

THE
WALDEN
MUNICIPAL
CODE

Prepared by the
MUNICIPAL TECHNICAL ADVISORY SERVICE
INSTITUTE FOR PUBLIC SERVICE
THE UNIVERSITY OF TENNESSEE

in cooperation with the
TENNESSEE MUNICIPAL LEAGUE

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Change 9
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TOWN OF WALDEN, TENNESSEE

MAYOR

Lee Davis

ALDERMEN

Sarah McKenzie

Elizabeth Schmidt

RECORDER

Fern Lockhart

TOWN ATTORNEY

Sam D. Elliott

Preface

The Walden Municipal Code contains the codification and revision of the ordinances of the Town of Walden, 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 substantial 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 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 town's ordinance book or the town recorder for a comprehensive and up to date review of the town's ordinances.

Following this preface is an outline of the ordinance adoption procedures, if any, prescribed by the town'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 8 of the adopting ordinance for the code).

(2) That one copy of every ordinance adopted by the town is furnished to MTAS immediately after its adoption (see section 8 of the adopting ordinance).

(3) That the town agrees to reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

Presently, 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 Mrs. Tracy G. Gardner, the MTAS Word Processing Specialist who did all the typing on this project, is gratefully acknowledged.

Andre Coure
Codification Specialist

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE TOWN
CHARTER

1. Publication of ordinances--Codification.--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. Ordinance procedure.--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)

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. MISCELLANEOUS.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

SECTION

- 1-101. Time and place of regular meeting.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Change to staggered terms.
- 1-105. Duties of the board with respect to personnel decisions.

¹Municipal code references

- Fire department: title 7.
- Wastewater treatment: title 18.
- Zoning: title 14.

²Charter references

For charter provisions related to the board of mayor and aldermen, see Tennessee Code Annotated, title 6, chapters 1 through 3. For specific charter provisions on the following subjects related to the board of mayor and aldermen, see the sections indicated.

- 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.

1-101. Time and place of regular meeting. The governing body shall hold regular monthly meetings at 6:30 P.M. on the second Tuesday of each month at the Walden Town Hall located at 1836 Taft Highway, Walden, Tennessee. (Ord. #35, May 1979, as replaced by Ord. #2002-227, April 2002, and amended by Ord. #2013-292, April 2013)

1-102. Order of business. At each meeting of the governing body, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.
- (2) Prayer.
- (3) Pledge of allegiance.
- (4) Roll call by the recorder.
- (5) Approval or correction of minutes of the previous meeting.
- (6) Communications from the mayor.
- (7) Reports from committees, members of the governing body and other officers.
- (8) Unfinished business.
- (9) New business.
- (10) Communications from citizens.
- (11) Adjournment. (Ord. #2, Dec. 1975, as replaced by Ord. #2002-227, April 2002)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Revised, shall govern the transaction of business by and before the governing body at its meetings in all cases to which they are applicable and in which they are not inconsistent with provision of the charter or this code. (Ord. #2, Dec. 1975, as replaced by Ord. #2002-227, April 2002)

1-104. Change to staggered terms. (1) The board of mayor and aldermen shall serve non staggered two-year terms.

(2) This section shall not effect the present terms of the mayor and members of the board currently serving four-year staggered terms, but shall take effect for the next appropriate municipal election following the adoption of this section.¹

(3) Municipal elections shall be held every November in even numbered years. (Ord. #92-135, April 1992, as amended by Ord. #98-201, Aug. 1998)

¹These provisions were taken from Ordinance No. 98-201 which passed second reading August 11, 1998.

1-105. Duties of the board with respect to personnel decisions. With respect to the duties enumerated under Tennessee Code Annotated, § 6-3-106(b)(2), the board of mayor and aldermen shall be responsible for and shall have authority over all decisions relating to the Town of Walden employees, which shall include without limitation all department heads, city administrators and the town recorder (the "town employees"). No town employee may be employed, promoted, disciplined, suspended, discharged or terminated except by action of a majority of the board of mayor and aldermen and in accordance with applicable personnel policies. (as added by Ord. #2014-301, Jan. 2015)

CHAPTER 2

MAYOR¹

SECTION

1-201. Mayor generally supervises municipality's affairs.

1-202. Mayor executes municipality's contracts.

1-201. Mayor generally supervises municipality's affairs. The mayor shall have general supervision of all municipal affairs and may require such reports from the officers and employees, as he or she may reasonably deem necessary to carry out his or her executive responsibilities. (Ord. #2, Dec. 1975, as replaced by Ord. #2002-227, April 2002)

1-202. Mayor executes municipality's contracts. The mayor shall execute all contracts as authorized by the governing body. (Ord. #2, Dec. 1975, as replaced by Ord. #2002-227, April 2002)

¹Charter references

For charter provisions related to the mayor, see Tennessee Code Annotated, title 6, chapters 1 through 3. For specific charter provisions on the following subjects related to the mayor, see the section indicated:

Vacancies in office: 6-3-107.

Vice-Mayor: 6-3-107.

CHAPTER 3

RECORDER¹

SECTION

1-301. Deleted.

1-302. Recorder to keep minutes, etc.

1-303. Recorder to perform general administrative duties, etc.

1-304. Recorder to serve as treasurer.

1-305. Duties of the town recorder.

1-301. Deleted. (Ord. #2, Dec. 1975, as deleted by Ord. #2002-227, April 2002)

1-302. Recorder to keep minutes, etc. The recorder shall keep the minutes of all meetings of the governing body and shall preserve the original copy of all ordinances in a separate ordinance book. (Ord. #2, Dec. 1975, as replaced by Ord. #2002-227, April 2002)

1-303. Recorder to perform general administrative duties, etc. The recorder shall perform all administrative duties for the governing body and for the municipality, which are not assigned by the charter or the governing body to another corporate officer. He or she shall also have custody of, and be responsible for maintaining all corporate bonds, records, and papers in such file cabinets fireproof vault, or safe as the municipality shall provide. (Ord. #2, Dec. 1975, as replaced by Ord. #2002-227, April 2002)

1-304. Recorder to serve as treasurer. The position of town recorder is hereby expanded pursuant to Tennessee Code Annotated § 6-4-401(c) to include the position of treasurer and such position shall hereafter be referred to as town recorder/treasurer. (as added by Ord. #97-193, Nov. 1997)

1-305. Duties of the town recorder. The board hereby confirms the designation of the town recorder to perform those duties enumerated under Tennessee Code Annotated, § 6-3-106(b)(1), (3) and (4) of the code. (as added by Ord. #2014-301, Jan. 2015)

¹Charter references

City recorder: 6-4-201 et seq.

Recorder as treasurer: 6-4-401(c).

Recorder as judge: 6-4-301(b)(1)(C).

CHAPTER 4

MISCELLANEOUS

SECTION

1-401. Administrative employees shall be bonded.

1-401. Administrative employees shall be bonded. All administrative employees shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to the governing body. (as added by Ord. #2002-227, April 2002)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. MUNICIPAL PLANNING.
2. RECREATION BOARD.
3. CITIZENS' ADVISORY COMMITTEE.

CHAPTER 1

MUNICIPAL PLANNING

SECTION

- 2-101. Municipal Planning Commission.
- 2-102. Zoning Board of Appeals.

2-101. Municipal Planning Commission¹. The Chattanooga-Hamilton County Regional Planning Commission is designated as the municipal planning commission of the Town of Walden, Tennessee.

It shall be the duty of the Commission to make and adopt a general plan for the physical development of the territory of Hamilton County, including the territory within the municipalities, to develop a land use plan for all property within the County, including the municipalities, and to develop a major street plan so as to coordinate the streets and highways in the County and municipalities, and to perform other such duties and make such studies as directed by the Board of Mayor and Aldermen and the Planning Commission. (Ord. #4, Jan. 1976, as modified)

2-102. Zoning Board of Appeals. The board of mayor and aldermen shall no longer be designated as the official Zoning Board of Appeals for the Town of Walden, Tennessee, and that the board is hereby authorized to appoint five members of the community to serve as the official Zoning Board of Appeals for the Town of Walden, Tennessee. The first zoning board of appeals appointed shall serve terms of one, two, three, four, and five years respectively. Thereafter terms shall be for five years, and vacancies shall be filled for the unexpired terms only. The board shall have power to remove any member of the zoning

¹State law reference

See T.C.A. 13-3-101 et. seq. for authority to designate the Tennessee State Planning Commission as the municipal planning commission.

Municipal code reference

Zoning & land use control: title 14.

board of appeals for cause, after a public hearing. (Ord. #57, Oct. 1980, as amended by Ord. #99-212, Dec. 1999)

CHAPTER 2

RECREATION BOARD

SECTION

2-201. Recreation board established.

2-202. Meetings of the recreation board.

2-203. Record of recreation board proceedings to be kept.

2-204. Requirements for recreation board quorum and action.

2-205. Powers and duties of the recreation board.

2-201. Recreation board established. There is hereby established a recreation board to be composed of the Board of Mayor and Aldermen of the Town of Walden. A chairman shall be designated by the board from among its members. Members of the recreation board shall serve without compensation. (as added by Ord. #98-196, March 1998)

2-202. Meetings of the recreation board. All meetings of the recreation 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 recreation board a special meeting may be called by the chairman provided he gives reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (as added by Ord. #98-196, March 1998)

2-203. Record of recreation board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the recreation 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 seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon. (as added by Ord. #98-196, March 1998)

2-204. Requirements for recreation board quorum and action. The attendance of at least a majority of the members of the recreation board shall be required to constitute a quorum for the purpose of transacting business. Matters before the recreation 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. (as added by Ord. #98-196, March 1998)

2-205. Powers and duties of the recreation board. The board shall act as representatives of the citizens of the Town of Walden to determine the recreational objectives and needs of the town and to establish policies and goals

that will fulfill these objectives and needs. (as added by Ord. #98-196, March 1998)

CHAPTER 3

CITIZENS' ADVISORY BOARD

SECTION

- 2-301. Establishment and purpose.
- 2-302. Organization and membership.
- 2-303. Duties and functions.
- 2-304. Appointment process.
- 2-305. Meetings and officers.

2-301. Establishment and purpose. There is hereby created a citizens' advisory committee to serve in an advisory capacity to the board of mayor and aldermen as a research and discovery entity devoted to special projects with potential benefits to the community. Subcommittees shall be created by resolution. (as added by Ord. #2020-336, Jan. 2021 **Ch9_11-09-21**)

2-302. Organization and membership. The committee may consist of as many independent subcommittees as the board of mayor and alderman may create to address current topics or areas of community interest. Such subcommittees shall have specific functions and terms of existence (not to exceed four (4) years) as determined by the board of mayor and aldermen. A subcommittee shall consist of as many as seven (7) members as the board of mayor and aldermen determines to be necessary for the area of community interest, in some instances requiring a particular skill set or area of expertise. The majority of members of any subcommittee shall be residents of the town. (as added by Ord. #2020-336, Jan. 2021 **Ch9_11-09-21**)

2-303. Duties and functions. The committee shall be charged with information gathering, consolidation of such, and the communication of its conclusions to the board of mayor and aldermen, including suggestions and recommendations for improvements or changes to benefit the community. (as added by Ord. #2020-336, Jan. 2021 **Ch9_11-09-21**)

2-304. Appointment process. Appointments to any committee of the Town of Walden (hereinafter referred to generally as "board" or "town board") shall be by a majority vote of the board of mayor and alderman, unless otherwise provided by state law. The board of mayor and aldermen will make every effort to ensure that the membership of its advisory committees reflects the diversity of the community. Committee openings shall be publicly advertised for a period not less than three (3) weeks. Committee applicants shall submit an application supplied by the town and may submit a letter of intent and a resume listing qualifications and other reasonable information requested by the board of mayor and aldermen for making an informed decision. Members will serve without pay,

but with prior approval shall be reimbursed for expenses. (as added by Ord. #2020-336, Jan. 2021 **Ch9_11-09-21**)

2-305. Meetings and officers. The date and time of regular meetings shall be decided by a majority vote of the committee. A majority of members shall constitute a quorum necessary to transact committee business. All meetings shall be publicly noticed and comply with the provisions of Tennessee Open Meetings Act. At the beginning of each calendar year, committees shall elect a chairman who will set the agenda, call and preside over meetings, provide orientation to new members, and keep all members informed; a vice-chairman to serve in the chairman's absence; and a secretary who shall keep minutes for the committee, and upon approval, shall provide copies of them to the town recorder for the public record and for distribution to the board of mayor and aldermen. (as added by Ord. #2020-336, Jan. 2021 **Ch9_11-09-21**)

TITLE 3

MUNICIPAL COURT

CHAPTER

1. TOWN COURT.

CHAPTER 1

TOWN COURT¹

SECTION

- 3-101. Municipal judge.
- 3-102. Maintenance of docket.
- 3-103. Issuance of arrest warrants.
- 3-104. Issuance of summonses.
- 3-105. Issuance of subpoenas.
- 3-106. Appearance bonds authorized.
- 3-107. Imposition of fines, penalties, and costs.
- 3-108. Immediate trial.
- 3-109. Appeals.
- 3-110. Bond amounts, conditions, and forms.
- 3-111. Disposition and report of fines, penalties, and costs.
- 3-112. Disturbance of proceedings.

3-101. Municipal judge. (1) Appointment and term. A municipal judge shall be appointed by the board of mayor and aldermen for a term of two (2) years, or until the next regular town election to fill vacancies in the office of mayor and/or aldermen next following the appointment of the municipal judge, whichever period is shorter. Vacancies in the office of the municipal judge arising from resignation, disqualification or for any other reason whatsoever, shall be filled in the same manner and for the same term prescribed for the appointment of the municipal judge.

(2) Qualifications. The municipal judge shall be a minimum of thirty (30) years of age, be licensed by the State of Tennessee to practice law, and be a resident of Hamilton County. If the municipal judge for any reason no longer

¹Charter reference

For charter provisions respectively giving the mayor and the recorder, or some other properly appointed person, judicial authority, including jurisdiction concurrent with that of a sessions court, see Tennessee Code Annotated, sections 6-1-406 and 6-2-403.

maintains his domicile in Hamilton County after his appointment, such removal of his domicile shall automatically create a vacancy in the office of municipal judge.

(3) Judge pro tem. During the absence of the municipal judge, or at any time the office becomes vacant, the board of mayor and aldermen may appoint a municipal judge pro tem to serve until the municipal judge returns to his duties or the office of municipal judge is no longer vacant. The municipal judge pro tem shall have all the qualifications required, and powers, of the municipal judge.

(4) Powers and jurisdiction. The municipal judge shall be vested with the judicial powers and functions of the town recorder, and shall be subject to the provisions of law and the town's charter governing the town court presided over by the town recorder. The municipal judge shall have jurisdiction over violations of the charter, ordinances, and resolutions of the Town of Walden. The municipal judge shall be vested with concurrent jurisdiction with judges of the Court of General Sessions, in all cases of violation of the criminal laws of the state, or of the ordinances of the town within the limits of said town. The municipal judge of this court shall have authority to impose fines, costs, forfeitures, and imprisonment in jail or workhouse as provided by the charter and ordinances of said town, and the laws of the State of Tennessee. The municipal judge shall have the power of a committing magistrate, including the power to bind the offender over to the Criminal Court of Hamilton County. The municipal judge shall have such additional powers and shall be charged with such additional duties as are set forth by this chapter.

(5) Oath. The municipal judge before entering on the duties of his appointment shall take an oath, or affirmation, before a Court of Appeals Judge, Circuit Judge, or Chancellor, as follows:

"I, _____, do solemnly swear that I will support the Constitution of the United States and the State of Tennessee and the ordinances of the Town of Walden, Tennessee, and that I will administer justice without respect to persons, and do equal rights to the poor and the rich, and that I will faithfully and impartially discharge all the duties incumbent upon me as a judge to the best of my abilities."

(6) Judge to execute bond. Before assuming his duties, the municipal judge shall execute a bond in a responsible bonding company in the amount of two thousand five hundred dollars (\$2,500.00) conditioned to faithfully account for all funds coming into his hands as such municipal judge. The cost of this bond shall be paid for by the Town of Walden.

(7) Compensation. The compensation of the municipal judge shall be such as may from time to time be fixed by ordinance of the board of mayor and aldermen, but such compensation shall not be altered during the term for which the municipal judge is appointed. (Ord. #70, March 1982, as modified)

3-102. Maintenance of docket. The municipal judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information which may be relevant. (Ord. #70, March 1982)

3-103. Issuance of arrest warrants.¹ Only the municipal judge, mayor and the town recorder shall have the power to issue warrants for the arrest of persons charged with violating town ordinances. He may also issue warrants for the arrest of persons charged with violating the laws of the state. (Ord. #70, modified)

3-104. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the municipal judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender personally to appear before the town court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the town code or ordinance alleged to have been violated. Upon failure of any person to appear before the town court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. It shall be unlawful for any person to whom a summons or a citation to appear before the town court has been issued to fail to appear as set out on said summons or citation. (Ord. #36, May 1979 and Ord. #70, March 1982)

3-105. Issuance of subpoenas. The municipal judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (Ord. #70, March 1982)

3-106. Appearance bonds authorized. (1) Posting bond. When the municipal judge is not available or when an alleged offender requests and has

¹Charter reference

But, see section 6-1-406(7) of charter (authorizing mayor to perform duties of justice of the peace).

State law reference

Tennessee Code Annotated, sections 40-6-202 (power of magistrates) and 40-1-106 (defined).

reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the municipal judge or, in the absence of the judge, with the town court clerk, or in the absence of the town court clerk, with the ranking police officer on duty at the time, provided such alleged offender is not under the influence of alcohol or drugs.

(2) Deposit of driver's license in lieu of bail. Whenever any person lawfully possessed of a chauffeur's or operator's license theretofore issued to him by the Department of Safety, State of Tennessee, is issued a citation or arrested and charged with a violation of any municipal ordinance regulating traffic, except driving under the influence of any intoxicant or narcotic drug or leaving the scene of an accident, said person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the town court in answer to any such charge before said court.¹

(3) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the town court, and shall state such period of validity on its face.

