such building, use, or development, including such open spaces and yards as are designed and arranged or required by the zoning ordinance for such building, use, or development.

(9) "Owner." The Town of Thompson's Station shall be the ultimate owner and operator of all wastewater reclamation and reuse systems and all of the components, including the necessary land and collection system.

(10) "Planning commission." The municipal planning commission for the Town of Thompson's Station which has duly adopted subdivision regulations.

(11) "Preliminary plat." The preliminary drawing or drawings, described in the town's subdivision regulations, indicating the manner or layout of the subdivision to be submitted to the planning commission for approval.

(12) "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned sewer. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution.

(13) "Sketch plan." A generalized concept plan of subdivision presenting information, as described in the town's subdivision regulations, in regard to proposed improvements and natural features of the property in question prepared prior to preliminary plat to save time and expense in reaching general agreement as to the form of the plat and the objectives of this chapter.

(14) "Slope." The deviation of the land surface from the horizontal per unit horizontal distance changed, generally expressed in percent, i.e., vertical rise or fall per foot dividing the horizontal distance between contour lines into the vertical interval of the contours as required by the appropriate regulations.

(15) "State." The State of Tennessee.

(16) "State of Tennessee operating permit." Permit issued by TDEC granting approval and authority for the operation of a wastewater reclamation and reuse system within the State of Tennessee.

(17) "Subdivision regulations." The documents entitled "Subdivision Regulations of the Town of Thompson's Station, Tennessee," latest revision.

(18) "Tennessee Department of Environment and Conservation (TDEC)." Tennessee governmental agency responsible for regulatory compliance with environmental regulations, formerly, the Tennessee Department of Health and Environment (TDHE). TDEC and TDHE may be used interchangeably.

(19) "Town." Town of Thompson's Station, Tennessee, a municipal corporation governed by its mayor and board of aldermen. May also include the superintendent of wastewater facilities for the town or designated agent. Any reference herein to "city" shall mean town.

(20) "Town's reclamation system operator." Including, but not limited to, the town or the private firm or a utility selected by the town to supervise the operation of the wastewater reclamation and reuse systems, and collection system, and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative. Operator being duly certified under applicable law or regulation.

(21) "User." Any property owner and/or person who contributes, causes or permits the contribution of wastewater into the town's POTW.

(22) "Utility." Any construction of public roads, public water, public drainage, public sanitary facilities, or any other improvement that is or will be dedicated to public use.

(23) "Wastewater treatment system." A system used to collect, reclaim, store, filter, disinfect, and reuse purified wastewater. (Ord. #04-003, April 2004)

**18-110. Requirements for proper wastewater discharge.** (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the town, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the town any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter and this section.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(4) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at its expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of the chapter, within sixty (60) days after date of official notice to do so; provided that said property abuts upon a

street or other public way containing a sanitary sewer. (Ord. #04-003, April 2004)

**18-111. Maintenance of building sewers.** Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary to meet specifications of the town. Owners failing to maintain or repair building sewers or who allow stormwater to enter the sanitary sewer may face enforcement action by the town, up to and including discontinuation of sewer service. (Ord. #04-003, April 2004)

**18-112. Sewer extensions.** All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the town. In the absence of policies and procedures the expansion or extension of the public sewer must be approved in writing by the town. All plans and construction must follow the latest edition of Tennessee Design Criteria for Sewerage Works. Contractors must provide the superintendent or manager with documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the superintendent or manager. The manager must give written approval to the contractor to acknowledge transfer of ownership to the town. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer service. (Ord. #04-003, April 2004)

**18-113. User discharge requirements.** (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the wastewater reclamation and reuse system or any other wastewater system approved by the town. Violations of the general and specific prohibitions of this chapter may result in discontinuance of sewer service and other fines.

(2) A user may not discharge the following into the public sewer system:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion, or be injurious or interfere in any other way to the wastewater reclamation and reuse system or to its operation.

At no time, shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over



twenty percent (20%) of the Lower Explosive Limit (LEL) of the meter. Prohibited flammable materials including, but not limited to, waste streams with a closed cap flash point of less than one hundred forty degrees Fahrenheit (140°F) or sixty degrees Celsius (60°C) using the test methods specified in 40 CFR § 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the town, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel wastewater reclamation and reuse systems and collection system.

(c) Solid or viscous substances in which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater reclamation and reuse system, such as, but not limited to: fats, oils, greases, gravel, ashes, bones, sand, mud, coal, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(d) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(e) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(f) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any treatment process, constitute a hazard to humans or animals, creates a public nuisance.

(g) Trucked or hauled wastewater or residues except at discharge points designated by the town.

(h) Any substance that may cause the wastewater reclamation and reuse system reclaimed water unsuitable for reclamation and reuse.

(i) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged to the wastewater reclamation and reuse system with the prior written approval of the town.

(3) Grease traps and other interceptors. Fat, oil, and grease (FOG), waste food, and sand interceptors may be required when, in the opinion of the town, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, flammable wastes, ground food waste, sand, soil, and solids, or other ingredients in excessive amount which impact the wastewater collection system or the wastewater reclamation and reuse system. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

The interceptors must be designed in accordance with Tennessee Department of Environment and Conservation engineering standards. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the collection system. If the town is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the town. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the town has under this chapter, or state or federal law. The town retains the right to inspect and approve installation of control equipment.

(4) Right to establish more restrictive criteria. No statement in this section is intended or may be construed to prohibit the town from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities or to create a public nuisance, or to cause the discharge of the wastewater reclamation and reuse system to be unsuitable for reuse at the minimum buffer standards.

(5) Enforcement response plan. (a) Whenever the town or superintendent has reason to believe that a violation of any provision of the discharge regulations is occurring, or is about to occur, suit may be filed in the chancery or circuit court requesting injunctive relief, civil penalties and recovery of damages which have occurred.

(b) (i) Damages include: damage or destruction of physical facilities, disruption of operation of facilities due to the discharge of prohibited substances, damage or disruption of treatment processes, clean up costs and expenses associated with returning facilities and processes to normal operations, injury to personnel, attorneys' fees and other expenses borne by the town because of a prohibited discharge.

(ii) Emergency action. (A) Whenever the superintendent finds that an emergency exists requiring immediate action to protect the public health, safety or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the POTW, the superintendent may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the superintendent deems necessary to meet the emergency.

(B) If the violator fails to respond or is unable to respond to the order, the superintendent may take any emergency action as he deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The superintendent may assess the person or persons responsible for the emergency condition for the actual costs incurred by the town in meeting the emergency.

(C) If emergency action is taken, suit will be filed according to the provisions of subsection (ii)(A) above against the violator for damages and other relief. (Ord. #04-003, April 2004)

**18-114. User charges.** The town will implement by ordinance user charges to establish rates so as to have a self-sustaining enterprise fund for the operation, maintenance, administration, depreciation and other attributable costs. This chapter for wastewater reclamation and reuse systems shall further be subject to future amendment so as to establish fees and charges, which may include inspection and installation fees, fees for application of discharge, surcharge fee and any other fees and charges as the town may hereafter establish. User charges for the use of the wastewater systems and service supplied by the wastewater system by the town will be reviewed not less than annually. Further, by separate ordinance, the town may adopt billing and collection procedures and resolutions to implement the same. (Ord. #04-003, April 2004)

**18-115. Enforcement.** Violation of this chapter shall be enforceable in law and equity, including, but not limited to, injunctive relief in the chancery court for Williamson County, Tennessee. Violation of this chapter may also result in the issuance of a citation and violators shall be subject to a fifty dollar (\$50.00) civil penalty. Each separate day of violation shall constitute a separate offense. Violation hereof may also constitute a separate state offense punishable under applicable law. (Ord. #04-003, April 2004)

**18-116. Conformance with subdivision regulations.** It is the intention of the town and its municipal planning commission that the procedures for submittal and review of wastewater reclamation and reuse

systems conform to the general and specific procedures presented in the subdivision regulations. (Ord. #04-003, April 2004)

**18-117. Concurrent TDEC approval.** Review and approval of wastewater reclamation and reuse system will be required from both the TDEC and the town. It is anticipated that this review and approval process will be accomplished on a concurrent basis. However, planning staff or designated agents shall not approve any wastewater reclamation and reuse system or the final plat of the development that they shall serve, until such time as the Tennessee Department of Environment and Conservation has completed their review and issued an approval to construct the system. (Ord. #04-003, April 2004)

**18-118. Requirements for sketch plan.** The sketch plan submitted to the municipal planning commission for approval shall contain a feasibility assessment of the reclamation and reuse system. The general intent of the feasibility assessment shall be to confirm how the wastewater reclamation and reuse concept desired by the town will be met on the proposed site. The work will include identification of sites and initial sizing of the reclamation system and irrigation system, initial soils identification, and the beginning of the TDEC review process.

Required components of the wastewater reclamation and reuse feasibility assessment:

- (1) Identification of site development and land and constraints;
- (2) Number and type of homes and/or buildings;
- (3) Site development and/or land use plan;
- (4) Initial parameters for the wastewater reclamation and reuse system including flow rates, wastewater quality, special considerations;
- (5) How the wastewater reclamation and reuse system fits into the site and town's development plan including meeting standards for green space and other environmental goals;
- (6) Permitting process and any special considerations;
- (7) Wastewater flow: in gallons/day (GPD);
- (8) Land area estimates and proposed site locations for the treatment and irrigation areas and preliminary sizing of these units;
- (9) Preliminary construction cost;
- (10) Preliminary annual operation and maintenance cost;
- (11) Topographic surveys and mapping (if available);
- (12) Soil borings and/or hydrogeologic information (related to construction activity), if available; and

(13) Location of any on-site utilities.<sup>1</sup>

If a developer proposes to use wastewater treatment processes other than the deep cell lagoon reclamation system desired by the town, the developer will prepare a detailed written explanation containing both technical, and capital and operating cost evaluations justifying its use because of economic hardship. This justification will be prepared and submitted along with the feasibility assessment. (Ord. #04-003, April 2004, modified)

**18-119. Requirements for preliminary plat.** The preliminary plat submitted to the planning commission for its approval shall contain an engineering report that is consistent with the engineering report guidelines outlined in the State of Tennessee Department of Environmental Conservation, Division of Water Pollution Control, Design Criteria for Sewage Works, latest edition. The engineering report shall be submitted to TDEC before the preliminary plat is approved. (Ord. #04-003, April 2004)

**18-120. Requirements for final plat.** The final plat submitted to the planning commission for its approval shall contain detailed construction plans and specifications for the wastewater reclamation and reuse system. The construction plans and specifications shall be consistent with final engineering plans and specifications outlined in the State of Tennessee Department of Environmental Conservation, Division of Water Pollution Control, Design Criteria for Sewage Works, latest edition.

Prior to approval of the final plat, the developer shall obtain an approved state operating permit and construction permit for the wastewater reclamation and reuse system from TDEC. (Ord. #04-003, April 2004)

**18-121. Requirements prior to construction.** The detailed plans and specifications for the wastewater reclamation and reuse system shall be submitted to and approved by TDEC and a construction permit secured before construction can be initiated in the development. (Ord. #04-003, April 2004)

**18-122. Construction inspection.** The town shall require that frequent, comprehensive, and sound inspections occur during construction. The developer shall ensure that competent and experienced personnel, preferably the design engineer or his representative, carefully monitor the progress of construction, and the town will inspect for compliance that all work essentially conforms to the approved plans and specifications. The developer or his representative shall maintain records of inspection activities, and, based on

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<sup>1</sup>The Town of Thompson's Station On-Site Wastewater Policy and Procedures (Ord. #2023-001, dated 2-14-23), and any amendments thereto, may be found in the recorder's office.

those records, certify that the project has been constructed as designed and approved. (Ord. #04-003, April 2004)

**18-123. Final inspection.** Upon completion of construction and testing as the town may in its discretion require, there shall be a final inspection and final approval by TDEC in accordance with the State of Tennessee Department of Environmental Conservation, Division of Water Pollution Control, Design Criteria for Sewage Works, latest edition. As-built plans shall be submitted simultaneously therewith, properly sealed. (Ord. #04-003, April 2004)

**18-124. Acceptance by town.** As described in this chapter, the wastewater reclamation and reuse system will be dedicated, owned, and operated by the Town of Thompson's Station. The construction of the wastewater reclamation and reuse system shall be completed and approved by TDEC, an operating permit must be issued by TDEC, the design engineer shall submit certification that the system was constructed in accordance with approved construction plans and specifications, and TDEC will perform and approve the final inspection, prior to acceptance by the town and the issuance by the town's building official utilizing a system within a development and upon a lot being served under the terms of this chapter. (Ord. #04-003, April 2004, amended by Ord. #05-012, Aug. 2005)

**18-125. Assurance for completion and operation of improvements: bonding requirements.** A performance bond in the form of an irrevocable stand-by letter of credit will be required for all projects utilizing a wastewater reclamation and reuse system. The bond shall be in an amount as determined by the town's consultant(s) as deemed to be sufficient to secure and assure the town the satisfactory construction, installation and dedication of uncompleted required improvements, including all necessary off-site improvements. Upon completion of the required improvements, the performance bond may be reduced to a maintenance bond of not less than thirty percent (30%) of the performance amount. The requisite maintenance bond shall remain in place until the system is accepted by the town. (Ord. #05-012, Aug. 2005)

**18-126. Easements and access.** All required wastewater utility easements shall be shown on plat or site plan. Easements shall be provided to allow access and to perform future maintenance by the town or its agents to all components of the wastewater collection, reclamation, and reuse systems. (Ord. #04-003, April 2004)

**18-127. Design criteria -- in general.** This section establishes technical criteria to be used in the design of all wastewater reclamation and reuse systems in Thompson's Station. The criteria are based upon established

TDEC and U.S. EPA design criteria. These criteria may be modified to accommodate site specific conditions and changes in TDEC requirements.

The criteria do not apply to single residential or non-residential lots utilizing septic tanks for their treatment and disposal of wastewater, which shall be designed and constructed in accordance with Tennessee Department of Environment and Conservation Rules, chapter 1200-1-6, entitled "Regulations to Govern Subsurface Sewage Disposal Systems." (Ord. #04-003, April 2004)

**18-128. TDEC design criteria.** The Tennessee Department of Environmental Conservation has issued criteria for the design and construction of wastewater facilities, including components of the reclamation and reuse systems. The latest revisions of these criteria, entitled "Design Criteria for Sewage Works," are hereby incorporated by reference into this chapter. Individual items in the TDEC design criteria may be modified as described in specific sections herein to conform to the requirements of Thompson's Station. (Ord. #04-003, April 2004)

**18-129. Reclamation and reuse system design.** The treatment system of choice for Thompson's Station is a deep cell, long duration reclamation cell followed by reuse of high quality effluent through irrigation of green space. Except as noted, design criteria for the reclamation cells should follow TDEC's Design Criteria, Section 9, entitled "Ponds and Aerated Lagoons." Except as noted, design criteria for the irrigation system, whether surface spray irrigation or subsurface drip irrigation, should follow TDEC's Design Criteria, Section 16, entitled "Slow Rate Land Treatment" or other design criteria accepted by TDEC. Additional requirements for subsurface drip emitter systems are presented in subsequent paragraphs of this section.

The town will allow use of alternative wastewater reclamation and reuse systems on a case-by-case, hardship, basis. Design criteria for these systems shall follow the appropriate section of the TDEC design criteria. (Ord. #04-003, April 2004)

**18-130. Applicability.** This chapter applies to all wastewater management systems developed in Thompson's Station.

The town has selected deep cell, long duration aerated lagoon treatment followed by irrigation as its wastewater reclamation and reuse system of choice. Use of systems other than the above will not be prohibited, but will be considered when a developer shows that the use of the system of choice will cause an economic hardship. If a developer proposes to use other wastewater treatment processes, they shall prepare a detailed written explanation containing both technical, and capital and operating cost evaluations justifying its use. Final approval of all systems shall lie with the mayor and board of aldermen of the town.

This chapter will not apply to point discharge systems which operate through the National Pollution Discharge Elimination System (NPDES) or septic systems utilizing land disposal to serve single residential lots, or non-residential lots with flows less than one thousand five hundred (1,500) Gallons Per Day (GPD). (Ord. #04-003, April 2004)

**18-131. Other requirements.** (1) Wastewater treatment or reclamation systems covered by this chapter that require septic tanks as part of the treatment process will require septic tanks be pumped on a regular basis. As a minimum, septic tanks shall be pumped out at least every three (3) years. If required for proper operation, the septic tanks must be pumped more frequently. In addition, sealed septic tanks that are part of systems regulated by this chapter will have leak testing performed every three (3) years. All such septic tanks will be water tight, and a minimum of one thousand (1,000) gallons capacity, or larger, as determined by the town's review process.

(2) Section 16.1.3 of chapter 16 of the TDEC design criteria is revised as follows: The irrigation sites shall be located above the ten (10) year flood plain elevation and shall not be utilized when covered by flood waters. The wastewater treatment system shall be located outside or above the 100-year flood plain elevation.

(3) Section 16.9.3, buffer zone requirements, of chapter 16 of the TDEC design criteria shall have the following paragraphs added:

Width of buffer zones shall be determined based upon the quality of the reclaimed water. Reclaimed water that contains 2.4 fecal coliforms per one hundred (100) ml and a turbidity level three (3) NTU does not require any buffer zone, other than as may be specified in the town's zoning ordinance.

The quality of the reclaimed water that will be reused on public areas will be reviewed by the TDEC and Town of Thompson's Station on a case-by-case basis. Irrigation will be scheduled when the public areas are "closed" so that the application does not interfere with usage. When a wastewater reclamation and reuse system is designed and operated, the following issues should be considered:

(1) The system operator discontinues irrigation pumping of effluent to the site in the event of an obvious plant upset.

(2) When the reuse water falls below 2.4 fecal coliforms per one hundred (100) ml and turbidity exceeds three (3) NTUs, irrigation is interrupted until the reuse water quality is within compliance.

(3) All reuse water valves or outlets will be appropriately tagged to warn the public that the water is not to be used for drinking or bathing.

(4) All piping, valves, and outlets will be marked to differentiate reuse water from domestic or other potable water. A different pipe material can be used to facilitate water system identification.

(5) All reuse water valves, outlets, and sprinkler heads will be operated only by authorized personnel. Where hose bibs are present on domestic



and effluent water lines, differential sizes will be established to preclude the interchange of hoses.

(6) Adequate means of notification will be provided to inform the public that reuse water is being irrigated. At golf courses, notices will also be printed on score cards and at all water hazards containing effluent reuse water.

(7) Application or use of reuse water will be done so as to prevent or minimize public contact with the reuse water and precautions shall be taken to ensure that the reuse water is not being sprayed on walkways, passing vehicles, buildings, picnic tables, domestic water facilities, or areas not under control of the user. Also:

(a) Application of the reuse water should take place during periods when the grounds will have maximum opportunity to dry before use by the public unless provisions are made to exclude the public from areas during and after spraying with effluent water.

(b) Windblown spray from the application of effluent water should not carry beyond the reuse irrigation area.

(c) Reuse water will be kept separate from domestic water wells and reservoirs.

(d) Drinking water fountains will be protected from direct or windblown reuse water spray.

(8) Adequate measures will be taken to prevent the breeding of flies, mosquitoes, and other vectors of public health significance during the process of reuse irrigation.

(9) Operation of reclamation and reuse systems shall not create odors. (Ord. #04-003, April 2004)

**18-132. Requirements for drip emitter systems.** Chapter 16 of the Department of Environment and Conservation's Design Criteria does not address the use of drip emitter systems for the disposal of treated effluent.

Wastewater reclamation and reuse systems utilizing subsurface drip emitters shall meet the reclaimed water quality standards established in chapter 16 of the TDEC's Design Criteria for Sewage Works. The town will review each application and may require more stringent treatment standards as it deems necessary.

The following provisions shall apply for drip emitter systems:

(1) Buffer zones, public access and protection of water supply wells. Buffer zones are required to provide adequate access to buried drip lines and to ensure that no wastewater leaves the site. The following minimum buffer zones must be provided for all systems:

(a) A twenty-five-foot (25') buffer must be maintained between the edge of the subsurface piping and the property line. A minimum fifty-foot (50') buffer must be maintained between the edge of surface piping and the property line. This requirement is subject to change as a result of site topography and the flushing system provided.

(b) A twenty-five-foot (25') undisturbed natural vegetative buffer is required between the drip piping and the edge of any perennial lake, stream, or channelized intermittent watercourse. If application of wastewater causes a non-channelized intermittent watercourse to become perennial, a twenty-five foot (25') buffer requirement will apply. All buffer requirements for trout streams and sedimentation and erosion control will also apply.

(c) Requirements for buffer areas in relation to potable water wells will be determined after reviewing groundwater pollution susceptibility and groundwater recharge maps or by contacting the Division of Water Supply, Tennessee Department of Environment and Conservation. In no case shall a wastewater application system be located within three hundred feet (300') of a drinking water well. Wellhead protection requirements may increase the buffer distances as necessary.

(d) An operation plan that presents the procedures to assure that the drip emitter system remains functional public access to the emitter field shall be restricted by posting signs and fencing of disposal fields. Fencing and access road gates shall be provided along property lines adjacent to residential and other developed areas. Fencing is required around all wastewater treatment systems, storage facilities, pump stations, and holding ponds.

(2) Surface drainage and runoff control. Drip emitter systems shall also include provisions to stop irrigation and hold wastewater for a minimum of ten (10) days for storage when soil conditions are wet or when flooding occurs. The wastewater storage requirements utilizing spray application disposal method shall be in accordance with chapter 16 of TDEC's Design Criteria for Sewage Works.

Storm runoff should be considered in the design of drip irrigation systems. If properly designed and constructed, drip emitter systems will not produce any runoff. All areas that acquire a wet surface should have the hydraulic loading rate reduced to prevent the situation from recurring. Areas exhibiting a wet surface on a regular basis must be eliminated from future applications unless the surface wetting can be corrected. A reassessment of the design should be performed to determine if reconstruction or repair of the failing area would correct the deficiency. Any areas taken out of service because of failure will subsequently cause a reduction in the permitted system capacity.

Indirect runoff as a result of underflow, changes in slope, and shallow restrictive soil layers can be anticipated at some drip emitter system sites. Indirect runoff will be reviewed on a case-by-case basis by the town.

Water resulting from line flushing must be dispersed over a wide area and will be reviewed on a case-by-case basis by the town. Direct discharge of these flows into any watercourse is prohibited. Effluent from line flushing should be absorbed by the surrounding area within a few minutes of line flushing. Line flushing should not be performed during any rain event.

(3) Distribution systems, maintenance and construction. Hydraulic calculations for the pump and distribution system must be submitted for review. Field pressure and flow variation due to friction loss and changes in static head should not exceed plus or minus ten percent (10%) of the design emitter pressure or flow. If this criterion cannot be met, revisions to field layout, emitter output, or any other viable option should be used to comply with this requirement. The system will not be allowed to initiate operations if the total flow or pressure variation is in excess of ten percent (10%) of the design. The ten percent (10%) difference should be the difference between any two (2) emitters in the entire system. Fields should be laid out so that the irrigation lines follow the contour of the site. Flushing flows and static head calculations can be addressed on a field-by-field basis. Each field should define total flow (gpm) proposed, total length of emitter piping, emitter spacing, line spacing, total numbering of lines and total number of lines to be included per flushing. This layout information should be shown on a topographic map. All proposed main line sizes and lengths along with individual irrigation line lengths should be shown. All return piping sizes and lengths should also be shown and should not exceed manufacturers' specifications to ensure equal distribution to each emitter. Emitter and line spacing should be in accordance with manufacturers' recommendations.

System should be self-draining to prevent freezing during the winter months. The plan of operation and management should address disinfection and flushing of emitter lines to prevent solids build-up. Flushing of lines should be performed according to the manufacturers' recommendations but at minimum on a bi-monthly basis. Velocities must be a minimum of two feet (2') per second at the end of each irrigation or return line during the flushing operation. Calculations supporting the two feet (2') per second velocity requirement should be included.

Satisfactory operation of the drip irrigation system is necessary to safeguard the health of the public and to ensure that the wastewater effluent is disposed of in an environmentally sound manner. Emitter manufacturers must supply documentation that placing the emitter in the root zone of the cover crop will not interfere with the emitter performance. Emitters should be buried no less than five inches (5") nor more than seven inches (7") from the surface for optimum nutrient uptake. Variance from this depth of burial will be evaluated on a case-by-case basis if supported by manufacturers' recommendations. All systems must be equipped with audible and visual alarms to signal system malfunctions. Telemetry systems should also be installed where the facility is not manned during normal working hours. Monitoring equipment must be provided to detect a five percent (5%) change in flow rate to any given field. If a change is detected which shows a ten percent (10%) variance, evaluations must be performed to determine if it is a result of clogging filters, force main breaks, emitter clogging, leaks in field lines, a flush valve failure, etc. The plan of operation and management should address what actions are required to

correct any such problem should it occur. Pumping equipment must be provided with pressure and flow sensitive controls which will disengage pumps if a main breaks or clogs.

Prior to pumping to the drip field distribution system, the wastewater must be screened to remove fibers, solids and other matter that might clog drip emitters. As a minimum, screens with a nominal diameter smaller than the smallest flow opening in the drip emitter tubing should be provided. Screening to remove solids greater than one-third (1/3) the diameter of the smallest drip emitter opening is recommended. (Ord. #04-003, April 2004, as amended by Ord. #05-012, Aug. 2005)

**18-133. Collection system design criteria.** (1) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. A connection fee shall be paid to the town at the time the application is filed.

(2) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(3) A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

(4) Old building sewers may be used in connection with new buildings only when they are found on examination and tested by the superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(5) Building sewers shall conform to the following requirements:

(a) The minimum size of a building sewer shall be as follows:  
Conventional sewer system - Four inches (4").

Small diameter gravity sewer - Two inches (2").

(b) The minimum depth of a building sewer shall be eighteen inches (18").

(c) Building sewers shall be laid on the following grades:

Four-inch (4") sewers - One-eighth inch (1/8") per foot.

Two inch (2") sewers - Three-eighths inch (3/8") per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second.

(d) Slope and alignment of all building sewers shall be neat and regular.

(e) Building sewers shall be constructed only of ductile iron pipe class 50 or above or polyvinyl chloride pipe schedule 40 or and SDR-21 or greater. Joints shall be rubber or neoprene "O" ring compression joints or solvent welded.

(f) A cleanout shall be located five feet (5') outside of the building, one (1) as it crosses the property line and one (1) at each change of direction of the building sewer that is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4").

(g) Connections of building sewers to the public sewer system shall be made only by the town and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. All such connections shall be made gastight and watertight.

(h) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of one-eighth inch (1/8") per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer sanitary sewage carried by such building drain shall be lifted by a step or grinder pump and discharged to the building sewer at the expense of the owner, pursuant to § 18-105.

(i) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town or to the procedures set forth in appropriate specifications of the ASTM and Water Environment Federation Manual of Practice FD-5. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(j) An installed building sewer shall be gastight and watertight.

(6) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(7) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(8) Inspection of connections. (a) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the superintendent or his authorized representative.

(b) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(9) Maintenance of building sewers. Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the town. Owners failing to maintain or repair building sewers or who allow stormwater to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of service.

(10) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the town. In the absence of policies and procedures the expansion or extension of the public sewer must be approved in writing by the superintendent or manager of the wastewater collection system. All plans and construction must follow the latest edition of Tennessee Design Criteria for Sewerage Works. (Ord. #04-003, April 2004)

**18-134. Grinder pump wastewater systems.** (1) When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, Grinder Pump (GP) systems may be installed subject to the regulations of the town board.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the town. Installation shall follow design criteria for STEP and OP systems as provided by the superintendent.

(3) Costs. GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the town and connection will be made to the town sewer only after inspection and approval of the town.

(4) Ownership and easements. Homeowners or developers shall provide the town with ownership and an easement. Access by the town to the GP

system must be guaranteed to operate, maintain, repair, restore and service. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

(5) Use GP systems. Home or business owners shall follow the GP users guide provided by the system manufacturer and as supplemented by the town. Home or business owners shall provide an electrical connection that meets specifications and shall provide and pay for electrical power. Home or business owners shall be responsible for maintenance drain lines from the building to the GP tank.

(6) Prohibited uses of the GP system. (a) Connection of roof guttering, sump pumps or surface drains;

(b) Disposal of toxic household substances;

(c) Use of garbage grinders or disposers;

(d) Discharge of pet hair, lint, or home vacuum water;

(e) Discharge of fats, grease, and oil.

(7) Additional charges. The town shall be responsible for maintenance of the GP equipment. Repeat service calls for identical problems shall be billed to the homeowner or business at a rate of no more than the actual cost of the service call. (Ord. #04-003, April 2004)

## CHAPTER 2

### WASTEWATER SYSTEM USER RATES

#### SECTION

- 18-201. Rates and tap fees by governing body.
- 18-202. Vacant or un-built lots.
- 18-203. Maximum residential fee.
- 18-204. Adjustment of bills.
- 18-205. Failure to pay bill when due.
- 18-206. Deposit and other related fees.
- 18-207. Responsibility for payment of fees.

**18-201. Rates and tap fees by governing body.** User rates and tap fees for the town's wastewater treatment services are set by the board, subject to the limitations in this chapter. A schedule of the current user rates and tap fees shall be maintained in the town recorder's office.

**18-202. Vacant or un-built lots.** There shall be no minimum monthly rates charged for vacant or un-built lots. Monthly rates shall begin to be assessed upon issuance of a building permit and connection to the public water system, regardless of whether the structure is occupied. (Ord. #07-016, Jan. 2008)

**18-203. Maximum residential fee.** Residential and non-residential user rates shall be set as follows:

(1) A base rate is set at the amount of twenty-nine dollars (\$29.00) per user.

(2) A uniform cost per one thousand (1,000) gallons of sewer used is set at a rate of eight dollars and ten cents (\$8.10) per one thousand (1,000) gallons.

(3) The rates shall be effective starting July 1, 2022. Additionally, there shall be a bi-annual review starting on or about January 1, 2023, for the purpose of the consideration of the need for a rate increase based on the evaluation of the operational expense and associated cost of the regional treatment facility. (Ord. #07-016, Jan. 2008, as replaced by Ord. #2021-005, March 2021 **Ch2\_8-2-21**)

**18-204. Adjustment of bills.** The town administrator shall have the authority to make adjustments to sewer bills upon application of a customer and upon a showing that the calculation based upon water use is inaccurate for that billing period. The customer must provide evidence from the water utility that their water bill was adjusted prior to the town administrator approving any adjustment to the sewer bill. A sewer adjustment will be granted only in cases



in which the additional water use did not drain into the town's wastewater system. The customer must also provide proof that any water leaks have been fixed (such as invoices and receipts or cancelled checks for payment) prior to receiving a wastewater adjustment. Such adjustments shall be limited to one (1) time per twelve (12) month period per customer. (Ord. #07-016, Jan. 2008, as replaced by Ord. #2019-006, May 2019 **Ch2\_8-2-21**)

**18-205. Failure to pay bill when due.** Any payment not received by the due date shall be assessed a ten percent (10%) penalty on all unpaid fees. A notice of cut-off will be sent to a customer if the account is not paid in full by the cut-off date in the notice. If the account, including penalties, is not paid to the town by the cut-off notice date, the customer's water service may be discontinued for nonpayment. Water service may be restored by payment in full of the past due sewer bill plus, water utility reconnection fees, penalties and any additional deposits as described in § 18-206. (Ord. #07-016, Jan. 2008, as replaced by Ord. #2019-006, May 2019 **Ch2\_8-2-21**)

**18-206. Deposit and other related fees.** Each customer, upon providing evidence that water service has been established, shall fill out an application for wastewater services. If the customer is not the property owner, the property owner shall also sign the application. A deposit of seventy-five dollars (\$75.00) for single family residential and one hundred fifty dollars (\$150.00) for commercial and multi-family will be charged at the time of application for wastewater service. The town reserves the right to require an additional deposit from any customer that may be delinquent in their payments more than twice in a period of four (4) months or who has had services terminated due to non-payment. Deposits will be applied to the customer's final billing. Once final billing is satisfied, amounts left over from deposit, if any, will be refunded to the customer at that time. The customer must inform the town that they are closing their account in order to receive any deposit refund. The customer will remain liable for the monthly sewer bill until such time as customer notifies the town to terminate service. Changes in deposit fees may be established by resolution by the board of mayor and aldermen of the town from time to time. (as added by Ord. #2019-006, May 2019 **Ch2\_8-2-21**)

**18-207. Responsibility for payment of fees.** (1) The owner of a building or other premises, or the owner of land leased or rented by the owner of a building or other premises placed on said land, shall be responsible for payment of all fees incurred in servicing that property. If the owner authorizes or directs a tenant, occupant or other responsible person to open an account and make payment of the fees to the town, such agreement is exclusive of the town and the owner shall remain responsible for all incurred fees.

(2) Any change in the occupancy of any building or residence connected to the town's wastewater system shall require the completion of a new application for wastewater service by the new occupant

(3) Nothing herein shall prohibit or limit the town from taking any other legal or injunctive relief including the right to place a lien on the property, necessary to recover any fees, expenses, court costs, attorneys' fees, penalties and interest from a customer, occupant or property owner as authorized by law. (as added by Ord. #2019-006, May 2019 **Ch2\_8-2-21**)

## CHAPTER 3

### WASTEWATER CAPACITY RESERVATION

#### SECTION

- 18-301. Introduction.
- 18-302. Wastewater capacity reservation application.
- 18-303. Capacity review of proposed development.
- 18-304. Disposal capacity.
- 18-305. Capacity review result.
- 18-306. Completing the reservation process.
- 18-307. Existing sewer tap reservation.