(4) Failure to appear. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the town court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with provisions of Tennessee Code Annotated, section 55-7-401 et seq. (Ord. #37, May 1979, as modified and Ord. #70, March 1982)

¹State law reference

See Tennessee Code Annotated, sections 55-50-801 and 55-50-802 for statutory authority.

Municipal code reference

Motor vehicles, traffic and parking regulations: title 15.

3-107. Imposition of fines, penalties, and costs. All fines, penalties, and costs as set by the board of mayor and aldermen¹ shall be imposed and recorded by the municipal judge on the town court docket in open court.

¹See Ord. #97-189 (July 1997) of record in the office of the recorder for costs of the municipal court of the Town of Walden.

In all cases heard or determined by him, the municipal judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions¹ for similar work in state cases.

3-108. Immediate trial. Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the town court is in session or the municipal judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (Ord. #79, March 1982)

3-109. Appeals. Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days² next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.

3-110. Bond amounts, conditions, and forms. An appearance bond in any case before the town court shall be in such amount as the municipal judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the town court at the stated time and place. An appeal bond in any case shall be in such sum as the municipal judge shall prescribe, not to exceed the sum of two hundred and fifty dollars (\$250.00), and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property within the county. No other type bond shall be acceptable. (Ord. #70, March 1982)

3-111. Disposition and report of fines, penalties, and costs. All fines and costs shall be imposed and recorded by or caused to be recorded by the municipal judge on the town court docket in open court. After any fine and costs have been so imposed and recorded, the judge shall have no power to remit or release the same or any part thereof except when necessary to correct an error.

All funds coming into the hands of the municipal judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over

¹State law reference

Tennessee Code Annotated, section 8-21-401.

²State law reference

Tennessee Code Annotated, section 27-5-101.

daily to the town. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or noncollection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (Ord. #70, March 1982)

3-112. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the town court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (Ord. #70, March 1982)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. SOCIAL SECURITY.
2. TRAVEL REIMBURSEMENT REGULATIONS.
3. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
4. CODE OF ETHICS.

CHAPTER 1

SOCIAL SECURITY

SECTION

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports.
- 4-106. Exemption from coverage.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of this town to provide for all eligible employees and officials of the town, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the town shall take such action as may be required by applicable state and federal laws or regulations. (Ord. #6, May 1976, as modified)

4-102. Necessary agreements to be executed. The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (Ord. #6, May 1976)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (Ord. #6, May 1976)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (Ord. #6, May 1976)

4-105. Records and reports. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (Ord. #6, May 1976)

4-106. Exemption from coverage. There is hereby exempted from this chapter any authority to make any agreement with respect to any position, any employee or official not authorized to be covered by applicable state and federal laws or regulations. (Ord. #6, May 1976)

CHAPTER 2

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-201. Purpose.
- 4-202. Enforcement.
- 4-203. Travel policy.
- 4-204. Travel reimbursement rate schedules.
- 4-205. Administrative procedures.

4-201. Purpose. The purpose of this chapter and referenced regulations is to bring the town into compliance with Public Acts 1993, Chapter 433. This act requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular town employees. It's the intent of this policy to assure fair and equitable treatment to all individuals traveling on town business at town expense. (Ord. #155, Sept. 1993)

4-202. Enforcement. The Town Recorder of the Town of Walden or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #155, Sept. 1993)

4-203. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" 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 city 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 town recorder. 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 town recorder 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 town recorder may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of \$5 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 of Walden are not ordinarily considered eligible expenses for reimbursement. (Ord. #155, Sept. 1993)

4-204. 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 Town of Walden may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #155, Sept. 1993)

4-205. Administrative procedures. The Town of Walden 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.

This chapter shall take effect upon its enactment and publication, the public welfare requiring it, and shall cover all travel and expenses occurring on or after July 1, 1993. (Ord. #155, Sept. 1993)

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-301. Creation and title.
- 4-302. Purpose and coverage.
- 4-303. Funding the program.
- 4-304. Definitions.
- 4-305. Employer's rights and duties.
- 4-306. Employees' rights and duties.
- 4-307. Administration.
- 4-308. Standards authorized.
- 4-309. Variances from standards authorized.
- 4-310. Variance procedure.
- 4-311. Recordkeeping and reporting.
- 4-312. Employee complaint procedure.
- 4-313. Education and training.
- 4-314. General inspection procedures.
- 4-315. Imminent danger procedures.
- 4-316. Abatement orders and hearings.
- 4-317. Penalties.
- 4-318. Confidentiality of privileged information.
- 4-319. Compliance with other laws not excused.
- 4-320. Notice to employees.
- 4-321. Program budget.
- 4-322. Accident reporting procedures.
- 4-323. Organizational chart.

4-301. Creation and title. There is hereby created an occupational safety and health program for the employees of the Town of Walden. This section shall provide authority for establishing and administering the occupational safety and health program for the employees of the town. (as added by Ord. #2006-251, Feb. 2006)

4-302. Purpose and coverage. (1) Purpose. The Town of Walden in electing to provide an effective occupational safety and health program for its employees shall:

- (a) Provide a safe and healthful place and condition of employment that includes:
 - (i) Include top management commitment and employee involvement;
 - (ii) Continually analyze the worksite to identify all hazards and potential hazards,

(iii) Develop and maintain methods for preventing or controlling existing or potential hazards, and

(iv) Train managers, supervisors, and employees to understand and deal with worksite hazards.

(b) Acquire, maintain, and require the use of safety equipment, personal protective equipment, and devices reasonably necessary to protect employees.

(c) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the department of labor and workforce development to whom such responsibilities have been delegated, including the director of the division of occupational safety and health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required

(d) Consult with the state commissioner of labor and workforce development or his designated representative with regard to the adequacy of the form and content of such records.

(e) Consult with the commissioner of labor and workforce development, as appropriate, regarding safety and health problems of the agency which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health program promulgated by the state.

(f) Assist the commissioner of labor and workforce development or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.

(g) Make a report to the commissioner of labor and workforce development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational safety and health program.

(h) Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employee safety and health.

(i) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program.

(2) Coverage. The provisions of the occupational safety and health program plan for the employees of the Town of Walden shall apply to all employees of each administrative department, commission, board, division, or

other agency of the town whether part-time or full-time, seasonal or permanent. (as added by Ord. #2006-251, Feb. 2006)

4-303. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the Town of Walden. (as added by Ord. #2006-251, Feb. 2006)

4-304. Definitions. For the purposes of this program, the following definitions apply:

(1) "Act" or "TOSHAct" shall mean the Tennessee Occupational Safety and Health Act of 1972.

(2) "Appointing authority" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.

(3) "Chief executive officer" means the chief administrative official, mayor, city manager, etc., as may be applicable.

(4) "Commissioner of labor and workforce development" means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the commissioner of labor and workforce development.

(5) "Director of occupational safety and health" or "director" means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program for employees of the town.

(6) "Employee" means any person performing services for the Town of Walden and listed on the payroll of the town, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.

(7) "Employer" means the Town of Walden, and includes each administrative department, board, commission, division, or other agency of the town.

(8) "Establishment" or "worksite" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.

(9) "Governing body" means the Board of Mayor and Aldermen of the Town of Walden.

(10) "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the

imminence of such hazard can be eliminated through normal compliance enforcement procedures.

(11) "Inspector(s)" means the individual(s) appointed or designated by the director of occupational safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the director of occupational safety and health.

(12) "Person" means one or more individual, partnership, association, corporation, business trust, or legal representative of any organized group of persons.

(13) "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:

(a) A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or

(b) A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency; (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

(14) "Standard" means an occupational safety and health standard promulgated by the commissioner of labor and workforce development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment. (as added by Ord. #2006-251, Feb. 2006)

4-305. Employer's rights and duties. Rights and duties of the employer shall include, but are not limited to, the following provisions:

(1) Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

(2) Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.

(3) Employer shall refrain from any unreasonable restraint on the right of the commissioner of labor and workforce development to inspect the employers place(s) of business. Employer shall assist the commissioner of labor and workforce development in the performance of their monitoring duties by

supplying or making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.

(4) Employer is entitled to participate in the development of standards by submissions of comments on proposed standards, participation in hearings on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.

(5) Employer is entitled to request an order granting a variance from an occupational safety and health standard.

(6) Employer is entitled to protection of its legally privileged communication.

(7) Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.

(8) Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard, of corrective action being taken.

(a) Employer shall notify all employees of their rights and duties under this program. (as added by Ord. #2006-251, Feb. 2006)

4-306. Employees' rights and duties. Rights and duties of employees shall include, but are not limited to, the following provisions:

(1) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.

(2) Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSHAct or any standard or regulation promulgated under the act.

(3) Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the act.

(4) Any employee who may be adversely affected by a standard or variance issued pursuant to the act or this program may file a petition with the commissioner of labor and workforce development or whoever is responsible for the promulgation of the standard or the granting of the variance.

(5) Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.

(6) Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the director or inspector at the time of the physical inspection of the worksite.

(a) Any employee may bring to the attention of the director any violation or suspected violation of the standards or any other health or safety hazards.

(b) No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.

(c) Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (b) of this section may file a complaint alleging such discrimination with the director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the commissioner of labor and workforce development alleging such discrimination.

(d) Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, or when a medical examination may be reasonably required for performance of a specified job.

(e) Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the director within twenty-four (24) hours after the occurrence. (as added by Ord. #2006-251, Feb. 2006)

4-307. Administration. (1) The director of occupational safety and health is designated to perform duties or to exercise powers assigned so as to administer this occupational safety and health program.

(a) The director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program.

(b) The director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the director.

(c) The director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.

(d) The director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise

deem necessary and appropriate in order to carry out his duties under this program.

(e) The director shall prepare the report to the commissioner of labor and workforce development required by § 4-302(1)(g) of this chapter.

(f) The director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.

(g) The director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.

(h) The director shall maintain or cause to be maintained records required under § 4-311 of this chapter.

(i) The director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three (3) or more employees insure that the commissioner of labor and workforce development receives notification of the occurrence within eight (8) hours.

(2) The administrative or operational head of each department, division, board, or other agency of his employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.

(a) The administrative or operational head shall follow the directions of the director on all issues involving occupational safety and health of employees as set forth in this chapter.

(b) The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the director within the abatement period.

(c) The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.

(d) The administrative or operational head shall investigate all occupational accidents, injuries or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the director along with his findings and/or recommendations in accordance with § 4-322 of this chapter. (as added by Ord. #2006-251, Feb. 2006)

4-308. Standards authorized. The standards adopted under this program are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body that body may deem necessary for the safety and health of employees. (as added by Ord. #2006-251, Feb. 2006)

4-309. Variations from standards authorized. The director may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the director shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the director shall be deemed sufficient notice to employees. (as added by Ord. #2006-251, Feb. 2006)

4-310. Variance procedure. The director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The director should definitely believe that a variance is needed before the application for a variance is submitted to the commissioner of labor and workforce development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

(1) The application for a variance shall be prepared in writing and shall contain:

(a) A specification of the standard or portion thereof from which the variance is sought.

(b) A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.

(c) A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.

(d) A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.

(e) A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the commissioner of labor and workforce development for a hearing.

(2) The application for a variance should be sent to the commissioner of labor and workforce development by registered or certified mail.

(3) The commissioner of labor and workforce development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:

(a) The employer

(i) Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment reclaimed or necessary construction or alteration of facilities or technology.

(ii) Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.

(iii) Has an effective program for coming into compliance with the standard as quickly as possible.

(b) The employee is engaged in an experimental program as described in subsection (b), section 13 of the Act.

(4) A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.

(5) Upon receipt of an application for an order granting a variance, the commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.

(6) The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance ((1)(e) of this section). (as added by Ord. #2006-251, Feb. 2006)

4-311. Employee complaint procedure. (1) Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, Record Keeping Requirements Under the Occupational Safety and Health Act of 1970 (revised 2003) or as may be prescribed by the Tennessee Department of Labor and workforce Development.

(2) The position responsible for record keeping is shown on the safety and health organizational chart, § 4-323 of this chapter.

(3) Details of how reports of occupational accidents, injuries, and illnesses will reach the record keeper are specified by accident reporting procedures, § 4-422 of this chapter. (as added by Ord. #2006-251, Feb. 2006)

4-312. Employee complaint procedure. If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the director of occupational safety and health.

(1) The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection of § 4-302(l)(h) of this chapter.

(2) Upon receipt of the complaint letter, the director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.

(3) If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the chief executive officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.

(4) The chief executive officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.

(5) After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the commissioner of labor and workforce development. Any complaint filed with the commissioner of labor and workforce development in such cases shall include copies of all related correspondence with the director and the chief executive officer or the representative of the governing body.

(6) Copies of all complaints and answers thereto will be filed by the director who shall make them available to the commissioner of labor and workforce development or his designated representative upon request. (as added by Ord. #2006-251, Feb. 2006)

4-313. Education and training. (1) Director and/or compliance inspector(s). (a) Arrangements will be made for the director and/or compliance inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies.

(b) Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local

training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

(2) All employees (including managers and supervisory personnel). A suitable safety and health training program for employees will be established. This program will, as a minimum:

(a) Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employee's work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury (such as falls, electrocution, crushing injuries (e.g., trench cave-ins), and being struck by material or equipment).

(b) Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances (including carbon monoxide and chlorine) in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, personal hygiene, etc., which may be required.

(c) Instruct employees who may be exposed to environments where harmful plants or animals are present of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure

(d) Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in Subparts H and M and other applicable subparts of TOSHAct standards (1910 and/or 1926).

(e) Instruct employees on hazards and dangers of confined or enclosed spaces.

(i) Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.

(ii) Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.

(iii) The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on the danger of hazards which may be

present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment. (as added by Ord. #2006-251, Feb. 2006)

4-314. General inspection procedures. It is the intention of the governing body and responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

(1) In order to carry out the purposes of this program, the director and/or compliance inspector(s), if appointed, is authorized:

(a) To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;

(b) To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.

(2) If an imminent danger situation is found, alleged, or otherwise brought to the attention of the director or inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with § 4-315 of this chapter before inspecting the remaining portions of the establishment, facility, or worksite.

(3) An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the director or inspector during the physical inspection of any worksite for the purpose of aiding such inspection.

(4) The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.

(5) The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.

(6) Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.

(7) Advance notice of inspections. (a) Generally, advance notice of inspections will not be given as this precludes the opportunity to make

minor or temporary adjustments in an attempt to create a misleading impression of conditions in an establishment.

(b) There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.

(8) The director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:

(a) Inspections conducted by supervisors or other personnel are at least as effective as those made by the director.

(b) Records are made of the inspections and of any discrepancies found and are forwarded to the director.

(9) The director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the commissioner of labor and workforce development or his authorized representative. (as added by Ord. #2006-251, Feb. 2006)

4-315. Imminent danger procedures. (1) Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:

(a) The director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.

(b) If the alleged imminent danger situation is determined to have merit by the director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.

(c) As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the director or compliance inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.

(d) The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the director or compliance inspector and to the mutual satisfaction of all parties involved.

(e) The imminent danger shall be deemed abated if:

(i) The imminence of the danger has been eliminated by removal of the employees from the area of danger.

(ii) Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.

(iii) A written report shall be made by or to the director describing in detail the imminent danger and its abatement. This report will be maintained by the director in accordance with subsection (9) of § 4-314 of this chapter.

(2) Refusal to abate. (a) Any refusal to abate an imminent danger situation shall be reported to the director and/or chief executive officer immediately.

(b) The director and/or chief executive officer shall take whatever action may be necessary to achieve abatement. (as added by Ord. #2006-251, Feb. 2006)

4-316. Abatement orders and hearings. (1) Whenever, as a result of an inspection or investigation, the director or compliance inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the director shall:

(a) Issue an abatement order to the head of the worksite.

(b) Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.

(2) Abatement orders shall contain the following information:

(a) The standard, rule, or regulation which was found to be violated.

(b) A description of the nature and location of the violation.

(c) A description of what is required to abate or correct the violation.

(d) A reasonable period of time during which the violation must be abated or corrected.

(3) At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the director shall act promptly to hold a hearing with all interested and/or responsible in an effort to resolve any objections. Following such hearing, the director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final. (as added by Ord. #2006-251, Feb. 2006)

4-317. Penalties. (1) No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with

safety and health standards or any rules or regulations issued pursuant to this program.

(2) Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:

(a) Oral reprimand.

(b) Written reprimand.

(c) Suspension for three (3) or more working days.

(d) Termination of employment. (as added by Ord. #2006-251, Feb. 2006)

4-318. Confidentiality of privileged information. All information obtained by or reported to the director pursuant to this plan of operation or the legislation (ordinance, or executive order) which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the commissioner of labor and workforce development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972. (as added by Ord. #2006-251, Feb. 2006)

4-319. Compliance with other laws not excused. (1) Compliance with any other law, statute, ordinance, or executive order, as applicable, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.

(2) Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed. (as added by Ord. #2006-251, Feb. 2006)

4-320. Notice to employees.

NOTICE TO ALL EMPLOYEES OF THE TOWN OF WALDEN

The Tennessee Occupational Safety and Health Act of 1972 provides job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, the government, as an employer, is responsible for administering the act to its employees. Safety and

health standards are the same as state standards and job site inspections will be conducted to insure compliance with the act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage, of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the director or mayor.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this program, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this program.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the board of mayor and aldermen for assistance in obtaining relief or to file a complaint with the commissioner of workforce development alleging such discrimination.

A copy of the occupational safety and health program for the employees of the Town of Walden is available for inspection by any employee in the city recorder's office during regular office hours. (as added by Ord. #2006-251, Feb. 2006)

4-321. Program budget. The budget for the occupational safety and health program shall include the following:

- (1) Prorated portion of wages, salaries, etc., for program administration and support.
- (2) Office space and office supplies.
- (3) Safety and health educational materials and support for education and training.
- (4) Safety devices for personnel safety and health.
- (5) Equipment modifications.

- (6) Equipment additions (facilities).
- (7) Protective clothing and equipment (personnel).
- (8) Safety and health instruments.
- (9) Funding for projects to correct hazardous conditions.
- (10) Reserve fund for the program.
- (11) Contingencies and miscellaneous.

TOTAL ESTIMATED PROGRAM FUNDING:

ESTIMATE OF TOTAL BUDGET FOR:
(as added by Ord. #2006-251, Feb. 2006)

4-322. Accident reporting procedures. Note: All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported by phone to the commissioner of labor and workforce development within eight (8) hours.

There are six (6) important steps required by the OSHA recordkeeping system:

- (1) Obtain a report on every injury/illness requiring medical treatment (other than first aid).
- (2) Record each injury/illness on the OSHA Form No. 300 according to the instructions provided.
- (3) Prepare a supplementary record of occupational injuries and illnesses for recordable cases either on OSHA Form No. 301 or on worker's compensation reports giving the same information.
- (4) Every year, prepare the annual summary (OSHA Form No. 300A); post it no later than February 1, and keep it posted until April 30.
- (5) Retain these records for at least five (5) years.
- (6) Complete the Survey of Occupational Injuries/Illness and mail it to Labor Research and Statistics, when requested.

The four (4) procedures listed below are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251-Plus), and the figures relate to the total number of employees including the chief executive officer but excluding the governing body.

- (1-15) Employees shall report all accidents, injuries, or illnesses directly to the director as soon as possible, but not later than twenty-four (24) hours, of their occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours

after their occurrence. The director will insure completion of required reports and records in accordance with § 3-311 of this chapter.

- (16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after their occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the director and/or record keeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.
- (51-250) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours, after their occurrence. The supervisor will provide the director and/or record keeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the director or compliance inspector, if necessary) and will complete a written report on the accident or illness and forward it to the director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the record keeper.
- (251-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide

the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree burns, the director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor or the administrative head is to be notified of the accident within seventy-two (72) hours after the accident occurred four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees.)

Since a Worker's Compensation Form C20 or OSHA No. 301 Form must be completed, all reports submitted in writing to the person responsible for record keeping shall include the following information as a minimum:

- (1) Accident location, if different from employers mailing address and state whether accident occurred on premises owned or operated by employer.
- (2) Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
- (3) Title of the department or division in which the injured or ill employee is normally employed.
- (4) Specific description of what the employee was doing when injured.
- (5) Specific description of how the accident occurred
- (6) A description of the injury or illness in detail and the part of the body affected.
- (7) Name of the object or substance which directly injured the employee.
- (8) Date and time of injury or diagnosis of illness.
- (9) Name and address of physician, if applicable.
- (10) If employee was hospitalized, name and address of hospital.
- (11) Date of report.

Note: A procedure such as one of those listed above or similar information is necessary to satisfy item number 6 listed under program plan in Chapter N, Part N of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. (as added by Ord. #2006-251, Feb. 2006)

4-323. Organization chart.

City Hall - 1 - employee

1836 Taft Highway

Signal Mountain, TN 37377

(423) 886-4362

TOTAL NUMBER OF EMPLOYEES: 1 (as added by
Ord. #2006-251, Feb. 2006)

CHAPTER 4

CODE OF ETHICS¹

SECTION

- 1-401. Applicability.
- 1-402. Definition of "personal interest."
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in non-voting matters.
- 1-405. Acceptance of gratuities, etc.
- 1-406. Use of information.
- 1-407. Use of municipal time, facilities, etc.
- 1-408. Use of position or authority.
- 1-409. Outside employment.
- 1-410. Ethics complaints.
- 1-411. Violations.

¹State 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.

1-401. Applicability. This chapter is the code of ethics for personnel of the Town of Walden. It applies to 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 town. The words "municipal" and "town" or "Town of Walden" includes these separate entities. (as added by Ord. #2007-260, Feb. 2007)

1-402. Definition of "personal interest." (1) For purposes of §§ 1-403 and 1-404, "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; or

(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. (as added by Ord. #2007-260, Feb. 2007)

1-403. 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 himself¹ from voting on the measure. (as added by Ord. #2007-260, Feb. 2007)

1-404. 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 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

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

official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #2007-260, Feb. 2007)

1-405. 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 town:

(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. (as added by Ord. #2007-260, Feb. 2007)

1-406. 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. (as added by Ord. #2007-260, Feb. 2007)

1-407. 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 board of mayor and aldermen to be in the best interests of the town. (as added by Ord. #2007-260, Feb. 2007)

1-408. 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 town.

(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 town. (as added by Ord. #2007-260, Feb. 2007)

1-409. Outside employment. All full-time employee of the town may not accept any outside employment without written authorization from the department head. (as added by Ord. #2007-260, Feb. 2007)

1-410. 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 city 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 that the governing body 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 by the town attorney or another individual or entity chosen by the governing body.

(3) The interpretation that a reasonable person in the circumstance would apply shall be used in interpreting and enforcing this code of ethics. When a violation of this code of ethics also constitutes a violation of a personnel 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. (as added by Ord. #2007-260, Feb. 2007)

1-411. Violations. 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. (as added by Ord. #2007-260, Feb. 2007)

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. MISCELLANEOUS.
2. REAL AND PERSONAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. PURCHASING.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Official depositories for town funds.
- 5-102. Fiscal year.
- 5-103. Checks issued by municipality.

5-101. Official depositories for town funds. The mayor and recorder/treasurer are hereby given the authority to deposit all municipal funds with any bank or savings institution designated as a qualified public depository guaranteeing public depositors against loss caused by default or insolvency (Ord. #2, Dec. 1975, as replaced by Ord. #2002-227, April 2002)

5-102. Fiscal year. The fiscal year of the municipality shall be computed and reckoned from the first day of July of each year. All annual reports relating to the municipality's finances, as well as those of any departments, officers, and agencies of the municipality, shall be made up to and including the thirtieth day of June each year. (Ord. #2, Dec. 1975, as replaced by Ord. #2002-227, April 2002)

5-103. Checks issued by municipality. All checks issued by the municipality shall be countersigned by the mayor or one of the aldermen during the absence of the mayor and signed by the recorder/treasurer or one of the aldermen during the absence of the recorder/treasurer before they shall be

¹Charter references

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

payable at any bank in which deposits are kept by the municipality. (Ord. #2, Dec. 1975, as replaced by Ord. #2002-227, April 2002)

CHAPTER 2

REAL AND PERSONAL PROPERTY TAXES

SECTION

5-201. Real property taxes--when due and payable.

5-202. Real property taxes--when delinquent, penalty and interest.

5-201. Real property taxes--when due and payable.¹ Taxes levied by the municipality against real property shall become due and payable annually on the first Monday of October of the year for which levied. (Ord. #2, Dec. 1975, as replaced by Ord. #2002-227, April 2002)

¹State law references

Tennessee Code Annotated, sections 67-1-701, 67-1-702 and 67-1-801, read together, permit a municipality to collect its own property taxes if its charter authorizes it to do so, or to turn over the collection of its property taxes to the county trustee. Apparently, under those same provisions, if a municipality collects its own property taxes, tax due and delinquency dates are as prescribed by the charter; if the county trustee collects them, the tax due date is the first Monday in October, and the delinquency date is the following March 1.

5-202. Real property taxes--when delinquent, penalty and interest.¹ All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.² (Ord. #2, Dec. 1975, as replaced by Ord. #2002-227, April 2002)

¹Charter and state law reference

Tennessee Code Annotated, section 67-5-2010(b) provides that if the county trustee collects the municipality's property taxes, a penalty of 1/2 of 1% and interest of 1% shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

²Charter and state law references

A municipality has the option of collecting delinquent property taxes any one of three ways:

- (1) Under the provisions of its charter for the collection of delinquent property taxes.
- (2) Under Tennessee Code Annotated, sections 6-55-201--6-55-206.
- (3) By the county trustee under Tennessee Code Annotated, section 67-5-2005.

CHAPTER 3

PRIVILEGE TAXES¹

SECTION

5-301. Tax levied.

5-302. License required.

5-301. 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, title 67, chapter 58) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the town at the rates and in the manner prescribed by the act.

5-302. License required. No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax.

¹Municipal code reference

Business, peddlers, solicitors: title 9.

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. Wholesale beer tax--to be collected.

5-401. Wholesale beer tax--to be collected. The recorder is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (Ord. #2, Dec. 1975, as replaced by Ord. #2002-227, April 2002)

¹State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of 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 5

PURCHASING

SECTION

5-501. Public advertisement and competitive bidding required for amounts exceeding \$10,000.

5-501. Public advertisement and competitive bidding required for amounts exceeding \$10,000. Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of ten thousand dollars (\$10,000) except for those purchases specifically exempted from advertisement and competitive bidding by the Municipal Purchasing Act of 1983. (Ord. #1995-169, Aug. 1995, as replaced by Ord. #2011-287, March 2011)

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.

CHAPTER 1

POLICE AND ARREST¹

SECTION

- 6-101. Policemen subject to orders.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. When policemen to make arrests.
- 6-104. Disposition of persons arrested.
- 6-105. Police department records.
- 6-106. Policemen to wear uniforms and to be armed.
- 6-107. Policemen may require assistance.
- 6-108. Positions established.

6-101. Policemen subject to orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the mayor, board of mayor and aldermen or alderman supervising the police department may officially issue. (Ord. #3, Dec. 1975)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the town. They shall patrol the town and shall assist the town court during the trial of cases. Policemen shall also promptly serve any legal process issued by the town court. (Ord. #3, Dec. 1975)

¹Municipal code reference

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 7, section 15-701.

6-103. When policemen to make arrests.¹ Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

- (1) Whenever he is in possession of a warrant for the arrest of the person.
- (2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.
- (3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (Ord. #3, Dec. 1975)

6-104. Disposition of persons arrested.² (1) For code or ordinance violations. Unless otherwise provided by law, a person arrested for a violation of this code or other town ordinances shall be brought before the town court. However, if the town court is not in session, the arrested person shall be allowed to post bond with the town court clerk, or, if the town court clerk is not available, with the ranking police officer on duty. If the arrested person fails or refuses to post bond, he shall be confined pending his release by the town judge. In addition, if the arrested person is under the influence of alcohol or drugs when arrested, even if he is arrested for an offense unrelated to the consumption of alcohol or drugs, the person shall be confined until he does not pose a danger to himself or to any other person.

(2) Felonies or misdemeanors. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the court which has jurisdiction over the offender.

6-105. Police department records. The police department shall keep a comprehensive and detailed daily record, in permanent form, showing at a minimum:

- (1) All known or reported offenses and/or crimes committed within the corporate limits.
- (2) All arrests made by policemen.

¹Municipal code reference

Issuance of citation in lieu of arrest in traffic cases: title 15, chapter 7, section 15-701.

Municipal offenses and prohibition against resisting arrest: title 11, chapter 5.

²Municipal code reference

Deposition of drivers license in lieu of bail bond: title 3, chapter 6, section 3-106.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (Ord. #3, Dec. 1975)

6-106. Policemen to wear uniforms and to be armed. All policemen shall wear such uniform and badge as the board of mayor and aldermen shall authorize. All policemen shall carry a service pistol and such other weapons and equipment as authorized by the board of mayor and aldermen at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (Ord. #3, Dec. 1975)

6-107. Policemen may require assistance. It shall be unlawful for any person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such person's assistance is requested by the policeman and is reasonably necessary. (Ord. #3, Dec. 1975)

6-108. Positions established. The Police Department of Walden, Tennessee, shall include such positions of personnel as are deemed necessary by the board of mayor and aldermen, and the persons who are hired to fill these positions will receive salary and expenses as established by the board of mayor and aldermen, and will fulfill such duties and hold such positions as said board of mayor and aldermen shall designate. (Ord. #8, Dec. 1976)

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIREWORKS.

CHAPTER 1

FIREWORKS

SECTION

- 7-101. Fireworks defined.
- 7-102. Unlawful to sell, give away, manufacture, etc.
- 7-103. Use of fireworks restricted.
- 7-104. Occupants of automobile deemed guilty.
- 7-105. Use by railroads, etc.
- 7-106. Controlled fireworks displays.

7-101. Fireworks defined. The word "fireworks" as used herein is defined as any device or article containing explosive substances which, when fired, shot, or exploded makes a noise or produces a flare or colored lights, and said term "fireworks" shall be deemed to include, but shall not be limited to the following: Fire crackers, squibbs, Roman candles, sky rockets, Daygo bombs, sparklers, torpedoes, or any other devices or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, conflagration or detonation.

7-102. Unlawful to sell, give away, manufacture, etc. It shall be unlawful to manufacture, display, sell, offer for sale, give away for the purpose of evading the term "sell" or store in commercial quantities fireworks within the corporate limits of the Town of Walden.

7-103. Use of fireworks restricted. It shall be unlawful for any person to fire, set off, shoot, discharge, or otherwise explode any fireworks within the corporate limits of the Town of Walden, except that it is permissible for persons to fire, set off, shoot, discharge or otherwise explode fireworks at their residences providing that the igniting and final firing or exploding is done entirely within the property lines of the person doing the firing and provided that such firing is not objectionable to or does not create a nuisance insofar as

¹Municipal code reference

Building, utility and housing codes: title 12.

other residences of the neighborhood are concerned. Streets, roadways, and alleys maintained by the State of Tennessee or the Town of Walden and sidewalks adjacent to the property from which fireworks are being exploded or fired are to be construed as outside the property lines of the person exploding fireworks, it being the intent of this chapter to prohibit the use of fireworks on all public street, roadways, alley and sidewalks within the Town of Walden.

7-104. Occupants of automobiles deemed guilty. Should fireworks be exploded or shot or an attempt made to do so from an automobile, truck or any other propelled vehicle while same is being operated or stopped on any street, roadway, or alley maintained by the State of Tennessee or the Town of Walden, each occupant of said vehicle shall be guilty of a violation of this chapter.

7-105. Use by railroads, etc. Nothing contained herein shall be construed as prohibiting the railroad or other transportation agencies from the use of fireworks for signal purposes or illumination.

7-106. Controlled fireworks displays. Nothing contained herein shall be construed as preventing the state fire marshal from, in his discretion, upon application, issuing a permit to a properly qualified person for giving a pyrotechnic display of fireworks in a public park or open place.

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Definitions.
- 8-102. Scope of chapter.
- 8-103. Dealing in beverages declared lawful.
- 8-104. Powers and duties of inspectors.
- 8-105. Violations to be reported, request for revocation of license.
- 8-106. Special occasion regulations.
- 8-107. State regulations for purchase and sale of intoxicating liquors adopted by reference.
- 8-108. Location and signs for liquor stores.
- 8-109. License required.
- 8-110. Application for certificate of compliance.
- 8-111. Effect of conviction of violating alcoholic beverage laws.
- 8-112. Effect of felony conviction involving moral turpitude.
- 8-113. Applicant to agree to comply with laws.
- 8-114. Applicant to appear before the board of mayor and aldermen; duty to give information.
- 8-115. Action on application.
- 8-116. Number limited.
- 8-117. Expiration of certificate of compliance.
- 8-118. Inspection fee levied; amount; collection.
- 8-119. Inspection fee to be remitted to town recorder by wholesalers; sale on credit; reports by wholesalers.
- 8-120. Inspection fee; compensation of wholesalers.
- 8-121. Violations; penalties.

¹Municipal code references

Minors in beer places, etc.: title 11 chapter 2.

State law reference

Tennessee Code Annotated, title 57, chapters 1 through 10.

8-101. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Alcoholic beverage" or "beverage" means 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 containing an alcoholic content of eight percent (8%) by weight, or less.

(2) "Applicant" means a person, partnership or corporation applying for a certificate of compliance for a proposed license.

(3) "Certificate of compliance" means a certificate signed by the mayor or a majority of the board of mayor and aldermen certifying:

(a) That the applicant(s) for a license before the alcoholic beverage commission who are to be in actual charge of the business have not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of application; and further, that in the official's opinion, the applicant will not violate any of the provisions of this chapter.

(b) That the applicant or applicants have secured a location for the business which complies with all restrictions of any local law, ordinance or resolution, duly adopted by the local authorities as to location within the town or county, and that the applicant or applicants meet all residency requirements, if any, established by such local authority; and

(c) That the applicant or applicants have complied with any local law, ordinance or resolution duly adopted by the local authorities regulating the number of licenses to be issued within the jurisdiction.

(4) "License" means a license issued by the alcoholic beverage commission for the retail sale of alcoholic beverages to patrons or customers in sealed packages only, not for consumption on the premises.

(5) "Licensee" means any person to whom a license has been issued by the alcoholic beverage commission.

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

(7) "Retail sale" means a sale to any person for any purpose other than for resale or for consumption on the premises of the retailer.

(8) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required by the alcoholic beverage commission.

(9) "Wholesale sale" or "sale at wholesale" means a sale to any person for purpose of resale. (as replaced by Ord. #2004-242, Jan. 2005, and amended by Ord. #2017-317, April 2017)

8-102. Scope of chapter. The provisions of this chapter shall apply to all alcoholic beverages as defined by Tennessee Code Annotated, § 57-3-101, as amended. It shall not apply to beer and other beverages with an alcoholic content of eight percent (8%) by weight or less regulated under the provisions of chapter 2 of this title. (as added by Ord. #2004-242, Jan. 2005, and amended by Ord. #2017-317, April 2017)

8-103. Dealing in beverages declared lawful. It shall be lawful to store, transport, sell, possess, distribute and receive alcoholic beverages in the Town of Walden, subject to the provisions of this chapter. (as added by Ord. #2004-242, Jan. 2005)

8-104. Powers and duties of inspectors. The inspector(s) employed by the Town of Walden shall examine the records of wholesale and retail dealers in the Town of Walden and shall enforce in the town the state laws and town ordinances and rules and regulations promulgated by the alcoholic beverage commission of the state with reference to the sale, possession, storage, delivery and distribution of alcoholic beverages. (as added by Ord. #2004-242, Jan. 2005)

8-105. Violations to be reported, request for revocation of license. Each inspector shall report to the Hamilton County Sheriff any violations of state law and rules and regulations promulgated by the alcoholic beverage commission of the state or any other law or regulation relating to the possession, sale or delivery of alcoholic beverages. The Hamilton County Sheriff shall, when he deems it warranted, report any such violations to the board of mayor and aldermen, and a majority of the board of mayor and aldermen may in turn certify such facts to the alcoholic beverage commission of the state when deemed appropriate with the request that the license of such violator be revoked. (as added by Ord. #2004-242, Jan. 2005)

8-106. Special occasion regulations. The regulation promulgated by the Tennessee Alcoholic Beverage Commission for special occasion permits at section 0100-01-.07, Rules and Regulations of the State of Tennessee, as amended, is hereby incorporated herein by reference and made a part hereof for the purpose of the sale, service, and/or otherwise dispensing of alcoholic beverages under the terms and conditions allowed therein. (as added by Ord. #2004-242, Jan. 2005, and replaced by Ord. #2017-317, April 2017)

8-107. State regulations for purchase and sale of intoxicating liquors adopted by reference. Tennessee Code Annotated, §§ 57-3-404, 57-3-405 and 57-3-406, as amended, are hereby incorporated herein by reference and made a part hereof. (as added by Ord. #2004-242, Jan. 2005)

8-108. Location and signs for liquor stores. (1) The proposed location must be within the C-1 General Commercial Zone or the VC-1 Village Center Zone and have Taft Highway or Anderson Pike as its primary access. In addition, no premises proposed for a liquor store may be located within three hundred (300) feet of a place of public gathering, a recreational park, place of worship, school (an academic learning center whether public or private, from the level of nursery through twelfth grade), day care center or other liquor store (each of which is a "protected use"). Such measurements shall be made from building to building and shall be made on a straight line (the shortest distance between the two buildings - the measurement to is be taken form the closest exterior point of the building which will contain the use in which the permit is required to the closest exterior point of the building or other structures constituting the "protected use" or any part thereof).