**18-301. Introduction.** The town implements the following process to review, track, and monitor proposed developments to ensure that the town can provide sewer capacity from the connection point in the collection system through the treatment plant and effluent disposal without causing sewer overflows. This process has the following benefits:

- (1) Providing sufficient capacity for new development while maintaining existing service.
- (2) Preventing sewer overflows.
- (3) Protecting the town by allocating sewer capacity based on the regional wastewater service area as defined on Appendix A.<sup>1</sup>
- (4) Identifying potential capacity deficiencies in the existing system.

This process describes the protocols, policies, and analytical methods for the continuous assessment and determination of capacities for the town's collection, treatment and disposal systems. The wastewater capacity reservation system will follow the sequence presented below with more detail provided in subsequent sections.

Step 1. Complete a wastewater capacity reservation application.<sup>2</sup> The developer will complete an application to provide the town with enough information to evaluate the project's potential impact on the sewer system.

Step 2. Wastewater capacity reservation request review of proposed development. An engineer retained by the town will review the capacity of the collection, treatment, and disposal systems receiving the proposed flow increase to determine if adequate capacity is present in the existing system in accordance with the requirements outlined in this document.

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<sup>1</sup>Appendix A (regional wastewater service area map), and any amendments thereto, may be found in the recorder's office.

<sup>2</sup>Appendix B (wastewater capacity reservation application), and any amendments thereto, may be found in the recorder's office.

Step 3. Wastewater capacity reservation request results. The town will issue a notification to the applicant in cases where adequate collection, treatment and disposal capacities can be determined and in cases where there are capacity deficits.

Step 4. Completing the wastewater capacity reservation process. Developers who want to pursue a project will sign a reservation agreement with the town and submit a reservation deposit. This will ensure that the upcoming development's additional capacity load is included when reviewing future wastewater capacity reservation requests in that area. (as added by Ord. #2019-002, Feb. 2019 *Ch2\_8-2-21* and replaced by Ord. #2020-007, Aug. 2020 *Ch2\_8-2-21*)

**18-302. Wastewater capacity reservation application**<sup>1</sup>. (1) The capacity of the wastewater system is determined by the existing pipes within the system, equipment size and storage capacity at lift stations, wastewater treatment permit limits, and availability of soils and drip infrastructure for the disposal of the treated wastewater. These variables will change based upon where the proposed development is located within the town. A customer requesting a new connection to the town's collection system or a significant increase in flow from an existing service connection must complete a capacity reservation application (Appendix B) and submit the application to the town. The application will assist to define the development so that a determination on whether capacity is available and should be completed to include agent information, property information, including the number of homes, buildings, and structures, and type of development.

(2) The town sets a minimum processing fee of two hundred fifty dollars (\$250.00) to be paid with the submission of the application. Additional fees may be assessed by the town based on the cost for any necessary review for the determination of capacity, for which the developer agrees to pay by the submission of the wastewater capacity reservation application. The town will have sixty (60) days from the receipt of all requested and required evaluation materials to issue a determination of capacity availability. The processing fee is non-refundable, even if capacity is not available or the applicant decides not to develop the property. Any additional processing fees due, as determined by the town, shall be paid prior to the release of any information as to a determination or capacity availability. (as added by Ord. #2019-002, Feb. 2019 *Ch2\_8-2-21* and replaced by Ord. #2020-007, Aug. 2020 *Ch2\_8-2-21*)

**18-303. Capacity review of proposed development**. The following subsections describes the process by which the town's engineer will review the

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<sup>1</sup>Appendix B (wastewater capacity reservation application), and any amendments thereto, may be found in the recorder's office.

collection, treatment, and disposal systems to confirm that each asset has the capacity to convey the proposed flow plus the existing flow from all new or existing service connections and authorized service connections (including those which have been approved for capacity but have not begun to discharge into the sanitary sewer system) without causing surcharge conditions.

(1) Determine discharge location. (a) The discharge location (specific pipe segment, manhole, or pump station) into which the proposed flow increase will enter the town's collection system will be determined using the information provided as a part of the capacity reservation application and the latest version of the GIS mapping of the collection system as determined by the town. As infrastructure is installed, the town will update the wastewater system GIS data.

(b) In addition to the pipe segment or manhole where the proposed flow increase will connect to the collection system, all downstream pump stations and the treatment plant receiving the proposed flow increase will be identified.

(c) If there is a capacity deficit at the location proposed by the developer, the town will review and, if available, provide alternative connection points that may decrease or eliminate the need for capacity improvements.

(2) Calculate flow increase. (a) For each new or existing sanitary sewer service connection included on a capacity reservation application the developer/applicant will provide a calculation of the flow increase and the town or its designee will verify the calculation using the procedure described in §§ 18-303(3) or 18-303(4).

(b) For redevelopment of property with an existing connection to the sewer system, the existing flow will be based upon the best available information as determined by the town or estimated using the procedures described in §§ 18-303(3) or 18-303(4). The existing flow will be documented as a credit towards the wastewater flow for the redeveloped property.

(3) Single family residential. For single-family homes, a standard two hundred fifty (250) Gallons Per Day (GPD) per household should be used for estimating the peak-hour flow increase to the collection system. The collection system consists of the pipes and pump stations and excludes the Wastewater Treatment Plants (WWTPs) and disposal areas.

(4) Other properties. For non-single-family residential properties, the unit sewer flows outlined for design by the Tennessee Department of Environment and Conservation (TDEC) Design Criteria for different usage types are in Appendix 2-A and shown in Appendix C<sup>1</sup>. The applicable unit flows should

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<sup>1</sup>Appendix C (TDEC Design), and any amendments thereto, may be found  
(continued...)

be applied to the specific project variables (e.g., seats, and units) to estimate the total sewer flow that will be added to the system from the proposed project. (as added by Ord. #2019-002, Feb. 2019 **Ch2\_8-2-21** and replaced by Ord. #2020-007, Aug. 2020 **Ch2\_8-2-21**)

**18-304. Disposal capacity.** The town has developed a hydraulic model as a tool for determining existing sewer capacity as assessed by the town engineer. The capacity of the affected system will be checked for availability or deficiency after the location and estimated sewer flows are determined.

(1) Collection system capacity. (a) Determination of adequate collection capacity will confirm that each gravity sewer line between the requested tie-in location and the receiving WWTP has the capacity to transmit the proposed flow, the flow from all existing service connections, and the flow from authorized service connections, during the modeled peak one (1) hour of the two (2) year, twenty-four (24) hour rain event, without causing surcharge conditions. Authorized service connections include entities with a capacity reservation agreement or those entities who are within the allowed capacity review decision period. Existing one (1) hour peak flow is defined as the greatest flow in a sewer averaged over a sixty (60) minute period at a specific location expected to occur as a result of the representative two (2) year, twenty-four (24) hour storm (design) event.

(b) A surcharge condition is defined as the condition that occurs when the one (1) hour peak flow from the design event exceeds the capacity of the collection system. A surge condition causes the water surface to reach within thirty-six inches (36") of the manhole rim, while above the crown of the pipe, or greater than twenty-four inches (24") above the crown of the pipe; however, if the town has identified pipe segments or manholes designed to operate under a pressure condition, the capacity of these pipe segments or manholes shall be evaluated based on their respective design criteria.

(c) Determination of adequate transmission capacity will confirm that each pump station through which the requested additional flow would pass has the capacity to transmit the proposed peak one (1) hour flow, the existing peak one (1) hour flow from all existing service connections, and the flow from authorized service connections.

(2) Treatment plant capacity. Determination of adequate treatment capacity will confirm that the WWTP receiving flow from the proposed new connections, increased flows from an existing source, and authorized sewer

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<sup>1</sup>(...continued)  
in the recorder's office.

service connections will be in compliance for quarterly reporting, as to the monthly operating report.

(3) Disposal capacity. The disposal capacity is contingent on the availability of adequate soils as approved by the Tennessee Department of Environment and Conservation. Further, compliance by the applicant/developer is required, pursuant to the amended LDO of November 2019, section 5.2.8, Appendix A, as provided in the developer agreement. Specifically, the applicant/developer must comply with the provisions to provide adequate soils for disposal necessary for the perspective project. Additionally, the applicant/developer may have other requirements, such as the payment of fees and/or compliance with state and local laws.

(4) Essential services. The town may authorize a new sewer service connection or additional flow from an existing sewer service connection for essential services, even if it cannot determine that it has adequate capacity. Essential services are defined as healthcare facilities, public safety facilities, public schools, government facilities, and other facilities as approved by the town. It also includes cases where a pollution or sanitary nuisance exists as a result of a discharge of untreated wastewater from an on-site septic tank. (as added by Ord. #2019-002, Feb. 2019 *Ch2\_8-2-21* and replaced by Ord. #2020-007, Aug. 2020 *Ch2\_8-2-21*)

**18-305. Capacity review result.** (1) If model results show available capacity, the results with instructions on how to reserve the available capacity can then be issued to the developer according to town policy. If the model shows a deficit, the town will issue a notice of insufficient capacity to the developer. The notice will include a description and map of where the capacity restrictions are located and what improvements will need to be made to reach adequate capacity.

(2) If service can be provided immediately or after working out an alternative option, then the developer must complete a wastewater capacity reservation application to proceed. The decision must be made within sixty (60) days of the date of the letter from the town to the developer stating that there is available capacity. If the developer decides to not move forward with the project, the capacity review terminates with no obligation by the town. To build on that property in the future, the developer would need to start the process again by filling out a new application and paying another application fee. (as added by Ord. #2020-007, Aug. 2020 *Ch2\_8-2-21*)

**18-306. Completing the reservation process.** (1) Developers who decide to pursue the proposed project will sign an agreement and submit a reservation deposit, as determined by the town which reserves that capacity for one (1) year. This ensures that the town will consider the upcoming development when reviewing current and future capacity in that area. This also ensures that a second requested development, even one built and in service sooner, does not

reduce the town's ability to serve the first property during that time. The developer can request an extension based on the conditions outlined in the reservation agreement. The town would need to develop the cost breakdown structure for the reservation deposit, if an extension is necessary

(2) As a part of the reservation agreement or separately, the town has the option to enter into a participation agreement with the developer to increase capacity of the proposed improvements beyond the needs of the development. The town would be responsible for paying for the increase in capacity over the needs for the development.

(3) After signing the capacity reservation agreement and submitting the required deposit in the amount of twenty-five percent (25%) of the allotted wastewater tap fees for the project, a developer has one (1) year to submit formal plans and execute an extension agreement, if necessary, which will include construction milestones with the town. The developer may request a one (1) time extension, by agreement of the town, which must be a written submission, no later than thirty (30) days prior to the expiration of the capacity reservation agreement. The developer can request an extension to the construction milestones based on the conditions outlined in the capacity reservation agreement. A developer who does not complete all (or both) requirements or meet milestones will forfeit fifty percent (50%) of the reservation deposit and the reserved capacity for that property. The remaining reservation deposit will be returned to the developer. To proceed with the project at a later time, the developer will be required to submit a new waste water capacity reservation application and pay another review fee. If the capacity is still available or improvements are necessary to provide adequate capacity, the developer will also have to sign a new capacity reservation agreement and submit another deposit.

(4) The town will annually apply an offset to the remaining balance on the tap fees based on the number of billable connections or amount of incremental daily flow added in the year, and each developer agreement will define which reimbursement method will be used, as determined by the town. Developers who produce the number of connections outlined in the extension agreement or developer agreement will have any remaining deposit applied toward their outstanding tap fee balance. Developers who do not, will forfeit fifty percent (50%) of the remaining deposit balance as outlined in the developer agreement.

(5) Additional collection system, WWTP, and disposal system improvements. If improvements to the collection system, the WWTP or the disposal system are required to provide adequate capacity to serve the proposed development, the developer shall complete the improvements based on project location, site constraints, and project complexity. The developer shall design, subject to town approval, all necessary additional improvements needed to the collection system, wastewater treatment plant, and/or disposal system for the project submitted at the time the developer agreement is consummated. Should



the developer fail, refuse or be unable to meet the requirements of the town as to the improvements, the town shall have a right to take over the wastewater improvements, subject to the terms of the developer agreement.

(6) If the developer completes the work, then the developer will be responsible for covering the costs of a town-appointed field representative, paying a fee for the town's engineer to review the plans, and acquiring all easements necessary to complete the work. Easements will be acquired using the town's standard documents. After completing the improvements, the developer will deed over the completed improvements. (as added by Ord. #2020-007, Aug. 2020 ***Ch2\_8-2-21***)

**18-307. Existing sewer tap reservation.** Developers who have an existing sewer tap agreement with the town will have those agreements honored per the executed agreement. If requested by the town, it will be the responsibility of the developer to provide the agreement and documentation of the existing sewer tap reservation. Based on the existing executed agreement, the developer shall pay prior to ninety (90) days before the expiration of the agreement to reserve capacity, the remaining fees, included, but not limited to, disposal fee, etc. to ensure the town continues to reserve capacity for the unused taps that were reserved in the agreement. The remaining fees shall be paid at the then existing, current rate. (as added by Ord. #2020-007, Aug. 2020 ***Ch2\_8-2-21***)

## CHAPTER 4

### WASTEWATER TAP RESERVATION AND ASSIGNMENT

#### SECTION

- 18-401. Introduction.
- 18-402. Creation of database.
- 18-403. Notification by developer of unused taps and repayment.
- 18-404. Reservation application.
- 18-405. Capacity review.
- 18-406. Notification as to capacity.
- 18-407. Notification as to assignment of taps.
- 18-408. Payment for tap fees.
- 18-409. Miscellaneous.

**18-401. Introduction.** The Town of Thompson's Station, in connection with efforts to improve the process for the management and oversight of the infrastructure of the town, namely the wastewater taps allocated to existing developers and the need of future and requesting developers, and in conjunction with the newly created Capacity Reservation Ordinance (CRO), the Town of Thompson's Station does create, authorize and approve this wastewater tap reversion and assignment policy as provided hereinafter. (as added by Ord. #2020-11, Jan. 2021 *Ch2\_8-2-21*)

**18-402. Creation of database.** The town shall create a database that shall be maintained by the office of planning and zoning for the town, for the purpose of tracking and maintaining the inventory of wastewater taps that are currently assigned to existing developers, along with a database of those requesting developers in need of tap allocation. (as added by Ord. #2020-11, Jan. 2021 *Ch2\_8-2-21*)

**18-403. Notification by developer of unused taps and repayment.** Those developers, who hold existing wastewater tap commitments, and will not be utilizing all of the assigned taps in their development, shall notify the town of their desire to make those taps available for other developments and for reversion to the town. Should such assigned, unused taps be determined to be available for reversion to the town, the town shall repay to that developer at the then current wastewater impact tap fee rate, or no greater than the current rate for those wastewater taps submitted for reversion to the town. Thereafter, the town will, through the below referenced capacity review process, determine the use of those reverted wastewater taps and facilitate a possible assignment of those taps. (as added by Ord. #2020-11, Jan. 2021 *Ch2\_8-2-21*)

**18-404. Reservation application.** Those developers in need of capacity for wastewater taps (requesting developer) shall submit to the town, pursuant to the Capacity Reservation Ordinance (CRO), a capacity reservation application, along with the applicable fees. (as added by Ord. #2020-11, Jan. 2021 *Ch2\_8-2-21*)

**18-405. Capacity review.** The town shall process the application pursuant to the capacity reservation ordinance, to include the capacity review by the engineer, along with all the considerations of the land development ordinance or other applicable considerations, such as the availability of capacity and the compatibility of available taps based on the reversion of taps to the town. (as added by Ord. #2020-11, Jan. 2021 *Ch2\_8-2-21*)

**18-406. Notification as to capacity.** If the town is able to certify that capacity is available for the project, the applicant will be notified or if the determination is that such capacity does not exist, then such notification will be provided to the applicant or the requesting developer may be issued a conditional approval. (as added by Ord. #2020-11, Jan. 2021 *Ch2\_8-2-21*)

**18-407. Notification as to assignment of taps.** If the town, based on a review of the abovementioned database and considerations, as contained herein, determines there exists available unused wastewater taps from taps that have reverted to the town or otherwise, the requesting developer shall be notified and those taps, at the discretion of the town, will be utilized to satisfy the request of the applicant of the taps to the requesting developer. (as added by Ord. #2020-11, Jan. 2021 *Ch2\_8-2-21*)

**18-408. Payment for tap fees.** The requesting developer shall have thirty (30) days from the date the town provides written notification of the available taps to make payment to the town in the amount of the current existing tap fee rate. Should the requesting developer fail to make such payment within the allotted thirty (30) days, the availability of the taps for assignment will be considered lapsed as to that requesting developer, and those taps identified for assignment shall be made available for consideration for other prospective requesting developers. (as added by Ord. #2020-11, Jan. 2021 *Ch2\_8-2-21*)

**18-409. Miscellaneous.** (1) All reversion and assignment of wastewater taps shall be subject to approval by the town staff for which the town shall maintain records by and through the above referenced database of such reversion and assignment of taps.

(2) This policy and procedure for the reversion and assignment of wastewater taps is not intended to and shall not impact any current, existing

developer agreements between the town and a developer. (as added by Ord. #2020-11, Jan. 2021 **Ch2\_8-2-21**)

## CHAPTER 5

### UTILITY BOARD

#### SECTION

18-501. Creation.

18-502. Board membership; appointment.

18-503. Meetings; compensation.

18-504. Powers; duties.

18-505. Required training and continued education.

**18-501. Creation.** That there is hereby created a utilities board to be known and referred to herein as the Thompson's Station Utilities Board ("utilities board" or "board"). (as added by Ord. #2021-007, May 2021 *Ch2\_8-2-21*)

**18-502. Board membership; appointment.** The utilities board shall consist of seven (7) members appointed by the Board of Mayor and Aldermen ("BOMA"). The BOMA may, in its discretion, appoint one (1) BOMA member as one (1) of the seven (7) members of the utilities board, but in the event, the term of that member shall not extend beyond their term on the BOMA.

Utilities board members shall be appointed by majority vote of the BOMA and shall serve at the will of BOMA. The terms of all the utilities board members shall run from their original appointment for a period of two (2) years. However, if a member of the BOMA of the town is appointed to serve on the board, the BOMA member's term shall run concurrent with their BOMA term. Appointments to complete unexpired terms of office, vacant for any cause, shall be made in the same manner as the original appointments. (as added by Ord. #2021-007, May 2021 *Ch2\_8-2-21*)

**18-503. Meetings; compensation.** (1) Within thirty (30) days after appointment of members, the utilities board shall hold a meeting to elect a chair and designate a secretary, who need not be a member. The board shall hold public meetings at least once per month, at such regular time and place as they may determine. Notices of the time and place of all meetings shall comply with the Open Meeting Act. The board shall establish its own rules of procedure at its first meeting.

(2) All members of the utilities board shall serve without compensation, but they shall be allowed necessary traveling and other expenses while engaged in the business of the board. (as added by Ord. #2021-007, May 2021 *Ch2\_8-2-21*)

**18-504. Powers; duties.** (1) From and after its first meeting, the utilities board shall provide guidance and direction to town staff and shall

advise the BOMA in all matters pertaining to the operation of the town's wastewater system. The board may adopt policies related to the operation of the wastewater system, provided that such policies shall be consistent with any ordinances of the town and any applicable state laws and regulations.

(2) Subject to funds specifically budgeted by the board of mayor and aldermen and subject to the town's purchasing policies, the utilities board may authorize expenditures for goods or services related to the operation of the wastewater facilities.

(3) The board shall not be responsible for the supervision of town staff, nor shall it have any authority with respect to the hiring, dismissal or discipline of town employees.

(4) The town administrator or his or her designee shall be present at all meetings of the utilities board and assist the board in the collection of information it needs to perform its duties.

(5) The board shall perform such other duties related to the operation of the town's wastewater systems as may be requested by the BOMA.

(6) The board may also perform other duties with respect to other, non-wastewater related utility issues as may be requested by the BOMA from time to time. (as added by Ord. #2021-007, May 2021 **Ch2\_8-2-21**)

**18-505. Required training and continued education.** (1) From the statutory requirements under Tennessee Code Annotated, § 7-34-115(j)(0)-(7),(k), the prescribed training and continuing education for members of the utility board, and as applicable to the board of mayor and aldermen, shall be as follows:

*"(j)(l) The governing body of a municipal utility system subject to this section that supervises, controls, or operates a public water or public sewer system, including, but not limited to, those systems using a separate utility board pursuant to any public or private act, must meet the training and continuing education requirements in this subsection (j).*

*(2) All members of the municipal utility board of commissioners shall, within one (1) year of initial appointment or election to the board of commissioners or within one (1) year of reappointment or reelection to the board of commissioners, attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (j)(4).*

*(3) (A) In each continuing education period after the initial training and continuing education required by subdivision (j)(2), a municipal utility board commissioner shall attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (j)(4).*

*(B) For the purposes of this subsection (j) and subsection (k), "continuing education period" means a period of three (3) years beginning January 1 after the calendar year in which a municipal utility board commissioner*

*completes the training and education requirements set forth in subdivision (j)(2) and each succeeding three-year period thereafter.*

*(4) The subjects for the training and continuing education required by this subsection (j) shall include, but not be limited to, board governance, financial oversight, policy-making responsibilities, and other topics reasonably related to the duties of the members of the board of commissioners of a municipal utility.*

*(5) Any association or organization with appropriate knowledge and experience may prepare a training and continuing education curriculum for municipal utility board commissioners covering the subject set forth in subdivision (j)(4) to be submitted to the comptroller of the treasury for review and approval prior to use. The comptroller shall file a copy of approved training and continuing education curriculum with the water and wastewater financing board. Changes and updates to the curriculum must be submitted to the comptroller for approval prior to use. Any training and continuing education curriculum approved by the comptroller must be updated ever three (3) years and submitted to the comptroller for review and approval.*

*(6) For purposes of this subsection (j), a municipal utility board commissioner may request a training and continuing education extension of up to six (6) months from the comptroller of the treasury or the comptroller's designee. The request shall only be granted up on a reasonable showing of substantial compliance with this subsection (j). If the extension is granted, the municipal utility board commissioner must complete any additional required training hours necessary to achieve full compliance for only the relevant continuing education period within the extension period. The municipal utility board commissioner shall file copies of any extension request letters and corresponding comptroller of the treasury determination letters with the water and wastewater financing board.*

*(7) (A) Beginning no later than March 1, 2019, the comptroller of the treasury shall offer online training and continuing education courses for purposes of compliance with this subsection (j).*

*(B) Any association or organization with appropriate knowledge and experience may prepare an online training and continuing education curriculum for municipal utility board commissioners covering the subjects set forth in subdivision (j)(4) to be submitted to the comptroller of the treasury for review and approval prior to use.*

*(C) The comptroller of the treasury shall file a copy of approved online training and continuing education curriculum with the water and wastewater financing board. Changes and updates to the curriculum must be submitted to the comptroller of the treasury for approval prior to use. Any online training and continuing education curriculum approved by the*

*comptroller of the treasury must be updated every three (3) years and submitted to the comptroller of the treasury for review and approval.*

*(D) Any person required to complete training and continuing education under this subsection (j) may take one (1) or more of such online courses in lieu of attending training and continuing education courses in person.*

*(E) The online training and continuing education provider shall provide a certificate of completion or attendance that shall be submitted by the municipal utility board commissioner to the municipality. Each municipality shall keep the certificate of completion or attendance for six (6) years after the calendar year in which the certificate of completion or attendance is submitted.*

*(k) If any member of a municipal utility board or commissioner fails to meet the training and continuing education requirements set forth in subsection (j) before the end of the continuing education period or before the end of any extension approve by the comptroller of the treasury or the comptroller's designee, then the water and wastewater financing board shall have full discretion to order reasonable sanctions against the municipality, including, but not limited to, the municipality being ineligible to receive assistance from the Tennessee local development authority under § 68-221-1206(a)(3)."*

(2) The town shall be responsible for paying for any training and continuing education course registration and travel expenses for each board member. (as added by Ord. #2021-007, May 2021 **Ch2\_8-2-21**)



**TITLE 19****ELECTRICITY AND GAS****CHAPTER**

1. GENERAL.
2. CABLE.
3. TELECOMMUNICATIONS.

**CHAPTER 1****GENERAL****SECTION**

- 19-101. Purpose of chapter.
- 19-102. Definitions.
- 19-103. Other remedies.
- 19-104. Rights reserved.
- 19-105. Violations and penalty.

**19-101. Purpose of chapter.** The purpose and intent of this chapter is to:

- (1) Establish a local policy concerning telecommunications carriers and services and cable service providers and cable service, and establish clear local guidelines, standards and time frames for the exercise of local authority with respect to the regulation of telecommunications carriers and services and cable service providers and cable service;
- (2) Promote competition in telecommunications and cable services;
- (3) Encourage the provision of advanced and competitive telecommunications services on the widest possible basis to the businesses, institutions and residents of the town;
- (4) Permit and manage reasonable access to the streets of the town for cable or telecommunications purposes on a competitively neutral basis;
- (5) Conserve the limited physical capacity of the streets held in public trust by the town;
- (6) Ensure that the town's current and ongoing costs of granting and regulating private access to and use of the streets are fully paid by the persons seeking such access and causing such costs;
- (7) Secure fair and reasonable compensation to the town and the residents of the town for permitting private use of the streets;
- (8) Ensure that all cable and telecommunications earners providing facilities or services within the town comply with the ordinances, rules and regulations of the town; ensure that the town can continue to fairly and responsibly protect the public health, safety and welfare; and

(9) Enable the town to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-102. Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(1) "Affiliate." A person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person.

(2) "FCC." The Federal Communications Commission and any legally appointed, designated or elected agent or successor.

(3) "Force majeure." A strike, acts of nature, acts of public enemies, orders of any kind of a government of the United States of America, riots, epidemics, landslides, lightning, earthquakes, fires, tornadoes, storms, floods, civil disturbances, explosions, partial or entire failure of utilities or any other cause or event not reasonably within the control of the disabled party, but only to the extent the disabled party notifies the other party as soon as practicable regarding such force majeure.

(4) "Person." Corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies and individuals and includes their lessors, trustees and receivers.

(5) "Town." The Town of Thompson's Station, Tennessee, the grantor of rights under this chapter.

(6) "Town property." All real property owned by the town, other than public streets and utility easements as those terms are defined in this section, and all property held in a proprietary capacity by the town, which are not subject to right-of-way franchising as provided in this chapter. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-103. Other remedies.** Nothing in this chapter shall be construed as limiting any judicial remedies that the town may have, at law or in equity, for enforcement of this chapter. All franchise agreements approved by the town shall provide that if it is necessary for the town to file suit against the franchisee to enforce the provisions of this chapter or the franchise agreement, and if the town is the prevailing party in such suit, then the franchisee shall be required to reimburse the town for all costs of enforcement, including reasonable attorneys' fees. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-104. Rights reserved.** The town hereby expressly reserves the following rights which shall not be deemed to be waived or abrogated by any franchise granted pursuant to this chapter:

(1) Exercise its governmental powers, now or hereafter, to the full extent that such powers may be vested in or granted to the town.

(2) Adopt, in addition to the provisions contained in this chapter and in a franchise, issued by the town or the state, or license and in any existing applicable ordinance, such additional regulations as it shall find necessary in the exercise of its police power.

(3) Amend this chapter or any franchise granted pursuant to this chapter to require reasonable and appropriate modifications in a franchise of a nature that would not result in effectively terminating such franchise.

(4) Renegotiate any franchise granted pursuant to this chapter should substantial sections of this chapter be rendered void by subsequent changes in applicable federal or state laws.

(5) Waive portions of this chapter if the town determines such waiver is in the public interest. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-105. Violations and penalty.** Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this chapter shall be fined not more than fifty dollars (\$50.00) for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**CHAPTER 2****CABLE****SECTION**

- 19-201. Definitions.
- 19-202. Rights and privileges of company.
- 19-203. Binding effect.
- 19-204. Franchise territory.
- 19-205. Duration and acceptance of franchise.
- 19-206. Franchise renewal.
- 19-207. Police powers.
- 19-208. Cable television franchise.
- 19-209. Use of company facilities.
- 19-210. Costs.
- 19-211. Notices.
- 19-212. Letter of credit/security deposit.
- 19-213. Performance bond.
- 19-214. Liability and insurance.
- 19-215. Indemnification.
- 19-216. Rights of individuals.
- 19-217. Public notice.
- 19-218. Service availability and record request.
- 19-219. System construction, improvement or extension requirements.
- 19-220. Construction and technical standards.
- 19-221. Use of streets.
- 19-222. Operational standards.
- 19-223. Continuity of service mandatory.
- 19-224. Complaint procedure.
- 19-225. Company rules and regulations.
- 19-226. Franchise fee.
- 19-227. Capital contribution.
- 19-228. Transfer of ownership or control.
- 19-229. Availability of books and records.
- 19-230. Other petitions and applications.
- 19-231. Fiscal reports.
- 19-232. Removal of cable system.
- 19-233. Required services and facilities.
- 19-234. Rules and regulations.
- 19-235. Performance evaluation sessions.
- 19-236. Rate change procedures.
- 19-237. Forfeiture and termination.
- 19-238. Foreclosure.
- 19-239. Approval of transfer and right of acquisition by the town.

- 19-240. Receivership.
- 19-241. Compliance with state and federal laws.
- 19-242. Landlord/tenant.
- 19-243. Initial application.
- 19-244. Financial, contractual, shareholder and system disclosure in initial application.
- 19-245. Theft of services and tampering.
- 19-246. Force majeure.
- 19-247. Violations and penalty.

**19-201. Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Basic service." That service tier which includes the retransmission of local television broadcast signals and any community, educational and government access channel requirements under this chapter. The term "basic service" does not include optional program and satellite service tiers, a la carte services, per channel, per program or auxiliary services for which a separate charge is made. However, a company may include other satellite signals on the basic service.

(2) "Cable service." The one (1) way transmission, via a cable system, to subscribers of video programming, or other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

(3) "Cable system" or "system." A facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the town, but such term does not include:

(a) A facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;

(b) A facility that serves subscribers, unless such facility or facilities uses directly, as licensee, or otherwise, any public right-of-way;

(c) A facility of a common carrier which is subject, in whole or in part, to the provisions of title 11 of the Cable Television Consumer Protection and Competition Act of 1992 (the act), except that such facility shall be considered a cable system (other than for purposes of section 621(c) of the act) to the extent such facility is used in the transmission of video programming directly to subscribers; or

(d) Any facilities of any electric utility used solely for operating its electric utility systems.

(4) "Class IV channel." A signaling path provided by a cable system to transmit signals of any type from a subscriber terminal to another point in the cable system.

(5) "Company." A grantee of rights under this chapter by means of an award of a franchise, or a grantee of rights in a state-issued franchise (state issued certificate of franchise authority) pursuant to the Competitive Cable and Video Services Act by means of an award of a franchise, or its permitted successor, transferee or assignee, or an applicant therefor.

(6) "Converter." An electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and by an appropriate channel selector also permits a subscriber to view more than twelve (12) channels delivered by the system at designated converter dial locations.

(7) "Franchise." The right of a company to operate a cable system within the town for a limited term and in a manner in agreement with this chapter and, if the franchise is a state-issued franchise, the Competitive Cable and Video Services Act as well.

(8) "Gross revenues." All revenue received directly or indirectly by a company from cable system operations within the town including, but not limited to, subscriber service monthly fees, pay cable fees, installation and reconnection fees, leased channel fees, converter rentals, studio rental, production equipment, personnel fees, late fees, downgrade fees, home shopping service commissions and advertising commissions; provided, however, that such shall not include any taxes on services furnished by a company imposed directly upon any subscriber or user by the state, local or other governmental unit and collected by the company on behalf of the governmental unit.

(9) "Initial application." The document setting forth the proposed terms for a franchise to be awarded by the town to a company for a new franchise as opposed to the renewal of a franchise.

(10) "Installation." The connection of the system from feeder cable to subscribers' terminals. The term shall include all procedures required to complete service standards, including underground installation of service lines and restoration of lawn areas.

(11) "Monitoring." Observing a communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever; provided, however, that monitoring shall not include system wide, nonindividually addressed sweeps of the system for purposes of verifying system integrity, controlling return paths transmissions, or billing for pay services.

(12) "Normal business hours (as applied to the company)." Those hours during which similar businesses in the town are open to serve customers. In all cases, normal business hours means that a company will be open for subscriber transactions Monday through Friday from 8:00 A.M. to 5:00 P.M., unless there is a need to modify those hours to fit more appropriately the needs of the town or the subscribers. A company will establish supplemental hours on weekdays and weekends if it would fit the needs of the town or the subscribers.

(13) "Normal operating conditions." Those service conditions which are within the control of the company. Those conditions which are not within the control of the company include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the company include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(14) "PEG facility." The public, educational and governmental access facility maintained by the town.

(15) "Renewal proposal." A document setting forth the proposed terms for the renewal of an existing franchise to a company already functioning as an operator of a cable system for the town.

(16) "Service interruption." The loss of picture or sound on one (1) or more channels.

(17) "State-issued franchise (state issued certificate of franchise authority)." A franchise applied for and granted by the State of Tennessee pursuant to the Competitive Cable and Video Services Act, Tennessee Code Annotated, §§ 7-59-301, et seq., as may be amended

(18) "Street." The surface of all rights-of-way and the space above and below, of any public street, road, highway, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive or easement now or hereafter held by the town for the purpose of public travel, and shall also mean other easements or rights-of-way as shall be now held or hereafter held by the town which shall, within their proper use and meaning, entitle a company to the use thereof for the purposes of installing poles, wires, cable, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a cable system.

(19) "Subscriber." Any person, firm, company, corporation or association lawfully receiving basic service and/or additional service from the company.

(20) "User." A party utilizing a cable system channel for purposes of production or transmission of material to subscribers, as contrasted with receipt thereof in a subscriber capacity. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-202. Rights and privileges of company.** (1) A franchise granted by the town pursuant to this chapter or a state-issued franchise shall grant to a company the nonexclusive right and privilege to erect, construct, operate and maintain in, upon, and along, across, above, over and under the streets, now in existence and as may be created or established during the term hereof, any poles, wires, cable, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation of a system for the interception, sale, transmission and distribution of cable service

and other audiovisual and data signals, and the right to transmit the same to the inhabitants of the town on the terms and conditions set forth in this section.

(2) It is understood that there may be from time to time within the town various streets which the town does not have the unqualified right to authorize a company to use because of reservations in favor of the dedicators or because of other legal impediments; therefore, in making this grant, the town does not warrant or represent as to any particular street or portion of a street that it has the right to authorize a company to install or maintain portions of its system therein, and in each case the burden and responsibility for making such determination in advance of the installation shall be upon a company.

(3) The right to use the streets, easements and rights-of-way granted in this section or in a state-issued franchise is subject to all ordinances in the town addressing access and use of streets, easements and rights-of-way, the terms of all rights or franchises heretofore granted by the town, and to the terms of all rights or franchises hereafter granted by the town or by the state to companies with a franchise granted pursuant hereto or by the state and/or other companies primarily engaged in the rendering of public utilities service.

(4) Nothing in this section shall vest a company any property rights in the town-owned property, nor shall the town be compelled to maintain any of its property any longer than or in any fashion other than in the town's judgment its own business or needs may require. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-203. Binding effect.** (1) Upon grant of a franchise pursuant hereto or by the state and acceptance thereof by a company, a company will be bound by all the terms and conditions contained in this chapter except, in the case of a state-issued franchise, should there be a direct and clear conflict with this chapter and the applicable state law, such state law would control.

(2) Upon grant and acceptance of a franchise issued by the town, a company and the town shall agree, either in the franchise agreement itself or in a separate document, as to all financial obligations of the company to the town associated with the franchise. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-204. Franchise territory.** A franchise granted by the town or a state-issued franchise is for the present territorial limits of the town and for any area henceforth added thereto during the term of the franchise. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-205. Duration and acceptance of franchise.** A franchise and the rights, privileges and authority hereby granted shall take effect and be in force from and after final grant and acceptance thereof by a company for the term specified in an initial proposal or renewal proposal as the case may be or for the term set forth in the state-issued franchise, which term may be for not more



than twenty (20) years; provided, however, that by appropriate agreement certain obligations may be deemed to commence from a date prior to the final grant and acceptance of a franchise. Acceptance by a company of a franchise shall constitute a representation or warranty that it accepts the franchise willingly and without coercion, undue influence and duress, that it has not misrepresented or omitted material facts, has not accepted the franchise with intent to act contrary to the provisions of this chapter, and that, so long as it operates the cable system, it will be bound by the terms and conditions of this franchise, subject to applicable state and federal law. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-206. Franchise renewal.** (1) A franchise may be renewed by the town in accordance with the procedures delineated in 47 U.S.C. § 546 or other applicable statutory requirements.

(2) In the absence of statutory requirements:

(a) At least twenty-four (24) months prior to the expiration of its franchise, a company shall inform the town in writing of its intent to seek renewal of the franchise.

(b) Such company shall submit a renewal proposal which demonstrates that:

(i) It has been and continues to be in substantial compliance with the terms, conditions and limitations of this chapter and its franchise;

(ii) Its system has been installed, constructed, maintained and operated in accordance with the accepted standards of the industry, and this chapter and its franchise;

(iii) It has the legal, technical, financial and other qualifications to continue to maintain and operate its system, and to improve the same as the state of art progresses so as to ensure its subscribers high quality service; and

(iv) It has made a good faith effort to provide services and facilities which accommodate and will accommodate the demonstrated needs of the town and its residents as may be reasonably ascertained by the town.

(c) After giving public notice, as defined in § 19-217, the town shall proceed to determine whether the company has met the requirements of § 19-205. In making this determination, the town shall consider technical developments and performance of the system, programming and other services offered, cost of services, and any other particular requirements set out in this chapter. Also, the town shall consider a company's reports made to the town and the FCC; may require a company to make available specified records, documents and information for this purpose; and may inquire specifically whether a company will supply services sufficient to meet community needs and

interests. Industry performance on a national basis shall also be considered. Provision shall be made for public comment.

(d) The town shall then adopt any amendments to this chapter that it considers necessary.

(e) If the town finds the company's performance satisfies the renewal requirements as set out in statutory requirements or, in lieu thereof, satisfies the four (4) criteria outlined above in subsection (2)(b) above, a new franchise shall be granted pursuant to this chapter, as amended.

(f) If a company is determined by the town not to have satisfied the criteria described at subsection (2)(b) above, new applicants shall be sought and evaluated and a franchise award shall be granted by the town according to this chapter. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-207. Police powers.** (1) In accepting a franchise issued by the town or the state, a company acknowledges that its rights under this chapter are subject to the police power of the town to adopt and enforce general ordinances necessary to the safety and welfare of the public; and it agrees to comply with all applicable general laws and ordinances enacted by the town pursuant to such power.

(2) Any conflict between the provisions of this chapter and/or a franchise and any other present or future lawful exercise of the town's police powers shall be resolved in favor of the latter, except that any such exercise that is not of general application in the town or which applies exclusively to a company or cable systems, and which contains provisions inconsistent with this chapter and/or a franchise, shall prevail only if upon such exercise the town finds an emergency exists constituting a danger to health, safety, property or such exercise is mandated by law.

(3) The right is hereby reserved to the town to adopt, in addition to the provisions contained in this chapter and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power. Nothing in this chapter or in any agreement under this chapter awarding a franchise or in any franchise granted by the state shall be construed as an abrogation by the town of its police power. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-208. Cable television franchise.** Any person or entity who desires to construct, install, operate, maintain, lease or otherwise locate or continue to locate, a cable system in any street of the town for the purpose of providing cable service to persons in the town shall obtain a cable franchise from the town pursuant to this chapter or a state-issued franchise pursuant to the Competitive Cable or Video Services Act, Tennessee Code Annotated, §§ 7-59-301, et seq., as may be amended. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-209. Use of company facilities.** The town shall have the right, during the term of any franchise, whether issued by the town or the state, to install and maintain free of charge upon the poles of a company or on or within any easements or facilities owned or used by a company, any wire, pole or other fixtures that do not unreasonably interfere with the cable system operations of such company. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-210. Costs.** A company shall bear the following costs: all reasonable and justifiable charges or costs incidental to the awarding, renewal or enforcement of a franchise including, but not limited to, payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-211. Notices.** All notices from a company to the town shall be addressed to the town administrator at town hall. Company shall maintain with the town, throughout the term of its franchise, an address for service of notices by mail. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-212. Letter of credit/security deposit.** (1) Within fifteen (15) days after the award of a franchise, whether by the town or the state, a company shall deposit with the town either a letter of credit from a federally insured financial institution, or a security deposit in such an institution, in immediately available funds in the amount of fifty thousand dollars (\$50,000.00). The sole condition of the letter of credit shall be written notice by the town to the issuer that a company is in default under the franchise. The security deposit must be available for draw by the town without condition. The form, issuer and content of such letter of credit or security deposit shall be approved by the town. These instruments shall be used to ensure the faithful performance of a company of all provisions of its franchise, compliance with all orders, permits and directions of any agency, commission, board, department, division or office of the town having jurisdiction over its acts or defaults under its franchise and the payment by a company of any claims, liens and taxes due the town which arise by reason of the construction, operation or maintenance of the system.

(2) The letter of credit or security deposit shall be maintained at the amount of fifty thousand dollars (\$50,000.00) for the entire term of a franchise even if sums are withdrawn therefrom pursuant to subsections (1) above or (3) below.

(3) If a company fails to pay to the town any sum due under its franchise within the time required; or fails after fifteen (15) days' notice to pay to the town any taxes due and unpaid; or fails to repay the town within, fifteen (15) days, any damages, costs or expenses which the town is compelled to pay by reason of any act or default of a company in connection with its franchise; or fails, after fifteen (15) days' notice of such default to comply with any provision of its franchise which the town reasonably determines can be remedied, the

town may immediately demand payment of the amount thereof, with interest and any penalties, from the issuer of the letter of credit or the holder of such security deposit. Upon such demand for payment, the town shall notify the company of the amount and date thereof.

(4) The rights reserved to the town with respect to the letter of credit and security deposit are in addition to all other rights of the town, and no action, proceeding or exercise of a right with respect to such letter of credit or security deposit shall affect any other right the town may have.

(5) The letter of credit shall contain the following endorsement: "It is hereby understood and agreed that this letter of credit may not be canceled or not renewed until 30 days after receipt by the town, by certified mail, of a written notice of such intention to cancel or not to renew."

(6) Upon receipt of such thirty (30) day notice, such shall be construed as a default granting the town the right to call for payment of either the security deposit or letter of credit.

(7) Notwithstanding the foregoing provisions of this section, if a company makes application to the town to be relieved from furnishing a letter of credit, the town administrator may waive the requirement for such bond or reduce the required amount thereof if the town administrator determines that, for state-issued franchises, that compliance with Tennessee Code Annotated, § 7-59-305(c)(6) as to financial qualifications of a cable service provider has been complied with and, for town-issued franchises, that:

(a) Such company has a net worth of not less than fifty million dollars (\$50,000,000.00) as reflected by its most current audited financial statement; and

(b) The performance of such company of its obligations generally, whether financial or otherwise, has been satisfactory with respect to the town and with respect to other parties with which such company has had obligations of construction or improvements to cable systems. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-213. Performance bond.** (1) Thirty (30) days prior to commencing any construction, whether such construction consists of improvements to the existing system or construction of a new system, a company shall file with the town a performance bond and payment bond in the amount of not less than fifty percent (50%) of the costs necessary to perform such construction. This bond shall be maintained throughout the construction period and thereafter until such time as determined by the town. The form and content of such bond shall be approved by the town.

(2) If a company fails to comply with any law, ordinance or resolution governing its franchise or fails to well and truly observe, fulfill and perform each term and condition of its franchise, as it relates to the conditions relative the construction of the system, there shall be recoverable jointly and severally, from the principal and surety of the bond, any damages or loss suffered by the town

as a result, including the full amount of any compensation, indemnification, or costs of removal or abandonment of any property of the company, plus a reasonable allowance for attorney's fees, including the town's legal staff, and costs, up to the full amount of the bond. This section shall be an additional remedy for any and all violations outlined in § 19-212.

(3) The town will, upon completion of construction, waive further maintenance of such bonds. However, the town may require a like bond to be posted by a company for any construction subsequent to the completion of any improvements or construction of a new system.

(4) Notwithstanding the foregoing provisions of this section, if a company makes application to the town to be relieved from furnishing a performance and payment bond relative to construction of a system or improvements thereto, the town administrator may waive the requirement for such bond or reduce the required amount thereof if the town administrator determines, for state-issued franchises, that compliance with Tennessee Code Annotated, § 7-59-305(c)(6), as to financial qualifications of a cable service provider has been complied with and, for town-issued franchises that:

(a) Such company has a net worth of not less than fifty million dollars (\$50,000,000.00) as reflected by its most current audited financial statement; and

(b) The performance of such company of its obligations generally, whether financial or otherwise, has been satisfactory with respect to the town and with respect to other parties with which such company has had obligations of construction or improvements to cable systems. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-214. Liability and insurance.** (1) A company shall maintain and by its acceptance of a franchise specifically agrees that it will maintain, throughout the term of its franchise, liability insurance insuring the town and the company in the minimum amounts of:

(a) One million dollars (\$1,000,000.00) for property damage due to any one (1) person;

(b) One million dollars (\$1,000,000.00) for property damage due to any one (1) accident;

(c) One million dollars (\$1,000,000.00) for personal injury due to any one (1) person; and

(d) One million dollars (\$1,000,000.00) for personal injury due to any one (1) accident.

(2) In order to comply with this section, the insurance policy must be obtained by a company from an insurance company licensed to do business in the state and rated not less than A- by Best or a comparable insurance rating service. Certificates of insurance, along with written evidence of payment of required premiums, shall be filed and maintained with the town during the term of a franchise and may be changed from time to time to reflect changing liability

limits. The company shall immediately advise the town of any litigation that may develop that would affect this insurance.

(3) Nothing contained in this section or in any franchise document shall limit the liability of a company to the town.

(4) All insurance policies maintained pursuant to a franchise shall contain the following endorsement: "It is hereby understood and agreed that this insurance policy may not be canceled or not renewed until 30 days after receipt by the town, by certified mail, of a written notice of such intention to cancel or not to renew." (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-215. Indemnification.** (1) A company shall, at its sole cost and expense, fully indemnify, defend and hold harmless the town, its officers, boards, commissions and employees, against any and all claims, defense of suits, actions, and any liability and judgments for damages including, but not limited to, expenses for reasonable legal fees and disbursements and liabilities assumed by the town in connection therewith:

(a) To persons or property, in any way arising out of or through the acts or omissions of a company, its servants, agents or employees, or to which a company's negligence shall in any way contribute;

(b) Arising out of any claim for invasion of the right of privacy, for defamation of any person, firm or corporation, or the violation or infringement of any copyright, trademark, trade name, service mark or patent, or of any other right of any person, firm or corporation (excluding claims arising out of or relating to town programming); and

(c) Arising out of a company's failure to comply with the provisions of any federal, state or local statute, ordinance or regulation applicable to a company in its business under this chapter.

(2) The indemnity described in subsection (1) above is conditioned upon the following: the town shall give a company prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing in this section shall be deemed to prevent the town from cooperating with a company and participating in the defense of any litigation by its own counsel at its sole cost and expense. The company shall fully control the defense to any claim or action and any settlement or compromise thereof. No recovery by the town of any sum by reason of the letter of credit or security deposit required in § 19-212 shall be any limitation upon the liability of a company to the town under the terms of this section, except that any sum so received by the town shall be deducted from any recovery which the town might have against the company under the terms of this section. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-216. Rights of individuals.** (1) A company shall not deny service, deny access or otherwise discriminate against subscribers, channel users or other citizens on the basis of race, color, religion, national origin, income or sex.

A company shall comply at all times with all other applicable federal, state and local laws and regulations and all executive and administrative orders relating to non-discrimination which are hereby incorporated and made part of this chapter by reference.

(2) A company shall strictly adhere to the equal employment opportunity requirements of the FCC and similar state and local laws, ordinances and regulations, as amended from time to time.

(3) A company shall at all times comply with applicable state and federal law with respect to privacy rights of subscribers, as such laws may change from time to time.

(4) A company may not enter into or attempt to enforce the terms of any exclusive bulk service agreement, or any other non-competitive agreement, that violates state or federal, including FCC rules, rulings or regulations.

(5) A company, or any of its agents or employees, shall not invoice, threaten to sue or otherwise attempt to require any person or entity within the town to pay for cable services for which they have not individually and directly entered into a contract to receive.

(6) A company, or any of its agents or employees, shall not, without specifically providing notice to subscribers, such notice allowing each subscriber to prohibit the inclusion of his name, sell or otherwise make available to any party:

(a) Lists of the names and addresses of such subscribers; or

(b) Any list which identifies the viewing habits of subscribers.

(as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-217. Public notice.** A company shall give minimum public notice of any public meeting relating to its franchise by publication at least once in a local newspaper of general circulation at least ten (10) days prior to the meeting, posting at the town hall, and on the town website for five (5) consecutive days prior to the meeting. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-218. Service availability and record request.** A company shall provide cable service throughout the town pursuant to the provisions of its franchise and shall keep a record for at least three (3) years of all requests for service received by such company. This record shall be available for public inspection at the local office of such company during normal business hours. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-219. System construction, improvement or extension requirements.** (1) The specifics for a timetable for system construction, extension or improvement (construction) shall be agreed to by the town and a company in writing. When determining the specifics of a timetable, the following shall be considered:

- (a) The areas of the town currently being served with cable service;
- (b) The need to provide cable service to residents in new developments in the town in a timely and feasible manner;
- (c) The equitable treatment of all of the town's residents;
- (d) The need to foster competition between all companies providing cable service to the town to ensure the highest quality cable service to the town; and
- (e) Such other matters presented due to the then existing circumstances.

(2) In addition to the specifics of any construction timetable agreed to by the town and a company, the following requirements shall apply:

- (a) No subscriber shall be refused cable service arbitrarily.
- (b) Any construction delay beyond any terms of an agreed construction timetable, unless specifically approved by the town, will be considered a violation of this chapter and the applicable franchise.

(c) In isolated areas of the town not being provided cable service pursuant to the terms of an agreement for a franchise, a company shall provide, upon the request of a resident desiring cable service, an estimate of the costs required to extend cable service to the potential subscriber. A company shall then extend cable service upon request of the resident and such resident's agreement to pay such costs. A company may require advance payment or assurance of payment satisfactory to such company. Notwithstanding the foregoing, a resident will not be required to contribute toward the costs required to extend cable service to such resident if the connection to the isolated resident would require no more than a standard one hundred fifty foot (150') aerial drop line.

(d) In cases of new construction or property development where utilities are to be placed underground, the developer or property owner shall give a company reasonable notice of such construction or development, and of the particular date on which open trenching will be available for a company's installation of conduit, pedestals and/or vaults, and laterals to be provided at the company's expense. A company shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring cable service to the development shall be borne by the developer or property owner; except that if the company fails to install its conduit, pedestals and/or vaults, and laterals within five (5) working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the five (5) day period, the cost of new trenching is to be borne by the company. Except for the notice of the particular date on which trenching will be available to a company, any notice provided to a company by the town of a preliminary plat request shall satisfy the requirement of reasonable notice if sent to the local general manager or



system engineer of a company prior to approval of the preliminary plat request. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-220. Construction and technical standards.** (1) A company shall construct, install, operate and maintain its system in a manner consistent with all laws, ordinances, construction standards, governmental requirements, FCC technical standards and detailed standards submitted by a company as part of its initial application or renewal proposal, which standards are incorporated by reference in this section. In addition, a company shall provide the town, upon request, with a written report of the results of a company's annual proof of performance tests conducted pursuant to FCC standards and requirements.

(2) Additional specifications. (a) Construction, installation and maintenance of the cable system shall be performed in an orderly and workmanlike manner. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations;

(b) A company shall at all times comply with;

(i) National Electrical Safety Code (National Bureau of Standards);

(ii) National Electrical Code (National Bureau of Fire Underwriters);

(iii) Bell System Code of Pole Line Construction; and

(iv) Applicable FCC or other federal, state and local regulations.

(c) In any event, the system shall not endanger or interfere with the safety of persons or property in the town or other areas where a company may have equipment located.

(d) Any antenna structure used in the system shall comply with construction, marking and lighting of antenna structure required by the United States Department of Transportation.

(e) All working facilities and conditions used during construction, installation and maintenance of the cable system shall comply with the standards of the Occupational Safety and Health Administration and/or any legally appointed, designated or elected agent or successor.

(f) RF leakage shall be checked at reception locations for emergency radio services to prove no interference signal combinations are possible. Stray radiation shall be measured adjacent to any proposed aeronautical navigation radio sites to prove no interference to airborne navigational reception in the normal flight patterns. FCC rules and regulations shall govern.

(g) A company shall maintain equipment capable of providing standby power for head end, transportation and trunk amplifiers for a

minimum of two (2) hours or equivalent standby power to maintain an acceptable signal.

(h) In all areas of the town where the cables, wires and other like facilities of public utilities are placed underground, a company shall place its cables, wires or other like facilities underground. When public utilities relocate their facilities from pole to underground, a company must concurrently do so. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-221. Use of streets.** (1) A company's system, poles, wires and appurtenances shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons or interfere with the rights or reasonable convenience of property owners who adjoin any of the streets, or interfere with any improvements the town may deem proper to make, or unnecessarily hinder or obstruct the free use of the streets.

(2) In case of any disturbance of any street, pavement, sidewalk, driveway or other surfacing, grass or landscaping, a company shall, at its own cost and expense and in a manner approved by the town, replace and restore such places so disturbed, in as good condition as before the work was commenced and in accordance with standards for such work set by the town.

(3) Erection, removal and common uses of poles. (a) No poles or other wire-holding structures shall be erected by a company without prior approval of the town with regard to location, height, types and any other pertinent aspect. However, no location of any pole or wire-holding structure of a company shall be a vested interest and such poles or structures shall be removed or modified by a company at its own expense whenever the town determines that the public convenience would be enhanced thereby.

(b) Where poles or other wire-holding structures already existing for use in serving the town are available for use by a company, but it does not make arrangements for such use, the town may require a company to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to a company are just and reasonable.

(c) Where the town or a public utility serving the town desires to make use of the poles or other wire-holding structures of a company, but agreement thereof with a company cannot be reached, the town may require a company to permit such use for such consideration and upon such terms as the town shall determine to be just and reasonable, if the town determines that the use would enhance the public convenience and would not unduly interfere with a company's operations.

(d) No aerial cable shall be installed so that it interferes with the view of traffic control devices including traffic signal heads or similar apparatus. If, in the opinion of the town, a cable is installed in such a

manner so as to interfere with the unobstructed view of a traffic control device, then in the interest of public safety, the installer shall relocate or adjust the cable immediately upon receipt of notice from the town of such interference at such company's expense.

(4) If, at any time during the period of a franchise, the town shall lawfully elect to alter, or change the grade of any street, a company, upon reasonable notice by the town, shall remove or relocate as necessary its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense. No location of any underground or aboveground facility or structure of any company shall be a vested interest, and such poles or structures shall be removed or modified by a company at its own expense whenever the town determines that the public convenience would be enhanced thereby. Notwithstanding anything to the contrary foregoing in this section, if any utility is compensated for removing or relocating its facilities, then a company shall be similarly compensated.

(5) A company shall, on the request of any person holding a building moving permit issued by the town or another governmental entity, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and a company shall have the authority to require such payment in advance. A company shall be given not less than forty-eight (48) hours' advance notice to arrange for such temporary wire changes.

(6) A company shall not remove any tree or trim any portion, either above, at or below ground level, of any tree within any public place without the prior consent of the town. The town shall have the right to do the trimming requested by a company at the cost to a company. Regardless of who performs the work requested by a company, a company shall be responsible, shall defend and hold town harmless for any and all damages to any tree as a result of trimming or to the land surrounding any tree, whether such tree is trimmed or removed, as well as for any and all injuries to persons.

(7) A company shall comply with Tennessee Code Annotated, §§ 65-31-101 to 65-31-112, regarding utility location requests. Service interruptions occurring as a result of failure to comply with locator requests shall be cause for a penalty in as set forth in this chapter. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-222. Operational standards.** (1) A company shall put, keep and maintain all parts of the system in good condition throughout its entire franchise.

(2) Temporary service drops:

(a) A company will put forth every effort to bury temporary drops within ten (10) working days after placement. Any delays for any other reason than listed will be communicated to the town. These delays will be found understandable and within the course of doing business by

the town: weather, ground conditions, street bores, system redesign requirements and any other unusual obstacle such as obstructive landscaping that is created by the customer.

(b) The company will provide monthly reports to the town, in care of the cable advisory commission, or its successor, on the number of drops pending.

(3) A company shall render efficient service, make repairs promptly, and interrupt cable service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.

(4) A company shall not allow its cable system or other operations to interfere with television reception of persons not served by a company, nor shall the system interfere with, obstruct or hinder in any manner the operation of the various utilities serving the residents within the confines of the town.

(5) A company shall have knowledgeable, qualified company representatives available to respond to subscriber telephone inquiries Monday through Friday between the hours of 8:00 A.M. and 6:00 P.M., and on Saturday between the hours of 9:00 A.M. and 5:00 P.M.

(6) Under normal operating conditions, telephone answer time, including wait time and the time required to transfer the call, shall not exceed thirty (30) seconds. This standard shall be met no less than ninety percent (90%) of the time, as measured on an annual basis.

(7) Under normal operating conditions, the subscriber will receive a busy signal less than three percent (3%) of the total time that the office is open for business, as measured on an annual basis.

(8) A customer service center in the town will be open for subscriber transactions Monday through Friday from 8:00 A.M. to 5:00 P.M., unless there is a need to modify those hours to more appropriately fit the needs of the town or the subscribers. A company will seek other locations to arrange for one (1) or more payment agents within the town where subscribers can pay bills.

(9) Under normal operating conditions, each of the following standards will be met no less than ninety-five percent (95%) of the time as measured on an annual basis:

(a) Standard installations will be performed within seven (7) business days after an order has been placed. A standard installation is one that is within one hundred fifty feet (150') of the existing cable system.

(b) Excluding those situations which are beyond the control of the cable system, a company will respond to any cable service interruption (area or neighborhood outage affecting two (2) or more customers) promptly and in no event later than twenty-four (24) hours from the time of initial notification. All other regular service requests will be responded to within thirty-six (36) hours during the normal workweek for the company. The appointment window alternatives for installations,

service calls and other installation activities will be morning, afternoon and all day, during normal business hours for the company. A company will schedule supplemental hours during which appointments can be scheduled based on the needs of the town, the subscribers and other residents in the community. If at any time an installer or technician is running late, an attempt to contact the subscriber will be made and the appointment rescheduled as necessary at a time that is convenient to the subscriber.

(c) A company shall maintain a written log for all cable service interruptions, including trunk and feeder line outages, and the record shall be kept for a period of three (3) years.

(10) Upon interruption of a subscriber's cable service, if notice of such interruption has been provided by such subscriber to the company and the subscriber has requested the credit provided for, the following shall apply:

(a) For service interruptions of over four (4) consecutive hours and up to seven (7) days, a company shall provide a credit of one-thirtieth (1/30) of one (1) month's fees for affected services for each twenty-four (24) hour period service is interrupted for four (4) or more consecutive hours for any single subscriber, with the exception of subscribers disconnected because of nonpayment or excessive signal leakage.

(b) For interruptions of seven (7) days or more in one (1) month, a company shall provide a full month's credit for affected services for all affected subscribers.

(c) Nothing in this subsection (10) limits a company from applying a rebate policy more liberal than the requirements of this subsection.

(11) The company will provide written information in each of the following areas at the time of installation and at any future time upon the request of a subscriber:

- (a) Product and services offered;
- (b) Prices and service options;
- (c) Installation and service policies; and
- (d) How to use the cable services.

(12) Bills will be clear, concise and understandable.

(13) Refund checks will be issued promptly, but no later than a subscriber's next billing cycle following the resolution of the request and the return of the equipment by a customer if cable service has been terminated.

(14) Subscribers will be notified a minimum of thirty (30) days in advance of any rate or channel change; provided that the change is within the control of a company.

(15) A company shall maintain and operate its network in accordance with the rules and regulations as are incorporated in this chapter or may be promulgated by the FCC, the United States Congress or the state,

(16) A company shall, throughout the term of its franchise, maintain high quality service.

(17) A company shall, within seven (7) days after receiving a written request from the town, send a written report to the town with respect to any particular subscriber complaint. The report shall provide a full explanation of the investigation, findings and corrective steps taken by a company.

(18) All field employees of a company shall carry identification indicating their employment with a company.

(19) A company, via its computer system, will maintain a service log which will indicate the nature of each subscriber service problem, the remedy to the problem, and the order and resolution time and date for one (1) year. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-223. Continuity of service mandatory.** (1) It shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to a company are honored. If a company ejects to overbuild, rebuild, modify or sell its system, or the town gives notice of intent to terminate or fails to renew a franchise, such company shall act so as to ensure that all subscribers receive continuous, uninterrupted cable service regardless of the circumstances.

(2) If a new operator acquires a system, a transferring company shall cooperate with the town, and the new franchisee or operator in maintaining continuity of cable service to all subscribers. During such period, a transferring company shall be entitled to the revenues for any period during which it operates the system and shall be entitled to reasonable costs for its services until it no longer operates the system.

(3) If a company fails to operate the system for seven (7) consecutive days without prior approval of the town or without just cause, the town may, at its option, operate the system or designate an operator until such time as such company restores cable service under conditions acceptable to the town or a permanent operator is selected. If the town is required to fulfill this obligation for a company, such company shall reimburse the town for all reasonable costs or damages in excess of revenues from the system received by the town that are the result of such company's failure to perform. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-224. Complaint procedure.**<sup>1</sup> (1) The town administrator is designated as having primary responsibility for the continuing administration of all franchises and implementation of procedures for the reporting and resolution of complaints.

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<sup>1</sup>Complaint procedure for state-issued franchises is set forth at Tennessee Code Annotated, § 7-59-308.

(2) As subscribers are connected or reconnected to the system, the company shall, by appropriate means, such as a card or brochure, furnish information concerning the procedures for making inquiries or complaints, including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed, and furnish information concerning the town office responsible for administration of all franchises with the address and telephone number of the office.

(3) When there have been similar complaints made or where there exists other evidence which, in the judgment of the town, casts doubt on the reliability or quality of cable service furnished by a company, the town shall have the right and authority to require such company to test, analyze and report on the performance of its system. A company shall fully cooperate with the town in performing such testing and shall prepare results and a report, if requested, within thirty (30) days after notice. Such report shall include the following information:

- (a) The nature of the complaints or problems which precipitated the special tests.
- (b) What system component was tested.
- (c) The equipment used and procedures employed in testing.
- (d) The method, if any, in which such complaints or problems was resolved.
- (e) Any other information pertinent to the tests and analysis which may be required.

(4) The town may require that tests be supervised, at a company's expense, by a licensed professional engineer not on the permanent staff of such company (outside engineer). The outside engineer shall sign all records of special tests and forward to the town such records with a report interpreting the results of the tests and recommending actions to be taken. Notwithstanding the foregoing, if the outside engineer concludes in his report that the cable system provided by such company meets the FCC technical standards or that the cause of the problem to the cable system is not the fault of the company, then the expense of the outside engineer shall be borne by the town.

(5) The town's right under this section shall be limited to requiring tests, analysis and reports covering specific subjects and characteristics based on complaints or other evidence when and under such circumstances as the town has reasonable grounds to believe that the complaints or other evidence require that tests be performed to protect the public against substandard cable service.

(6) This section shall not become effective until such time as company has either obtained a state-issued franchise or upon the effective date of a franchise agreement between the town and company. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-225. Company rules and regulations.** A company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable such company to exercise its rights and perform its obligations under its franchise and to ensure uninterrupted service to each and all of its subscribers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions of this chapter or applicable state and federal laws, rules and regulations. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-226. Franchise fee.** (1) For the reason that the streets of the town to be used by a company in the operation of its system within the boundaries of the town are valuable public properties acquired and maintained by the town at great expense to its taxpayers, and that the grant, whether by the town or the state, to a company to use the streets for the purpose of furnishing cable service is a valuable property right without which a company would be required to invest substantial capital in right-of-way costs and acquisitions, a company shall pay to the town an amount equal to five percent (5%) of the company's gross revenue (the franchise fee).

(2) Such payment of a franchise fee shall be in addition to any other tax or payment owed to the town by a company.

(3) The franchise fee and any other costs or penalties assessed shall be payable on a quarterly basis to the town, and a company shall pay the same and file a complete and accurate verified statement of all gross revenue within forty-five (45) days after each calendar quarter.

(4) The town shall have the right to inspect a company's income records and the right to audit and to recompute any amounts determined to be payable under this chapter; provided, however, that such audit shall take place within thirty-six (36) months following the close of each of a company's fiscal years. Any additional amount due to the town as a result of the audit (together with the cost of the audit unless the shortage is of a de minimus amount) shall be paid within thirty (30) days following written notice to a company by the town, which notice shall include a copy of the audit report. Notwithstanding the foregoing, an amount shall be deemed de minimus if such amount, is equal to one percent (1%) or less of the amount paid by a company during the audited period.

(5) If any franchise fee or recomputed amount, cost or penalty is not made on or before the applicable dates heretofore specified, interest shall be charged daily from such date at the then legal maximum rate in the state, and a company shall reimburse the town for any additional expenses and costs incurred by the town by reason of the delinquent payments.

(6) The franchise fee does not include any tax, fee or assessment of general applicability. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)



**19-227. Capital contribution.** As outlined in § 19-226 for franchises granted by the town or as outlined at Tennessee Code Annotated, § 7-59-309, for franchises granted by the state, any company granted a franchise, permit, license or other authorization to provide cable service is to provide access to certain channel capacity for public, educational or governmental use, and to assist in the providing of such access, provide funds to cover those capital costs incurred in providing such access. If more than one (1) company or entity is granted a franchise, permit, license or other authorization to provide cable service, each company or entity is to share in the capital contribution necessary to provide such access, from and after the granting of such authorization, on a basis which shall be equitable to both the entity and the town. The terms of such sharing shall be contained in the franchise or other agreements executed between the town and such company or other entity. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-228. Transfer of ownership or control.** (1) A franchise shall not be sold, assigned or transferred (including through inheritance), either in whole or in part, nor shall title thereto, either legal or equitable, or any right or interest therein, pass to or vest in any person or entity without full compliance with the procedure set forth in this section.

(2) The provisions of this section shall apply to the sale or transfer of all or a majority of a company's assets or shares of stock, and to a merger (including any parent and its subsidiary corporation), consolidation, creation of a subsidiary corporation of the parent company, or sale or transfer of stock in a company so as to create a new controlling interest. The term "controlling interest" as used in this section is not limited to majority stock ownership but includes actual working control in whatever manner exercised, including the creation or transfer of decision-making authority to a new or different board of directors.