(2) Signs on liquor stores and on lots containing liquor stores shall conform to the requirements of chapter 2, title 14 of the Municipal Code of the Town of Walden and any other applicable laws, rules or regulations. (as added by Ord. #2004-242, Jan. 2005, and amended by Ord. #2005-250, Nov. 2005)

8-109. License required. Before any person in the Town of Walden shall engage in the sale at wholesale or retail of alcoholic beverages he shall obtain a license or permit as provided by the Tennessee Code Annotated, and shall have paid to the Town Recorder of the Town of Walden, any and all privilege taxes or inspection fees, including interest and penalties thereon, which the Town of Walden may be authorized by law to collect. (as added by Ord. #2004-242, Jan. 2005)

8-110. Application for certificate of compliance. (1) Before any certificate as required by Tennessee Code Annotated, § 57-3-208, shall be signed by the mayor or by a majority of the board of mayor and aldermen, an applicant must complete an application for a certificate of compliance. Such application shall be accompanied by the following:

- (a) Information relating to the applicant:
 - (i) A completed certificate of compliance (either corporate, limited liability, sole proprietor or partnership);
 - (ii) A copy of driver's license;
 - (iii) A copy of the required newspaper ad;
 - (iv) A copy of the completed Tennessee Alcoholic Beverage Commission Application;¹ and
 - (v) A copy of the completed Tennessee Alcoholic Beverage Commission questionnaire.

¹A copy of required applications and questionnaires are available in the office of the town recorder.

(b) Information relating to the location of the store:

(i) A site plan showing the parking, loading facilities, points of ingress and egress, and existing zoning;

(ii) A list identifying all schools, religious facilities, or other places of public gathering that are believed to be within the distance specified in § 8-108; and

(iii) Additional information necessary to adequately review the proposed site as determined by the board of mayor and aldermen.

(c) The applicant shall give notice of its application by advertising in the newspaper in which legal advertisements of the Town of Walden are carried and in the form provided by the town recorder. The running of the notice in the newspaper may be concurrently made at the time the application for the certificate of compliance is filed. If the notice is not made before the filing of the application for the certificate of compliance, the application states that the advertisement is being made.

The board of mayor and aldermen shall conduct an analysis of the proposed liquor store site to determine its suitability; such analysis shall include, but shall not be limited to, the following:

(i) A land use survey of the surrounding development;

(ii) Off-street parking and loading facilities;

(iii) Proposed points of access and ease of ingress and egress;

(iv) The lot, yard and open space requirements;

(v) Whether a traffic hazard will be created;

(vi) The probable effect on the property adjacent to the site under consideration; and

(vii) The consistency of the proposal with the intent and purpose of this chapter to promote the public health, safety, morals and general welfare.

(2) The original and five (5) copies of the application for the certificate of compliance shall be filed with the town recorder. The copies of the application shall be forwarded by the town recorder as follows:

(a) One (1) copy shall be promptly forwarded by the town recorder to the Hamilton County Sheriff, who shall cause an investigation of the applicant to be made relative to his or her prior criminal record, if any, and shall report in writing the findings to the board of mayor and aldermen within thirty (30) days.

(b) One (1) copy shall be promptly forwarded by the town recorder to the Chattanooga-Hamilton County Regional Planning Agency, who shall determine whether the proposed site of the liquor store complies with all applicable ordinances and shall report its findings in writing within thirty (30) days to the board of mayor and aldermen.

(c) One (1) copy shall be promptly forwarded by the town recorder to the office of the town attorney.

(3) Within sixty (60) days from the date when the application is filed, the board of mayor and aldermen shall require the applicant to appear for a hearing as provided in § 8-114 and after which the board of mayor and aldermen shall by motion either grant or deny the application. If granted, the mayor or a majority of the board of mayor and aldermen shall then sign the certificate as provided by Tennessee Code Annotated, § 57-3-208. (as added by Ord. #2004-242, Jan. 2005)

8-111. Effect of conviction of violating alcoholic beverage laws. No certificate of compliance required 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 license, shall have been convicted of any offense under the laws of the state, or of any state of the United States, prohibiting or regulating the sale, possession, transportation, storing or otherwise handling alcoholic beverages or who has during such period been engaged in business, alone or with others, in violation of any of such laws or rules and regulations promulgated pursuant thereto. (as added by Ord. #2004-242, Jan. 2005)

8-112. Effect of felony conviction involving moral turpitude. 1. No person shall make application who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the partnership, corporation or association with which he is connected shall make application; provided, 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 license has been issued and received, the certificate of compliance shall immediately be revoked, if such convicted felon is an individual licensee, and, if not, the partnership, corporation or association with which he is connected shall immediately discharge him.

2. No wholesaler or retailer shall employ in the storage, sale or distribution of alcoholic beverages, any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be so convicted he shall be immediately discharged; provided, 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. (as added by Ord. #2004-242, Jan. 2005)

8-113. Applicant to agree to comply with laws. The applicant for a certificate for a license under this chapter shall agree to comply with the state and federal laws and ordinances of the Town of Walden and rules and

regulations of the alcoholic beverage commission of the state. (as added by Ord. #2004-242, Jan. 2005)

8-114. Applicant to appear before the board of mayor and aldermen; duty to give information. An applicant for a certificate for a license under this chapter, a renewal of a license or a transfer of a license, whether to a new owner or a different location, shall be required to appear in person before the board of mayor and aldermen for such examination as may be desired by the board of mayor and aldermen. The applicant shall furnish such information as may be required under this chapter. (as added by Ord. #2004-242, Jan. 2005)

8-115. Action on application. The action of the board of mayor and aldermen on an application for a certificate of compliance under this chapter shall be noted and the certificate of compliance shall be forwarded to the alcoholic beverage commission by the town recorder. (as added by Ord. #2004-242, Jan. 2005)

8-116. Number limited. The number of retail licenses outstanding for the operation of a retail store which sells alcoholic beverages in the Town of Walden at any time shall be limited to two (2). (as added by Ord. #2004-242, Jan. 2005)

8-117. Expiration of certificate of compliance. A certificate of compliance issued pursuant to this chapter shall be valid for a period of two (2) years from the date of issuance. (as added by Ord. #2004-242, Jan. 2005, and replaced by Ord. #2006-252, June 2006)

8-118. Inspection fee levied; amount; collection. There is hereby levied upon licensed retailers of alcoholic beverages in the Town of Walden an inspection fee to be measured by the wholesale price of the alcoholic beverage purchased by the retailer. The inspection fee shall be five (5) percent of the wholesale price of alcoholic beverages supplied by a wholesaler. The inspection fee shall be added by the wholesaler to each invoice for alcoholic beverages sold to each retailer within the Town of Walden and shall be collected by such wholesaler from such retailer and remitted to the town recorder as provided in § 8-119. (as added by Ord. #2004-242, Jan. 2005)

8-119. Inspection fee to be remitted to town recorder by wholesalers; sale on credit; reports by wholesalers. The inspection fee provided for in §§ 8-118 through 8-120 shall be remitted by all wholesalers who sell alcoholic beverages within the Town of Walden to the town recorder not later than the twentieth (20th) day of each month for the preceding month. The wholesaler is hereby required to collect the inspection fee from the retailer at the time of delivery of all alcoholic beverages on which the inspection fee is levied, and if credit is granted by the wholesalers to the retailers, then the obligation to the Town of

Walden for the inspection fee shall be that of the wholesaler. Every wholesaler who makes sales to retailers within the Town of Walden shall make a monthly report to the town recorder as set forth more particularly in Tennessee Code Annotated, § 57-3-503, as amended. The town recorder shall have the authority to audit the records of wholesalers reporting to her in order to determine the accuracy of such reports. (as added by Ord. #2004-242, Jan. 2005)

8-120. Inspection fee; compensation of wholesalers. Every wholesaler of alcoholic beverages, in reporting and paying the inspection fee imposed by §§ 8-118 through 8-119, shall be entitled to deduct and retain from the inspection fee collected as compensation or reimbursement for his services in collecting the inspection fee five (5) percent of the inspection fee collected and remitted. Failure to collect and timely report and/or pay the inspection fee collected shall result in a penalty of ten (10) percent of the fee due to the Town of Walden. (as added by Ord. #2004-242, Jan. 2005)

8-121. Violations; penalties. Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction be punishable by a fine of not less than fifty dollars (\$50.00). Upon conviction of any person under this chapter, it shall be mandatory for the municipal judge to immediately certify said conviction, whether on appeal or not, directly to the alcoholic beverage commission, together with petition that all licenses be revoked, pursuant to the provisions of Tennessee Code Annotated, and the rules and regulations of the alcoholic beverage commission. (as added by Ord. #2004-242, Jan. 2005)

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Beer permits shall be restrictive.
- 8-209. Interference with public health, safety, and morals prohibited.
- 8-210. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-211. Prohibited conduct or activities by beer permit holders.
- 8-212. Civil penalty in lieu of revocation or suspension.

8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen of the Town of Walden. A chairman shall be elected annually by the board from among its members. Members of the beer board shall serve without compensation. (Ord. #15, Feb. 1977)

8-202. 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 reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #15, Feb. 1977)

8-203. Record of beer board proceedings to be kept. The 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

¹Municipal code references

Minors in beer places, etc.: title 11, chapter 2.

Tax provisions: title 5.

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).

members introducing and seconding 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. #15, Feb. 1977)

8-204. 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. #15, Feb. 1977)

8-205. 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 municipality in accordance with the provisions of this chapter. (Ord. #15, Feb. 1977)

8-206. "Beer" defined. The term "beer" as used in this chapter shall mean beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than eight percent (8%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol. (Ord. #15, Feb. 1977, as replaced by Ord. #2016-312, Aug. 2016, and amended by Ord. #2017-314, Jan. 2017)

8-207. Permit required for engaging in beer business. (1) It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application 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. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

(2) Permit of indefinite duration. The application for a permit shall be on such form as the beer board from time to time shall prescribe and pursuant to T.C.A. § 57-5-101(b) shall be accompanied by a one time, non-refundable fee of \$250. This application fee shall not be required of any existing permit holders in order to retain their permits. Effective January 1, 1994, each person holding a permit from the Town of Walden to engage in the beer business, as defined by section 8-207 of the Walden Municipal Code, shall pay a \$100 annual privilege tax on each such permit held by them. Such annual privilege tax will be due and payable on the first day of each year commencing January 1, 1994 and will be delinquent if not paid on or before January 31 of such year. If delinquent and not paid within ten (10) days of receipt of a delinquency notice, sent certified

mail by the town recorder, such permit shall automatically be terminated and become void. If a permit was issued prior to January 1, 1993, to a person authorizing such person to engage in the beer business, the beer board may not revoke such permit or refuse such permit to be renewed on the basis of proximity to a place of public gathering if a valid permit had been issued at that location prior to January 1, 1993, and, if it was sold or distributed on a continuous basis (without more than a six month break in operations) since that date. (Ord. #15, Feb. 1977, as amended by Ord. #157, Sept. 1993, Ord. #158, Sept. 1993, and Ord. # 2017-314, May 2017)

8-208. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. The proposed location of all establishments selling at retail, storing, distributing or manufacturing beer must be located within the C-1 General Commercial Zone or the VC-1 Village Center Zone and have Taft Highway or Anderson Pike as its primary access. Notwithstanding these location restrictions, the beer board may authorize special occasion permits at town-owned facilities as provided in this section. Beer permits for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption and to provide for such other restrictions as the beer board feels is necessary to protect the public health, safety, morals and welfare of the town. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by the permit. It shall likewise be unlawful for the present holder not to comply with any and all express restrictions or conditions which may be written into the permit by the beer board. (Ord. #15, Feb. 1977, as replaced by Ord. #2005-250, Nov. 2005, and amended by Ord. #2017-314, May 2017)

8-209. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, morals and welfare. In consideration of the foregoing, no premises proposed for the sale beer, may be located within twenty-five feet (25') of a recreational park or two hundred feet (200') of a place of public gathering, or three hundred feet (300') of a place of worship, school (an academic learning center whether public or private, from the level of nursery through twelfth grade), or day care center. No premises proposed for the manufacture and/or storage of beer, may be located within three hundred feet (300') of a place of public gathering, a recreational park, place of worship, school (an academic learning center whether public or private, from the level of nursery through twelfth grade), or day care center (each of which is a "protected use"). Such measurement shall be made from building to building and shall be made on a

straight line (the shortest distance between two (2) buildings - the measurement is to be taken from the closest exterior point of the building which will contain the use in which the permit is required to the closest exterior point of the building or other structures constituting the "protected use" or any part thereof.) Notwithstanding these location restrictions, the beer board may authorize special occasion permits at town-owned facilities as provided in § 8-207. (Ord. #15, Feb. 1977, as replaced by Ord. #2005-250, Nov. 2005, and Ord. #2015-303, May 2015, and amended by Ord. #2017-314, May 2017)

8-210. 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. (Ord. #15, Feb. 1977)

8-211. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

(2) Employ any minor under twenty-one (21) years of age in the sale, storage, distribution, or manufacture of beer. (This provision shall not apply to grocery stores selling beer for off premises consumption only.)

(3) Make or allow any sale or distribution of beer between the hours of 12:00 midnight and 6 a.m. during any day of the week and at any time between 1:00 A.M and 12:00 noon on Sunday.

(4) Allow any loud, unusual, or obnoxious noises to emanate from his premises.

(5) Make or allow any sale of beer to a minor under twenty-one (21) years of age.

(6) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.

(7) Allow drunk or disreputable persons to loiter about his premises.

(8) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than eight percent (8%) by weight, unless otherwise authorized by state law. (Ord. #15, Feb. 1977, as amended by Ord. #2017-314, May 2017)

8-212. Civil penalty in lieu of revocation or suspension. (1) For the purposes of this section, "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) 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.

(3) 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.

(4) 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 city may impose. (Ord. #15, Feb. 1977, as amended by Ord. #157, Sept. 1993, and Ord. #158, Sept. 1993, and replaced by Ord. #2017-315, May 2017)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. CABLE TELEVISION.
3. TEMPORARY SPECIAL EVENT.
4. COMMUNICATIONS USAGE RIGHTS.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.²

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers, street barkers and solicitors.
- 9-106. Restrictions on transient vendors.
- 9-107. Fund raising from passing motorists prohibited.
- 9-108. Exhibition of permit.
- 9-109. Suspension or revocation of permit.
- 9-110. Expiration and renewal of permit.
- 9-111. Violation and penalty.
- 9-112. Hours of permitted solicitation.

9-101. Definitions. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:

- (1) "Peddler" means any person, firm or corporation, either a resident or a nonresident of the town, who has no permanent regular place of business

¹Municipal code references

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Junkyards: title 13.

Posting advertisements and signs: title 14.

Zoning: title 14.

²Municipal code reference

Privilege taxes: title 5.

and who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the town or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:

(a) Has a current exemption certificate from the Internal Revenue Service issued under Section 501(c)(3) of the Internal Revenue Service Code of 1954, as amended.

(b) Is a member of United Way, Community Chest or similar "umbrella" organization for charitable or religious organizations.

(c) Has been in continued existence as a charitable or religious organization in Hamilton County for a period of two (2) years prior to the date of its application for registration under this chapter.

(4) "Solicitor for subscriptions" means any person who solicits subscriptions from the public, either on the streets of the town, or from door to door, business to business, place to place, or from street to street, and who offers for sale subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.

(5) "Transient vendor"¹ means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the town and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

9-102. Exemptions. The terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold, nor any local church or locally established organization, including organizations of any local school, operated exclusively for charitable or religious purposes if the solicitations are conducted voluntarily and without emuneration for those person making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (Ord. #91, March 1986, as modified)

¹State law references

Tennessee Code Annotated, section 62-30-101 et seq. contains permit requirements for "transitory vendors."

The definition of "transient vendors" is taken from Tennessee Code Annotated, section 62-30-101(3). Note also that Tennessee Code Annotated, section 67-4-709(a) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in Tennessee Code Annotated, section 67-4-709(b).

9-103. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter.

9-104. Permit procedure. (1) Application for permit. Any applicant for a permit to be issued under this chapter must pay the town recorder a fee of seventy-five dollars (\$75.00) and file a written application containing the following:

- (a) Name and physical description of applicant.
- (b) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (c) A brief description of the nature of the business and the goods to be sold.
- (d) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.
- (e) The length of time for which the right to do business is desired.
- (f) A statement as to whether the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance and if so, the nature of the offense and the punishment or penalty assessed therefor.
- (g) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.
- (h) Such other available evidence as will enable an investigation to evaluate the applicant's moral reputation and business responsibility.

(2) Issuance or refusal of a permit. The town recorder shall submit the name of each applicant to the Hamilton County Sheriff's Department, the Tennessee Bureau of Investigations, or such other law enforcement agency or organization/business/group selected by the town recorder for the purposes of conducting a background check on the applicant. With respect to the issuance of a permit authorizing charitable or religious solicitations, the town recorder, after a reasonable investigation, must find the following facts to exist:

- (a) The applicant has a good character and reputation for honesty and integrity;
- (b) The solicitation is for a bona fide charitable or religious purpose; and
- (c) The solicitation is prompted solely by a desire to finance the charitable or religious cause of the applicant.

If the background check reveals the applicant's moral reputation and/or business responsibility to be unsatisfactory, or, in the case of a permit authorizing charitable or religious solicitation the town recorder's investigation finds that any of the items listed as (a), (b) and (c) above are not met, then the town recorder shall notify the applicant that his or her application is disapproved and that no permit will be issued. If the background check reveals the applicant's moral reputation and business responsibility to be satisfactory, and in the case of a permit authorizing charitable or religious solicitation the town recorder's investigation finds that the items listed as (a), (b) and (c) above are met, then the town recorder shall issue the permit upon the payment of all applicable privilege taxes, if any. The town recorder shall keep a permanent record of all permits issued.

(3) Appeal from a refusal to issue a permit. Any person aggrieved by the action of the town recorder in the denial of a permit shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the town recorder, within fourteen (14) days after the notice of the denial of the permit, a written statement setting forth fully the grounds for the appeal. The town recorder shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant/applicant. The notice shall be in writing and shall be mailed, postage prepaid, to the appellant/applicant at his or her last known address at least five (5) days prior to the date set for the hearing before the board of mayor and aldermen. (Ord. #91, March 1986 and Ord. #92, March 1986, as replaced by Ord. #2010-285, Oct. 2010)

9-105. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, solicitor, solicitor for charitable or religious purposes, or solicitor for subscriptions shall:

(1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the town.

(2) Stand or sit in or near the entrance to any dwelling or place of business, or in any other place which may disrupt or impede pedestrian or vehicular traffic.

(3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind.

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the town.

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located.

9-106. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

9-107. Fund raising from passing motorists prohibited. Fund raising or soliciting from passing motorists on the streets or highways of the Town of Walden by any and all organizations is prohibited.

9-108. Exhibition of permit. Each permittee under this chapter shall wear outside their clothing identification card issued by the town recorder after approval of the application for permit at all times when any solicitation occurs within the town. The identification shall always be worn by permittee in a visible manner to residences within the town and any permittee shall exhibit and show the identification issued by the town recorder to any law enforcement officer or citizen when requested. (Ord. #91, March 1986, as replaced by Ord. #2010-285, Oct. 2010)

9-109. Suspension or revocation of permit. Any permit issued under the provisions of this chapter may be revoked or suspended by the town recorder, or his or her designee, subject to the opportunity for an immediate appeal with notice and an opportunity for a hearing before the board of mayor and aldermen within thirty (30) days of any revocation or suspension. Immediate suspension and/or revocation may occur by the town recorder and shall be upheld by the board of mayor and aldermen for any of the following reasons:

(1) Fraud, misrepresentation, or any untruthful statement contained in the application for permit or made in the course of carrying on the business of peddler, solicitor, solicitor for charitable or religious purposes, solicitor for subscriptions, transient vendor, or street barker.

(2) Conducting the business of peddler, solicitor, solicitor for charitable or religious purposes, solicitor for subscriptions, transient vendor, or street barker in an unlawful manner without exhibiting identification as required by this chapter.

(3) Conducting the business of peddler, solicitor, solicitor for charitable or religious purposes, solicitor for subscriptions, transient vendor, or street barker in an unlawful manner resulting in any disorderly conduct or breach of the peace within the town or in any manner which constitutes a violation of any laws or ordinances of the town or the State of Tennessee.

(4) Any other violation of this chapter shall be grounds for suspension and/or revocation.

Immediate notice of any suspension and/or proposed revocation of permit shall be given by the town recorder in writing to any permittee, setting forth the grounds of the suspension and/or revocation and setting forth the time and place of hearing before the board of mayor and aldermen. Such notice shall be mailed to the permittee at the address provided on the application at least five (5) days prior to the date set for the hearing before the board of mayor and aldermen. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (as replaced by Ord. #2010-285, Oct. 2010)

9-110. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to any peddler, solicitor (excluding solicitors for religious or charitable purposes and solicitors for subscriptions), or transient vendors who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the town. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided for in the permit, not to exceed thirty (30) days after the date of the issuance of the permit. An application for a renewal shall be made substantially in the same form as the original application, however, only so much of the application shall be completed as is necessary to reflect which have changed since the last application was filed. (as replaced by Ord. #2010-285, Oct. 2010)

9-111. 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 according to the general penalty provision of this municipal code of ordinances.¹

9-112. Hours of permitted solicitation. Any permittee under this chapter shall not solicit for sale, enter in, or go on, or upon any premises of any property owner within the town except as provided in the chapter. Hours of permitted solicitation within the town shall only occur by permittees during normal business hours from 9:00 A.M. through 5:00 P.M. Monday through Friday. No permitted solicitation or sales may occur outside permitted hours. (as added by Ord. #2010-285, Oct. 2010)

¹See section 5, of Adopting Ordinance.

CHAPTER 2

CABLE TELEVISION

SECTION

9-201. To be furnished under franchise.

9-202. Regulation of rates charged for cable television service and equipment.

9-203. Definitions.

9-201. To be furnished under franchise. Cable television shall be furnished to the Town of Walden and its inhabitants under franchise granted to Chattanooga Cable TV by the Board of Mayor and Aldermen of the Town of Walden, Tennessee. The rights, powers, duties and obligations of the Town of Walden and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon the parties concerned.¹ (Ord. #61, March 1981)

9-202.² Regulation of rates charged for cable television service and equipment. Pursuant to authority granted by the Cable Television and Consumer Protection Act of 1992, 47 U.S.C. § 543, and subject to Federal Communications Commission action under the authority of said Act certifying the Town of Walden to regulate basic cable television service within the boundaries of the Town of Walden; and for the purposes of regulating the rates charged to customers of any cable television operator franchised by the Town of Walden, the regulations contained in Title 47 of the Code of Federal Regulations, Part 76, Subpart N, sections 76,900 through 76,985, are hereby adopted and incorporated by reference as a part of this code. (as added by Ord. #94-160, June 1994)

9-203. Definitions. Whenever the regulations cited in section 9-203 refer to "franchising authority", it shall be deemed to be a reference to the Board of Mayor and Aldermen of the Town of Walden, Tennessee. (as added by Ord. #94-160, June 1994)

¹For complete details relating to the cable television franchise agreement see ordinance #61 dated March 1, 1981, in the office of the town recorder.

²Ordinance Number 94-160 (June 1994) added the provisions of sections 9-202 and 9-203 to the municipal code in title 19. However since the Cable TV chapter is here in title 9, the provisions of Ord. #94-160 were added here.

CHAPTER 3

TEMPORARY SPECIAL EVENT

SECTION

- 9-301. Event permit required.
- 9-302. Temporary special event defined.
- 9-303. Application contents and fee.
- 9-304. Approval/denial of the event permit.
- 9-305. Duration.
- 9-306. General regulations.
- 9-307. Exercise of police power.
- 9-308. Violation; penalties.

9-301. Event permit required. Whenever any property owner shall use or allow the use of his, her or its property by any person, including any corporation or other similar entity, for a temporary special event such property owner shall first obtain an "event permit" from the town. (as added by Ord. #2003-237, July 2003)

9-302. Temporary special event defined. A "temporary special event" shall mean the temporary use of property by the property owner or by vendor(s) who rent, lease or otherwise obtain a sales area from the property owner for the purpose of selling, bartering, exchanging, trading or displaying goods or services at an event which is open to the public, including without limitation, the world's longest yard sale, or other similar flea market, festival, or carnival. (as added by Ord. #2003-237, July 2003)

9-303. Application contents and fee. An event permit will be issued only upon the submission of an application. With the exception of the year in which this chapter is enacted, the event permit must be filed with the town recorder a minimum of thirty (30) days prior to the anticipated date of the temporary special event. Such application must contain the following information:

(1) A detailed description of the specific property in which the temporary special event or portion of the temporary special event will be held.

(2) The exact name, address, and telephone number of the owner and/or person to contact for all communications from the town.

(3) The approximate number of vendors that will be occupying and using the property during the temporary special event.

(4) A statement whereby the property owner agrees to defend, indemnify and hold the town harmless from any liability arising from the permitted activity and agreeing to abide by any conditions imposed upon the event permit, the provisions of this chapter and all other laws, rules and regulations of the town.

(5) A certificate of insurance evidencing the existence of comprehensive general public liability insurance against claims for bodily injury, death or property damage occurring in, on or about the property in which the temporary special event or portion of the temporary special event will be held in an amount of at least \$300,000.00 combined single limit for bodily injury and property damage.

(6) The payment of a \$50.00 application fee. (as added by Ord. #2003-237, July 2003)

9-304. Approval/denial of the event permit. The board of mayor and aldermen may impose reasonable conditions upon the issuance of an event permit or deny such event permit if it finds that the granting of the event permit would result in, create, or constitute any of the following:

(1) A significant increase in traffic volumes which may adversely affect vehicular and pedestrian safety;

(2) Potential crowd control problems dangerous to the well-being of the public;

(3) Potential sanitary problems relating to a lack of bathroom facilities; and

(4) Conditions detrimental to the health, safety, and welfare of the public. (as added by Ord. #2003-237, July 2003)

9-305. Duration. The duration of the event permit shall be in the sole discretion of the board of mayor and aldermen, but in no event will an event permit be issued for more than twelve (12) continuous days. (as added by Ord. #2003-237, July 2003)

9-306. General regulations. All activities relating to the temporary special event shall comply with all applicable town ordinances, rules and regulations, including those concerning businesses signage, and the following:

1. Ingress and egress to the property and adequate parking shall be maintained at all times; and

2. The property on which the temporary special event is occurring shall be maintained free of litter and, if such activity is causing litter on adjoining property, the property owner of the subject property shall be responsible for the cleanup of the adjacent property. (as added by Ord. #2003-237, July 2003)

9-307. Exercise of police power. This chapter is enacted as an exercise of the town's police powers and shall not be construed to impose any duty by the town to the property owner or to any member of the public, nor shall any event permit be construed as a waiver of any violation of the ordinances, rules and regulations of the town or the State of Tennessee. (as added by Ord. #2003-237, July 2003)

9-308. Violation; penalties. It shall be a misdemeanor for any person, corporation or other organization to violate any of the provisions of this chapter or the conditions imposed upon any event permit issued hereunder, which shall be punishable by a fine not to exceed one thousand dollars (\$1,000). (as added by Ord. #2003-237, July 2003)

CHAPTER 4

COMMUNICATIONS USAGE RIGHTS

SECTION

- 9-401. Definitions.
- 9-402. Registration.
- 9-403. Application fee.
- 9-404. Purpose.
- 9-405. Telecommunications usage rights.
- 9-406. Usage rights application.
- 9-407. Determination by the town; reconsideration.
- 9-408. Agreement.
- 9-409. Nonexclusive grant.
- 9-410. Term of grant.
- 9-411. Rights granted.
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- 9-420. Other town costs.
- 9-421. Construction permit fee.
- 9-422. Usage rights fees.
- 9-423. Regulatory fees and compensation not a tax.
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- 9-425. Compliance with joint trenching rules.
- 9-426. Construction permits.
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- 9-432. Relocation or removal of facilities.
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- 9-435. Damage to user's facility.
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- 9-440. User insurance.
- 9-441. General indemnification.
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- 9-445. Conditions of rights-of-way occupancy.
- 9-446. Transfer of ownership or control.
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- 9-455. Applications.
- 9-456. Engineer's certification.
- 9-457. Traffic control plan.
- 9-458. Issuance of permit.
- 9-459. Construction schedule.
- 9-460. Compliance with permit.
- 9-461. Display of permit.
- 9-462. Survey of underground facilities.
- 9-463. Noncomplying work.
- 9-464. Completion of construction.
- 9-465. As-built drawings.
- 9-466. Construction surety.
- 9-467. Exceptions.
- 9-468. Responsibility of owner.

9-401. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning.

(1) "Excess capacity" means 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.

(2) "Usage rights" means 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.

(3) "User" means a grantee of rights under this chapter by means of an award or franchise or its permitted successor, transferee or an applicant thereof.

(4) "Overhead facilities" means utility poles, utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

(5) "Street" means 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.

(6) "Surplus space" means 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.

(7) "Telecommunications carrier" means 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.

(8) "Telecommunications facilities or facility" means the plant, equipment and property 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.

(9) "Telecommunications service or service" means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice 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. "Telecommunications service" does not mean cable television service as defined in Tennessee Code Annotated, § 7-59-303.

(10) "Telecommunications system or system." See "telecommunications facilities."

(11) "Underground facilities" means utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities.

(12) "Usable space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance.

(13) "Utility easement" means any easement owned by the town and acquired, established, dedicated or devoted for public utility purposes not inconsistent with telecommunications facilities.

(14) "Utility facilities" means 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. #2015-307, Oct. 2015)

9-402. Registration. All telecommunications carriers who would, by this chapter, require usage rights, shall register with the town pursuant to this article 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. #2015-307, Oct. 2015)

9-403. Application 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. #2015-307, Oct. 2015)

9-404. Purpose. The purpose of registration under this article 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, usage rights 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. #2015-307, Oct. 2015)

9-405. Telecommunications usage rights. Any telecommunications carrier who desires to continue to 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 usage rights from the town pursuant to this chapter. The use of public rights of way for the delivery of any service not covered by this chapter is subject to all other applicable town rights. (as added by Ord. #2015-307, Oct. 2015)

9-406. Usage rights application. Any person that desires a telecommunications usage rights 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.

(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 of 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 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 usage rights area.
- (17) All fees, deposits or charges required pursuant to this chapter.
- (18) Such other and further information as may be requested by the town. (as added by Ord. #2015-307, Oct. 2015)

9-407. Determination by the town; reconsideration. Within sixty (60) days after receiving a complete application under § 9-406, 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 usage rights is granted.

(5) The damage or disruption, if any, of public or private facilities, improvements, services, travel or landscaping if the usage rights 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 usage rights 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 usage rights to use the streets will not serve the community interest.

The act of granting, denying or terminating a municipal right-of-way use permit is an exercise of the police power of the town. A person whose application for a municipal right-of-way use permit is denied must petition the town council for reconsideration before seeking judicial remedies, and must file such a petition within forty-five (45) days of the written denial of such application of the town. A petition is considered denied if the town council does not act within forty-five (45) days after the petition is filed with the town clerk. (as added by Ord. #2015-307, Oct. 2015)

9-408. Agreement. No usage rights shall be granted unless the applicant and the town have executed a written agreement setting forth the particular terms and provisions under which the usage rights to occupy and use the streets will be granted. Said agreement will define the rent charged the user for usage rights. (as added by Ord. #2015-307, Oct. 2015)

9-409. Nonexclusive grant. No usage rights granted under this chapter shall confer any exclusive right, privilege, usage rights to occupy or use the streets of the town for delivery of telecommunications services or any other purposes. (as added by Ord. #2015-307, Oct. 2015)

9-410. Term of grant. Unless otherwise specified in a usage rights agreement, a telecommunications usage rights granted under this chapter shall be valid for a term of ten (10) years. (as added by Ord. #2015-307, Oct. 2015)

9-411. Rights granted. No usage rights 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 usage rights agreement.

Further, no usage rights shall be construed as any warranty of ordinance. (as added by Ord. #2015-307, Oct. 2015)

9-412. Usage rights territory. Telecommunications usage rights granted under this chapter shall be limited to the specific geographic area of the town to be served by the user and the specific streets necessary to serve such areas. (as added by Ord. #2015-307, Oct. 2015)

9-413. Nondiscrimination. A user shall make its telecommunications services available to any customer within its usage rights area who shall request such service, without discrimination as to the terms, conditions, rates or charges for user's services and in accordance with applicable law; provided, however, that nothing in this chapter shall prohibit a user from making any reasonable classifications among differently situated customers. (as added by Ord. #2015-307, Oct. 2015)

9-414. Service to the town. User 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 rates. (as added by Ord. #2015-307, Oct. 2015)

9-415. Amendment of usage rights. (1) A new usage rights application shall be required of any telecommunications carrier that desires to extend its usage rights territory or to locate its telecommunications facilities in streets of the town which are not included in a usage rights previously granted under this chapter.

(2) If ordered by the town to locate or relocate its telecommunications facilities in streets not included in previously granted usage rights under this chapter, the town shall grant usage rights amendment without further application. (as added by Ord. #2015-307, Oct. 2015)

9-416. Renewal applications. A user that desires to renew its usage rights 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 term of usage rights, file an application with the town for renewal of its usage rights which shall include the following information:

(1) The information required pursuant to § 9-406.

(2) Any information required pursuant to the usage rights agreement between the town and the user. (as added by Ord. #2015-307, Oct. 2015)

9-417. Renewal determinations. Within one hundred fifty (150) days after receiving a complete renewal application under § 9-416, 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 usage rights 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. #2015-307, Oct. 2015)

9-418. Obligation to cure as a condition of renewal. No usage rights shall be renewed until any ongoing violations or defaults in the user's performance of the usage rights agreement, or of the requirements of this chapter, have been cured, or a plan detailing the corrective action to be taken by the usage rightse has been approved by the town. (as added by Ord. #2015-307, Oct. 2015)

9-419. Application and review fee. (1) Any applicant for usage rights pursuant to this article 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 usage rights 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. #2015-307, Oct. 2015)

9-420. Other town costs. All users 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 usage rights or any usage rights agreement. (as added by Ord. #2015-307, Oct. 2015)

9-421. Construction permit fee. Prior to issuance of a construction permit, the usage rights shall pay a permit fee equal to one percent (1%) of the estimated cost of constructing the telecommunication facilities, as certified by

the user's engineer and approved by the town engineer, to cover the town costs for inspections, survey and mapping. (as added by Ord. #2015-307, Oct. 2015)

9-422. Usage rights fees. (1) Each user shall pay an annual usage rights 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 town expressly reserves the right to review and/or modify any telecommunications usage rights agreement every third year of the usage rights.

(2) The payment of a usage rights fee shall be in addition to any tax or payment owed to the town by a telecommunications carrier.

(3) The usage rights 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) If any usage rights 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.