(a) The parties to the sale or transfer shall make a written request to the town for its approval of a sale or transfer. The written request shall be accompanied by all information required by FCC rules and shall be presented on a form as prescribed by FCC rules. Thereafter, the town shall have one hundred twenty (120) days to act on the request or it shall be deemed granted subject to the provisions following. If the town finds that the application is not complete, as required by FCC rules, it shall notify the parties within sixty (60) days of the initial filing. Such notice shall stay the running of the one hundred twenty (120) days until such time as the parties file a complete application in accordance with FCC rules. If the town does not so notify the parties within the sixty (60) days following the filing of an application, the application shall be deemed complete and the one hundred twenty (120) days shall run from the date such application was filed. The town may request such additional information as it might reasonably determine to be necessary to act on

the request. Such request shall not, however, extend the one hundred twenty (120) day period unless mutually agreed to by all parties or such extension is expressly permitted by the FCC rules.

(b) The town shall signify in writing, within the time described in subsection (2)(a) above, its approval of the request or its determination that a public hearing is necessary due to potential adverse effect on a company's subscribers.

(c) If a public hearing is deemed necessary pursuant to subsection (2)(b) above, such hearing shall be commenced within thirty (30) days of such determination and notice of any such hearing shall be given fourteen (14) days prior to the hearing by publishing notice, as defined in § 19-211. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by the town.

(d) Within thirty (30) days after the closing of the public hearing, the town shall approve or deny in writing the sale or transfer request.

(e) Within thirty (30) days of any transfer, a company shall file with the town a copy of the deed, agreement, mortgage, lease or other written instrument evidencing such sale, transfer of ownership or control or lease, certified and sworn to as correct by such company.

(3) In reviewing a request for sale or transfer pursuant to subsection (1) above, the town may inquire into the legal, technical and financial qualifications of the prospective controlling party, and a company shall assist the town in so inquiring. The town may condition such transfer upon such terms and conditions as it deems reasonably appropriate to satisfy such qualifications; provided, however, that the town shall not unreasonably withhold its approval. As a condition of approval of a transfer or assignment of ownership or control, the town may require that the transferee become a signatory to the franchise agreement entered into by the town and the predecessor of the transferee.

(4) A company shall notify the town in writing of any change in administrative officials regarding its cable system within fourteen (14) days of the change.

(5) Notwithstanding anything to the contrary in this chapter or a company's franchise, no prior consent by the town shall be required for any transfer or assignment to any entity controlling, controlled by, or under the same common control of the transferring company. However, in such a transfer or assignment, the transferring company shall remain liable for all financial obligations as required pursuant to its franchise and this chapter, unless otherwise agreed to by the town. Such agreement to release the transferring company shall not be withheld unreasonably and shall further be provided in all transfers or assignments where the transferee company has a net worth of not less than twenty-five million dollars (\$25,000,000.00) as reflected by its most

current audited financial statement. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-229. Availability of books and records.** (1) A company shall fully cooperate in making available at reasonable times, and the town shall have the right as it pertains to the enforcement of a franchise to inspect, the books, records, maps, plans and other like materials of a company applicable to a cable system, at any time during normal business hours. Where volume and convenience necessitate, a company may require inspection to take place on such company's premises.

(2) The following records and/or reports are to be made available to the town upon request:

(a) There shall be a monthly review and resolution or progress report submitted by a company to the town;

(b) Periodic preventive maintenance reports;

(c) Any copies of FCC form 395-A (or successor form) or any supplemental forms related to equal opportunity or fair contracting policies;

(d) Reports filed with the FCC, SEC or any other federal or state agency that has a potential impact on the administration of a franchise;

(e) Subscriber inquiry/complaint resolution data and related documentation; and

(f) Periodic construction update reports including, where appropriate, the submission of as-built maps. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-230. Other petitions and applications.** Copies of all petitions, applications, communications and reports submitted by a company to the FCC, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting cable television operations authorized pursuant to its franchise, shall be provided to the town when requested by the town. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-231. Fiscal reports.** (1) A company shall file annually with the town, no later than one hundred twenty (120) days after the end of the company's fiscal year, a copy of a gross revenue report applicable to the cable system and its operations during the preceding twelve (12) month period. Such report shall deal exclusively with the services rendered by the company under the franchise and shall be certified as correct by an authorized officer of such company.

(2) A company shall file annually with the town, no later than one hundred twenty (120) days after the end of the company's fiscal year, a copy of

financial statements, certified by a certified public accountant, of the income, expenses and financial standing of such company. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-232. Removal of cable system.** At the expiration of the term for which a franchise is granted, whether by the town or the state, and any denial of a renewal proposal or upon its termination as provided in this chapter, a company shall forthwith, if required by the town but not otherwise, remove at its own expense all designated portions of the cable system from all streets and public property within the town. If the company fails to do so, the town may perform the work at such company's expense or elect to leave the same in place. A bond shall be furnished by the company in an amount sufficient to cover this expense. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-233. Required services and facilities.** (1) A cable system of a company granted a franchise hereunder shall have a minimum system capacity of at least five hundred fifty (550) MHz or seventy-seven (77) full video channel equivalent and a minimum capacity no less than any other cable system franchise then held by such company or by any entity controlling it, controlled by it, or under the same common control as such company for any municipality within the county, or any unincorporated area of the county. Such system shall maintain a plant having the technical capacity for two (2) way communications.

(2) A company or other entity granted a franchise, permit, license or other authorization to provide cable service shall maintain the following:

(a) At least one (1) specially designated, noncommercial public access channel available on a first-come, non-discriminatory basis;

(b) At least one (1) specially designated channel for educational access;

(c) At least one (1) specially designated channel for local governmental uses; and

(d) Leased access made available in accordance with federal law. These uses may be combined on one (1) or more channels until such time as additional channels become necessary in the opinion of the board of mayor and aldermen on the advice of the cable commission of the town or its successor.

(3) A company awarded a franchise shall maintain an institutional network (I-Net) of cable, optical, electrical or electronic equipment, including cable television systems, used for the purpose of transmitting cable signals interconnecting designated buildings or places to be determined by the town and incorporated into a franchise.

(4) A company or other provider of cable service shall incorporate into its cable system the capacity which will permit the town, in times of emergency, to override, by remote control, the audio of all channels which a company or other provider of cable service may lawfully override simultaneously. The town

shall designate a channel used by the PEG facility for emergency broadcasts of both audio and video. A company shall cooperate with the town in the use and operation of the emergency alert override system.

(5) A company and any other providers of cable service may be required to interconnect its system with other systems. Such interconnection shall be made within the time limit established by the town. Upon receiving the directive of the town to interconnect, a company shall immediately initiate negotiations with the other affected systems in order that all costs may be shared equally among cable companies for both construction and operation of the interconnection link. A company or other provider of cable service may be granted reasonable extensions of time to interconnect or the town may rescind its order to interconnect upon petition by a company or other provider of cable service to the town. The town shall grant the request if it finds that a company or other provider of cable service has negotiated in good faith and has failed to obtain an approval from the operator or franchising authority of a system to be interconnected, or the cost of the interconnection would cause an unreasonable or unacceptable increase in subscriber rates.

(a) A company or other provider of cable service shall cooperate with any interconnection corporation, regional interconnection authority or town, county, state and federal regulatory agency which may be hereafter established for the purpose of regulating, financing or otherwise providing for the interconnection of cable systems beyond the boundaries of the town.

(b) Initial technical requirements to ensure future interconnection capability are as follows:

(i) All companies or entities receiving franchises, licenses, permits, or other authorization to operate within the town shall use the standard frequency allocations for television signals.

(ii) All companies or other entities are required to use in the cable systems signal processors at the head end for each television signal.

(iii) The town also urges a company or other provider of cable service to provide local origination equipment that is compatible throughout the area so that video cassettes or videotapes can be shared by various systems. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-234. Rules and regulations.** (1) In addition to the inherent powers of the town to regulate and control a company, and those powers expressly reserved by the town or agreed to and provided for in this chapter, the right and power is hereby reserved by the town to promulgate such additional regulations as it shall find necessary in the exercise of its lawful powers and furtherance of the terms and conditions of this franchise; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions of

this chapter or applicable state and federal laws, rules and regulations or change a company's obligations or rights under this chapter.

(2) The town may also adopt such regulations as requested by a company upon application. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-235. Performance evaluation sessions.** (1) The town and a company shall hold scheduled performance evaluation sessions every third year within thirty (30) days of the anniversary date of a company's award or renewal of its franchise and as may be required by federal and state law. Notice, as defined in § 19-211, shall be provided for all such evaluation sessions, which shall be open to the public.

(2) Special evaluation sessions may be held at any time during the term of the franchise at the request of the town or a company.

(3) Topics which may be discussed at any scheduled or special evaluation session may include, but shall not be limited to, service rate structures, franchise fee, penalties, free or discounted services, application of new technologies, system performance, services provided, programming offered, customer complaints, privacy, amendments to this chapter, judicial and FCC rulings, construction policies, and company or town rules.

(4) Members of the general public may add topics either by working through the negotiating parties or by presenting a petition. If such a petition bears the valid signatures of fifty (50) or more residents of the town, the proposed topic or topics shall be added to the list of topics to be discussed at the evaluation session. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-236. Rate change procedures.** The town may regulate basic service rates charged by a company as allowed pursuant to the Cable Television Consumer Protection and Competition Act of 1992 or any other law or regulation. Should federal or state law permit further rate regulation beyond the basic service, the town may assume such rate regulation immediately and adopt appropriate procedures for such regulation. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-237. Forfeiture and termination.** (1) In addition to all other rights and powers retained by the town under this chapter or otherwise, the town reserves the right to forfeit and terminate a franchise and all rights and privileges of a company thereunder in the event of a substantial breach of its terms and conditions. A substantial breach by the company shall include, but shall not be limited to, the following:

(a) Violation of any material provision of the franchise or any material violation of any rule, order, regulation or determination of the town made pursuant to the franchise;

(b) Attempt to evade any material provision of the franchise or practice any fraud or deceit upon the town or its subscribers;

(c) Failure to begin or complete system construction as provided under § 19-219 or in a company's franchise;

(d) Failure to restore service after ninety-six (96) consecutive hours of interrupted service, except when approval of such interruption is obtained from the town; or

(e) Material misrepresentation of fact in a proposal for or negotiation of a franchise.

(2) The provisions of subsection (1) above shall not constitute a major breach if the violation occurs but is without fault of a company or occurs as a result of a force majeure. A company shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

(3) The town may make a written demand that a company comply with any provision, rule, order or determination under or pursuant to this chapter. If the violation by a company continues for a period of thirty (30) days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the town may set a public hearing to decide the issue of termination of its franchise. The town shall cause to be served upon a company, at least twenty (20) days prior to the date of such hearing, a written notice of intent to request such termination, and establish the time and place of the hearing. Public notice as defined in § 19-217 shall be given of the hearing and the issues which will be addressed at the hearing.

(4) The town shall hear and consider the issues and shall hear any person interested therein (including the report of the cable commission or its successor) and shall determine in its discretion whether or not any violation by a company has occurred.

(5) If the town shall determine that a violation by a company was the fault of such company and within its control, the town may, by resolution by its board of mayor and aldermen, declare that the franchise of such company shall be forfeited and terminated unless there is compliance within such period as the board may fix. Such period shall not be less than sixty (60) days; provided that no opportunity for compliance need be granted for fraud or misrepresentation.

(6) The issue of forfeiture and termination shall be placed upon the agenda of the board of mayor and aldermen at the expiration of the time set by it for compliance. The town then may terminate the franchise forthwith upon finding that a company has failed to achieve compliance or may further extend the period, in its discretion. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-238. Foreclosure.** Upon the foreclosure or other judicial sale of all or a substantial part of the system, a company shall notify the town of such fact, and such notification shall be treated as a notification that a change in control

of such company has taken place, and the provisions of its franchise governing the consent of the town to such change in control of the company shall apply. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-239. Approval of transfer and right of acquisition by the town.**

(1) At the expiration of a franchise, if it is not renewed, the town may, in lawful manner and upon payment of fair market value, determined on the basis of the system valued as a going concern exclusive of any value attributable to the franchise itself, lawfully obtain, purchase, condemn, acquire, take over and hold the system.

(2) Upon the revocation of a franchise, the town may in lawful manner and upon the payment of an equitable price lawfully obtain, purchase, condemn, acquire, take over and hold the system. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-240. Receivership.** The town shall have the right to cancel a franchise one hundred twenty (120) days after the appointment of a receiver or trustee for a company to take over and conduct the business of the company, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of one hundred twenty (120) days, or unless:

(1) Within one hundred twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this chapter and a franchise issued pursuant hereto and remedied all defaults thereunder; and

(2) Such receiver or trustee, within the one hundred twenty (120) days, shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this chapter and the franchise granted to a company. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-241. Compliance with state and federal laws.**

(1) Notwithstanding any other provisions of this chapter to the contrary, a company shall at all times comply with all laws and regulations of the state and federal government or any administrative agencies thereof; provided, however, that if any such state or federal law or regulation shall require a company to perform any service, or shall permit a company to perform any service, or shall prohibit a company from performing any service, in conflict with the terms of this chapter or of any law or regulation of the town, then as soon as possible following knowledge thereof, a company shall notify the town of the point of conflict believed to exist between such regulation or law and the ordinances or regulations of the town or its franchise.

(2) If the town determines that a material provision of this chapter is affected by any subsequent action of the state or federal government, the town



and a company shall have the right to negotiate a modification to any of the provisions of this chapter to such reasonable extent as may be necessary to carry out the full intent and purpose of this chapter and any franchise. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-242. Landlord/tenant.** (1) Neither the owner of any multiple unit residential dwelling, nor his agent or representative, shall interfere with the right of any tenant or lawful resident thereof to receive cable service, cable installation or maintenance from a company.

(2) Neither the owner of any multiple unit residential dwelling, nor his agent or representative, shall ask, demand or receive any payment, service or gratuity in any form as a condition for permitting or cooperating with the installation of a cable service to the dwelling unit occupied by a tenant or resident requesting service.

(3) Neither the owner of any multiple unit residential dwelling, nor his agent or representative, shall penalize, charge or surcharge a tenant or resident, or forfeit or threaten to forfeit any right of such tenant or resident, or discriminate in any way against such tenant or resident who requests or receives cable service from a company.

(4) No person shall resell, without the expressed written consent of both a company and the town, any cable service, program or signal transmitted by a cable company.

(5) Nothing in this chapter shall prohibit a person from requiring that the cable system conform to laws and regulations and reasonable conditions necessary to protect safety, function, appearance and value of premises or the convenience and safety of persons or properly.

(6) Nothing in this chapter shall prohibit a person from requiring a company to agree to indemnify the owner, or his agents or representatives, for damages or from liability for damages caused by the installation, operation, maintenance or removal of cable communication facilities. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-243. Initial application.** (1) All initial applications received by the town from any applicants for a franchise to be granted to provide cable service will become the property of the town.

(2) The town reserves the right to reject any and all initial applications and waive informalities and/or technicalities where the best interest of the town may be served.

(3) Before submitting an initial application, each and every applicant must:

(a) Examine this chapter and any required application documents thoroughly;

(b) Familiarize itself with local conditions that may in any manner affect its performance under a franchise;

(c) Familiarize itself with federal, state and local laws, ordinances, rules and regulations affecting its performance under a franchise; and

(d) Carefully correlate its observations with the requirements of this chapter and any and all application documents.

(4) The town may make such investigations as it deems necessary to determine the ability of the applicant to provide cable service and to fully perform under a franchise, and the applicant shall furnish to the town all such information and data for this purpose as the town may request. The town reserves the right to reject any initial application if the evidence submitted by, or investigation of, such applicant fails to satisfy the town that such applicant is properly qualified to carry out the obligations of this chapter or a franchise or if the plans of the applicant for construction of this cable system and/or its operation fail to satisfy the town that it is in the best interests of its citizens to grant a franchise to the applicant. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-244. Financial, contractual, shareholder and system disclosure in initial application.** (1) No franchise will be granted pursuant to an initial application unless all requirements and demands of the town regarding financial, contractual, shareholder and system disclosure have been met.

(2) Applicants, including all shareholders and parties with an interest equal to or greater than ten percent (10%) of the shares of stock of an applicant, shall fully disclose all agreements and undertakings, whether written or oral, or implied with any person, firm, group, association or corporation with respect to a franchise and the proposed cable system. This section shall include, but not be limited to, any agreements between local applicants and national companies.

(3) Applicants, including all shareholders and parties with an interest equal to or greater than ten percent (10%) of the shares of stock of an applicant, shall submit all requested information as provided by the terms of this chapter. The requested information must be complete and verified as true by the applicant.

(4) Applicants, including all shareholders and parties with an interest equal to or greater than ten percent (10%) of the shares of stock of an applicant, shall disclose the numbers of shares of stock, and the holders thereof, and shall include the amount of consideration for each share of stock and the nature of the consideration.

(5) Applicants, including all shareholders and parties with an interest equal to or greater than ten percent (10%) of the shares of stock of an applicant, shall disclose any information required by the town regarding other cable systems in which they hold an interest of any nature including, but not limited to, the following:

(a) Locations of all other franchises and the dates of award for each location;

(b) Estimated construction costs and estimated completion dates for each cable system;

(c) Estimated number of miles of construction and number of miles completed in each cable system as of the date of any initial application; and

(d) Date for completion of construction as promised in any initial application for each system.

(6) Applicants, including all shareholders and parties with an interest equal to or greater than ten percent (10%) of the shares of stock of an applicant, shall disclose any information required by the town regarding pending applications for other cable systems including, but not limited to, the following:

(a) Location of other franchise applications and date of any application;

(b) Estimated dates of franchise awards;

(c) Estimated number of miles of construction; and

(d) Estimated construction costs. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-245. Theft of services and tampering.** (1) No person, whether or not a subscriber to the cable system, may intentionally or knowingly damage or cause to be damaged any wire, cable, conduit, equipment or apparatus of a company, or commit any act with intent to cause such damage, or tap, tamper with or otherwise connect any wire or device to a wire cable, conduit, equipment, apparatus or appurtenances of a company with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to a company, or to obtain cable service with intent to cheat or defraud a company of any lawful charge to which it is entitled.

(2) Any person convicted of violating any provision of this section is subject to a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense. Each four (4) days' violation of this section shall be considered a separate offense. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-246. Force majeure.** If by reason of a force majeure either party is unable, in whole or in part, to carry out its obligations under this chapter, that party shall not be deemed to be in violation or default during the continuance of such inability. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-247. Violations and penalty.** Whenever the town finds that a company has allegedly violated one (1) or more terms, conditions or provisions of its franchise or this chapter, a written notice shall be given to such company. The written notice shall describe in reasonable detail the alleged violation so as to afford a company an opportunity to remedy the violation. A company shall have fifteen (15) days after receipt of such notice to correct or present a plan of

action to correct the violation before the town may resort to the letter of credit or security deposit, as provided for in § 19-212. A company may, within fifteen (15) days of receipt of the notice, notify the town that there is a dispute as to whether a violation or failure has, in fact, occurred. If notice of a dispute of a violation is provided, imposition of the penalties outlined in this section will be stayed until resolution of the dispute at a public hearing by the town to address the violation and the dispute. Unless the town directs otherwise, a public hearing will be held within fifteen (15) days of the town's receipt of a company's notice of dispute. Notice of the public hearing shall be provided pursuant to § 19-217. The hearing shall be before the town administrator or a person designated by him. After resolution of the dispute or if there is no dispute, penalties for violation as set out in this section shall be chargeable to the letter of credit or security deposit, as provided for in § 19-212, as follows, and the town may determine the amount of the fine for other violations which are not specified in a sum not to exceed five hundred dollars (\$500.00) for each violation, with each day constituting a separate violation.

(1) Failure to furnish, maintain or offer all cable services to any potential subscriber within the town upon valid order of the town: two hundred dollars (\$200.00) per day, per violation, for each day that such failure occurs or continues.

(2) Failure to obtain or file evidence of required insurance, construction bond, performance bond or other required financial security: two hundred dollars (\$200.00) per day, per violation, for each day such failure occurs or continues.

(3) Failure to provide access to data, documents, records or reports to the town as required by this chapter: two hundred dollars (\$200.00) per day, per violation, for each day such failure occurs or continues.

(4) Failure to comply with applicable construction, operation or maintenance standards: three hundred dollars (\$300.00) per day, per violation, for each day such failure occurs or continues.

(5) Failure to comply with a rate decision or refund order: five hundred dollars (\$500.00) per day, per violation, for each day such a violation occurs or continues. The town may impose any or all of the above-enumerated measures against a company, which shall be in addition to any and all other legal or equitable remedies it has under a franchise or under any applicable law.

(6) For any violations for noncompliance with the customer service standards of §§ 19-222 to 19-224, a company shall pay two hundred dollars (\$200.00) per day for each day, or part thereof, that such noncompliance continues.

(7) Failure to comply with utility locator request in accordance with rules and procedures of the underground utility damage prevention law: fifty dollars (\$50.00) per subscriber service interruption per day.

(8) Any other violations of this chapter or a franchise, but not specifically noted in this section, shall not exceed five hundred dollars (\$500.00) per day, per violation. (as added by Ord. #2015-008, Nov. 2015 ***Ch2\_8-2-21***)

**CHAPTER 3****TELECOMMUNICATIONS****SECTION**

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**19-301. Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning.

(1) "Annual gross revenue." All revenue, as determined by generally accepted accounting principles, that is received directly or indirectly by a franchisee from the operation of a telecommunication system in the town including, without limitation, all revenue received for the provision of services, installation, reconnection, sale of products, not including customer premises equipment and the imputed value of bartered service and the value of all goods and services received by the telecommunication carrier in exchange for telecommunications service including all payments received for the lease, rental or sale of time, bandwidth or capacity on a telecommunications carriers system; provided, however, that no billings shall be imputed related to any services provided to the town, or for services governed as interstate commerce.

(2) "Excess capacity." The volume or capacity in any existing or future duct, conduit, manhole, handhold or other utility facility within the public way that is or will be available for use for additional telecommunications facilities.

(3) "Franchise." The right of a telecommunications carrier to operate a telecommunications system in the town for a limited term and in a manner in agreement with this chapter.

(4) "Franchisee." A grantee of rights under this chapter by means of an award or franchise or its permitted successor, transferee or an applicant thereof.

(5) "Overhead facilities." Utility poles, utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

(6) "Street." The surface of all rights-of-way and the space, above and below, of any public street, road, highway, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive or easement now or hereafter held by the town for the purpose of public travel, and shall also mean other easements or rights-of-way as shall be now held or hereafter held by the town which shall, within their proper use and meaning, entitle a telecommunications carrier to the use thereof for the purposes of installing plant facilities and equipment as may be ordinarily necessary and pertinent to a telecommunications system.

(7) "Surplus space." That portion of the usable space on a utility pole which has the necessary clearance from other pole users to allow its use by a telecommunications carrier for a pole attachment.

(8) "Telecommunications carrier." Every person that directly or indirectly owns, controls, operates or manages telecommunications facilities within the town, used or to be used for the purpose of offering telecommunications service.

(9) "Telecommunications facilities" or "facility." The plant, equipment and properly including, but not limited to, cables, wires, conduits, ducts, pedestals, antennae, electronics and other appurtenances used or to be used to transmit, receive, distribute, provide or offer telecommunications services.

(10) "Telecommunications service" or "service." The providing or offering for rent, sale, resale or lease, or in exchange for other value received, of the transmittal of voice, video or data information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit of any closed transmission medium.

(11) "Telecommunications system" or "system." See "Telecommunications facilities."

(12) "Underground facilities." Utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities.



(13) "Usable space." The total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance.

(14) "Utility easement" or "Public utility easement." Any easement owned by the town and acquired, established, dedicated or devoted for public utility purposes not inconsistent with telecommunications facilities.

(15) "Utility facilities." The plant, equipment and property including, but not limited to, the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within the streets of the town and used or to be used for the purpose of providing utility or telecommunications services. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-302. Registration.** All telecommunications carriers who would, by this chapter, require a franchise, shall register with the town pursuant to this chapter on forms to be provided by the town clerk, which shall include the following:

(1) The identity and legal status of the registrant, including any affiliates.

(2) The name, address and telephone number of the officer, agent or employee responsible for the accuracy of the registration statement.

(3) A description of registrant's existing or proposed telecommunications facilities within the town.

(4) A description of the telecommunications service that the registrant intends to offer or provide, or is currently offering or providing, to persons, firms, businesses or institutions within the town.

(5) Information sufficient to determine whether the registrant is subject to telecommunications franchising under this chapter.

(6) Information sufficient to determine whether the transmission, origination or receipt of the telecommunications services provided or to be provided by the registrant constitutes an occupation or privilege subject to any municipal telecommunications tax, utility message tax or other occupation tax imposed by the town.

(7) Information sufficient to determine that the applicant has applied for and received any construction permit, operating license or other approvals required by the Tennessee Regulatory Authority and/or the Federal Communications Commission to provide telecommunications services or facilities within the town.

(8) Such other information as the town may reasonably require. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-303. Fee.** Each application for registration as a telecommunications carrier shall be accompanied by a fee of twenty-five dollars (\$25.00). (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-304. Purpose.** The purpose of registration under this chapter is to:

- (1) Provide the town with accurate and current information concerning the telecommunications carriers who offer or provide telecommunications services within the town or that own or operate telecommunication facilities within the town.
- (2) Assist the town in enforcement of this chapter.
- (3) Assist the town in the collection and enforcement of any municipal taxes, franchise fees or charges that may be due the town.
- (4) Assist the town in monitoring compliance with local, state and federal laws. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-305. Telecommunications franchise.** Any telecommunications carrier who desires to continue or begin to operate, use, maintain lease or otherwise locate or continue to locate telecommunications facilities in, under, over or across any street of the town for the providing of a telecommunications service to persons or areas in the town or leasing such telecommunication facilities, shall obtain a franchise from the town pursuant to this chapter. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-306. Franchise application.** Any person that desires a telecommunications franchise pursuant to this chapter shall file an application with the office of town administrator which shall include the following information:

- (1) The identity of the applicant, including all affiliates of the applicant.
- (2) A description of the telecommunications services that are or will be offered or provided by the applicant over its existing or proposed facilities.
- (3) A description of the transmission medium that will be used by the applicant to offer or provide such telecommunications services.
- (4) Preliminary engineering plans, specifications and a network map of the facilities to be located within the town, all in sufficient detail to identify:
  - (a) The location and route requested for the applicant's proposed telecommunications facilities;
  - (b) The location of all overhead and underground public utility, telecommunication, cable, water, sewer drainage and other facilities in the public way along the proposed route;
  - (c) The locations, if any, for interconnection with the telecommunications facilities of other telecommunications carriers; and
  - (d) The specific trees, structures, improvements, facilities and obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate.
- (5) If the applicant is proposing to install overhead facilities, evidence that surplus space is available for locating its telecommunications facilities on existing utility poles along the proposed route.

(6) If the applicant is proposing an underground installation in existing ducts or conduits within the streets, information in sufficient detail to identify:

(a) The excess capacity currently available in such ducts or conduits before installation of the applicant's telecommunications facilities; and

(b) The excess capacity, if any, that will exist in such ducts or conduits after installation of the applicant's telecommunications facilities.

(7) If the applicant is proposing an underground installation within new ducts or conduits to be constructed within the streets:

(a) The location proposed for the new ducts or conduits; and

(b) The excess capacity that will exist in such ducts or conduits after installation of the applicant's telecommunications facilities.

(8) A preliminary construction schedule and completion dates.

(9) Financial statements prepared in accordance with generally accepted accounting principles demonstrating the applicant's financial ability to construct, operate, maintain, relocate and remove the facilities.

(10) Information in sufficient detail to establish the applicant's technical qualifications, experience and expertise regarding the telecommunications facilities and services described in the application.

(11) Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide the telecommunications services.

(12) Whether the applicant intends to provide cable service, video dialtone service or other video programming service, whether directly or by re-transmission or resale of such service, and sufficient information to determine whether such service is subject to cable franchising.

(13) An accurate map showing the location of any existing telecommunications facilities in the town that the applicant intends to use or lease.

(14) A description of the services or facilities that the applicant will offer or make available to the town and other public, educational and governmental institutions.

(15) A description of the applicant's access and line extension policies.

(16) The areas of the town the applicant desires to serve and a schedule for build-out to the entire franchise area.

(17) A description of applicant's plans for emergency communications and redundancy.

(18) All fees, deposits or charges required pursuant to this chapter.

(19) Such other and further information as may be requested by the town. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-307. Determination by the town.** Within one hundred fifty (150) days after receiving a complete application under § 19-306, the town shall issue

a written determination granting or denying the application, in whole or in part, applying the following standards. If the application is denied, the written determination shall include the reasons for denial. Reasons for denial will include all those allowed under applicable law, which may include, but are not limited to:

- (1) The financial and technical ability of the applicant.
- (2) The legal ability of the applicant.
- (3) The capacity of the streets to accommodate the applicant's proposed facilities.
- (4) The capacity of the streets to accommodate additional utility and telecommunications facilities if the franchise is granted.
- (5) The damage or disruption, if any, of public or private facilities, improvements, services, travel or landscaping if the franchise is granted.
- (6) The public interest in minimizing the cost and disruption of construction within the streets.
- (7) The service that the applicant will provide to the community and region.
- (8) The effect, if any, on public health, safety and welfare if the franchise requested is granted.
- (9) The availability of alternate routes and/or locations for the proposed facilities.
- (10) Applicable federal and state telecommunications laws, regulations and policies.
- (11) Such other factors as may demonstrate that the franchise to use the streets will not serve the community interest. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-308. Agreement.** No franchise shall be granted unless the applicant and the town have executed a written agreement setting forth the particular terms and provisions under which the franchise to occupy and use the streets will be granted. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-309. Nonexclusive grant.** No franchise granted under this chapter shall confer any exclusive right, privilege, franchise to occupy or use the streets or other easements or public rights-of-way of the town for delivery of telecommunications services or any other purposes. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-310. Term of grant.** Unless otherwise specified in a franchise agreement, a telecommunications franchise granted under this chapter shall be valid for a term of ten (10) years. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-311. Rights granted.** No franchise granted under this chapter shall convey any right, ordinance or interest in the streets, but shall be deemed a grant only to use and occupy the streets for the limited purposes and term stated in the franchise agreement. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-312. Franchise territory.** A telecommunications franchise granted under this chapter shall be limited to the specific geographic area of the town to be served by the franchisee and the specific streets, easements and rights-of-way necessary to serve such areas. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-313. Non-discrimination; consumer protection.** A franchisee shall make its telecommunications services available to any customer within its franchise area who shall request such service, without discrimination as to the terms, conditions, rates or charges for franchisee's services and in accordance with applicable law; provided, however, that nothing in this chapter shall prohibit a franchisee from making any reasonable classifications among differently situated customers.

A franchisee shall not invoice, threaten to sue or otherwise attempt to require any person or entity to pay for telecommunications services for which they have not individually and directly entered into a contract to receive. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-314. Service to the town.** A franchisee shall make its telecommunications services available to the town at its most favorable rate for similarly situated users, unless otherwise directed by a state or federal regulatory agency having jurisdiction over telecommunication sales. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-315. Amendment of franchise.** (1) A new franchise application shall be required of any telecommunications earner that desires to extend its franchise territory or to locate its telecommunications facilities in streets of the town which are not included in a franchise previously granted under this chapter.

(2) If ordered by the town to locate or relocate its telecommunications facilities in streets not included in a previously granted franchise under this chapter, the town shall grant a franchise amendment without further application. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-316. Renewal applications.** A franchisee that desires to renew its franchise under this chapter shall, not more than two hundred forty (240) days, nor less than one hundred fifty (150) days, before expiration of the current

franchise, file an application with the town for renewal of its franchise which shall include the following information:

- (1) The information required pursuant to § 19-306.
- (2) Any information required pursuant to the franchise agreement between the town and the franchisee. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-317. Renewal determinations.** Within one hundred fifty (150) days after receiving a complete renewal application under § 19-316, the town shall issue a written determination granting or denying the renewal application, in whole or in part, applying the following standards. If the renewal application is denied, the written determination shall include the reasons for nonrenewal. Reasons for nonrenewal will include all those allowed under applicable law, but are not limited to:

- (1) The financial and technical ability of the applicant.
- (2) The legal ability of the applicant.
- (3) The continuing capacity of the streets to accommodate the applicant's existing facilities.
- (4) The applicant's compliance with the requirements of this chapter and the franchise agreement.
- (5) Applicable federal, state and local telecommunications laws, rules and policies.
- (6) Such other factors as may demonstrate that the continued grant to use the streets will serve the community interest. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-318. Obligation to cure as a condition of renewal.** No franchise shall be renewed until any ongoing violations or defaults in the franchisee's performance of the franchise agreement, or of the requirements of this chapter, have been cured, or a plan detailing the corrective action to be taken by the franchisee has been approved by the town. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-319. Application and review fee.** (1) Any applicant for a franchise pursuant to this chapter shall pay a fee of one thousand five hundred dollars (\$1,500.00).

(2) The application and review fee of one thousand five hundred dollars (\$1,500.00) shall be deposited with the office of town administrator as part of the application filed pursuant to this chapter.

(3) An applicant whose franchise application has been withdrawn, abandoned or denied shall, within sixty (60) days of such event, be refunded, within sixty (60) days of such written request, the balance of its deposit under this section, less all ascertainable costs and expenses incurred by the town in

connection with the application. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-320. Other town costs.** All franchisees shall, within thirty (30) days after written demand therefor, reimburse the town for all reasonable direct and indirect costs and expenses incurred by the town in connection with any modification, amendment, renewal or transfer of the franchise or any franchise agreement. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-321. Construction permit fee.** Prior to issuance of a construction permit, the franchisee shall pay a permit fee equal to one percent (1%) of the estimated cost of constructing the telecommunication facilities, as certified by the franchisee's engineer and approved by the town engineer, to cover the town costs for inspections, survey and mapping. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-322. Franchise fees.** (1) Each franchisee shall pay an annual franchise fee to the town for use of the street and for costs associated with procurement, maintenance and oversight of the street for the public, current and future users. The amount of such annual franchise fee shall be established by resolution of the town and the town expressly reserves the right to review and/or modify any telecommunications franchise agreement every third year of the franchise.