(5) The usage rights fee does not include any tax, fee or assessment of general applicability. (as added by Ord. #2015-307, Oct. 2015)

9-423. 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 §§ 9-403, 9-419, 9-420, 9-421, and 9-422 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. #2015-307, Oct. 2015)

9-424. Location of facilities. All facilities shall be constructed, installed and located in accordance with the following terms and conditions, unless otherwise specified in a usage rights agreement:

(1) A user shall install its telecommunications facilities within an existing underground duct or conduit whenever excess capacity exists.

(2) A user 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 engineer must review and approve the use of overhead facilities.

(3) Whenever any existing electric utilities, cable system or telecommunications facilities are located underground within a street of the

town, a user 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 user 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 usage rights term. Absent extraordinary circumstances or undue hardship as determined by the town, 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 user shall provide additional ducts, conduits, manholes and other facilities for nondiscriminatory access to future telecommunications carriers. (as added by Ord. #2015-307, Oct. 2015)

9-425. Compliance with joint trenching rules. All users shall, before commencing any construction in the streets, comply with all regulations of utility joint trenching rules. (as added by Ord. #2015-307, Oct. 2015)

9-426. Construction permits. All users 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 user from agreeing to alternative plan review, permit and construction procedures in a usage rights agreement, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices. (as added by Ord. #2015-307, Oct. 2015)

9-427. Interference with the streets. No user 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. All such facilities shall be moved by the user temporarily or permanently, as determined by the town. (as added by Ord. #2015-307, Oct. 2015)

9-428. Damage to property. No user nor any person acting on a user'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. #2015-307, Oct. 2015)

9-429. Notice of work. Unless otherwise provided in a usage rights agreement, no user, nor any person acting on the user'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. #2015-307, Oct. 2015)

9-430. Repair and emergency work. In the event of an unscheduled repair or emergency, a user may commence such repair and emergency response work as required under the circumstances, provided that the user 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. #2015-307, Oct. 2015)

9-431. Maintenance of facilities. Each user 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. #2015-307, Oct. 2015)

9-432. Relocation or removal of facilities. Within thirty (30) days following written notice from the town, a user 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. #2015-307, Oct. 2015)

9-433. 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 user's telecommunications usage rights.
- (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 usage rights.
- (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 usage rights. (as added by Ord. #2015-307, Oct. 2015)

9-434. 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 user prior to cutting or removing facilities from the streets. (as added by Ord. #2015-307, Oct. 2015)

9-435. Damage to user's facilities. Unless directly and proximately caused by the willful, intentional or malicious acts by the town, 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. #2015-307, Oct. 2015)

9-436. Restoration of streets and town property. (1) When a user, 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 user shall temporarily restore the affected ways or property. Such temporary restoration shall be at the user's sole expense, and the user shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

(3) A user 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. #2015-307, Oct. 2015)

9-437. Facilities maps. Each user shall provide the town with an accurate map certifying the location of all telecommunications facilities within the streets. Each user shall provide updated maps annually. (as added by Ord. #2015-307, Oct. 2015)

9-438. Duty to provide information. Within ten (10) days of a written request from the town, each user shall furnish the town with information sufficient to demonstrate that:

(1) The user 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 user have been properly collected and paid by the user.

(3) All books, records, maps and other documents maintained by the user 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. #2015-307, Oct. 2015)

9-439. Leased capacity. A user shall have the right, without prior town approval, to offer or provide capacity or band width to other providers of telecommunications service, provided that:

(1) The user 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. #2015-307, Oct. 2015)

9-440. User insurance. Unless otherwise provided in a usage rights agreement, each user shall, as a condition of the grant, secure and maintain the following liability insurance policies insuring the user and the town, and its elected and appointed officers, officials agents and employees as co-insureds:

(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 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) Workers' 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 user throughout the term of the telecommunications usage rights and such other period of time during which the user is operating without usage rights 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 ninety (90) days after receipt by the town, by registered mail, of a written notice addressed to the town recorder 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 user shall

obtain and furnish to the town replacement insurance policies meeting the requirements of this section. (as added by Ord. #2015-307, Oct. 2015)

9-441. General indemnification. Each usage rights agreement shall include, to the extent permitted by law, the user'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 user 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 usage rights agreement made or entered into pursuant to this chapter. (as added by Ord. #2015-307, Oct. 2015)

9-442. Performance and construction surety. Before the usage rights granted pursuant to this chapter are effective, and as necessary thereafter, the user 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 usage rights agreement. (as added by Ord. #2015-307, Oct. 2015)

9-443. Security fund. (1) Each user shall establish a permanent security fund with the town by depositing the amount of twenty thousand dollars (\$20,000.00) 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 user so long as any of the user'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 user 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 user:

(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 user's act or default.

(b) Providing a reasonable opportunity for the user to first remedy the existing or ongoing default or failure, if applicable.

(c) Providing a reasonable opportunity for user to pay any monies due the town before the town withdraws the amount thereof from the security fund, if applicable.

(d) That the user 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 user 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. #2015-307, Oct. 2015)

9-444. Construction and completion bond. (1) Unless otherwise provided in a usage rights 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 user's telecommunications facilities within the streets of the town shall be deposited before construction is commenced.

(2) Notwithstanding the provisions of this subsection (1) of this section, if a user 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 user 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 user 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. #2015-307, Oct. 2015)

9-445. Conditions of rights-of-way occupancy. (1) In the exercise of governmental functions, the town has first priority over all other uses of the public rights-of-way. The town reserves the right to lay sewer, gas, water, and other pipe lines or cables and conduits, and to do underground and overhead work, and attachment, restructuring or changes in aerial facilities in, across, along, over or under a public street, alley or right-of-way occupied by a provider, and to change the curb, sidewalks or the grade of streets.

(2) In case of conflict or interference between the facilities of different users, the user whose facilities were first permitted shall have priority over a competing user's use of the public rights-of-way.

(3) If, during the term of a municipal permit, the town authorizes abutting landowners to occupy space under the surface of any public street, alley, or rights-of-way, the grant to an abutting landowner shall be subject to the rights of the user. If the town closes or abandons a public right-of-way that contains a portion of a user's facilities, the town shall convey the land in the closed or abandoned public rights-of-way subject to the rights granted in the municipal permit.

(4) If the town gives written notice, a provider shall, at the user's expense, temporarily or permanently remove, relocate, change or alter the position of the provider's facilities that are in the public rights-of-way within one hundred twenty (120) days. The town shall give notice whenever the town had determined that removal, relocation, change or alteration is reasonably necessary for the construction, operation, repair, maintenance or installation of a town or other governmental entity's public improvement in the public rights-of way. This section shall not be construed to prevent a user's recovery of the cost of relocation or removal from private third parties who initiate the request for relocation or removal.

(5) A user who holds a municipal permit may trim trees in or over the rights-of-way for the safe and reliable operation, use and maintenance of its network. All tree trimming shall be performed in accordance with standards promulgated by the town. When ordered by the director of public works, tree trimming shall be done under the supervision of the town. (as added by Ord. #2015-307, Oct. 2015)

9-446. Transfer of ownership or control. (1) Usage rights 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) of this section, 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) of this section, the town may inquire into the legal, technical and financial qualifications of the prospective controlling party, and a user 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 usage rights agreement entered into by the town and the predecessor of the transferee.

(4) A user 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 usage rights 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 usage rights 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. #2015-307, Oct. 2015)

9-447. Transactions affecting control of usage rights. Any transactions which singularly or collectively result in a change of ten percent (10%) or more of the ownership or working control of the usage rights, of the ownership or working control of a telecommunications usage rights, of the ownership or working control of affiliated entities having ownership or working control of the usage rightse or of a telecommunications system or of control of the capacity or band width of usage rights's telecommunication system, facilities or substantial parts thereof, shall be considered an assignment or transfer requiring town approval pursuant to § 9-146. (as added by Ord. #2015-307, Oct. 2015)

9-448. Revocation or termination of usage rights. Usage rights 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 usage rights.
- (2) Construction or operation at an unauthorized location.
- (3) Unauthorized substantial transfer of control of the user.
- (4) Unauthorized assignment of a usage rights.
- (5) Unauthorized sale, assignment or transfer of usage rights or assets, or a substantial interest therein.
- (6) Misrepresentation or lack of candor by or on behalf of a user 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 user.
- (11) Violation of material provisions of this chapter.
- (12) Violation of the material terms of a usage rights agreement. (as added by Ord. #2015-307, Oct. 2015)

9-449. Notice and duty to cure. If the mayor or his designee believes that grounds exist for revocation of usage rights, he or his designee shall give the user 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 user 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) Rebutts 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. #2015-307, Oct. 2015)

9-450. Hearing. If a user fails to provide evidence reasonably satisfactory to the town recorder, the town recorder shall refer the apparent violation or noncompliance to the board of mayor and aldermen. The board of mayor and aldermen shall provide the user with notice and a reasonable opportunity to be heard concerning the matter. (as added by Ord. #2015-307, Oct. 2015)

9-451. Standards for revocation or lesser sanctions. If persuaded that the user has violated or failed to comply with material provisions of this chapter, or of usage rights, the board of mayor and aldermen shall determine whether to revoke the usage rights, 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.
- (6) The violation was voluntarily disclosed, admitted or cured. (as added by Ord. #2015-307, Oct. 2015)

9-452. General. No person shall commence or continue with the construction, installation or operation of telecommunications facilities within the town except as provided in this article. (as added by Ord. #2015-307, Oct. 2015)

9-453. 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. #2015-307, Oct. 2015)

9-454. 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 usage rights pursuant to 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 § 9-421. (as added by Ord. #2015-307, Oct. 2015)

9-455. 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. #2015-307, Oct. 2015)

9-456. 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. #2015-307, Oct. 2015)

9-457. 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. #2015-307, Oct. 2015)

9-458. 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, 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. #2015-307, Oct. 2015)

9-459. Construction schedule. The user shall submit a written construction schedule to the town recorder ten (10) working days before commencing any work in or about the streets. The user 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. #2015-307, Oct. 2015)

9-460. 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 or its designees 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. #2015-307, Oct. 2015)

9-461. Display of permit. The user 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. #2015-307, Oct. 2015)

9-462. 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 user shall cause the location of such facilities to

be verified by a registered state land surveyor. The user shall relocate any facilities which are not located in compliance with permit requirements. (as added by Ord. #2015-307, Oct. 2015)

9-463. Noncomplying work. Upon order of the town, 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. #2015-307, Oct. 2015)

9-464. Completion of construction. The user shall promptly complete all construction activities so as to minimize disruption of 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. #2015-307, Oct. 2015)

9-465. As-built drawings. Within sixty (60) days after completion of construction, the user 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. #2015-307, Oct. 2015)

9-466. Construction surety. Prior to issuance of a construction permit, the user shall provide a construction and completion bond. (as added by Ord. #2015-307, Oct. 2015)

9-467. Exceptions. Unless otherwise provided in a usage rights agreement, all telecommunications carriers are subject to the requirements of this chapter. (as added by Ord. #2015-307, Oct. 2015)

9-468. Responsibility of owner. The owner of the facilities to be constructed and, if different, the user, are responsible for performance of and compliance with all provisions of this chapter.

TITLE 10

ANIMAL CONTROL

CHAPTER

1. IN GENERAL.
2. DOGS.
3. WILD BIRDS.

CHAPTER 1

IN GENERAL

SECTION

- 10-101. Running at large prohibited.
- 10-102. Pen or enclosure to be kept clean.
- 10-103. Adequate food, water, and shelter, etc., to be provided.
- 10-104. Keeping in such manner as to become a nuisance prohibited.
- 10-105. Cruel treatment prohibited.
- 10-106. Seizure and disposition of animals.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, or any other animal knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits.

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

10-102. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition.

10-103. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle.

10-104. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason.

10-105. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl.

10-106. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer or official and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of mayor and aldermen.

The recorder shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance.

CHAPTER 2

DOGS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- 10-208. Destruction of vicious or infected dogs running at large.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, sections 68-8-101 through 68-8-114) or other applicable law.

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section.

10-203. Running at large prohibited.¹ It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits.

Any person knowingly permitting a dog to run at large, including the owner of the dog, may be prosecuted under this section even if the dog is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons.

¹State law reference

Tennessee Code Annotated, sections 68-8-108, 68-8-109, section 44-8-408 through 44-8-410 and section 44-8-412.

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood.

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated officer or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid.

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the board of mayor and aldermen. If the dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the dog will be sold or humanely destroyed. If the dog is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within five (5) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag evidencing such vaccination placed on its collar.

10-208. Destruction of vicious or infected dogs running at large. When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman¹ or other properly designated officer.

¹State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see the case of Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1927).

CHAPTER 3

WILD BIRDS

SECTION

10-301. Sanctuary for wild birds.

10-301. Sanctuary of wild birds. The entire area embraced within the corporate limits of the Town of Walden is hereby designated as a sanctuary for wild birds. It shall be unlawful to trap, hunt, shoot, or attempt to shoot, or molest in any manner any wild bird, or to rob any bird's nest. When any species of wild bird is found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property, and if such are declared by qualified authorities to be creating a public nuisance, and this council be so informed, appropriate action may be taken by duly constituted officials after a thorough investigation. Trapping or killing of such birds shall not be resorted to unless Audubon Societies, Bird Clubs, Garden Clubs or Humane Societies or similar groups, are unable to find a satisfactory alternative. (Ord. #11, Aug. 1976)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. MISDEMEANORS OF THE STATE ADOPTED.
2. ALCOHOL.
3. FIREARMS.
4. DISORDERLY CONDUCT AND NOISE ABATEMENT.
5. RESISTING ARREST.
6. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
7. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
8. FOREST STATE NATURAL AREA.
9. CURFEW FOR MINORS.

CHAPTER 1

MISDEMEANORS OF THE STATE ADOPTED

SECTION

11-101. Misdemeanors of the state adopted.

11-101. Misdemeanors of the state² adopted. Except where otherwise inconsistent with state law, all offenses against the State of Tennessee which are committed within the corporate limits and which are defined by the state law or are recognized by the Common Law to be misdemeanors are hereby designated and declared to be offenses against this town also. Any violation of any such law within the corporate limits is also a violation of this section.

¹Municipal code references

- Animals and fowls: title 10.
- Housing and utilities: title 12.
- Fireworks and explosives: title 7.
- Traffic offenses: title 15.
- Streets and sidewalks (non-traffic): title 16.

²State law reference

For the definition of "misdemeanor," see Tennessee Code Annotated, sections 39-11-110 and 39-11-111.

CHAPTER 2

ALCOHOL¹

SECTION

11-201. Drinking alcoholic beverages in public, etc.

11-202. Minors in beer places.

11-201. Drinking alcoholic beverages in public, etc. It shall be unlawful for any person to drink, consume or have an open container of beer as defined in § 8-101(1), or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place not authorized by a special occasion permit for beer as allowed by § 8-207 or a special occasion permit for alcoholic beverages as allowed by § 8-106. In instances where a special occasion permit is not required, this provision is inapplicable to town properties subject to a lease which makes provision for the consumption of alcohol under circumstances described thereunder. (as amended by Ord. #2017-317, April 2017)

11-202. Minors in beer places. No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold at retail for on premises consumption.

¹Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See Tennessee Code Annotated section 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

CHAPTER 3

FIREARMS

SECTION

11-501. Firearms

11-502. Hunting

11-503. Possession of firearms in town-owned properties.

11-301. Firearms. It shall be unlawful for any person to discharge firearms within the corporate limits of the Town of Walden, except when and where the discharge of a firearm is expressly authorized or permitted by state law and/or the regulations of the Tennessee Wildlife Commission. (Ord. #31, Feb. 1979, as replaced by Ord. #2019-326, March 2019 *Ch8_10-29-19*)

11-502. Hunting. It shall be unlawful to hunt on any property owned, leased or otherwise controlled by the Town of Walden. Hunting on private property is controlled by and must comply with state law and/or the regulations of the Tennessee Wildlife Commission. (as added by Ord. #2019-326, March 2019 *Ch8_10-29-19*)

11-503. Possession of firearms in town-owned properties. in accordance with Tennessee Code Annotated, § 39-17-1359, the following regulations shall be strictly enforced. Violations are punishable to the extent allowable under state law.

(1) Except as otherwise provided by state law, firearms shall be prohibited on any town-owned or operated properties if in the possession of a person who does not hold a valid handgun carry permit issued or recognized by the State of Tennessee.

(2) In general, persons who hold a valid handgun carry permit pursuant to Tennessee Code Annotated, § 39-17-1351 shall be able to lawfully possess a firearm on town-owned property. (as added by Ord. #2019-326, March 2019 *Ch8_10-29-19*)

CHAPTER 4

DISORDERLY CONDUCT AND NOISE ABATEMENT

SECTION

11-401. Disturbing the peace.

11-402. Invasion of privacy.

11-403. Offensive noise.

11-401. Disturbing the peace. It shall be unlawful and a misdemeanor for any person to disturb, tend to disturb, or aide in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (Ord. #45, Oct. 1979)

11-402. Invasion of privacy. It shall be unlawful and a misdemeanor for any person to spy, peer, or peep into any window of any residence or dwelling place that he does not occupy or to loiter around or within view of any such window with the intent of watching or looking through it. (Ord. #73, March 1982, as modified)

11-403. Offensive noise.

(1) General prohibition. No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restriction of the following provisions.

(2) Horns or audible signaling devices on vehicles. No person shall sound any horn or audible signal device on any automobile, truck, motorcycle, bus, or other motorized vehicles, while not in motion, except as a danger signal, or while in motion except as a warning of danger.

(3) Exhaust. No person shall discharge the exhaust or permit the discharge of the exhaust of any steam engine or internal combustion engine except through a muffler or other device that effectively prevents loud or explosive noises therefrom.

(4) Defective vehicles or loads. No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

(5) Loading, unloading, unpacking. No person shall create loud and excessive noise in loading, unloading, or unpacking any vehicle.

(6) Radios, phonographs, sound amplification systems. No person shall use or operate or permit the use or operation of any radio, phonograph, television, musical instrument, paging system, or any other

machine or device for the production, reproduction, or amplification of sound in a distinct and loudly audible manner as to disturb the peace, quiet, or repose of another person.

(7) Participation in noisy parties or gatherings. No person shall participate in any party or other gathering or people giving rise to noise, disturbing the peace, quiet, or repose of another person.

(8) Loudspeakers and amplifiers for advertising. No person shall operate or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production, reproduction, or amplification of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle.

(9) Animals. No person shall keep any animal that disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise.

(10) Schools and churches. No person shall create any excessive noise on a street, alley, or public grounds adjacent to any school or church when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

(11) Exemptions. This section shall not apply to any vehicle of the Town of Walden while engaged upon necessary public business, to excavations or repairs of bridges or streets by or on behalf of the town during the night hours, where the public safety and welfare requires it, or to the reasonable use of amplifiers or loudspeakers in the course of public addresses which are non-commercial in character. (Ord. # 129, March 1991)

CHAPTER 5

RESISTING ARREST¹

SECTION

11-501. Resisting arrest.

11-501. Resisting arrest. It is an offense for a person to intentionally prevent or obstruct anyone known to the person to be a law enforcement officer, or anyone acting in a law enforcement officer's presence and at such officer's direction, from effecting a stop, frisk, halt, arrest or search of any person, including the defendant, by using force against the law enforcement officer or another. (Ord. #47, Nov. 1979, as modified)

¹State law reference
Tennessee Code Annotataed, section 39-16-602.

CHAPTER 6

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-601. Escape from custody or confinement.

11-602. Impersonating a government officer or employee.

11-603. False alarms.

11-601. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the town to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement.

11-602. Impersonating a government officer or employee¹. No person other than an official police officer of the town shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the town. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee.

11-603. False alarms. (1) Definitions. For the purpose of this chapter certain words and phrases shall be defined as herein set forth:

(a) "Subscriber" is any person, firm, corporation, partnership or entity who or which purchases, leases, contracts for, or obtains and installs or causes to be installed an alarm system located in the Town of Walden.

(b) "Alarm System" means any mechanical or electrical device that is arranged, designed, or used to signal the occurrence in the Town of Walden of a burglary, robbery, or other criminal offense, fire emergency or medical emergency requiring urgent attention, and to which police, fire or emergency medical personnel are expected to respond. Alarm systems include those through which public safety personnel are notified directly of such signals through automatic recording devices or are notified indirectly by way of third persons who monitor the alarm systems and who report such signals to the Hamilton County Sheriff's Dispatcher for transmittal on to the Police Department of the Town of Walden, or directly to such police department. Alarm systems also include those designed to register a signal which is so audible, visible, or in other ways perceptible outside a protected building,

¹State law reference

Tennessee Code Annotated, section 39-16-301.

structure or facility as to notify persons in the neighborhood beyond the zoning lot where the signal is located who in turn may notify the police of the signal. Alarm systems do not include those affixed to automobiles; furthermore, alarm systems do not include auxiliary devices installed by telephone companies to protect telephone equipment or systems which might be damaged or disrupted by the use of an alarm system. Alarms located in separate structures, which structures are located on contiguous property owned by one subscriber shall be considered as a single alarm system for the purposes of this chapter.

(c) "False Alarm" means an alarm system eliciting a response by the police when a situation requiring a response by the police does not in fact exist. False alarm does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business operator or alarm user. Alarms resulting from the following conditions are not considered false alarms:

- (1) Criminal activity or unauthorized entry.
- (2) Earthquake causing structural damage to protected premises.
- (3) High winds sufficient to activate motion detection systems or causing physical damage to the protected premises.
- (4) Flooding of the protected premises due to overflow of natural drainage.
- (5) Lightning bolt causing physical damage to the protected premises.
- (6) Telephone line malfunction verified in writing to the Town of Walden by at least a first line telephone company supervisor.
- (7) Electrical service interruption verified in writing to the Town of Walden by the local power company.
- (8) Communication to the police department of the Town of Walden, before a unit is dispatched to investigate, clearly indicating that the alarm, resulted from authorized entry, authorized system test, or other non-criminal cause.

(2) Response to alarms. (a) Whenever an alarm is activated in the Town of Walden thereby requiring an emergency response to the location by the police, and of the police department of the Town of Walden responds, the police on the scene of the activated alarm system, shall inspect the area protected by the system and shall determine whether the emergency response was in fact required as indicated by the alarm system or whether the alarm signal was a false alarm.

(b) If the police personnel at the scene of the activated alarm system determine the alarm to be false, said officer shall make a report of the false alarm, a notification of which shall be mailed or delivered to

the subscriber at either the subscriber's address or the address of the property at which said alarm system is located, advising such subscriber of the false alarm.

(c) The Board of Mayor and Alderman of the Town of Walden or its designee shall have the right to inspect any alarm system on the premises to which a response has been made, and may cause an inspection of such system to be made at any reasonable time thereafter.

(3) Excessive false alarms & fines to be assessed. (a) If any alarm system produces four (4) false alarms during any twelve (12) month period, the Police Department of the Town of Walden shall provide written notice of the fact, which shall be given by certified mail or delivery to the subscriber asking the subscriber to take corrective action in regard to false alarms and informing the subscriber that any further false alarms received from that subscriber's alarm system within the twelve (12) month period shall subject that subscriber to fine as a violation of this chapter of the Town of Walden.

(b) Subscribers installing a new system or making substantial modifications to an existing system shall be entitled to a grace period during which alarms generated by such system shall be deemed non-false alarms. The grace period shall cease thirty (30) days after installation of or modification to an alarm system.

(c) It shall be unlawful for any subscriber of an alarm system located within the Town of Walden to have more than four (4) false alarms from that alarm system during any twelve (12) month period. Every person convicted of a violation of this chapter as the subscriber of any alarm system located in the Town of Walden producing a fifth (5th), sixth (6th), or more false alarms, within any twelve (12) month period, shall be fined the following amounts:

Fifth False Alarm - Twenty-five Dollars (\$25.00)

Sixth False Alarm and above - Fifty Dollars (\$50.00)

(Ord. #125, Oct. 1990, as modified)

CHAPTER 7

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

11-701. Trespassing.

11-702. Malicious mischief.

11-703. Interference with traffic.

11-701. Trespassing.¹ (1) On premises open to the public.

(a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.

(b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful or efficient conduct of the activities of such premises.

(2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.

(3) Vacant buildings. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(4) Lots and buildings in general. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.²

¹State law reference

Subsections (1) through (4) of this section were taken substantially from Tennessee Code Annotated, section 39-14-405.

²Municipal code reference

11-702. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him.

11-703. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon.

(...continued)

Provisions governing peddlers: title 9, chapter 1.

CHAPTER 8¹FOREST STATE NATURAL AREA²

SECTION

11-801. Trespassing on the Forest State Natural Area.

11-802. Regulations governing the Forest State Natural Area.

11-801. Trespassing on the Forest State Natural Area. Any person trespassing on the Falling Water Falls State Natural Area premises without written permission from the Tennessee Department of Conservation or the board of mayor and aldermen or town recorder of the Town of Walden shall be guilty of a misdemeanor. (Ord. #42, Aug. 1979)

11-802. Regulations governing the Forest State Natural Area. The following regulations governing the use of that portion of Falling Water Forest State Natural Area are hereby adopted by the Town of Walden, Tennessee.

(1) Collecting, injury or disturbance of plants, animals (living or dead), rocks, minerals, fossils or artifacts, or the alteration or removal of any object or objects from the Natural Area is strictly prohibited unless authorized by permit. The above objects include but are not limited to flowers, cones or other fruits, eggs, nests, driftwood, soil, rocks, mineral formations, phenomena of crystallization, artifacts, relics, historic or prehistoric features. Hunting and fishing is prohibited.

(2) The destruction, defacement, removal or disturbance in any manner of any building, sign, equipment, monument, statue, marker, or structure within the Natural Area is prohibited.

(3) Visitors must remain on designated trails at all times (unless conducting scientific research by permit or on educational field trips.)

(4) No person may litter or deposit trash within the Natural Area.

(5) Camping and the kindling of fires within the Natural Area is prohibited.

(6) Picnicking within the Natural Area is prohibited.

(7) The riding of horses within the Natural Area is prohibited.

¹See title 15, chapter 6, section 15-613 concerning vehicles parked in the Forest State Natural Area.

²Permit information is available from the State Natural Areas Administrator, Tennessee Department of Conservation, Division of Planning and Development, 2611 West End Avenue, Nashville, Tennessee, 37203, phone (615) 741-1061.

(8) The use of off-road vehicles, motorcycles or bicycles within the Natural Area is prohibited.

(9) Pets are discouraged but are permitted within the Natural Area if kept on a leash at all times.

(10) No person shall bring into, possess, carry, serve, or drink alcoholic beverages within the Natural Area.

(11) No person shall conduct himself in a disorderly manner or disturb the peace or good order of the Natural Area.

(12) Permission¹ must be obtained before entering caves or engaging in rock or mountain climbing, hanggliding and other high risk recreational pursuits.

(13) The use of metal or mineral detecting devices within the Natural Area is prohibited.

(14) The carrying and/or use of firearms in the Natural Area is prohibited.

(15) The use of the Natural Area is limited to daylight hours. Being in the Natural Area between the hours of sunset and the following sunrise is prohibited. (Ord. #29, Jan. 1979, as amended by Ord. #34, April 1979)

¹Permit information is available from the State Natural Areas Administrator, Tennessee Department of Conservation, Division of Planning and Development, 2611 West End Avenue, Nashville, Tennessee, 37203, phone (615) 741-1061.

CHAPTER 9

CURFEW FOR MINORS

SECTION

- 11-901. Curfew for minors between the age of seventeen and eighteen.
- 11-902. Curfew for minors age sixteen and below.
- 11-903. Parental control.
- 11-904. Exceptions.
- 11-905. Enforcement.

11-901. Curfew for minors between the age of seventeen and eighteen. It is unlawful for any minor between seventeen (17) and eighteen (18) years of age to remain in or upon any public street, highway, park, vacant lot, establishment or other public place within the Town of Walden during the following time frames:

- (1) Monday through Thursday between the hours of eleven o'clock p.m. (11:00 p.m.) to six o'clock a.m. (6:00 a.m.).
- (2) Friday through Sunday between the hours of twelve o'clock (12:00) midnight to six o'clock a.m. (6:00 a.m.). (Ord. #97-186, § 1, April 1997)

11-902. Curfew for minors age sixteen and below. It is unlawful for any minor sixteen (16) years of age and under to remain in or upon any public street, highway, park vacant lot, establishment or other public place within the Town of Walden during the following time frames:

- (1) Monday through Thursday between the hours of ten o'clock p.m. (10:00 p.m.) to six o'clock a.m. (6:00 a.m.).
- (2) Friday through Sunday between the hours of eleven o'clock p.m. (11:00 p.m.) to six o'clock a.m. (6:00 a.m.). (Ord. #97-186, § 2, April 1997)

11-903. Parental control. It is unlawful for a parent or guardian of a minor to knowingly permit or allow a minor child below the age of eighteen to be or remain upon any street or establishment under circumstances not constituting an exception to, or otherwise beyond the scope of sections 11-901 and 11-902. The term "knowingly" includes knowledge which a parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. The term "knowingly" is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It is not a defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor child (Ord. #97-186, § 3, April 1997)

11-904. Exceptions. The following are valid exceptions to the operation of the curfew:

- (1) At any time, if a minor is accompanied by such minor's parent or guardian;
- (2) When accompanied by an adult authorized by a parent or guardian of such minor to take such parent or guardian's place in accompanying the minor for a designated period of time and purpose within a specified area;
- (3) Until the hours of twelve-thirty a.m. (12:30 a.m.), if the minor is on an errand as directed by such minor's parent;
- (4) If the minor is legally employed, for the period from forty-five (45) minutes before to forty-five (45) minutes after work, while going directly between the minor's home and place of employment. This exception shall also apply if the minor is in a public place during the curfew hours in the course of the minor's employment. To come within this exception, the minor must be carrying written evidence of employment which is issued by the employer;
- (5) Until the hours of twelve-thirty a.m. (12:30 a.m.) if the minor is on the property of or the sidewalk directly adjacent to the place where such minor resides or the place immediately adjacent thereto, if the owner of the adjacent building does not communicate an objection to the minor and the law enforcement officer;
- (6) When returning home by a direct route from (and within thirty (30) minutes of the termination of) a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event. This exception does not apply beyond one o'clock a.m. (1:00 a.m.);
- (7) In the case of reasonable necessity, but only after such minor's parent has communicated to law enforcement personnel the facts establishing such reasonable necessity relating to specified streets at a designated time for a described purpose including place or origin and destination. A copy of such communication, or the record thereof, an appropriate notation of the time it was received and of the names and addresses of such parent or guardian and minor constitute evidence of qualification under this exception;
- (8) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. A minor shall show evidence of the good faith of such exercise and provide notice to the city officials by first delivering to the appropriate law enforcement authority a written communication, signed by such minor, with the minor's home address and telephone number, addressed to the mayor of the county specifying when, where and in what manner the minor will be on the streets at night during hours when the curfew is still otherwise applicable to the minor in the exercise of a First Amendment right specified in such communication; and
- (9) When a minor is, with parental consent, in a motor vehicle engaged in good faith interstate travel.

Each of the foregoing exceptions, and the limitations are severable. (Ord. #97-186, § 4, April 1997)

11-905. Enforcement. When any child is in violation of this section, the apprehending officer shall act in one (1) of the following ways:

(1) In the case of a first violation, and if in the opinion of the officer such action would be effective, take the child to the child's home and warn and counsel the parents or guardians;

(2) Issue a summons to the child and/or parents or guardians to appear at the Walden municipal court; or

(3) Bring the child into the custody of the Hamilton County Juvenile Court for disposition. (Ord. #97-186, § 5, April 1997)

TITLE 12

BUILDING, UTILITY, ETC. CODES¹

(RESERVED FOR FUTURE USE)²

¹NOTE: All building inspections are conducted by the Hamilton County building inspector according to state regulations. See T.C.A. 68-18-101 et. seq. for building regulations.

²Municipal code reference

See title 14 for zoning advertisement and sign provisions.

See title 20 for swimming pool regulations.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. UNSAFE BUILDINGS.
4. JUNKED VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
 13-102. Stagnant water.
 13-103. Weeds.
 13-104. Dead animals.
 13-105. Health and sanitation nuisances.
 13-106. Overgrown and dirty lots.

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business.

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes.

13-103. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the town recorder to cut such vegetation when it has reached a height of over one (1) foot.

¹Municipal code references

Animals and fowls: title 10.

Littering streets, etc.: section 16-107.

Wastewater treatment: title 18.

13-104. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the town recorder and dispose of such animal in such manner as the town recorder shall direct.

13-105. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity.

13-106. Overgrown and dirty lots.¹ (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Limitation on application. The provisions of this section shall not apply to any parcel of property upon which an owner-occupied residence is located.

(3) Designation of public officer. The town recorder, or such other person as designated by the board of mayor and aldermen, shall enforce the provisions of this section.

(4) Notice to property owner. Upon making a determination that a violation of the provisions of subsection (1) of this section has occurred, it shall be the duty of the town recorder, or such other person as designated by the board of mayor and aldermen, to serve notice upon the owner of record in violation of subsection (1) of this section. The notice shall set forth in plain language that the violation must be remedied within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal

¹ Section 13-103 applies to cases where the town wishes to prosecute the offender in municipal court. Section 13-106 can be used when the town seeks to clean up the lot at the owner's expense and place a lien against the property for the cost of the clean-up, but not to prosecute the owner in municipal court.

holidays. The notice shall be sent by registered or certified United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-106 of the Town of Walden Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The office, address, and telephone number of the person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the town; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(5) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the town recorder, or such other person designated by the board of mayor and aldermen to enforce the provisions of this § 13-106, shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. Upon the filing of the notice with the Hamilton County, Tennessee Register of Deed's Office, the costs shall be a lien on the property in favor of the town, second only to liens of the state, county, and the town for taxes, any lien of the town for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the town as a lien and shall be added to property tax bills to be collected 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.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the town recorder or such other person designated by the board of mayor and aldermen to enforce the provisions of this section may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the town recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) of this section. The failure to appeal within the ten (10) day time period shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (6) of this section may seek judicial review of the order or act.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the town's charter, this municipal code or other applicable laws which permit the town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements. (as added by Ord. #2008-277, Aug. 2008)

CHAPTER 2

JUNKYARDS

SECTION

13-201. Junkyards.

13-201. Junkyards.¹ All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety.

¹State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

CHAPTER 3

UNSAFE BUILDINGS

SECTION

13-301. Abatement.

13-302. Enforcement proceedings.

13-303. Penalty.

13-304. Severability.

13-305. Walden building inspector.

13-301. Abatement. All buildings or structures which are unsafe, unsanitary or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, are severally in contemplation of this section, unsafe buildings. All such unsafe buildings are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the following procedure:

(1) Whenever the Walden Building Inspector shall find any building or structure or portion thereof to be unsafe, as defined in this chapter, he shall, in accordance with established procedure for legal notices, give the owner, agent or person in control of such building or structure written notice stating the defects thereof. This notice shall require the owner within a stated time either to complete specified repairs or improvements, or to demolish and remove the building or structure or portion thereof.

(2) If necessary, such notice shall also require the building, structure or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the Walden Building Inspector, and the Walden Building Inspector shall cause to be posted at each entrance to such building a notice stating: **THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE WALDEN BUILDING INSPECTOR**. Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation or their agents, or their servants, to remove such notice without written permission of the Walden Building Inspector, or for any person to enter the building except for the purpose of making the required repairs or of demolishing same.

(3) The owner, agent or person in control shall have the right, except in cases of emergency, to appeal from the decision of the Walden Building Inspector, as provided hereinafter, and to appear before the Walden Municipal Court at a specified time and place to show cause why he or she should not comply with said notice.

(4) In case the owner, agent or person in control cannot be found within the stated time limit, or if such owner, agent or person in control shall fail, neglect or refuse to comply with notice to repair, rehabilitate or to demolish and remove said building or structure or portion thereof, the Walden Building Inspector, after having ascertained the cost, shall cause such building or structure or portion thereof to be demolished, secured or required to remain vacant.