(2) The payment of a franchise fee shall be in addition to any tax or payment owed to the town by a telecommunications carrier.

(3) The franchise fee and any other costs or penalties assessed shall be payable on a quarterly basis to the town, and a telecommunications carrier shall pay the same and file a complete and accurate verified statement of all gross revenue, as defined in this section, within forty-five (45) days after each calendar quarter.

(4) The town shall have the right to inspect a telecommunications carrier's income records and the right to audit and to recompute any amounts determined to be payable under this chapter; provided, however, that such audit shall take place within thirty-six (36) months following the close of each of a telecommunications carriers fiscal years. Any additional amount due to the town as a result of the audit (together with the cost of the audit unless the shortage is a de minimus amount) shall be paid within thirty (30) days following written notice to a telecommunications carrier by the town, which notice shall include a copy of the audit report. Notwithstanding the foregoing, an amount shall be deemed de minimus if such amount is equal to one percent (1%) or less of the amount paid by a telecommunications carrier during the audited period.

(5) If any franchise fee or recomputed amount, cost or penalty is not paid on or before the applicable dates heretofore specified, interest shall be charged daily from such date at the then legal maximum rate in the state, and

a telecommunications carrier shall reimburse the town for any additional expenses and costs incurred by the town by reason of the delinquent payments.

(6) The franchise fee does not include any tax, fee or assessment of general applicability. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-323. Regulatory fees and compensation not a tax.** The regulatory fees and costs provided for in this chapter, and any compensation charged and paid for the streets provided for in §§ 19-303, 19-319, 19-320, 19-321, and 19-322 are separate from, and additional to, any and all federal, state, local and town taxes as may be levied, imposed or due from a telecommunications carrier, its customers or subscribers, or on account of the lease, sale, delivery or transmission of telecommunications services. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-324. Location of facilities.** All facilities shall be constructed, installed and located in accordance with the following terms and conditions, unless otherwise specified in a franchise agreement:

(1) A franchisee shall install its telecommunications facilities within an existing underground duct or conduit whenever excess capacity exists.

(2) A franchisee with permission to install overhead facilities shall install its telecommunications facilities on pole attachments to existing utility poles only, and then only if surplus space is available. The town administrator must review and approve the use of overhead facilities and when appropriate may refer such installation plans to the town planning commission for review.

(3) Whenever any existing electric utilities, cable system or telecommunications facilities are located underground within a street of the town, a franchisee, with permission to occupy the same street, must also locate its telecommunications facilities underground.

(4) Whenever any new or existing electric utilities, cable system or telecommunications facilities are located, or relocated, underground within a street of the town, a franchisee that currently occupies the same street shall relocate its facilities underground within a reasonable period of time, which shall not be later than the end of the franchise term. Absent extraordinary circumstances or undue hardship as determined by the town engineer, such relocation shall be made concurrently to minimize the disruption of the streets.

(5) Whenever new telecommunications facilities will exhaust the capacity of a street or utility easement to reasonably accommodate future telecommunications carriers or facilities, the franchisee shall provide additional ducts, conduits, manholes and other facilities for non-discriminatory access to future telecommunications carriers. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-325. Compliance with joint trenching rules.** All franchisees shall, before commencing any construction in the streets, comply with all



regulations of utility joint trenching rules, including the provisions set forth for Tennessee Code Annotated, § 7-59-310(b), or as provided by regulation or ordinance of the town, either of which as may be amended from time to time. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-326. Construction permits.** All franchisees are required to obtain construction permits for telecommunications facilities as required in this chapter. However, nothing in this chapter shall prohibit the town and a franchisee from agreeing to alternative plan review, permit and construction procedures in a franchise agreement; provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-327. Interference with the streets.** No franchisee may locate or maintain its telecommunications facilities so as to unreasonably interfere with the use of the streets by the town, by the general public or by other persons authorized to use or be present in or upon the streets, including other cable and telecommunication service providers. All such facilities shall be moved by the franchisee, temporarily or permanently, as determined by the town engineer. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-328. Damage to property.** No franchisee nor any person acting on a franchisee's behalf shall take any action or permit any action to be done which may impair or damage any town property, streets of the town or other permanent property located in, on or adjacent thereto. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-329. Notice of work.** Unless otherwise provided in a franchise agreement, no franchisee, nor any person acting on the franchisee's behalf, shall commence any nonemergency work in or about the streets of the town without ten (10) working days' advance notice to the town. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-330. Repair and emergency work.** In the event of an unscheduled repair or emergency, a franchisee may commence such repair and emergency response work as required under the circumstances; provided that the franchisee shall notify the town as promptly as possible before such repair or emergency work is commenced, or as soon thereafter as possible if advance notice is not practical. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-331. Maintenance of facilities.** Each franchisee shall maintain its facilities in good and safe condition and in a manner that complies with all applicable federal, state and local requirements. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-332. Relocation or removal of facilities.** Within thirty (30) days following written notice from the town, a franchisee shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any telecommunications facilities within the streets whenever the town shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

(1) The construction, repair, maintenance or installation of any town or other public improvement in or upon the streets.

(2) The operations of the town or other governmental entity in or upon the streets. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-333. Removal of unauthorized telecommunications facilities.**

Within thirty (30) days following written notice from the town, any telecommunications carrier that owns, controls or maintains any unauthorized telecommunications system, telecommunications facility or related appurtenances within the streets of the town shall, at its own expense, remove such telecommunications facilities or appurtenances from the streets of the town. A telecommunications system or facility is unauthorized and subject to removal in the following circumstances:

(1) Upon expiration or termination of the franchisee's telecommunications franchise.

(2) Upon abandonment of a facility within the streets of the town.

(3) If the system or facility was constructed or installed without the prior grant of a telecommunications franchise.

(4) If the system or facility was constructed or installed without the prior issuance of a required construction permit.

(5) If the system or facility was constructed or installed at a location not permitted by the telecommunications franchise. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-334. Emergency removal or relocation of facilities.** The town retains the right and privilege to cut or move any telecommunications facilities located within the streets of the town as the town may determine to be necessary, appropriate or useful in response to any public health or safety emergency. The town, where feasible, shall attempt to contact franchisee prior to cutting or removing facilities from the streets. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-335. Damage to franchisee's facilities.** The town shall not be liable for any damage to or loss of any telecommunications facility within the streets of the town as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling or work of any kind in the streets by or on behalf of the town. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-336. Restoration of streets and town property.** (1) When a franchisee, or any person acting on its behalf, does any work in or affecting any streets or town property, it shall, at its own expense, promptly remove any obstructions therefrom and restore such streets or property to as good a condition as existed before the work was undertaken, unless otherwise directed by the town.

(2) If weather or other conditions do not permit the complete restoration required by this section, the franchisee shall temporarily restore the affected ways or property. Such temporary restoration shall be at the franchisee's sole expense, and the franchisee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

(3) A franchisee or other person acting in its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-337. Facilities maps.** Each franchisee shall provide the town with an accurate map certifying the location of all telecommunications facilities within the streets. Each franchisee shall provide updated maps annually. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-338. Duty to provide information.** Within ten (10) days of a written request from the town, each franchisee shall furnish the town with information sufficient to demonstrate that:

(1) The franchisee has complied with all requirements of this chapter.

(2) All municipal sales, message and/or telecommunications taxes due the town in connection with the telecommunications services and facilities provided by the franchisee have been properly collected and paid by the franchisee.

(3) All books, records, maps and other documents maintained by the franchisee with respect to its facilities within the streets shall be made available for inspection by the town at reasonable times and intervals. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-339. Leased capacity.** A franchisee shall have the right, without prior town approval, to offer or provide capacity or bandwidth to other providers of telecommunications service; provided that:

(1) The franchisee shall furnish the town with a copy of any such lease or agreement with other telecommunication service.

(2) The telecommunications service provider has complied, to the extent applicable, with the requirements of this chapter or other applicable town ordinances. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-340. Franchisee insurance.** Unless otherwise provided in a franchise agreement, each franchisee shall, as a condition of the grant, secure and maintain the following liability insurance policies insuring the franchisee and the town, and its elected and appointed officers, officials agents and employees as coinsureds:

(1) Comprehensive general liability insurance with limits not less than:

(a) Two million dollars (\$2,000,000.00) for bodily injury or death to each person;

(b) Two million dollars (\$2,000,000.00) for property damage resulting from any one (1) accident; and

(c) Two million dollars (\$2,000,000.00) for all other types of liability.

(2) Automobile liability for owned, non-owned and hired vehicles with a limit of one million dollars (\$1,000,000.00) for each person and three million dollars (\$3,000,000.00) for each accident.

(3) Worker's compensation within statutory limits and employer's liability insurance with limits of not less than one million dollars (\$1,000,000.00).

(4) Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products complete hazard with limits of not less than three million dollars (\$3,000,000.00).

(5) Umbrella liability with limits of not less than five million dollars (\$5,000,000.00).

(6) The liability insurance policies required by this section shall be maintained by the franchisee throughout the term of the telecommunications franchise and such other period of time during which the franchisee is operating without a franchise hereunder or is engaged in the removal of its telecommunications facilities. Each such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the Town, by registered mail, of a written notice addressed to the Town Administrator of such intent to cancel or not to renew."

(7) Within sixty (60) days after receipt by the town of such notice, and in no event later than thirty (30) days prior to such cancellation, the franchisee shall obtain and furnish to the town replacement insurance policies meeting the requirements of this section. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-341. General indemnification.** Each franchise agreement shall include, to the extent permitted by law, the franchisee's express undertaking to defend, indemnify and hold the town and its officers, employees, agents and representatives harmless from and against any and all damages, losses and

expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the franchisee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its telecommunications facilities and in providing or offering telecommunications' services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this chapter or by a franchise agreement made or entered into pursuant to this chapter. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-342. Performance and construction surety.** Before a franchise granted pursuant to this chapter is effective, and as necessary thereafter, the franchisee shall provide and deposit such monies, bonds, letters of credit or other instruments in form and substance acceptable to the town as may be required by this chapter or by an applicable franchise agreement. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-343. Security fund.** (1) Each franchisee shall establish a permanent security fund with the town by depositing the amount of fifty thousand dollars (\$50,000.00) with the town in cash, an unconditional letter of credit or other instrument acceptable to the town, which fund shall be maintained at the sole expense of the franchisee so long as any of the franchisee's telecommunications facilities are located within the streets of the town.

(2) The fund shall serve as security for the full and complete performance of this chapter, including any costs, expenses, damages or loss the town pays or incurs because of any failure attributable to the franchisee to comply with the codes, ordinances, rules, regulations or permits of the town.

(3) Before any sums are withdrawn from the security fund, the town shall give written notice to the franchisee:

(a) Describing the act, default or failure to be remedied, or the damages, cost or expenses which the town has incurred by reason of the franchisee's act or default.

(b) Providing a reasonable opportunity for the franchisee to first remedy the existing or ongoing default or failure, if applicable.

(c) Providing a reasonable opportunity for franchisee to pay any monies due the town before the town withdraws the amount thereof from the security fund, if applicable.

(d) That the franchisee will be given an opportunity to review the act, default or failure described in the notice with the town administrator or his designee.

(4) A franchisee shall replenish the security fund within fourteen (14) days after written notice from the town that there is a deficiency in the amount of the fund. (as added by Ord. #2015-008, Nov. 2015 **Ch2\_8-2-21**)

**19-344. Construction and completion bond.** (1) Unless otherwise provided in a franchise agreement, a performance bond written by a corporate surety acceptable to the town equal to at least fifty percent (50%) of the estimated cost of constructing the franchisee's telecommunications facilities within the streets of the town shall be deposited before construction is commenced.

(2) Notwithstanding the provisions of subsection (1) above, if a franchisee makes application to the town to be relieved from furnishing a performance and payment bond relative to construction of a system or improvements thereto, the town may waive the requirement for such bond or reduce the required amount thereof if the town determines that:

(a) Such franchisee has a net worth of not less than fifty million dollars (\$50,000,000.00) as reflected by its most current financial statement; and

(b) The performance of such franchisee of its obligations generally, whether financial or otherwise, has been satisfactory with respect to the town and with respect to other parties with which such company has had obligations of construction or improvements to telecommunication systems.

(3) The construction bond shall remain in force until sixty (60) days after substantial completion of the work, as determined by the town engineer, including restoration of streets and other property affected by the construction.

(4) The construction bond shall guarantee, to the satisfaction of the town:

(a) Timely completion of construction;

(b) Construction in compliance with applicable plans, permits, technical codes and standards;

(c) Proper location of the facilities as specified by the town;

(d) Restoration of the streets and other property affected by the construction;

(e) The submission of as-built drawings after completion of the work as required by this chapter; and

(f) Timely payment and satisfaction of all claims, demands or liens for labor, material or services provided in connection with the work. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-345. Coordination of construction activities.** (1) Any and all franchisees are required to cooperate with the town and with each other.

(2) Each franchisee shall meet with the town, other franchisees and users of the streets annually or periodically, as determined by the town, to schedule and coordinate construction in the streets.

(3) All construction locations, activities and schedules shall be coordinated, as ordered by the town engineer, to minimize public inconvenience, disruption or damages. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-346. Transfer of ownership or control.** (1) A franchise shall not be sold, assigned or transferred (including through inheritance), either in whole or in part, nor shall title thereto, either legal or equitable, or any right or interest therein, pass to or vest in any person or entity without full compliance with the procedure set forth in this section.

(2) The provisions of this section shall apply to the sale or transfer of all or a share of a telecommunications carrier's assets or shares of stock, and to a merger (including any parent and its subsidiary corporation), consolidation, creation of a subsidiary corporation of the parent company, or sale or transfer of stock in a company so as to create a new controlling interest. The term "controlling interest" as used in this section is not limited to majority stock ownership, but includes actual working control in whatever manner exercised, including the creation or transfer of decision-making authority to a new or different board of directors.

(a) The parties to the sale or transfer shall make a written request to the town for its approval of a sale or transfer. The written request shall be accompanied by all information required by FCC rules and shall be presented on a form as prescribed by FCC rules. Thereafter, the town shall have one hundred twenty (120) days to act on the request, or it shall be deemed granted subject to the provisions following. If the town finds that the application is not complete, as required by FCC rules, it shall notify the parties within sixty (60) days of the initial filing. Such notice shall stay the running of the one hundred twenty (120) days until such time as the parties file a complete application in accordance with FCC rules. If the town does not so notify the parties within the sixty (60) days following the filing of an application, the application shall be deemed complete and the one hundred twenty (120) days shall run from the date such application was filed. The town may request such additional information as it might reasonably determine to be necessary to act on the request. Such request shall not, however, extend the one hundred twenty (120) day period unless mutually agreed to by all parties or such extension is expressly permitted by the FCC rules.

(b) The town shall signify in writing within the time aforesaid its approval of the request or its determination that a public hearing is necessary due to potential adverse effect on a company's subscribers.

(c) If a public hearing is deemed necessary pursuant to subsection (2)(b) above, such hearing shall be commenced within thirty (30) days of such determination, and notice of any such hearing shall be given fourteen (14) days prior to the hearing by publishing a notice. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by the town.

(d) Within thirty (30) days after the closing of the public hearing, the town shall approve or deny in writing the sale or transfer request.

(e) Within thirty (30) days of any transfer, a company shall file with the town a copy of the deed, agreement, mortgage, lease or other written instrument evidencing such sale, transfer of ownership or control or lease, certified and sworn to as correct by such company.

(3) In reviewing a request for sale or transfer pursuant to subsection (1) above, the town may inquire into the legal, technical and financial qualifications of the prospective controlling party, and a franchisee shall assist the town in so inquiring. The town may condition such transfer upon such terms and conditions as it deems reasonably appropriate to satisfy such qualifications; provided, however, that the town shall not unreasonably withhold its approval. As a condition of approval of a transfer or assignment of ownership or control, the town may require that the transferee become a signatory to the franchise agreement entered into by the town and the predecessor of the transferee.

(4) A franchisee shall notify the town in writing of any change in administrative officials regarding its telecommunications system within fourteen (14) days of the change.

(5) Notwithstanding anything to the contrary in this chapter or a franchise agreement, no prior consent by the town shall be required for any transfer or assignment to any entity controlling, controlled by, or under the same common control of the transferring party. However, in such a transfer or assignment, such transferring party shall remain liable for all financial obligations as required pursuant to its franchise and this chapter, unless otherwise agreed to by the town. Such agreement to release the transferring company shall not be withheld unreasonably and shall further be provided in all transfers or assignments where the transferee party has a net worth of not less than twenty-five million dollars (\$25,000,000.00) as reflected by its most current audited financial statement. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-347. Transactions affecting control of franchise.** Any transactions which singularly or collectively result in a change of ten percent (10%) or more of the ownership or working control of the franchisee, of the ownership or working control of a telecommunications franchise, of the ownership or working control of affiliated entities having ownership or working control of the franchisee or of a telecommunications system or of control of the capacity or bandwidth of franchisee's telecommunication system, facilities or substantial parts thereof, shall be considered an assignment or transfer requiring town approval pursuant to § 19-346. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-348. Revocation or termination of franchise.** A franchise granted by the town to use or occupy streets of the town may be revoked for the following reasons:



- (1) Construction or operation in the town or in the streets of the town without a franchise.
- (2) Construction or operation at an unauthorized location.
- (3) Unauthorized substantial transfer of control of the franchisee.
- (4) Unauthorized assignment of a franchise.
- (5) Unauthorized sale, assignment or transfer of franchise or assets, or a substantial interest therein.
- (6) Misrepresentation or lack of candor by or on behalf of a franchisee in any application to the town.
- (7) Abandonment of telecommunications facilities in the streets.
- (8) Failure to relocate or remove facilities as required in this chapter.
- (9) Failure to pay taxes, compensation, fees or costs when and as due the town.
- (10) Insolvency or bankruptcy of the franchisee.
- (11) Violation of material provisions of this chapter.
- (12) Violation of the material terms of a franchise agreement. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-349. Notice and duty to cure.** If the town administrator or his designee believes that grounds exist for revocation of a franchise, he or his designee shall give the franchisee written notice of the apparent violation or noncompliance, providing a short and concise statement of the nature and general facts of the violation or noncompliance, and providing the franchisee a reasonable period of time not exceeding thirty (30) days to furnish evidence that:

- (1) Corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance.
- (2) Rebuts the alleged violation or noncompliance.
- (3) It would be in the public interest to impose some penalty or sanction less than revocation. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-350. Hearing.** If a franchisee fails to provide evidence reasonably satisfactory to the town administrator, the town administrator shall refer the apparent violation or noncompliance to the board of mayor and aldermen. The board of mayor and aldermen shall provide the franchisee with notice and a reasonable opportunity to be heard concerning the matter. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-351. Standards for revocation or lesser sanctions.** If persuaded that the franchisee has violated or failed to comply with material provisions of this chapter, or of a franchise, the board of mayor and aldermen shall determine whether to revoke the franchise, or to establish some lesser sanction and cure, considering the nature, circumstances, extent and gravity of the violation as reflected by one (1) or more of the following factors:

- (1) The misconduct was egregious;
- (2) Substantial harm resulted;
- (3) The violation was intentional;
- (4) There is a history of prior violations of the same or other requirements;
- (5) There is a history of overall compliance; and/or
- (6) The violation was voluntarily disclosed, admitted or cured. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-352. General.** No person shall commence or continue with the construction, installation or operation of telecommunications facilities within the town except as provided in this chapter. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-353. Construction codes.** Telecommunications facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations including the National Electrical Safety Code. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-354. Construction permits.** No person shall construct or install any telecommunications facilities within the town without first obtaining a construction permit therefor; provided, however, that:

- (1) No permit shall be issued for the construction or installation of telecommunications facilities within the town unless the telecommunications carrier has filed a registration statement with the town pursuant to this chapter.
- (2) No permit shall be issued for the construction or installation of telecommunications facilities in the streets unless the telecommunications carrier has applied for and received a franchise pursuant to Article III of this chapter.
- (3) No permit shall be issued for the construction or installation of telecommunications facilities without payment of the construction permit fee established in § 19-321. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-355. Applications.** Applications for permits to construct telecommunications facilities shall be submitted upon forms to be provided by the town and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

- (1) That the facilities will be constructed in accordance with all applicable codes, rules and regulations.
- (2) The location and route of all facilities to be installed on existing utility poles.

(3) The location and route of all facilities to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the streets.

(4) The location of all existing underground utilities, conduits, ducts, pipes, mains and installations which are within the streets along the underground route proposed by the applicant.

(5) The location of all other facilities to be constructed within the town, but not within the streets.

(6) The construction methods to be employed for protection of existing structures, fixtures and facilities within or adjacent to the streets.

(7) The location, dimension and types of all trees within or adjacent to the streets along the route proposed by the applicant, together with a landscape plan for protecting, trimming, removing, replacing and restoring any trees or areas to be disturbed during construction. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-356. Engineer's certification.** All permit applications shall be accompanied by the certification of a registered professional engineer that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-357. Traffic control plan.** All permit applications which involve work on, in, under, across or along any streets shall be accompanied by a traffic control plan demonstrating the protective measures and devices that will be employed, consistent with Uniform Manual of Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-358. Issuance of permit.** Within forty-five (45) days after submission of all plans and documents required of the applicant and payment of the permit fees required by this chapter, the town engineer, if satisfied that the applications, plans and document comply with all requirements of this chapter, shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as he may deem necessary or appropriate. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-359. Construction schedule.** The franchisee shall submit a written construction schedule to the town engineer ten (10) working days before commencing any work in or about the streets. The franchisee shall further notify the town engineer not less than two (2) working days in advance of any

excavation or work in the streets. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-360. Compliance with permit.** All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The town engineer and his representatives shall be provided access to the work and such further information as he may require to ensure compliance with such requirements. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-361. Display of permit.** The franchisee shall maintain a copy of the construction permit and approved plans at the construction site, which shall be displayed and made available for inspection by the town engineer or his representatives at all times when construction work is occurring. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-362. Survey of underground facilities.** If the construction permit specifies the location of facilities by depth, line, grade, proximity to other facilities or other standard, the franchisee shall cause the location of such facilities to be verified by a registered state land surveyor. The franchisee shall relocate any facilities which are not located in compliance with permit requirements. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-363. Noncomplying work.** Upon order of the town engineer, all work which does not comply with the permit, the approved plans and specifications for the work, or the requirements of this chapter, shall be removed. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-364. Completion of construction.** The franchisee shall promptly complete all construction activities so as to minimize disruption to the streets and other public and private property. All construction work authorized by a permit within the streets, including restoration, must be completed within one hundred twenty (120) days of the date of issuance. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-365. As-built drawings.** Within sixty (60) days after completion of construction, the franchisee shall furnish the town with two (2) complete sets of plans, drawn to scale and certified to the town as accurately depicting the location of all telecommunications facilities constructed pursuant to the permit. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-366. Construction surety.** Prior to issuance of a construction permit, the franchisee shall provide a construction and completion bond. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-367. Exceptions.** Unless otherwise provided in a franchise agreement, all telecommunications carriers are subject to the requirements of this chapter. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**19-368. Responsibility of owner.** The owner of the facilities to be constructed and, if different, the franchisee, are responsible for performance of and compliance with all provisions of this chapter. (as added by Ord. #2015-008, Nov. 2015 *Ch2\_8-2-21*)

**TITLE 20**

**MISCELLANEOUS**

**CHAPTER**

**1. HOMEOWNERS' ASSOCIATIONS AND EXCLUSIVE AGREEMENTS.**

**CHAPTER 1**

**HOMEOWNERS' ASSOCIATIONS AND EXCLUSIVE AGREEMENTS**

**SECTION**

20-101. Creation authority, purpose, and title.

20-102. Definitions.

20-103. Exclusive bulk service agreements.

20-104. Violations and penalty.

**20-101. Creation authority, purpose, and title.** This chapter is adopted pursuant to the powers enumerated in Tennessee Code Annotated, § 6-2-201, and the general police power of the town. The purpose and intent of this chapter is to establish reasonable regulations on homeowners' associations to protect against agreements and practices that are detrimental to the public health, safety, welfare and convenience. (as added by Ord. #2015-009, Nov. 2015 *Ch2\_8-2-21*)

**20-102. Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(1) "Common expenses." Expenditures made by, or financial liabilities of the HOA, together with any allocations to reserves.

(2) "Developer." Person(s) or entity creating and filing the declaration or identified as the developer in the declaration that retains rights in the declaration not shared with other lot owners generally.

(3) "Developer-controlled HOA." A HOA where according to the terms of the declaration or any other agreement the developer or its successor retains preferential voting rights not shared with other property owners generally.

(4) "Exclusive bulk service agreement." A contract that provides that a service provider of cable, video (including satellite television), broadband, internet, telephone or similar services may provide services within a development to the effective exclusion of all other similar service providers.

(5) "HOA board." The governing body or executive board of the HOA, whether appointed by the developer or elected by the property owners.

(6) "Homeowner's Association ("HOA")." A corporate or unincorporated entity, the members of which hold legal title to lots or within a development located in the corporate limits of the town, is responsible for the maintenance of private areas of land, common facilities and/or

amenities, and/or adopts or maintains covenants or restrictions on the use of lots within the development.

(7) "Property owners." A person or entity owning a lot or lots within the development. (as added by Ord. #2015-009, Nov. 2015 *Ch2\_8-2-21*)

**20-103. Exclusive bulk service agreements.** (1) It is the intent of this section to ensure that residents within the town shall not be required to pay for services for which they do not contract for and/or consent to if they do not wish to receive such services, and to provide for competition in the provision of cable, video (including satellite television), broadband, internet, telephone or similar services.

(2) Except as provided for herein, a HOA may enter into an exclusive bulk right-of-entry agreement for the provision of cable, video (including satellite television), broadband, internet, telephone or similar services; provided that:

(a) Any property owner shall have the right to discontinue receiving such services at any time, without penalty or additional charges, by giving written notice to the HOA;

(b) Any property owner that discontinues services shall not be required to pay a portion of the cost of such services either directly, as a part of the common expenses, or as a condition of receiving any other benefits or access to amenities available to all property owners; and

(c) The sole remedy against a property owner for any claims of unpaid bills for services provided under such agreement shall be to discontinue such services and for the service provider to bring a collection action in the General Sessions Court of Williamson County.

The HOA may not pursue an action against any property owner for delinquent or unpaid bills for services and may not levy any assessments or place a lien on any property for such delinquent or unpaid bills.

(3) In addition to the limitations set forth in subsection (2) above, the term of an exclusive bulk service agreement entered into by a developer-controlled HOA may not extend beyond the time at which either the majority of the voting rights of the HOA passes to the individual property owners and/or the developer transfers such control to the HOA, whichever comes first.

(4) Nothing herein shall prevent or limit a property owner from contracting directly with a service provider, and this section shall not affect the terms of such private contract.

(5) Nothing herein shall be construed to authorize or extend any agreements that are invalid, unenforceable or illegal under state or federal law or that have been determined to violate FCC or applicable state regulations. (as added by Ord. #2015-009, Nov. 2015 *Ch2\_8-2-21*)

**20-104. Violations and penalty.** The violation of any provision of this chapter shall be punished by a penalty not to exceed fifty dollars (\$50.00) for each separate violation. The developer of any developer-controlled HOA violating this chapter shall be liable for all penalties and court costs assessed and may not pass on or levy such penalties and costs to the property owners within the development. (as added by Ord. #2015-009, Nov. 2015 *Ch2\_8-2-21*)

**APPENDIX**

- A. ETHICS PROVISIONS PROVIDED BY STATUTE.
- B. DESIGN GUIDELINES.

**APPENDIX A**

**ETHICS PROVISIONS PROVIDED BY STATUTE.**



## Appendix A

### 1. Campaign finance.

All candidates for the chief administrative office (mayor), any candidates who spend more than \$500, and candidates for other offices that pay at least \$100 a month are required to file campaign financial disclosure reports. Civil penalties of \$25 per day are authorized for late filings. Penalties up to the greater of \$10,000 or 15 percent of the amount in controversy may be levied for filings more than 35 days late. It is a Class E felony for a multicandidate political campaign committee with a prior assessment record to intentionally fail to file a required campaign financial report. Further, the treasurer of such a committee may be personally liable for any penalty levied by the Registry of Election Finance (T.C.A. § 2-10-101–118).

Contributions to political campaigns for municipal candidates are limited to:

- a. \$1,000 from any person (including corporations and other organizations);
- b. \$5,000 from a multicandidate political campaign committee;
- c. \$20,000 from the candidate;
- d. \$20,000 from a political party; and
- e. \$75,000 from multicandidate political campaign committees.

The Registry of Election Finance may impose a maximum penalty of \$10,000 or 115 percent of the amount of all contributions made or accepted in excess of these limits, whichever is greater (T.C.A. § 2-10-301–310).

Each candidate for local public office must prepare a report of contributions that includes the receipt date of each contribution and a political campaign committee's statement indicating the date of each expenditure (T.C.A. § 2-10-105, 107).

Candidates are prohibited from converting leftover campaign funds to personal use. The funds must be returned to contributors, put in the volunteer public education trust fund, or transferred to another political campaign fund, a political party, a charitable or civic organization, educational institution, or an organization described in 26 U.S.C. 170(c) (T.C.A. § 2-10-114).

### 2. Conflicts of Interest.

Municipal officers and employees are permitted to have an "indirect interest" in contracts with their municipality if the officers or employees publicly acknowledge their interest. An indirect interest is any interest that is not "direct," except it includes a direct interest if the officer is the only supplier of

goods or services in a municipality. A "direct interest" is any contract with the official himself or with any business of which the official is the sole proprietor, a partner, or owner of the largest number of outstanding shares held by any individual or corporation. Except as noted, direct interests are absolutely prohibited (T.C.A. § 6-2-402, T.C.A. § 6-20-205, T.C.A. § 6-54-107–108, T.C.A. § 12-4-101–102).

### 3. Disclosure conflict of interests.

Conflict of interest disclosure reports by any candidate or appointee to a local public office are required under T.C.A. §§ 8-50-501 *et seq.* Detailed financial information is required, including the names of corporations or organizations in which the official or one immediate family member has an investment of over \$10,000 or 5 percent of the total capital. This must be filed no later than 30 days after the last day legally allowed for qualifying as a candidate. As long as an elected official holds office, he or she must file an amended statement with the Tennessee Ethics Commission or inform that office in writing that an amended statement is not necessary because nothing has changed. The amended statement must be filed no later than January 31 of each year (T.C.A. § 8-50-504).

### 4. Consulting fee prohibition for elected municipal officials.

Any member or member-elect of a municipal governing body is prohibited under T.C.A. § 2-10-124 from "knowingly" receiving any form of compensation for "consulting services" other than compensation paid by the state, county, or municipality. Violations are punishable as Class C felonies if the conduct constitutes bribery under T.C.A. § 39-16-102. Other violations are prosecuted as Class A misdemeanors. A conviction under either statute disqualifies the offender from holding any office under the laws or Constitution of the State of Tennessee.

"Consulting services" under T.C.A. § 2-10-122 means "services to advise or assist a person or entity in influencing legislative or administrative action, as that term is defined in § 3-6-301, relative to the municipality or county represented by that official." "Consulting services" also means services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with the municipality represented by that official. "Consulting services" does not mean the practice or business of law in connection with representation of clients by a licensed attorney in a contested case action, administrative proceeding or rule making procedure;

"Compensation" does not include an "honorarium" under T.C.A. § 2-10-116, or certain gifts under T.C.A. § 3-6-305(b), which are defined and prohibited under those statutes.

The attorney general construes "Consulting services" to include advertising or other informational services that directly promote specific legislation or specifically target legislators or state executive officials. Advertising aimed at the general public that does not promote or otherwise attempt to influence specific legislative or administrative action is not prohibited. Op. Atty.Gen. No. 05-096, June 17, 2005.

5. Bribery offenses.

a. A person who is convicted of bribery of a public servant, as defined in T.C.A. § 39-16-102, or a public servant who is convicted of accepting a bribe under the statute, commits a Class B felony.

b. Under T.C.A. § 39-16-103, a person convicted of bribery is disqualified from ever holding office again in the state. Conviction while in office will not end the person's term of office under this statute, but a person may be removed from office pursuant to any law providing for removal or expulsion existing prior to the conviction.

c. A public servant who requests a pecuniary benefit for performing an act the person would have had to perform without the benefit or for a lesser fee, may be convicted of a Class E felony for solicitation of unlawful compensation under T.C.A. § 39-16-104.

d. A public servant convicted of "buying and selling in regard to offices" under T.C.A. § 39-16-105, may be found guilty of a Class C felony. Offenses under this statute relevant to public officials are selling, resigning, vacating, or refusing to qualify and enter upon the duties of the office for pecuniary gain, or entering into any kind of borrowing or selling for anything of value with regard to the office.

e. Exceptions to 1, 3, and 4, above include lawful contributions to political campaigns, and a "trivial benefit" that is "incidental to personal, professional, or business contacts" in which there is no danger of undermining an official's impartiality.

6. Official misconduct, official oppression, misuse of official information.

a. Public misconduct offenses under Tennessee Code Annotated § 39-16-401 through § 39-16-404 apply to officers, elected officials, employees,

candidates for nomination or election to public office, and persons performing a governmental function under claim of right even though not qualified to do so.

b. Official misconduct under Tennessee Code Annotated § 39-16-402 pertains to acts related to a public servant's office or employment committed with an intent to obtain a benefit or to harm another. Acts constituting an offense include the unauthorized exercise of official power, acts exceeding one's official power, failure to perform a duty required by law, and receiving a benefit not authorized by law. Offenses under this section constitute a Class E felony.

c. Under Tennessee Code Annotated § 39-16-403, "Official oppression," a public servant acting in an official capacity who intentionally arrests, detains, frisks, etc., or intentionally prevents another from enjoying a right or privilege commits a Class E felony.

d. Tennessee Code Annotated § 39-16-404 prohibits a public servant's use of information attained in an official capacity, to attain a benefit or aid another which has not been made public. Offenses under the section are Class B misdemeanors.

e. A public servant convicted for any of the offenses summarized in sections 2-4 above shall be removed from office or discharged from a position of employment, in addition to the criminal penalties provided for each offense. Additionally, an elected or appointed official is prohibited from holding another appointed or elected office for ten (10) years. At-will employees convicted will be discharged, but are not prohibited from working in public service for any specific period. Subsequent employment is left to the discretion of the hiring entity for those employees. Tennessee Code Annotated § 39-16-406.

## 7. Ouster law.

Some Tennessee city charters include ouster provisions, but the only general law procedure for removing elected officials from office is judicial ouster. Cities are entitled to use their municipal charter ouster provisions, or they may proceed under state law.

The judicial ouster procedure applies to all officers, including people holding any municipal "office of trust or profit." (Note that it must be an "office" filled by an "officer," distinguished from an "employee" holding a "position" that does not have the attributes of an "office.") The statute makes any officer subject to such removal "who shall knowingly or willfully misconduct himself in office, or who shall knowingly or willfully neglect to perform any duty enjoined upon such officer by any of the laws of the state, or who shall in any public place be in a state of intoxication produced by strong drink voluntarily taken, or who shall

engage in any form of illegal gambling, or who shall commit any act constituting a violation of any penal statute involving moral turpitude” (T.C.A. § 8-47-101).

T.C.A. § 8-47-122(b) allows the taxing of costs and attorney fees against the complainant in an ouster suit if the complaint subsequently is withdrawn or deemed meritless. Similarly, after a final judgment in an ouster suit, governments may order reimbursement of attorney fees to the officer targeted in a failed ouster attempt (T.C.A. § 8-47-121).

The local attorney general or city attorney has a legal “duty” to investigate a written allegation that an officer has been guilty of any of the mentioned offenses. If he or she finds that “there is reasonable cause for such complaint, he shall forthwith institute proceedings in the Circuit, Chancery, or Criminal Court of the proper county.” However, with respect to the city attorney, there may be an irreconcilable conflict between that duty and the city attorney’s duties to the city, the mayor, and the rules of professional responsibility governing attorneys. Also, an attorney general or city attorney may act on his or her own initiative without a formal complaint (T.C.A. § 8-47-101–102). The officer must be removed from office if found guilty (T.C.A. § 8-47-120).

**APPENDIX B**  
**DESIGN GUIDELINES.**

**TOWN OF THOMPSON'S  
STATION,  
TENNESSEE**

**DESIGN GUIDELINES  
Adopted September 9, 2008**

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## **PURPOSE**

Thompson's Station is a community of colorful contrasts and rich resources. Townspeople, merchants, retirees, families, students, and visitors contribute to the diversity of a community that is mellowed with years of tradition.

The purpose of this manual is to provide developers and designers with clear answers to the question: What does Thompson's Station consider "good design?" The Town's intention for these "Design Guidelines" is to assure that new designs remain in continuity with the town's existing design "successes," and at the same time inspire exciting and creative additions to the community.

## **TOWN WIDE DESIGN CRITERIA**

These design criteria apply to all new development or redevelopment in Thompson's Station. Physical characteristics and constraints always take precedence in determining the ultimate development intensity of a site. These guidelines are offered to help designers deal with such constraints efficiently and effectively.

Site development issues include landscape preservation, siting of buildings, parking and circulation, and stormwater management. Architectural character issues deal with proportion and scale, building materials, color and texture, and architectural detail. Landscape character issues include entranceways, streetscapes, and tree and plant selection, including size and variety.

## **CRITERIA FOR DESIGN**

Here are some general guidelines for Thompson's Station design:

**Livability:** Buildings and outdoor spaces should be designed to fit human scale, harmonize with design of streets, and accommodate pedestrian traffic.

**Visual Impact:** New public and private projects should be visually appealing, and compatible with other development in the surrounding area.

**Vegetation:** Landscape design concepts should preserve existing trees and incorporate native new trees and shrubbery. The landscape theme should be aesthetically compatible with that of the surrounding neighborhood.

**Mobility:** Land design concepts should provide a network of roads, bicycle paths and lanes, and sidewalks that give strong consideration to the safety of motorists, cyclists, joggers, and walkers.

**Activity Centers:** Structures and complexes should enhance community life by use of "destination points" such as arcades, lobbies, and ground-level retail stores, while at the same time providing for safe movement of vehicles and pedestrians.

**Views:** Streets, buildings, and parking lots should enhance the environment by providing pleasant vistas and geographic orientations.

### **IMPLEMENTATION OF GUIDELINES**

Some of the design guidelines contained in this book will be incorporated into the Town's Design Manual and Engineering Standards, as appropriate. Others will be adopted within the Town's Development Ordinance. These Design Guidelines are intended to communicate the high standards of design that the Town of Thompson's Station expects from its development community.

Should you have any questions concerning the guidelines, or need further assistance, the staff is always available to assist you.

## **SITE DEVELOPMENT**

### **KEY DESIGN OBJECTIVES**

Preserve natural land contours and natural drainage-ways.

Keep design compatible with the positive character of the surrounding area in terms of both existing character and desired future character.

Create development that remains pleasant in character and human in scale, while promoting smooth circulation of people and traffic.

Where possible, incorporate significant tree masses and/or specimen trees as an integral design factor.

Minimize harm and disruption to existing plant and animal life.

### **OPEN SPACE**

Proposed recreation areas or uses should complement nearby existing uses.

Land set aside for ballfields should be level and otherwise suitable for the purpose.

Extension of existing parks or recreation areas into a proposed development is a highly desirable design feature.

Preservation of environmentally-sensitive areas is considered a legitimate "recreational purpose."

The developer must provide for maintenance of both active and passive recreation areas over the life of the project. This can be achieved through the

establishment of a homeowners' association or dedication to the Town, where appropriate.

Design for parks and recreation areas should achieve these general goals:

- Achieve a balance and compatibility between active and passive recreational uses;
- Provide visual appeal;
- Ensure environmental diversity;
- Foster pride among users; and
- Provide safety for users.

Design concepts also should incorporate these more specific principles:

- Observe appropriate relationships between the various elements of a park complex;
- Relate park and recreation areas to surroundings in both an aesthetic and practical sense;
- Adapt land use to the features of the terrain instead of altering the terrain to suit the use;
- Provide for ease of supervision;
- Make site design compatible with human, physical and aesthetic preferences;
- Blend man-made features with existing features;
- Match scale of outdoor facilities with human scale;
- Consider site features when determining which activities should be encouraged in an area; and
- Consider sun orientation and climatic conditions when locating facilities (example: tennis courts should be on an acceptable geographic orientation).

## **GREENWAYS**

A development located near or adjacent to a greenway should provide safe and efficient pedestrian connection to that greenway and to adjacent properties that might include pedestrian systems in the future.

Designs should include buffer zones separating greenway paths from residential, commercial and office buildings.

Most of Thompson's Station's major streams are designated as greenways. It is intended that one function of these greenways is to link various centers of activities-schools, parks, commercial areas and employment areas.

When a proposed development contains a planned greenway or is near a greenway, the developer should consult with the Town early in the design process.

## PRESERVATION OF NATURAL DRAINAGE PATTERNS

Capitalize on natural drainage-ways through innovative building and site design that transforms steep slopes and edges into major site amenities.

Preserve natural drainage patterns where practical.

Make sure that on-site drainage occurs only in areas designed to serve a drainage function.

Design so as to prevent storm water from flowing over sidewalks and paths.

## SITE DESIGN

Areas whose physical site conditions make them unsuitable for development should be set aside as conservation areas or as open space.

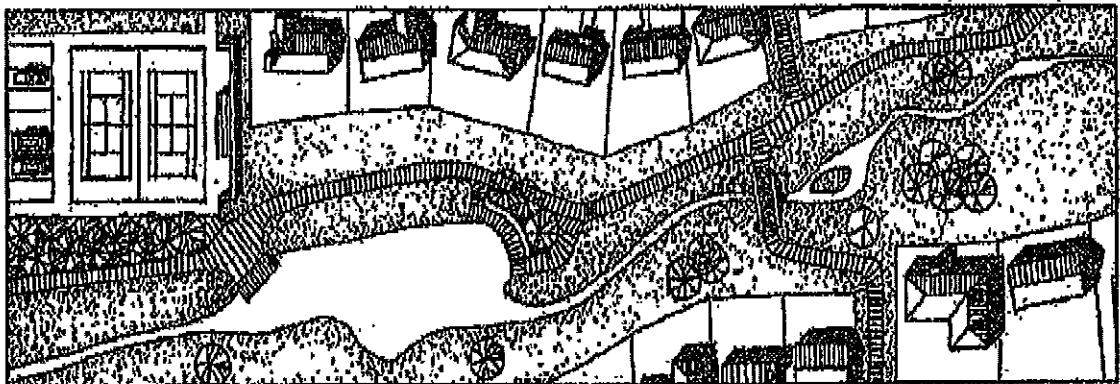
Wooded sites should be developed with careful consideration for the site's natural characteristics. When portions of the woods must be developed, wooded perimeters or the most desirable natural site features should be protected to retain the visual character of the site.

Isolated pockets of existing trees should be protected, and used to enhance the site's visual impact.

The buildability or potential for development of sites is defined as follows:

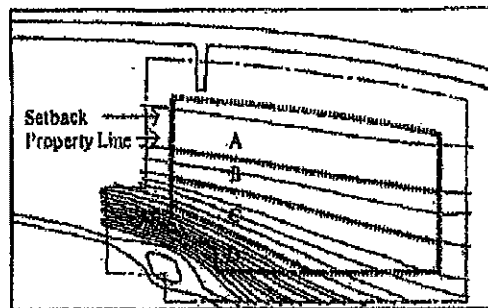
**Prime Buildable:** Land with little or no building restrictions which occur as a consequence of slope conditions. These areas are defined as slopes of less than 10 percent.

**Secondary Buildable:** In areas with slopes of 10 to 15 percent, site preparation techniques should be utilized which minimize grading and site disturbance.



**Conserved:** In areas with slopes of 15 to 25 percent, building and site preparation can occur, but restrictions are severe. These areas require customized architectural solutions and specialized site design techniques and approaches.

**Preserved:** In areas with slopes greater than 25 percent; a detailed "site analysis" of soil conditions, hydrology, bedrock conditions, and other engineering and environmental considerations should be made to determine acceptable building and site engineering techniques. Generally, the high cost of development associated with acceptable techniques precludes development in these areas.



*The buildability or potential for development of sites is classified in four ways: (A) Prime Buildable Land, containing slopes less than 10 percent; (B) Secondary Buildable Land, containing slopes between 10 and 15 percent, subject to site preparation techniques which minimize grading and site disturbance; (C) Conserved Land, containing slopes between 15 and 25 percent, and requiring specialized architectural and site design techniques; and (D) Preserved Land, containing slopes greater than 25 percent, and generally unsuitable for development.*

## **GRADING**

Buildings should be designed to harmonize with existing topography, thereby minimizing land disruption.

Grading should be held to a minimum and should complement natural land forms.

Developments should fit the capacity of existing topography, natural drainage-ways, soils, geology and other natural site conditions.

Grading should blend gently with contours of adjacent properties, with smooth gradations around all proposed cut-and-fill slopes, both horizontally and vertically.

All sites should be developed according to their natural characteristics. Flat, open areas on the site are the most desirable for parking areas and large buildings, thus minimizing disruption to site contours and vegetation. Wherever possible, slab-on-grade construction is to be avoided in areas where the slope exceeds 5 percent.

On sites containing slopes in excess of 12 percent, mass grading approaches are to be avoided. Custom architectural applications and specialized building techniques should be primary factors in designs for such sites.

### SITING OF BUILDINGS

Buildings, particularly those on wooded or steeply-sloped sites, should be carefully situated to take advantage of aesthetic features and views. Buildings should harmonize with neighboring areas; this is achieved through careful attention to elements such as size, style, form, color, and materials.

Buildings should be located in a manner that takes into consideration factors such as shadows, changing climatic conditions, noise, safety, and privacy - all of these being elements that impact adjacent outdoor spaces.

"Stepping-back" - terracing of buildings on hillsides - should follow the slope in order to complement natural contours.

In hilly terrain, clustering of buildings is encouraged as a strategy for avoiding development of steep slopes and sensitive natural areas. This practice is valuable for commercial, office and residential development.

Building placement should ensure privacy, as well as individual site and architectural identity.



*V-shaped clusters can be oriented so each unit looks out on the view.*

## RELATIONSHIP OF BUILDING TO SITE

Thompson's Station's varied site conditions require special sensitivity in building placement. A cluster of buildings often can create unique and dramatic views that would be impossible with a large single building mass.

In most locations, building heights should not exceed the tree line. However, dramatic views suggest using tall, compact units, giving all units an uninterrupted view. Panoramic views suggest using tall buildings on the higher elevations, with lower Units terracing down the slope.

Building design should be fitted to the natural contours of the site.

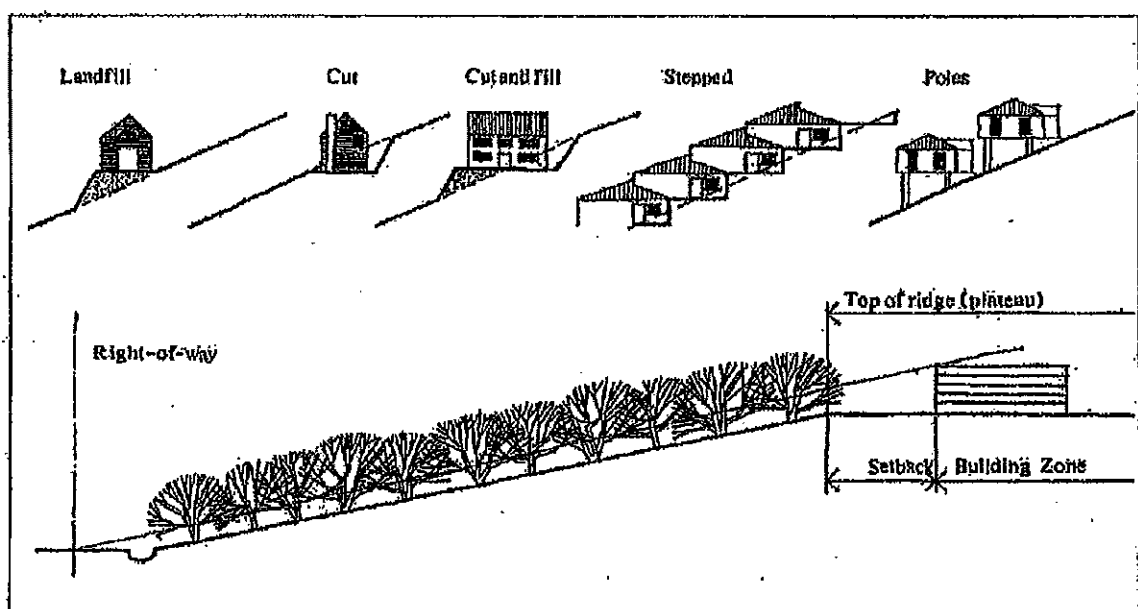
## SLOPE DESIGN ALTERNATIVES

As slope steepness increases, conventional development opportunity decreases. Slopes in excess of 15 percent require specialized building and site techniques.

On wooded sites, buildings should be carefully situated to take advantage of the shade, pleasing views, and energy conservation advantages provided by trees.

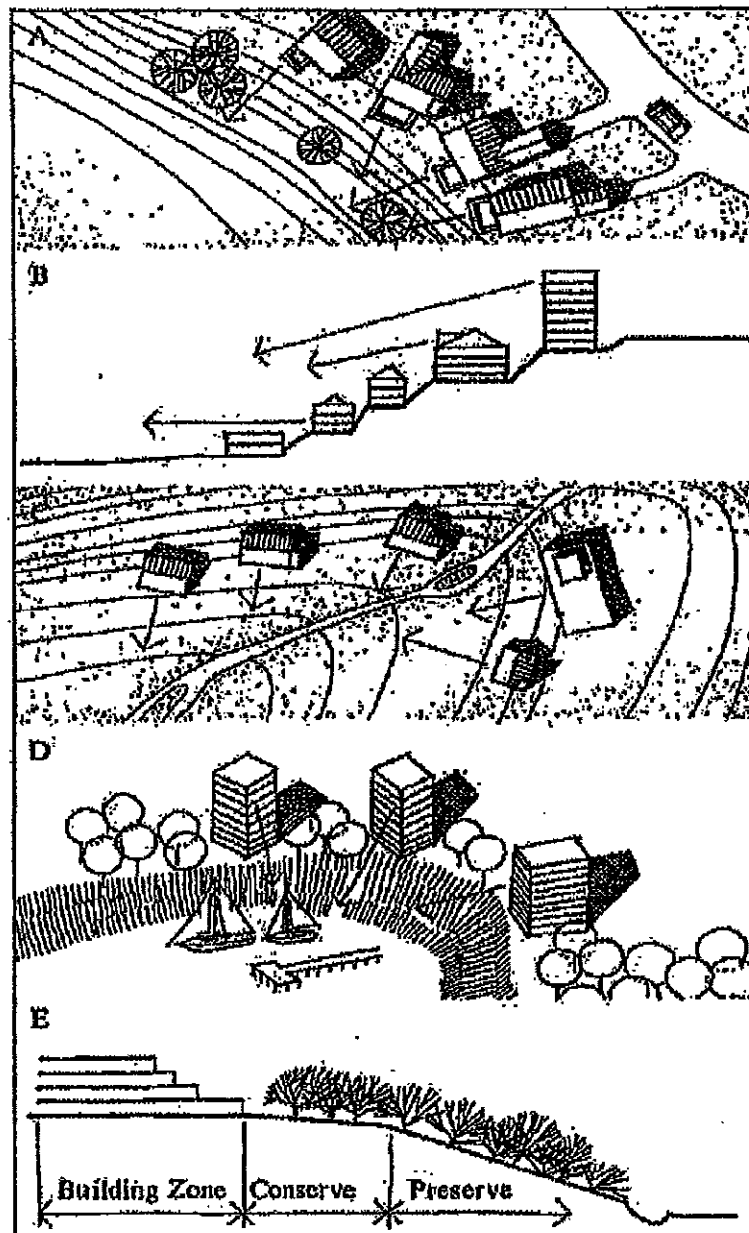
When a wooded site is subdivided, lot lines should be drawn through significantly wooded areas so that trees will be outside areas of construction activity.

*Preservation of slopes and tree cover is recommended to the fullest extent possible.*



*Selected tree removal should occur only in areas where site development is inhibited. Building and parking locations should be identified on the basis of preserving natural amenities.*

*(Below) (A) Territorial views suggest arranging units along the edge of level land, giving each part of the view. (B) Panoramic views suggest tall buildings on the higher elevations, with lower units terracing down the slopes. (C) Views into a valley are preferable to views away. (D) Dramatic views suggest tall compact units giving all units an uninterrupted view. (E) Slope design is an exercise in the sensitive conservation and preservation of existing vegetation.*





## **STREETS, PARKING AND CIRCULATION**

Much of Thompson's Station's existing character is based on past development that encourages extensive automobile use. Travel by foot, bicycle, or transit should be made attractive and safe by site design and by connection to Town-wide systems.

## **ROADWAY LOCATION**

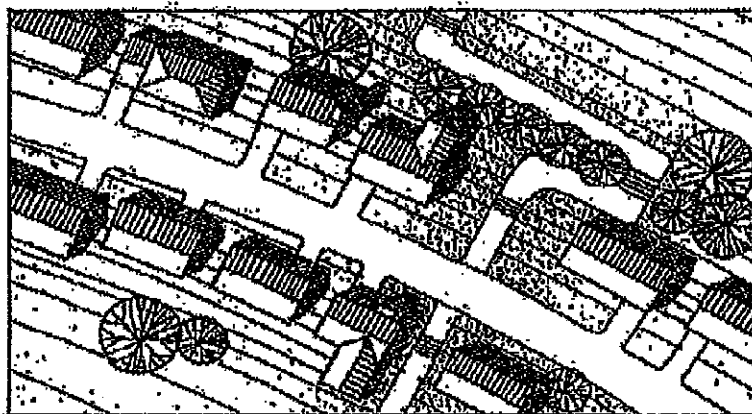
Whenever possible, road location and design should avoid difficult topography including stream crossings, steep valleys, and greenways. If one of these must be crossed, the developer should explore the feasibility of a bridge crossing, with provisions for pedestrian movement under the bridge structure. If a bridge is not appropriate, the developer should consider an innovative means of stream crossing such as an arched culvert.

If the site's landform is hilly and/or steep, a curving route paralleling one contour is recommended because less steep roads provide more comfortable access for pedestrians and bicycle riders. Such roads also require less power output from automobile engines and therefore decrease both noise and air pollution.

Major streets or access roads should be designated to take advantage of unfolding views and vistas, thereby focusing attention on the area's more pleasing elements.

Roadways should be sited so that they do not interfere with natural drainage patterns.

*Roads and pedestrian paths are best placed along the contours of a site. This minimizes fuel consumption in automobiles and makes for ease of access for pedestrians.*



## **STREETS**

All major developments are expected to have two points of street access, except when:

All surrounding land already has been developed, precluding dual access to a street;

The second means of access can be achieved best by subsequent development of an adjacent piece of land, and a road stub-out to that land is provided; or

Traffic impact analysis justifies a waiver of the requirement for two or more points of access.

## **NEW STREETS**

The Town of Thompson's Station Subdivision Regulations identify parameters for new streets (right-of-way width, pavement width, curb-and-gutter, etc.) according to the street's classification. It is the Town's policy to require full compliance with the engineering standards for projects within newly developing areas. These standard parameters can be varied in special circumstances. For example:

In an almost fully developed area, the design of new streets should reflect the best characteristics of nearby streets.

In areas of particularly difficult topography, where slopes exceed 15 percent, standards may need to be adjusted (e.g., narrower streets to minimize land disturbance) and current street design requirements relaxed.

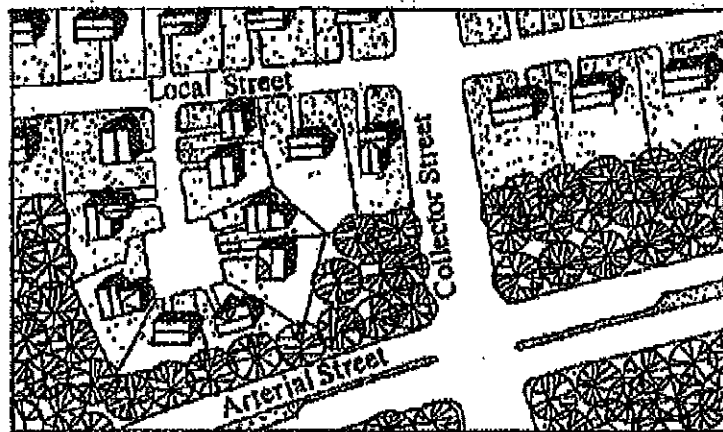
Residential streets should be designed to enhance a neighborhood's character. They should be narrower than primary streets, designed to discourage high speeds, and planned to provide pleasure and safety to pedestrians. The site plan should incorporate a "hierarchy" of roadways and walkways that provide for safe, smooth and pleasant movement of vehicles and people.

In planned unit housing developments which desire to recreate the style and character of older parts of the Town, narrow streets without curbs and gutters may be appropriate.

Narrow, winding roads should provide enough room to accommodate automobiles passing cyclists on turns where they may not be able to see oncoming traffic. Because curbs and gutters make it impossible for a cyclist to get off the street without dismounting, their presence can greatly increase the danger of an emergency avoidance maneuver. Conventional curbs and gutters should not,

therefore, be installed on narrow streets. Storm gratings should be of a design that will not catch the wheels of a bicycle.

Links between adjacent and contiguous neighborhoods for pedestrians and bicycles are encouraged. New developments are encouraged to include pedestrian walkways to existing neighborhoods whenever feasible.



The Town's hierarchy of streets is:

**Arterial:** Large streets serving as thoroughfares.

**Collector:** Streets providing access to various buildings, groupings, or lots.

**Local:** Small internal streets, or lanes, serving minimal business or residential lots.

Existing streets adjacent to a proposed development must be upgraded and improved as part of a new development, when such streets are made necessary by increased traffic flow from the development.

Whenever possible, two means of access should be provided for all medium and large-scale developments. Dual access assures an efficient circulation pattern for residents, users, and Town service vehicles; it also promotes movement of pedestrians and vehicles, and assures emergency access in the event that a street becomes temporarily impassable. However, dual access should be designed so that it does not encourage through traffic.

Generally, dual access should be provided for all new projects, except for small subdivisions or development projects.

**Arterial Streets**

Streets within all new developments should be consistent with the Town's Thoroughfare Plan.

Long tangents and long radii are required.

Attention should be given to alignments that capture significant views or existing features.

Landscaped median islands are encouraged.

Pedestrian crossings should be a part of street design.

Wide outside lanes or striped lanes should be provided to accommodate bicycle traffic.

**Collector Streets**

Alignment should be simple and direct.

Long tangents and horizontal curves with short radii should be avoided whenever possible.

Graceful, flowing alignments are recommended for enhancing the overall project or area.

**Local Streets**

These streets should recreate "village-like" qualities through use of design elements including:

Winding, tree-lined lanes;

Accents of local brick and/or stone;

Median strips with trees;

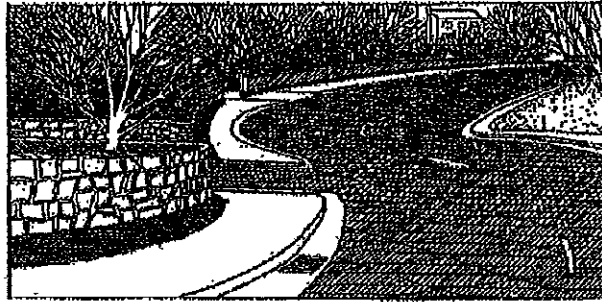
Creative measures for discouraging through traffic;

Stone retaining walls that preserve natural topographical features; and

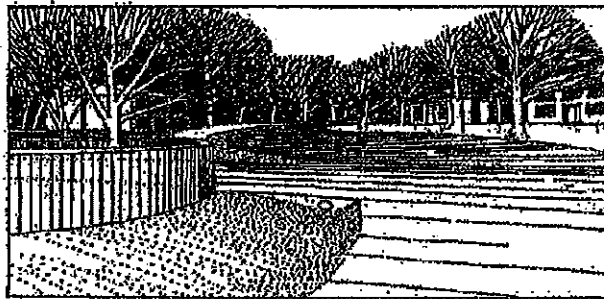
Streets without curbs and gutters (where drainage characteristics permit).

Street landscaping can be functional and beautiful. Several ways in which this can be accomplished are shown below, (A) Winding, tree-lined lanes with curbs and gutters; (B) the same lanes without curbs and gutters; (C) median strips with trees; and (D) accents of local brick and stone.

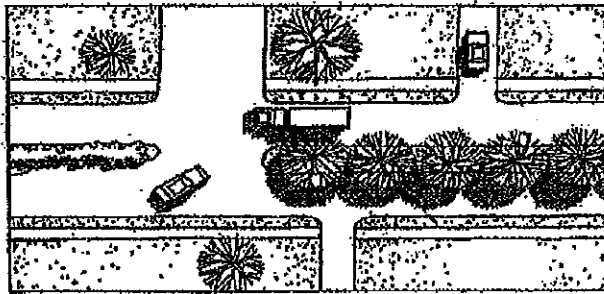
A.



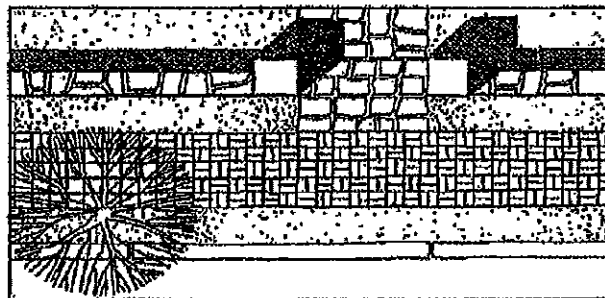
B.



C.



D.



**Internal Circulation: Streets and Driveways**

Safety and convenience of automobile, bicycle and pedestrian movements are critical considerations.

Automobiles should be able to enter a site safely and then move to parking areas. Particular attention should be paid to the location of dumpsters for trash collection. Dumpsters should be completely screened, located behind buildings, and accessible to service vehicles.

Roads and other internal driveways should be designed to accommodate a variety of vehicles in addition to passenger cars, including delivery trucks, sanitation trucks, and emergency vehicles.

Pedestrian access must be safe and convenient within a site. Sidewalks must be clearly separated from driving areas. Sidewalk systems must connect buildings to each other, to parking areas, and to sidewalks or pedestrian paths adjacent to the site.

Special attention should be paid to points at which pedestrian, bicycle, and automobile movements are in conflict. Hazards in these areas can be reduced by clearly marked crosswalks (painted or indicated by a change in surface), or by sensitive routing of pedestrian paths away from main automobile traffic areas.

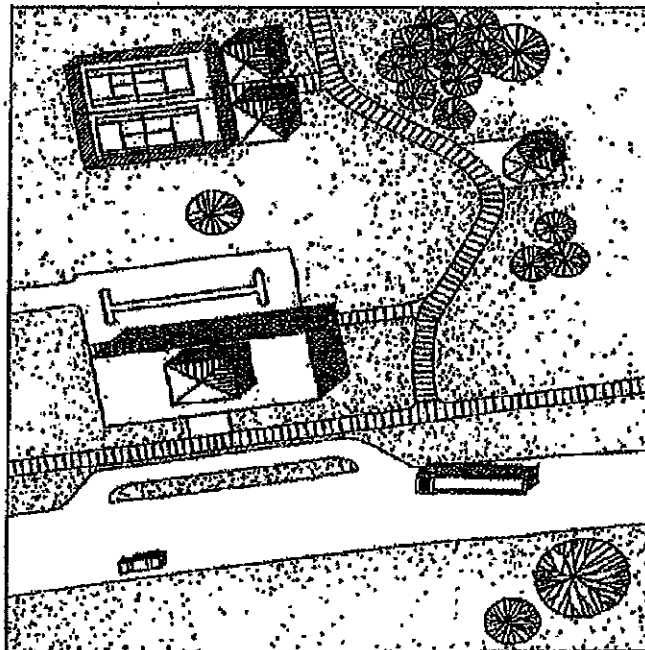
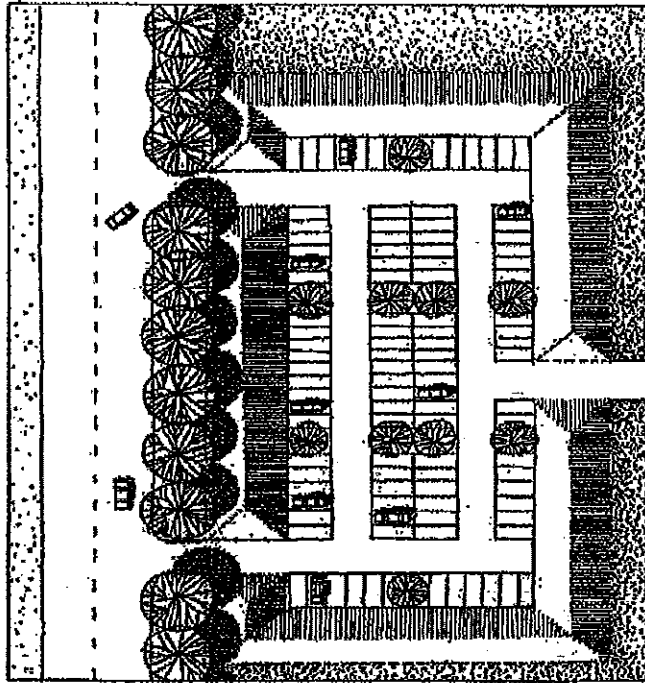
**PARKING**

Parking lots should not be focal points of a development. Parking areas should be located away from streets - preferably behind buildings. Parking areas adjacent to streets or residential areas should be screened by berms, trees, shrubs, walls and fences. In some cases, parking structures offer a solution that provides required parking while reducing the unsightliness of large parking areas.

Parking lots should not spoil views from neighboring properties or from streets. Thompson's Station's rolling topography makes it important to disperse parking masses in order to protect views.

Parking lots and site roads should follow existing grades and land forms where possible in order to minimize environmental disturbance.

*Earth berms combined with trees provide an effective method for screening cars.*



*Paths and sidewalks should connect destinations.*

### Surface Parking

Surface parking bays should be kept small, and be separated from each other by native vegetation or by landscaped areas. This strategy minimizes required grading and takes advantage of natural drainage. New plantings help to capture surface runoff; small-size bays allow smooth pedestrian movement.

Streets and pedestrian walks can be set apart from each other by contrasting paving materials, special plantings, and lighting effects.

Parking lot configuration and location should harmonize with site conditions - including topography, drainage patterns, and natural amenities.

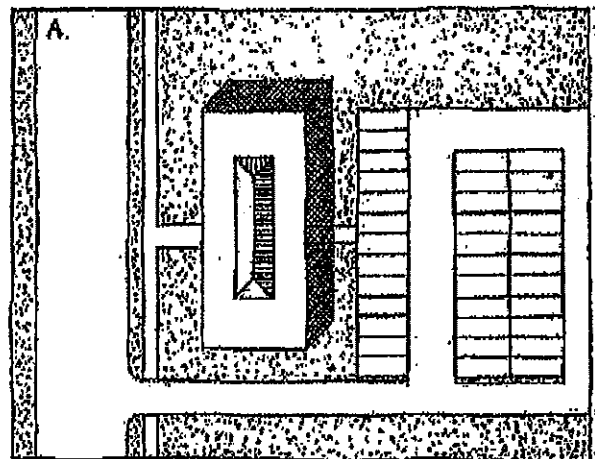
Flat, open areas on the site should be the designer's first choice for parking to minimize disruption to site contours and vegetation.

Parking is best located in the rear portions of a site, thereby using buildings as effective visual barriers.

In hillside developments, consideration should be given to parking areas that wrap around buildings. This breaks up the massing of cars and reduces site grading requirements.

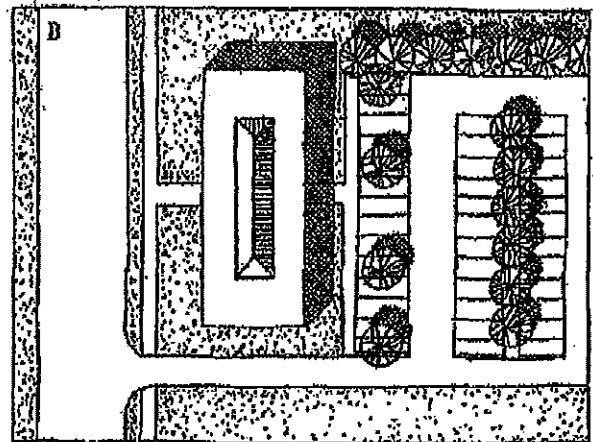
Parking lots should be located where they will not keep the new development from blending into its natural setting.

*(A) Large expanses of unrelieved pavement create stormwater runoff problems and poor comfort conditions for pedestrians.*

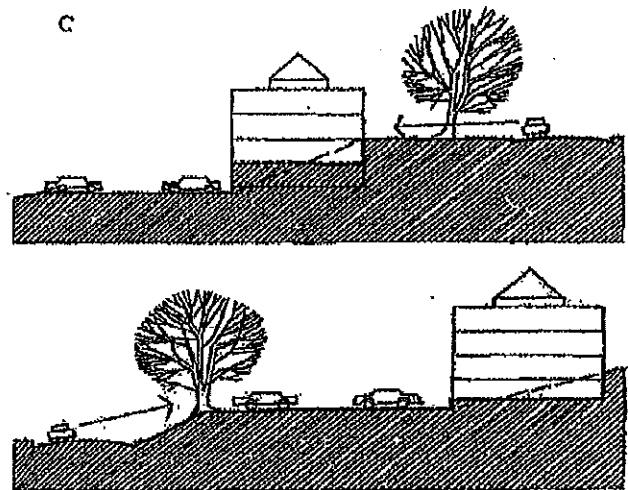




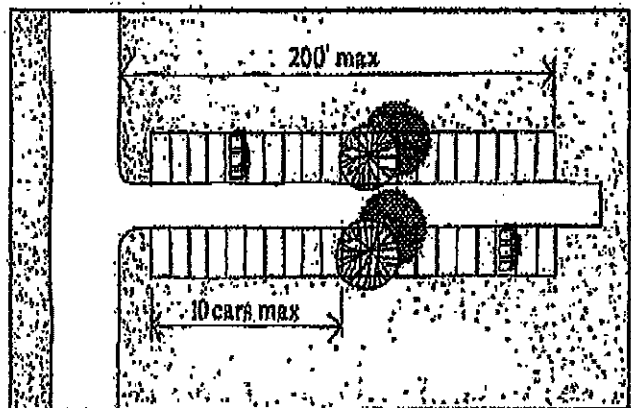
*(B) These problems can be lessened through landscaped planting areas which include shade trees.*



*(C) Parking is best placed behind buildings on the downhill side of the road, and in front on the uphill side.*



*In an optimum parking arrangement there should be no more than 10 cars in any continuous bay, and dead-end runs should not exceed 200 feet.*



For parking lots of 100 cars or more, an internal pedestrian system should be provided, safely separating pedestrians from vehicles. Clearly defined crosswalks, where driveways meet public streets, can be made both effective and attractive through use of contrasting textures, materials, pathway lighting, and plantings.

Parking lot paving materials other than asphalt or concrete may be appropriate, depending upon topography, subsoil conditions, drainage characteristics and intensity of use.

### **Parking Decks**

Parking decks may be either free-standing or located under a building. Parking structures or decks are appropriate especially on small tracts, or on sites whose contours make much of the area unbuildable. Care should be taken to avoid overloading small sites with excessive parking.

The following guidelines apply to parking structures:

Height of a parking structure is limited to three decks above grade. Parking structures should be less prominent than the buildings they serve.

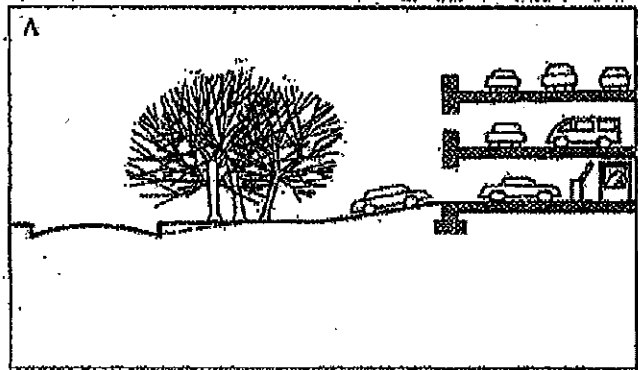
Parking structures that are not integrated within buildings should be located inconspicuously behind buildings or screened by vegetation.

Parking structures should not be located immediately adjacent to major Town streets or to principal activity and amenity areas. If separation by buildings or dense landscaping is not practical, then exposed parking structure facades should be integrated into their surroundings by architectural detailing, plantings, terracing, or other design techniques.

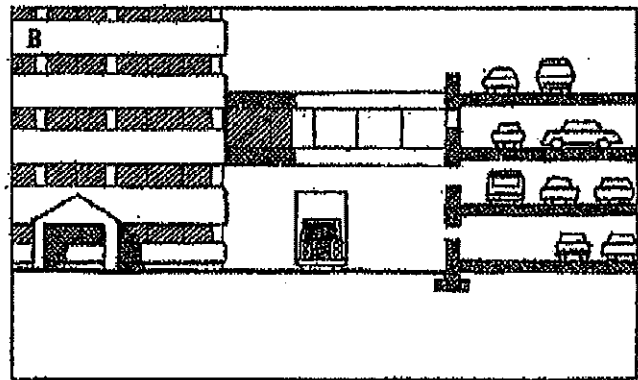
Parking structures located beneath buildings or open spaces should use the natural change in grade or create a new elevated grade. This technique reduces excavation costs and provides adequate natural light and ventilation. Open edges and internal courts should be provided, to keep users oriented and promote a safe, pleasant atmosphere within the enclosure.

The design should use natural changes in site grade levels to make horizontal pedestrian connections between parking structures and the buildings they serve. This technique minimizes the need for multiple flights of stairs to and from parked cars.

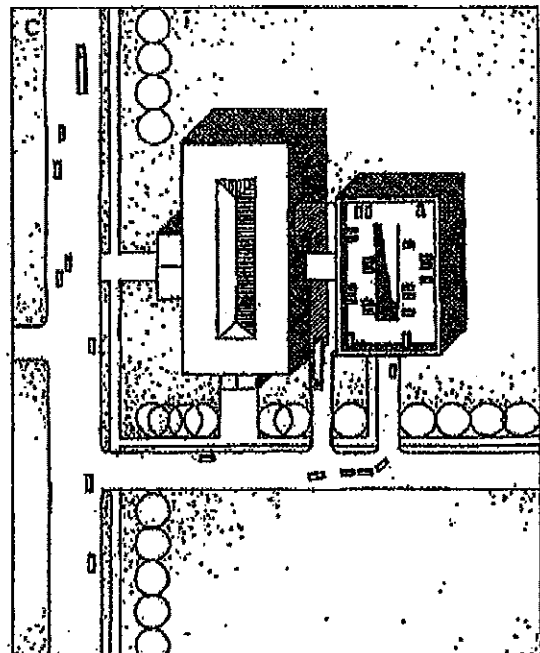
*(A) Parking structures should be screened from site access roads or amenity areas by buildings or vegetation.*



*(B) Parking decks should be less prominent in height than the buildings they serve.*



*(C) Placing parking structures behind the buildings they serve and utilizing trees and shrubbery as screening devices provides an optimum siting arrangement.*



### Building Entrance Considerations

Service and all-day employee parking should be separated from visitor and front-entrance traffic, if possible.

Entrance drives should be widened at the building entrance to provide a visitor drop-off zone.

Parking spaces at the building entrance should be wider than usual to accommodate frequent arrivals and departures.

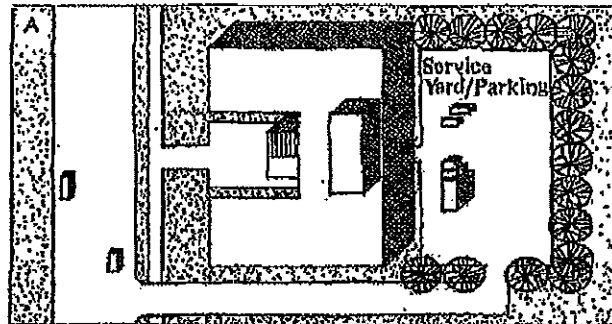
Required handicapped parking should be convenient to the main entrance to each building.

### Service/Storage Areas

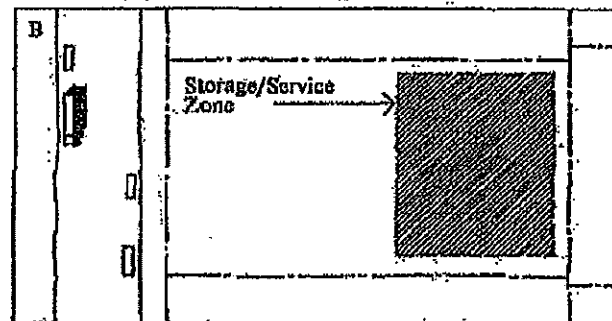
All outside service and storage areas of commercial buildings should be completely screened with the use of architectural compatible walls or fencing material and the incorporation of landscape treatments.

Areas used for storage should be away from major streets, residential areas, and other high visibility zones, and located preferably on the rear half of the site. This requirement also applies to outdoor storage of equipment, service vehicles and U-haul vehicles.

*(A) Buildings should be utilized to screen service yards and parking.*



*(B) Storage and service zones are best placed at the rear of a site, away from the street.*



## PEDESTRIANS

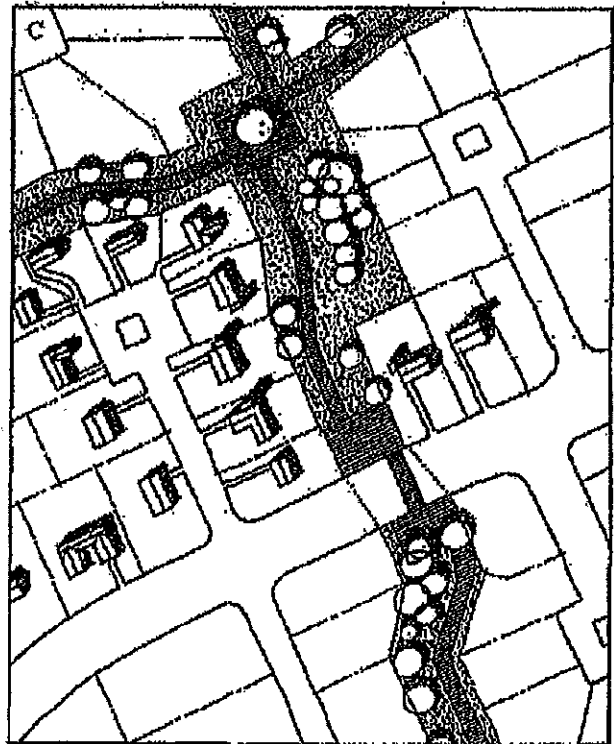
All new developments should assure that pedestrian access is safe, pleasant, and convenient.

The internal system should be linked with neighborhoods or Town-wide systems, particularly to greenways and parks (existing or planned).

Identifiable pedestrian crossings should be a part of street design.

Plans for pedestrian easements (easements located outside public rights-of-way) should identify clearly the party responsible for the easement's perpetual maintenance.

*Internal pedestrian movement systems should be located in continuous, landscaped easements.*



Major residential subdivisions should develop a system for internal pedestrian movement.

### Internal Walkways

Walkways should be designed to promote safe pedestrian movement to parking areas, to other buildings, and to the external sidewalk system. Internal walkways should be protected from automobile traffic by raised curbs, and should be routed to minimize conflicts with automobiles. Where intersections occur, pedestrian walkways should be clearly marked with paint or a contrasting surface material.

Walkways or sidewalks should be provided along all public streets. Recommended design solutions include:

Separating sidewalks from the roadway by a planted strip;

Allocating a wider-than-usual pedestrian section when the sidewalk bends and meanders;

Bending the sidewalk into adjoining lands;

Providing an asymmetric road section with a wide pedestrian area on one side and a narrow one on the other;

Depressing or raising the walk and constructing adequate barriers to ensure safety;

Providing parking adjacent to the walk as an additional barrier and measure of safety;

Installing special expanded sidewalks at intersections as a strategy for making motorists aware of the presence of a pedestrian crossing, and encouraging drivers to reduce speed before entering the block;

Making the walk compatible with walks in the existing neighborhoods by using similar materials; and

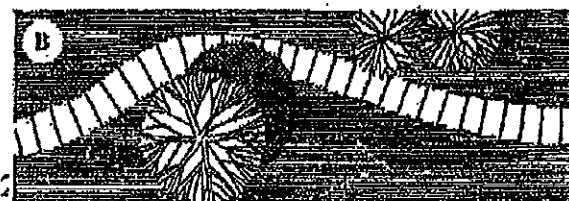
Providing for handicapped access along walkways at street/driveway intersections and whenever appropriate.

*Variations in walkway construction can have a beneficial impact on pedestrian activity. Some typical variations are as follows:*

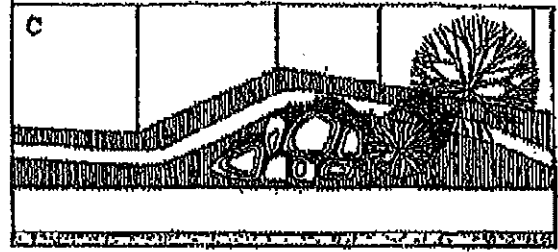
*(A) Curbside planting strips;*



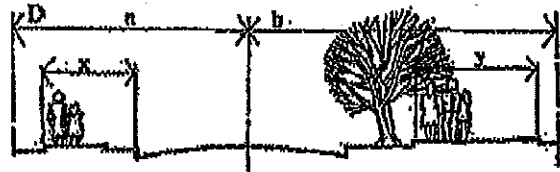
*(B) Meandering paths;*



*(C) Detours around natural features;*



*(D) Width of sidewalks and placement within right-of-way;*



*(E) Elevation; and*



*(F) Materials and patterns of construction.*



**BICYCLES**

Thompson's Station's intends to encourage alternate modes of transportation inclusive of bicycles. Whenever practicable, developments should incorporate new bikeways into its plans.

In addition, if a development's location or function makes it likely to attract significant bicycle traffic, development planning should include areas for bicycle storage and parking.

**Bicycle Parking**

Bicycle parking should be a part of the plan for all new construction and renovation projects. The kinds of bicycle parking needed are related to the function of the project, as follows:

Multi-unit dwellings should provide proper facilities for the safe and sheltered storage of bicycles. Bicycle parking and storage should be as convenient and close to a dwelling entrance as automobile parking.

The number per dwelling unit of bicycles for which storage should be provided should be appropriate to the location and expected clientele.

Bicycle parking for businesses:

Businesses and organizations should recognize the needs of cyclists who may bicycle to work as well as patrons of the business or organization. These cyclists need convenient use of a bicycle rack.

**STORMWATER MANAGEMENT**

Prudent site planning includes special consideration for storm water management for the purpose of (1) preserving natural drainage-ways and (2) slowing storm water run-off from individual sites en route to streams and rivers by use of catchment ponds and retention-sedimentation basins. Storm water discharge should be directed away from slopes and into such ponds. The rate of discharge must correspond to the rate prior to site development. It is important that natural drainage systems be kept free of development in order to avoid drainage bottlenecks on individual sites. Where "rip-rap" is to be utilized, local use of stone (for color) should be used. The use of "blue/gray" stone, in areas of high visibility, is discouraged.

**Detention Ponds**

Detention ponds for run-off and sedimentation should be located where a natural holding pond already exists.

Disruption to hillsides should be minimized so that the natural drainage pattern might continue uninterrupted, resulting in a gradual run-off rate that minimizes downstream erosion.

Retention and/or detention ponds on wooded sites should be located in existing ponds or drainage tributaries that subsequently feed into major valleys.

Ponds should be designed as part of the landscape with grades so gradual that no fencing is required.



In retention ponds that always contain water, pond design should provide for aeration (by use of a fountain, for example).

Detention areas designed for temporary run-off should be designed and graded to fit naturally into the landscape; erosion-prone slopes should be planted with wetland vegetation.

### **UTILITIES**

In new-site development, all utility lines and electrical power lines with a capacity less than 3-phase must be placed underground. Underground installation of all lines is encouraged.

Where overhead lines are necessary, they should be located in a manner that minimizes their visual impact.

Utility easements and installations should overlay site access drives, wherever possible, to minimize disturbance of native vegetation.

In areas of vegetation, trees should remain as dominant vertical visual elements-utility poles should not extend above the tree line.

Overhead utility lines should be located inconspicuously by reducing the length of straight, elongated easements. To minimize vegetation disturbance, easement widths should be kept to a minimum, and cut in a manner that will reduce "tunnel" effects. The planting of low-growing trees within the easement will enhance its natural appearance and are encouraged.

Utility poles and supports should be neutral in color.

Utility easements should be planted with native plant species to help blend into the surrounding vegetation. Developers should check with local utility companies to determine their varying planting standards.

Landscaping should be planted to recognize existing or below-ground utilities. Appropriate plant materials should be selected that will not, when mature, interfere with above ground utilities, or create problems with routine underground maintenance practices.

Landscaping in the vicinity of surface mounted transformers and switching boxes should allow for sufficient distance to perform routine maintenance of these facilities.

# **ARCHITECTURAL CHARACTER**

## **KEY DESIGN OBJECTIVES**

Buildings should be designed and located so that they provide visual interest and create enjoyable, human-scale spaces.

Building design should blend with the natural terrain by means such as terracing or other techniques that minimize grading.

Designs should be compatible, in form and proportion, with the neighboring area.

Designers should strive for creativity in form and space wherever contrast and variety are appropriate to the larger environment.

## **PROPORTION AND SCALE**

**Proportion:** the relationship of elements to one another in a building.

A development's buildings should be designed so as to relate to the proportions of architectural forms, planes and details within the existing physical context. Proportions are the ratios established by length, width, and height; and may exist as planar or volumetric measurements. Doors, windows, stairs, porches, pediments, architraves, roof shapes, and entire facades are frequently used as sources for proportions.

**Scale:** The relationship of building to a person.

Designs should incorporate architectural elements that give scale, or a sense of scale, to buildings. For example: Small windows make a building look larger; use of textured concrete lends "scale" to a building's mass.

## **ARCHITECTURAL DETAILS**

### **Entrances**

Entrances should clearly identify important access points.

Entrances should provide an introductory statement for a building, and should be landscaped with plants complementary to the building's architecture and style.

### **Facade Treatment**

All elevations of a building's exterior design should be coordinated with regard to color, materials, architectural form and detailing.

The number of different materials on exterior facades should be limited.

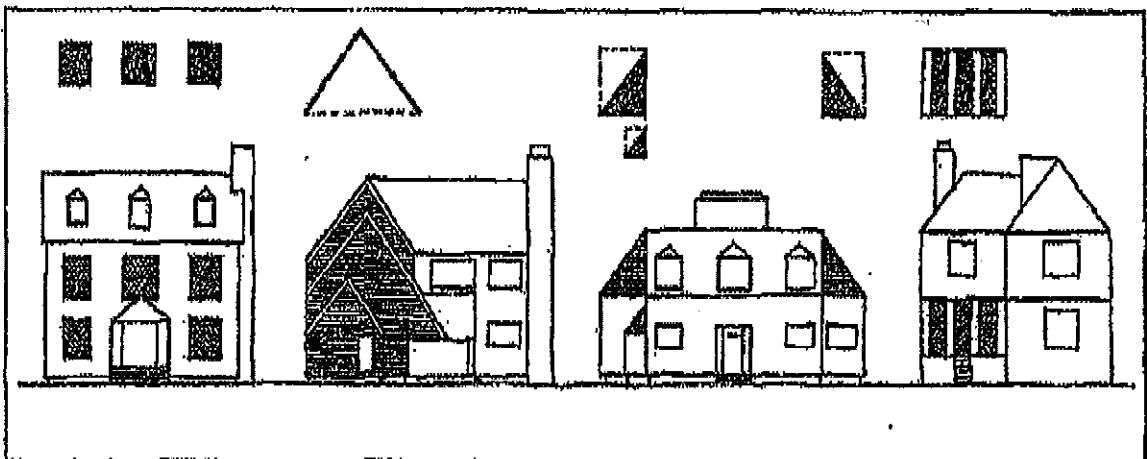
When a portion of a building faces onto a greenway or park, it should be similar in design to the front facade of the building.

### Setbacks

Building setback (distance from street) should be compatible with positioning of existing buildings on the block or Street.

Business blocks should maintain a continuous neighborhood facade - for definition of sidewalk space and pedestrian interest.

*Proportions derived from existing forms, surfaces, and details can be the basis for decisions concerning architectural character. The heavy black shapes and lines shown below are some of the formal elements of a language of design in this streetscape.*



### Roof Design

Roof shape, color and texture should be coordinated with treatment of the building's perimeter walls.

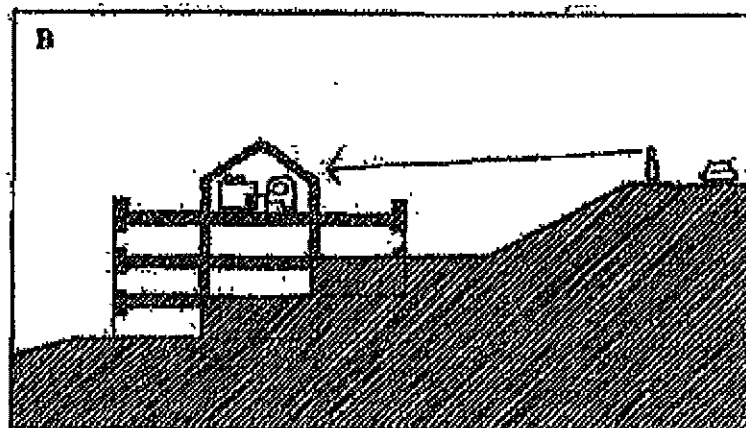
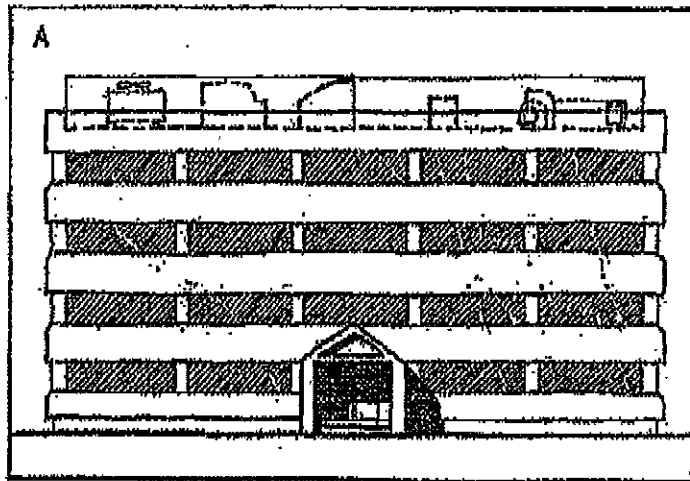
Roof design should minimize the negative impact of roof protrusions by grouping plumbing vents, ducts and other utility structures together.

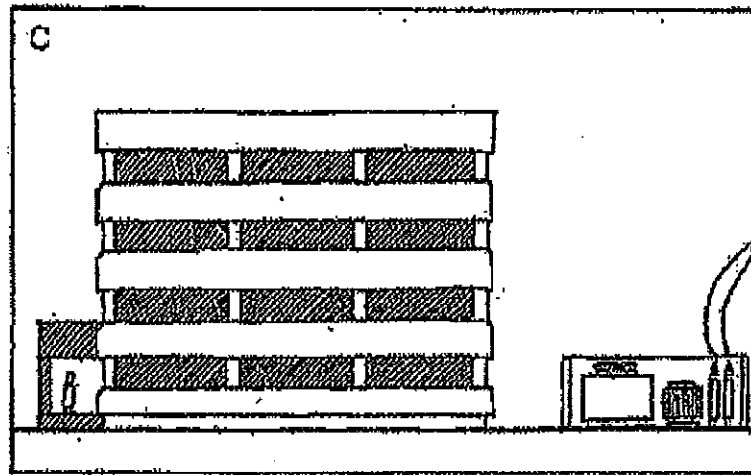
All rooftop mechanical and electrical equipment should be screened from view of people on the street.

On hillside sites, a stepped roofline helps relate the building to the topography and natural vegetation.

Large, flat-roofed areas viewable from the street are unacceptable.

*Roofshape and silhouette strongly influences architectural character. (A) Rooftop mechanical systems, elevator penthouses and other features are best screened by a parapet. (B) In hillside situations where the possibility exists for viewing roofs from above, it may be necessary to incorporate mechanical systems into the roof design, (C) or place them in a screened area at ground level.*





### **EXTERIOR BUILDING MATERIALS**

Some nonresidential recommended facing materials are as follows: stone; unglazed and un-patterned brick in soft colors; painted, stained or weathered wood siding or shingles; textured concrete; and aluminum siding in soft colors and fine textures.

There should be strong transitions between changes of materials and surfaces. In newly developed areas, an overall and simple geometry for the building mass is recommended.

#### **Color and Texture**

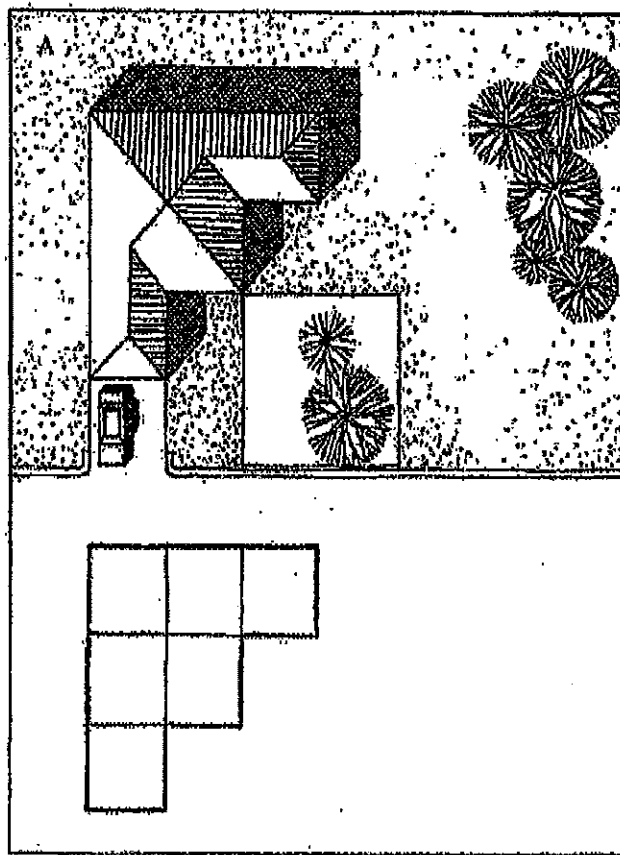
Simple buildings can be made interesting by having their openings and entryways clearly expressed with offsets, and with changes of texture or color. Basic materials, texture, and color should be compatible with other buildings in the area.

Entries are transition areas and may be reinforced by special paving, planting and lighting treatment. Architecturally, they should be expressed by simple changes in form, line, color or texture.

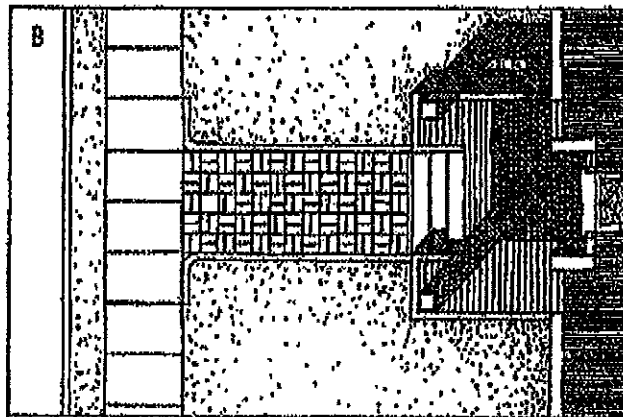
Color and texture for architectural finishes should be selected to provide visual unity.

Texture of the roof and wall finishes should provide scale or a reference point for the pedestrian in proximity to the structure.

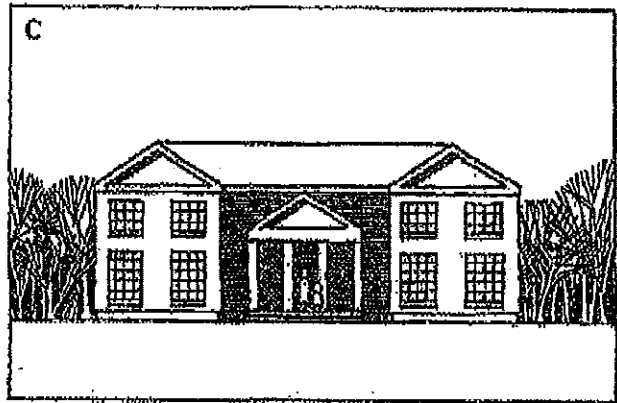
*(A) The use of offsets in walls and building masses can make simple structures quite interesting.*



*(B) This same reasoning applies to controlled variations in level, form, line, and patterns of materials.*



*(C) Textures - both visual and tactile can help reinforce scale in buildings.*



## LIGHTING

Exterior lighting and site furniture should be architecturally integrated with the building's style, material, and color.

Lighting intensities should be controlled to assure that excessive light spillage and glare are not directed toward neighboring areas and motorists.

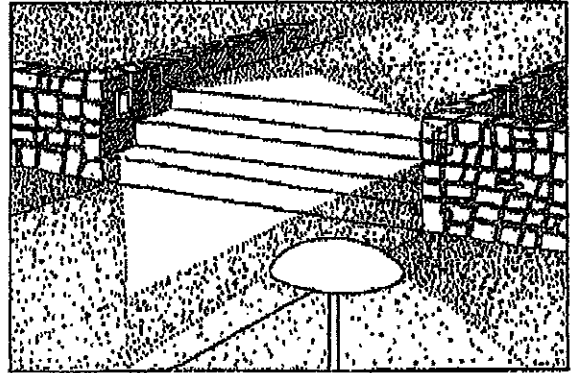
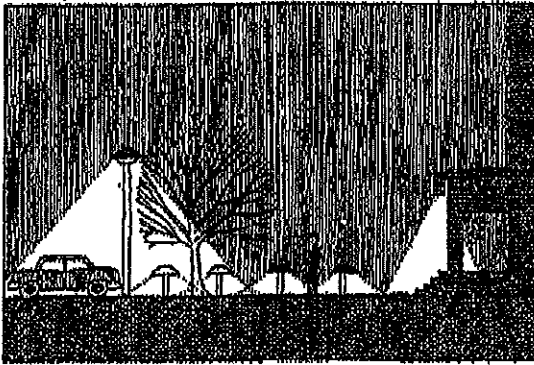
Down lighting should be used to reinforce the circulation corridor; up lighting is better suited for highlighting transition points.

Incandescent fixtures, on light posts of appropriate size, should be used to indicate onsite, pedestrian-circulation systems. Low lights should be located along driveways and other internal site corridors to provide continuous illumination of the pavement. Areas between parking lanes, as well as pedestrian-ways through parking areas, should be emphasized by low angle lighting of the vegetation.

Low-angle lighting of buildings generally is not encouraged. However, such lighting can be attractive if it is incorporated carefully into the architectural design.

When adjacent to greenways and parks, site lighting should be compatible with neighboring lighting systems.

*Down-lighting is most effective in illuminating a circulation corridor. For safety, lighting is needed especially at stairs along such corridors.*



## **LANDSCAPE CHARACTER**

### **KEY DESIGN OBJECTIVES**

A landscape theme should foster unity of design and reinforce existing vegetation with compatible plantings. (Example, new seedling plantings could expand an existing tree canopy.)

Entrances into developments should be sensitively landscaped. Appropriate signs, compatible with the building(s), should be installed to identify the project and frame the entryway.

Appropriate landscaping should be used around structures to blend with the natural landscape.

Trees should be retained, where they provide screening or soften views of the site.

Landscaping should be massed or clustered - not spread out in thin, linear patterns.

### **BUFFERS**

Developers are encouraged to provide street tree plantings that establish an attractive and consistent streetscape and scale.

Natural vegetation along property edges is useful for hiding parking areas.

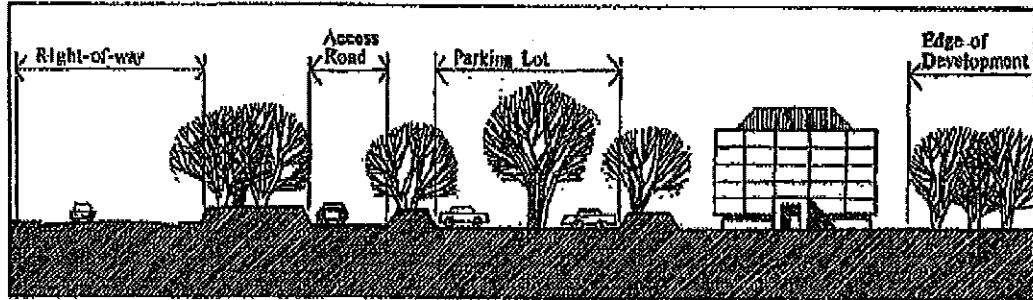
Storage and loading areas must be screened with planted buffers at least six feet in height, or rising two feet above material or equipment being stored, whichever is greater.



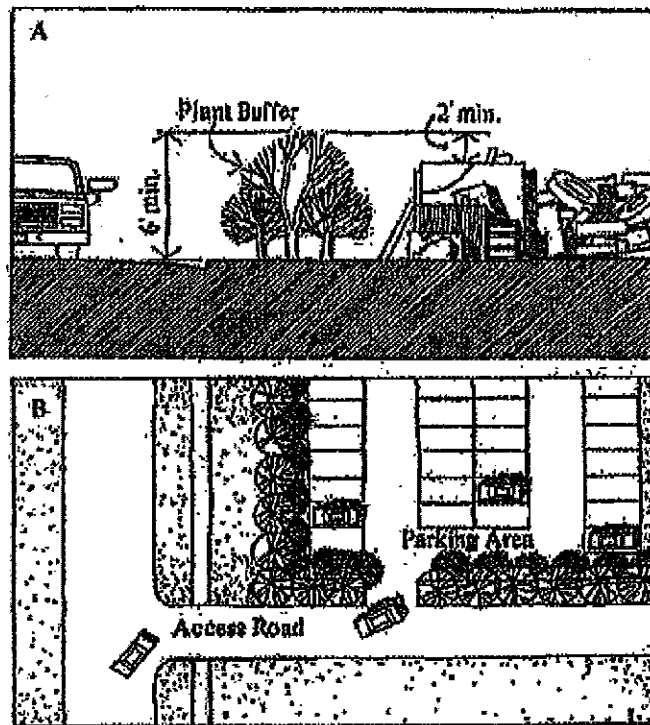
All loading berths and refuse containers should be within the building or concealed by means of a screening wall of material similar to and compatible with that of the building. Suitable plant materials could be used at the base and corners of the screening wall to soften the wall's appearance.

Buffers should be located carefully so that they are not just edge strips. This can be achieved through placement of plantings, and in some cases by the addition of plant materials beyond buffer requirements.

*This illustration shows the desirable use of landscaping buffers between roads, parking areas and buildings.*



*(A) The minimum height for effectively screening a storage area is 6 feet. (B) Landscaped buffers serve as both visual and physical screens for pedestrians and motorists.*



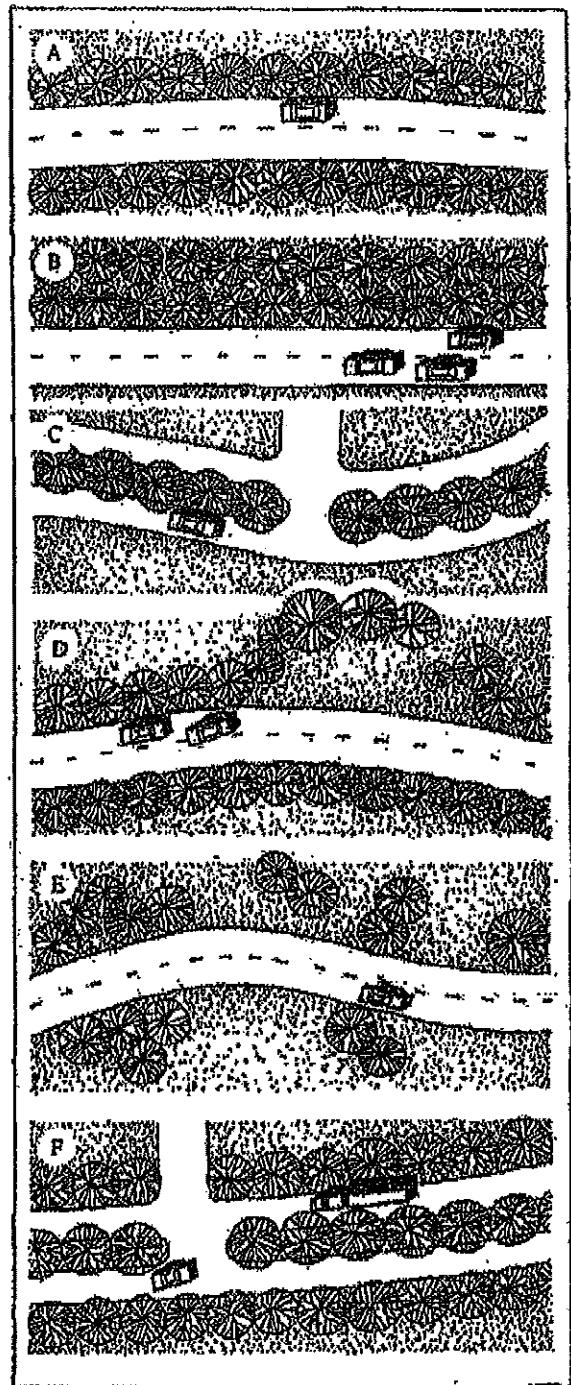
## **The Planting Plan**

Quality landscaping is essential to a good environment, and a good environment helps maintain the occupancy level of a completed development as much as any other factor. Locating a few trees on the site is unacceptable; landscape development should be an integral part of the project early in the planning process.

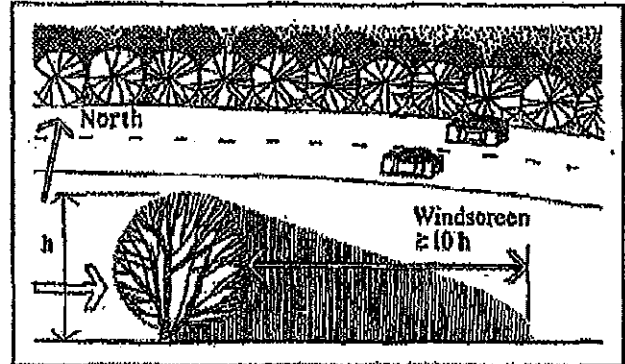
*Variations in street tree planting arrangements can enhance landscape character.*

*From top to bottom:*

- (A) Single row on either side;*
- (B) Double row on one side;*
- (C) Single row in median;*
- (D) Break in formal planting pattern;*
- (E) Informal planting pattern;*
- (F) Single row on either side and in median.*

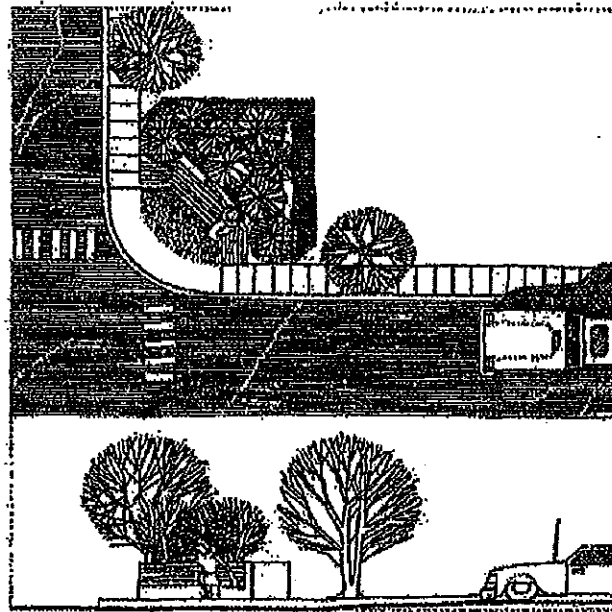


*Trees planted on the north side of the street provide shade for houses. Trees also act as a windscreen, creating a protected area as much as ten times in width as the average tree height.*

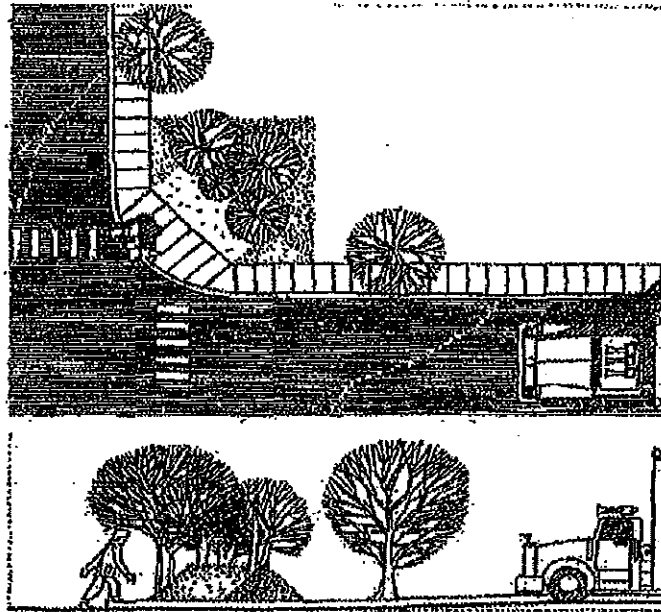


*Intersections and Street profiles reveal many possibilities for landscaping and pedestrian walkway design.*

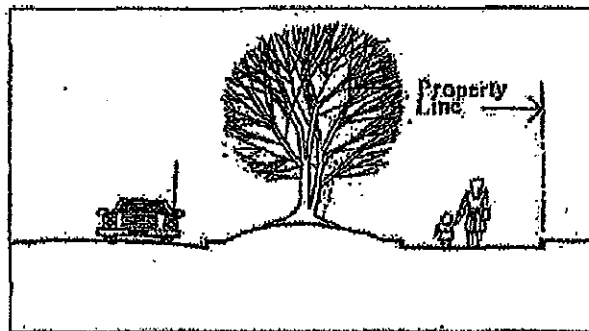
### INTERSECTION AND STREET PROFILE DESIGN



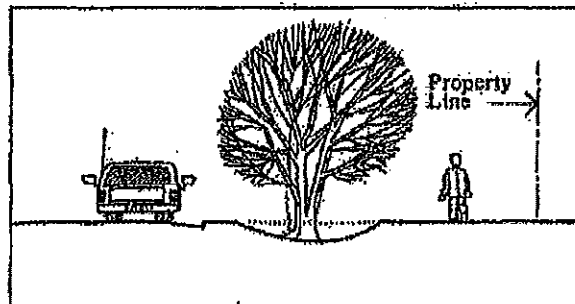
INTERSECTION A



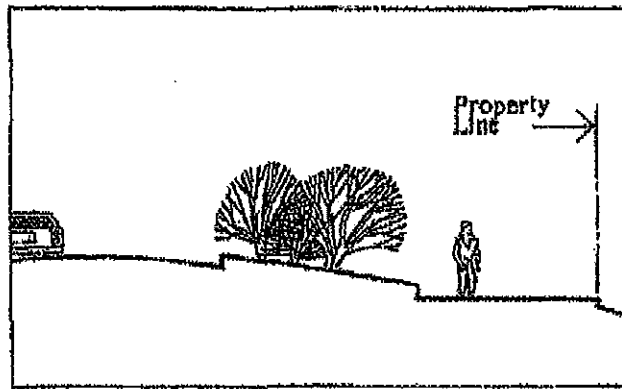
**INTERSECTION B**



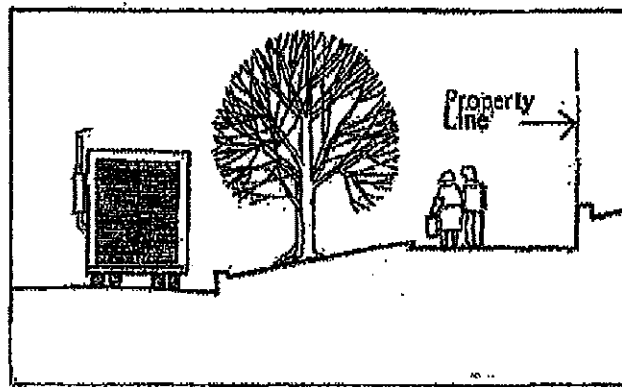
**LEVEL GRADE STREET PROFILE - Alternative A**



**LEVEL GRADE STREET PROFILE - Alternative B**



DESCENDING GRADE STREET PROFILE



ASCENDING GRADE STREET PROFILE

### TRANSITIONS AND ENTRIES

Arrival points and building edges are intended to serve as transitional zones between the vehicles, pedestrians and buildings. The arrival area should be landscaped to make a positive introductory statement about the site.

A 20- to 40-foot transitional zone consisting of special landscaping and paving materials should be provided along building edges to separate pedestrian and vehicular traffic as well as introduce the visitor or user to the main entrance.

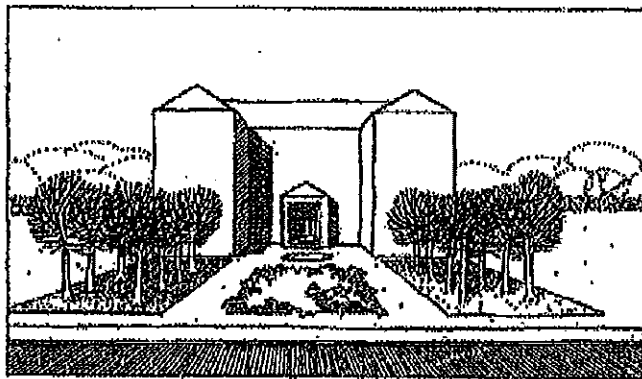
#### Entries

Entries bring people onto a site. Special landscaping provides a sense of arrival and introduces the visitor or user to the building's main entrance.

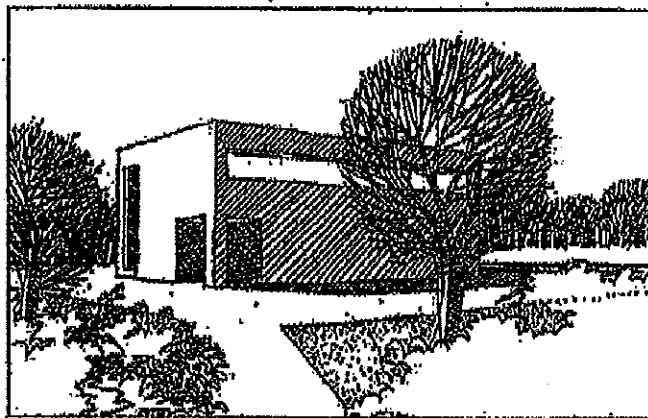
Entries may be landscaped formally or informally, depending upon natural site conditions and the image desired.

Use of landscaped median islands is encouraged for medium or large-sized developments. Landscaping should provide consistency with surrounding neighborhood and consist of low-maintenance plants.

ENTRANCE DESIGN CONCEPTS

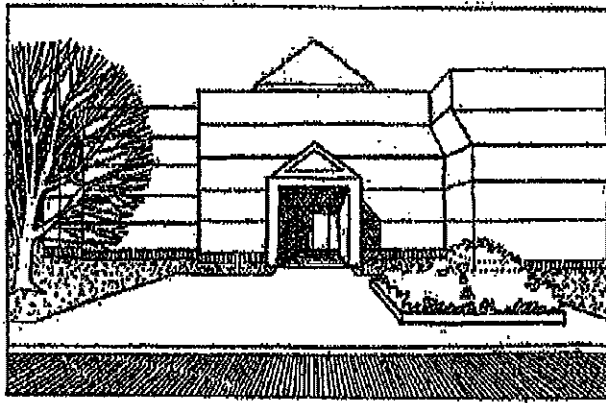


Symmetrical

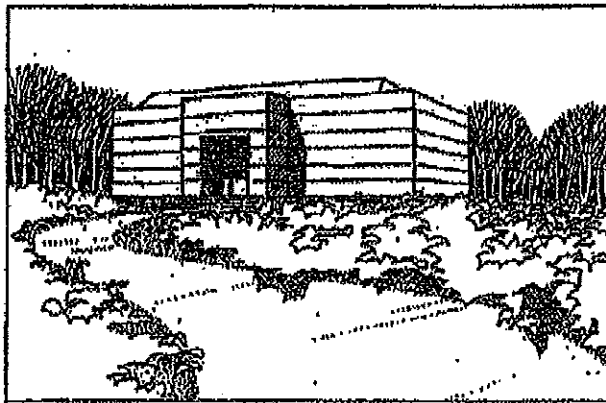


Nonsymmetrical





Direct



Indirect

### **PARKING AREAS**

Views from buildings into parking areas should be broken by strategic placement of planting islands within the parking area.

Visual buffers should be solid enough to screen the mass of pavement and cars from neighboring properties and streets. This buffering should be achieved with existing vegetation wherever possible.

Buffering materials should be placed in clustered units.

Interior planter islands should be large enough to sustain canopy tree growth. Ends of parking aisles should contain landscaped islands at least eight feet in width. These islands delineate driveways, entrances, and exits of the parking lot.

Natural contouring should occur in the required buffer-yards and be supplemented by earth berms, where appropriate, to blend in with the character of the site while effectively screening the parking area.

In parking lots of more than 100 cars, landscaped dividers of sufficient size and foliage density are necessary to break up the mass of pavement. In such cases, clusters of wide planted islands are encouraged. The intent is to generate a landscaped mass within parking areas of sufficient size to break parking into manageable areas.

In parking lots of 200 cars or more, a pedestrian walkway separated from traffic aisles is recommended in order to minimize conflicts between pedestrians and vehicles.

### **Recommended Parking-area Details**

**Tree Planting:** Trees planted between rows of cars and around the parking lot perimeters provide important visual screening.

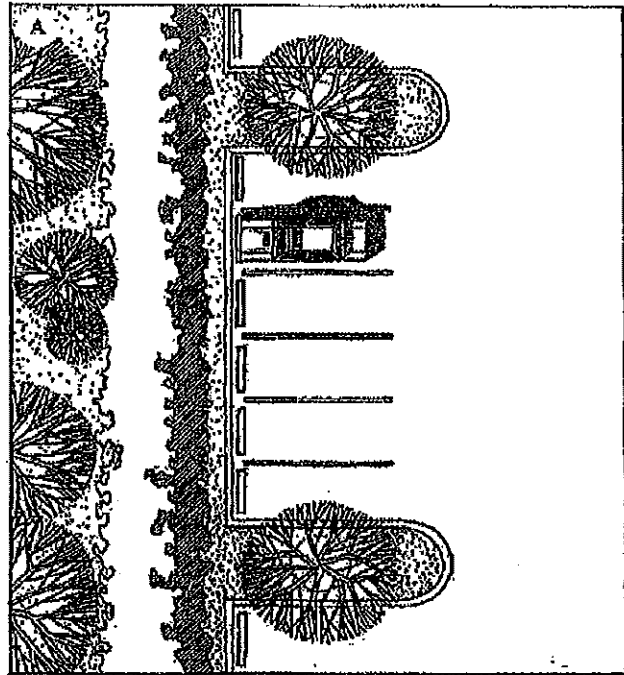
**Berms:** Berms are planted earth mounds which physically, and often gracefully, block views without relying on architectural elements. Berms are most useful where the mounding is natural and there is plenty of room.

**Fences and Walls:** These architectural solutions are immediate, effective, and inexpensive methods to screen unwanted views. They require little room and can be designed to solve specific problems.

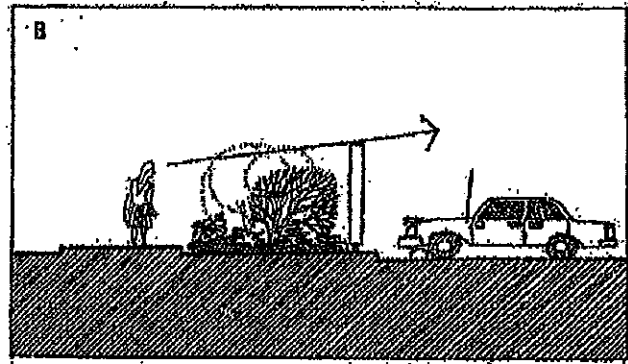
**Below-grade parking lot:** This is an effective measure that can be worked in with various other site constraints.

**Grassed parking areas:** Bricked or cobble-stoned parking lots, with materials spaced so that grass can grow, can be much more attractive than paved areas. Such areas cannot support heavy wear, but are useful for occasional parking. Landscaped islands should be designed to sustain healthy plant growth.

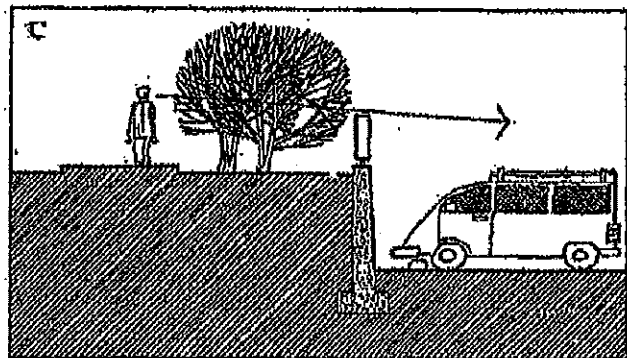
*(A) Hedges and trees can act as visual screens in parking areas.*



*(B) To be effective on level sites, screens must shield the roofs of cars and vans from view.*



*(C) Sunken parking areas are more effective in shielding automobiles from view if augmented by trees and shrubs.*



## **PLANTS**

### **Preserving Natural Vegetation**

Tree preservation is an important issue within Thompson's Station. Significant existing trees exceeding 18 inches in diameter should be preserved wherever possible. At a minimum, selective retention of the more significant trees should occur, particularly within areas where the fragile ecological setting could be disrupted by tree removal.

Vegetation on sloping sites plays a critical role in maintaining aesthetic quality and in minimizing erosion and downstream flooding.

Preservation of specimen trees at entries and within parking areas provides the opportunity to project an image of buildings tucked into, rather than superimposed on, the natural landscape.

During a development's construction phase, preservation of existing trees requires protection by physical barriers, plus adequate supervision during site construction activities.

### **Plant Selection and Maintenance**

New plant material should complement existing site vegetation and be consistent in character with natural site features, particularly where excessive slopes exist.

Planting design should be integrated with all other site features. Indigenous and/or regionally grown plants are preferred.

Tree and shrub plantings should be grouped together to create strong accent points.

Landscaping should be of sufficient size so that mature appearance will be achieved within three to five years of planting.

Deciduous trees should be provided along a building's southern exposure, and conifers and broad evergreen trees along east and west exposures. Such plantings help to lower a building's energy requirements.

Mature plants and shrubs are preferable to immature ones.

## **FENCING**

Walls of natural rock material are a much revered part of Thompson's Station's history. Use of stone walls constructed of local stone materials is strongly encouraged for defining property lines, particularly those along street frontages.

**Fencing Needs**

Fencing is as much a part of the public environment as it is part of a site's private landscape. Therefore, a complex set of factors must be considered in any fencing scheme, which include:

Fencing uses and purposes

Topography

Connections to structures

Plantings

**Fencing Uses and Purposes**

In Thompson's Station, fencing is most-commonly used for protection, entrance definition, or for the creation of an outdoor room.

**Protection**

The basic function of protective fencing is to keep human beings and animals in or out. A fence also can serve as a psychological deterrent to trespassers.

**Entrance definition**

An entrance zone can be created by using architectural and/or planting elements to define the entrance space. Fencing can direct pedestrian traffic, expand interior space, and extend the architectural expression of a house.

**Outdoor room**

Fencing can be used to create an outdoor "room," thereby providing a small, private, open space for each household. Such a room can be an extension of the interior of a house or a separate garden or courtyard. A fence can divide a yard into specific areas for work or play; it also can screen storage, garbage cans, and other visually undesirable elements.

**Topography**

Generally, as fences become more solid, they require flatter topography. Solid board fences, in particular, demand a very flat site.

On topography that is more rolling - 3 percent to 6 percent grade - non-solid or semitransparent fences provide a better fit with the land. Some solid or semi-transparent fences can be effective where retaining walls are planned as an integral part of the fencing scheme.

Long, solid fences should contain offsets or other architectural treatments to break up the appearance of a continuous mass.

**Connections to Structures**

If a fence is attached to a structure, it is considered an architectural extension and should be built at the same time as the structure and with compatible materials.

Fences that are adjacent, but not attached to a structure, usually are built of similar materials; and may be constructed at a later time. An obvious visual joint exists in such a situation and should be recognized. For a cleaner, neater appearance, the fence should be "offset," featuring occasional angles for visual relief from a straight fence line. Generally, fences should be located at corners or related to some architectural feature of a structure.

**Planting**

Any fencing design should include detailed plans for planting.

Long, solid fences should be complemented by appropriate landscaping.

Simplicity is important to any successful planting scheme. A well-balanced mixture of materials is preferable to a wide but unrelated variety of plants.

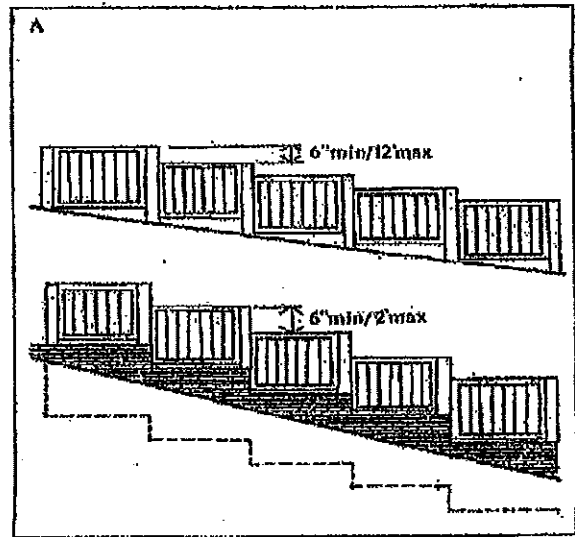
Vines, shrubs, and trees all can be used in fence plantings. In most cases, large-scale trees are as appropriate as vines or shrubs. Vertical lines of trees help to break the often monotonous horizontal line of a fence.

Fence design should take into consideration the play of shadows against the fence. Evergreens have a particular advantage for planting because they provide year-round color and contrast.

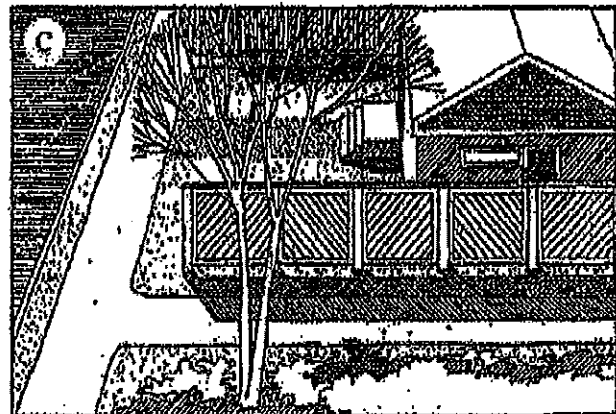
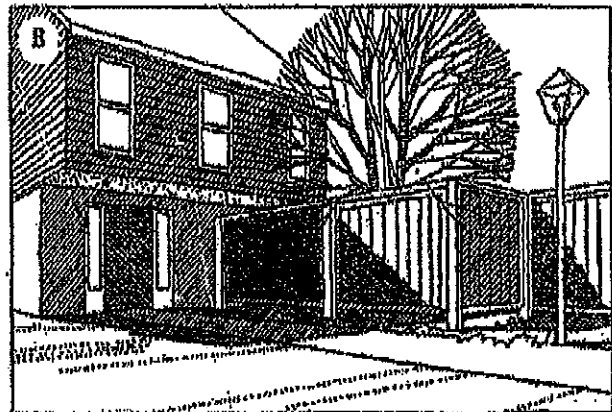
Whichever plants are chosen, they should be grouped or massed at key locations along the fence, such as corners or grade changes.

Planting can be used to replace, as well as to complement fences. In many situations a good landscaping plan will eliminate the need for a fence, while providing a "softer" ambience for outdoor activity.

*(A). Stepped fencing relates well to undulating topography and gentle slopes. Steeply sloping land suggests the use of retaining walls in conjunction with fence design.*

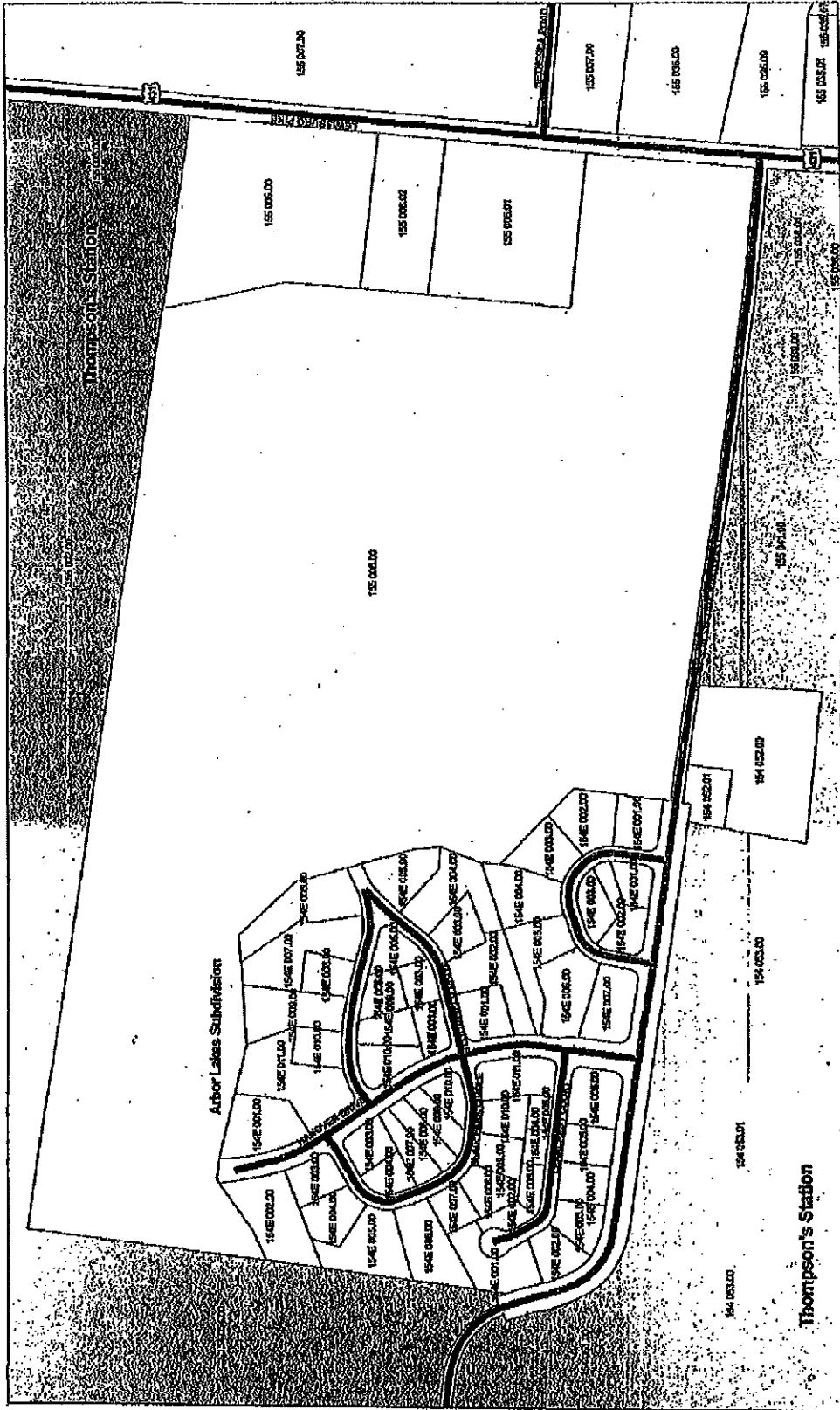
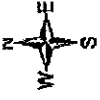


*(B) and (C) Fences are also useful in defining circulation paths and in creating individual identities for houses.*



# Town of Thompson's Station Proposed Annexation Area

Exhibit A



As Amended Plat No. 200-000-000

0 125 250 500 750 1,000 Feet



ORDINANCE NO. 09-014

## AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF THOMPSON'S STATION, TENNESSEE.

WHEREAS some of the ordinances of the Town of Thompson's Station are obsolete, and

WHEREAS some of the other ordinances of the town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the Town of Thompson's Station, Tennessee, has caused its ordinances of a general, continuing, and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "Town of Thompson's Station Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF THOMPSON'S STATION, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Town of Thompson's Station Municipal Code," hereinafter referred to as the "municipal code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the

portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."<sup>1</sup>

Each day any violation of the municipal code continues shall constitute a separate civil offense.

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<sup>1</sup>State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to town officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

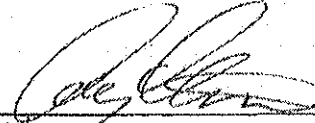
Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

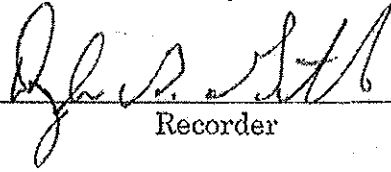
Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, August 11, 2009.

Passed 2nd reading, January 12, 2010.



Vice Mayor



Recorder