(5) The decision of the Walden Building Inspector shall be final in cases of emergency which, in his opinion, involve imminent danger to human life or health. He shall promptly cause such building, structure or portion thereof to be made safe or cause its removal. For this purpose he may at once enter such structure or land on which it stands, or abutting land or structures, with such cost as he may deem necessary. He may order the vacation of adjacent structures and may require the protection of the public by appropriate fence or such other means as may be necessary, and for this purpose may close a public or private way.

(6) Costs incurred under sections 13-301(4) and 13-301-(5) of this chapter shall be charged to the owner of the premises involved and shall be collected in the manner provided by law. Such costs shall constitute a lien on the property involved, which lien shall be superior to all liens except liens for taxes and special assessments. (Ord. #95-171, Nov. 1995)

13-302. Enforcement proceedings. The Walden Building Inspector may issue citations to any person, firm or corporation for violations of this chapter which shall be tried before the Walden Municipal Court as in the case of any other ordinance violation. Applicable building and structural standards for purposes of this chapter shall be based on the Standard Building Code, 1994 Edition, Standard Plumbing Code, 1995 Edition, and Standard Mechanical Code, 1994 Edition, and all future yearly editions thereof as prepared and adopted by the Southern Building Code Congress International, Inc. which are hereby adopted and incorporated by reference as part of this chapter. (Ord. #95-171, Nov. 1995)

13-303. Penalty. Any person, firm or corporation violating any of the provisions of this chapter shall upon conviction thereof in the Walden Municipal Court, shall pay a penalty of not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each violation. Each day's continuance of a violation shall be considered a separate offense. (Ord. #95-171, Nov. 1995)

13-304. Severability. If any section, clause or provision of this chapter shall be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the chapter as a whole or any part thereof, other than the part so declared to be invalid. (Ord. #95-171, Nov. 1995)

13-305. Walden building inspector. The Walden Building Inspector shall be appointed from time to time by the board of mayor and aldermen by resolution, to serve at their pleasure on such terms and conditions as the board of mayor and aldermen may prescribe by resolution until removed or replaced by the board of mayor and aldermen. (Ord. #95-171, Nov. 1995)

CHAPTER 4

JUNKED VEHICLES

SECTION

- 13-401. Definitions.
- 13-402. Violations a civil offense.
- 13-403. Exceptions.
- 13-404. Enforcement.
- 13-405. Penalty for violations.

13-401. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(2) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

(4) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth moving equipment, and any part of the same.

(5) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective in any one (1) or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(a) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.

(b) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

(c) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows, interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(d) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(e) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

(f) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.

(g) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

(h) If a vehicle has not been moved from a single location for a period of sixty (60) days and has a vehicle registration that has been expired for over twelve (12) months, it will be presumed that the vehicle is so damaged or defective to be immediately inoperable within the meaning of this section. (as added by Ord #2018-323, Aug. 2018 ***Ch8_10-29-19***)

13-402. Violations a civil offense. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, maintain on private property a junk vehicle for more than sixty (60) days. (as added by Ord #2018-323, Aug. 2018 ***Ch8_10-29-19***)

13-403. Exceptions. It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(1) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property

maintenance, and other regulations governing the building in which such vehicle is enclosed.

(2) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(3) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city. (as added by Ord #2018-323, Aug. 2018 **Ch8_10-29-19**)

13-404. Enforcement. Pursuant to Tennessee Code Annotated, § 7-63-101, the building official or his designee is authorized to issue ordinance summons for violations of this chapter on private property. The building official or his designee shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building official or his designee finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building official or his designee may:

(1) Request the city judge to issue a summons; or

(2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101, et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest. (as added by Ord #2018-323, Aug. 2018 **Ch8_10-29-19**)

13-405. Penalty for violations. Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. (as added by Ord #2018-323, Aug. 2018 **Ch8_10-29-19**)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. ZONING AND SUBDIVISION.
2. SIGNS AND ADVERTISEMENTS.
3. STORMWATER ORDINANCE.

CHAPTER 1

ZONING AND SUBDIVISION

SECTION

- 14-101. Walden zoning ordinance.
- 14-102. Subdivision regulations.

14-101. Walden zoning ordinance. The Walden Zoning Ordinance and any amendments to such ordinance, are incorporated herein by reference. A copy of the Walden Zoning Ordinance shall be kept in the recorder's office, or other office, as will make such zoning ordinance accessible for public inspection or review.

14-102. Subdivision regulations. The Walden subdivision regulations and any amendments thereto, as adopted by the Walden Planning Commission, is incorporated herein by reference. A copy of the Walden Subdivision regulations shall be kept in the recorder's office, or other office, as will make such regulations accessible for public inspection or review.

CHAPTER 2

SIGNS AND ADVERTISEMENTS

SECTION

- 14-201. Findings, purpose and intent; interpretation.
- 14-202. Definitions.
- 14-203. Interpretation of district zones.
- 14-204. Prohibited signs.
- 14-205. Authorized signs.
- 14-206. Permit required.
- 14-207. Appeals and variances.
- 14-208. Specific sign regulations for residential districts.
- 14-209. Specific sign regulations for commercial districts.
- 14-210. VC-1 Village Center Zone.
- 14-211. Supplemental criteria in all districts.
- 14-212. Illumination.
- 14-213. Prohibited signs.
- 14-214. Procedures.
- 14-215. Nonconformity and modification.
- 14-216. Compliance.

14-201. Findings, purpose and intent; interpretation. (1) Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment on historic convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This article must be interpreted in a manner consistent with the guarantee of free speech in the state and federal constitutions. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding must not affect the validity of other provisions of this article which can be given effect without the invalid provision.

(2) Signs not expressly permitted as being allowed by right or by special use permit under this article, by specific requirements in another portion of the municipal code, or otherwise expressly allowed by the board of mayor and aldermen within its jurisdiction are prohibited.

(3) A sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein must

be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs in order to ensure they are appropriate to the land, building or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in subsection (1) of this section.

(4) These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.

(5) These regulations distinguish between portions of the town designed for primarily vehicular access and portions of the town designed for primarily pedestrian access.

(6) These regulations do not regulate every form and instance of visual communication that may be displayed anywhere within the jurisdictional limits of the town. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one (1) or more of the purposes set forth above.

(7) These regulations do not eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.

(8) These regulations are not intended to and do not apply to signs erected, maintained or otherwise posted, owned or leased by the state, the federal government or this town. The inclusion of "government" in describing some signs does not intend to subject the government to regulation, but instead helps illuminate the type of sign that falls within the immunities of the government from regulation. (Ord. #110, Jan 1990, as replaced by Ord. #2020-334, Dec. 2020 ***Ch9_11-09-21***)

14-202. Definitions. (1) "Code." Unless otherwise specifically referenced means the Code of the Town of Walden.

(2) "Digital billboard." A sign that is static and changes messages by any electronic process or remote control. Digital billboards are not allowed.

(3) "Electric sign." Any sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.

(4) "Flag." Means a sign made of fabric, bunting, or similar material, attached along one (1) side to a single pole that is either freestanding or attached to a building.

(5) "Flashing sign." Any illumined sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when

such sign is in use. For the purpose of this code any moving illuminated sign, except digital billboards, must be considered a flashing sign.

(6) "Flat wall (façade-mounted) sign." A sign affixed directly to or painted on or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and which projects from that surface less than twelve inches (12") at all points.

(7) "Freestanding sign." A sign erected and maintained on a freestanding frame, mast or pole not attached to any building, and not including ground mounted signs.

(8) "Government sign." A government sign is a sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner's rights.

(9) "Graffiti." Means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the town. Graffiti includes snipe signs.

(10) "Graffiti implement." Means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

(11) "Ground mounted sign." A sign which extends from the ground or has support which places the bottom of the sign less than two feet (2') from the ground.

(12) "Highway sign." A Freestanding sign, integral sign or flat wall sign that is erected and maintained within the view of motorists who are driving on a highway.

(13) "Holiday lights or mini lights" mean light fixtures that use bulbs that are sized C6, C7, or C9 or LED bulbs that are eight (8) mm or smaller.

(a) Rope light means a light that has holiday lights or mini lights inside of a PVC tube.

(b) String lights means a lighting fixture that is composed of electrical wiring encased in plastic with sockets for bulb placement.

(14) "Integral sign." A sign that is embedded, extruded or carved into the material of a building façade. A sign made of bronze, brushed stainless steel or aluminum, or similar material attached to the building façade.

(15) "Lessee" includes a person who rents property for residential purposes.

(16) "Marquee sign." A canopy or covering structure bearing a signboard or copy projecting from and attached to a building.

(17) "Minor sign." A sign described in § 14-205(7) and any sign not larger than six (6) square feet that can be removed by hand if abandoned.

(18) "Original art display." A hand-painted work of visual art that is either affixed to or painted directly on the exterior wall of a structure with the permission of the property owner. An original art display does not include: mechanically produced or computer-generated prints or images, including but not limited to digitally printed vinyl; electrical or mechanical components; or changing image art display.

(19) "Outdoor advertising sign." A sign that advertises goods, products or services which are not sold, manufactured or distributed on or from the premises or facilities on which the sign is located. Outdoor advertising signs are not allowed.

(20) "Portable sign." Any structure without a permanent foundation or otherwise permanently attached to a fixed location, which can be carried, towed, hauled or driven and is primarily designed to be moved rather than be limited to a fixed location regardless of modifications that limit its movability.

(21) "Projecting sign." A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.

(22) "Roof sign." A sign located on or above the roof of any building, not including false mansard roof, canopy, or other fascia.

(23) "Sign." A name, identification, description, display or illustration, which is affixed to, painted or represented directly or indirectly upon a building, or other outdoor surface which directs attention to or is designed or intended to direct attention to the sign face or to an object, product, place, activity, person, institution, organization or business. Signs located completely within an enclosed building, and not exposed to view from a street, must not be considered a sign. Each display surface of a sign or sign face must be considered to be a sign.

(24) "Sign area." The space enclosed within the extreme edges of the sign for each sign face, not including the supporting structure or where attached directly to a building wall or surface, the space within the outline enclosing all the characters of the words, numbers or design.

(25) "Sign face." The entire display surface area of a sign upon, against or through which copy is placed.

(26) "Snipe sign." means any small sign, generally of a temporary nature, made of any material, when such sign is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences, or other objects not erected, owned and maintained by the owner of the sign.

(27) "Temporary sign." A banner, pennant, poster or advertising display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appears to be intended or is determined by the code official to be displayed for a limited period of time (rather than permanently attached to the ground or a structure).

(28) "Vehicle sign." Any sign attached to or displayed on a vehicle. (Ord. #110, Jan. 1990, as amended by Ord. #93-159, Jan. 1994, and Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-203. Interpretation of districts or zones. When this chapter makes reference to a district or zone, residential zone are those defined by the Walden Zoning Ordinance as A-1, E-1, R-1; and commercial zones are those defined as C-1, VC-1 and LM-1. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-204. Prohibited signs. (1) Signs are prohibited unless:

- (a) Constructed pursuant to a valid permit when required under the municipal code; and
- (b) Authorized under this chapter or otherwise by the municipal code.

In residential zones or on property used for non-transient residential uses, commercial signs are prohibited. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-205. Authorized signs. The following signs are authorized without a need for a permit:

(1) Although these regulations do not apply to signs erected, maintained or posted by the state, federal, county or this government, these regulations clarify that government signs which form the expression of that government are allowed in every zoning district and include the signs described and regulated in herein when erected and maintained pursuant to law.

(2) Traffic control devices on private or public property must be erected and maintained to comply with the Manual on Uniform Traffic Control Devices adopted by the state. Because these regulations do not apply to the state, federal, county or this government, a failure to comply with this provision by those governments does not constitute evidence of negligence or form the basis for a cause of action.

(3) Each property owner must mark their property using numerals that identify the address of the property so that public safety departments can easily identify the address from the public street. Where required under this code or other law the identification may be on the curb, mailbox or on the principal building on the property. If on the building, the size and location of the identifying numerals and letters if any must be proportional to the size of the building and the distance from the street to the building. In cases where the building is not located within view of the public street, the identifier must be located on the mailbox or other suitable device such that it is visible from the street.

(4) Where a federal, state or local law requires or allows a property owner to post a sign on the owner's property to warn of a danger or to prohibit

access to the property either generally or specifically, the owner must comply with the federal, state or local law to exercise that authority by posting a sign on the property. If the federal, state or local regulation describes the form and dimensions of the sign, the property owner must comply with those requirements, otherwise, when not defined, the sign shall be no larger than two (2) square feet and located in a place on the property to provide access to the notice that is required to be made. Signs posted under this section are not snipe signs.

(5) Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of official or directed duties; provided, that all such signs must be removed by the property owner no more than ten (10) days after their purpose has been accomplished or as otherwise required by law. Signs posted under this section are not snipe signs.

(6) The signs described in subsections (3), (4) and (5) are an important component of measures necessary to protect the public safety and serve the compelling governmental interest of protecting traffic safety, complying with legal requirements, serving the requirements of emergency response and protecting property rights or the rights of persons on property.

(7) Temporary signs, generally. (a) Temporary signs allowed at any time:

(i) A property owner may place one sign with a sign face no larger than three (3) square feet on the property at any time. This section does not include snipe signs.

(ii) A property owner may place a sign no larger than eight and one-half by eleven inches (8.5" x 11") in one (1) window on the property at any time.

(b) Temporary signs may be located on the owner's property for a period of ninety (90) days prior to an election involving candidates for a federal, state or local office or which involves an issue on the ballot of an election and remain for up to sixty (60) days subsequent to such election. This section does not authorize snipe signs.

(c) One (1) temporary sign that is not a snipe sign may be located on a property when:

(i) The owner consents and that property is being offered for sale through a licensed real estate agent;

(ii) If not offered for sale through a real estate agent, when the sign is owned by the property owner and that property is offered for sale by the owner through advertising in a local newspaper of general circulation; and

(iii) For a period of twenty-one (21) days following the date on which a contract of sale has been executed by a person purchasing the property.

(d) One (1) temporary sign may be located on the owner's property on the day prior to and on a day when the property owner is opening the property to the public; provided, however, the owner may not use this type of sign in a residential district on more than five (5) days in a year and may not use this type of sign in any commercial district for more than fourteen (14) days in a year. For purposes of this section, a year is counted from the first day on which the sign is erected counting backwards and from the last day on which the sign exists counting forward. This section does not authorize snipe signs.

(e) During the period from the Thanksgiving holiday to January 10, a property owner may place temporary signs on the property and may use lights to decorate the property even if the lights might be arranged to form a sign. This section does not authorize snipe signs.

(f) A property owner may place and maintain one (1) temporary sign on the property the last week of June and the first week of July. This section does not authorize snipe signs.

(g) A person exercising the right to place temporary signs on a property as described in this § 14-206 must limit the number of signs on the property per one quarter (0.25) acre at any one (1) time to two (2) plus a sign allowed in 14-205(7)(a)(ii), or if the property is smaller than one quarter (0.25) acres then no more than two (2) signs plus a sign allowed in 14-205(7)(a)(ii) per principal building on the property.

(h) The sign face of any temporary sign, unless otherwise limited in this § 14-205 must not be larger than three (3) square feet.

The lessee of a property is considered the property owner as to the property the lessee holds a right to use exclusive of others (or the sole right to occupy). The terms of a lease or other agreement under which the property is occupied controls in determining whether property is occupied exclusively by a lessee. If there are multiple Lessees of a property then each lessee must have the same rights and duties as the property owner as to the property the lessee leases and has the sole right to occupy and the size of the property must be deemed to be the property that the lessee has the sole right to occupy under the lease.

(8) Signs not in an enclosed building and not exposed to view from a street or public right-of-way, public place or other property such as those not visible to a person from a public right of way, public place or other property.

(9) Flags as follows:

(a) Residential districts. In a single-family zoning district, two (2) flags and one (1) flagpole per premises. Each flag must be a maximum of fifteen (15) square feet in area. Flag poles must meet the minimum yard setback requirements for a principal building.

(b) Commercial districts. In a commercial district, one (1) flag per twenty-five feet (25') of frontage on a right-of-way up to a maximum of three (3) flags and three (3) flag poles per premises. Each flag must be

a maximum of twenty-four (24) square feet in area. Flag poles must be a maximum of forty feet (40') in height but no higher than the highest point of the nearest principal building's roof on the premises. Flag poles must meet the minimum yard setback requirements for a principal building or a minimum of ten feet (10') whichever is more restrictive.

(i) Small flags at vehicle sales and service establishments. One (1) small flag of no more than one (1) square foot in area may be attached to vehicles on display for sale or rent at vehicle sales and service establishments. Such flag must be no higher than two feet (2') above the height of the vehicle as if it were displayed at grade level.

(ii) Vehicle signs must be covered if the vehicle is parked on the same property for longer than twelve (12) hours so that the sign is not visible from a public way.

(10) Signs within ballparks and athletic fields. Signs within ballparks and athletic fields as follows:

(a) Scoreboards facing inward to the audience; and

(b) Such other signs as may be affixed to the fence or scoreboard, facing inward to the field of play that are no larger than thirty-two (32) square feet in area.

(11) Memorial plaques, cornerstones, historical tablets and the like.

(12) Nameplates.

(13) Barber poles. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-206. Permit required. (1) In general. A sign permit is required prior to the display and erection of any sign except as provided in § 14-205.

(2) Application for permit. (a) An application for a sign permit must be filed with the town recorder on forms furnished by the town. The applicant must provide sufficient information to determine if the proposed sign is allowed under this code and other applicable laws, regulations, and ordinances. An application for a temporary sign must state the dates intended for the erection and removal of the sign. An application for any sign must state the date when the owner intends to erect it and provide a bond sufficient to allow the town to remove it if it is not properly maintained or if it is abandoned.

(b) The town recorder or designee must promptly process the sign permit application and approve the application, reject the application, or notify the applicant of deficiencies in the application within fifteen (15) days after receipt. Any application that complies with all provisions of this code, the zoning ordinance, the building code, and other applicable laws, regulations, and ordinances must be approved.

(c) If the application is rejected, the town recorder must provide a list of the reasons for the rejection in writing. An application must be

rejected for non-compliance with the terms of this code, the zoning ordinance, building code, or other applicable law, regulation, or ordinance.

(3) Permit fee. A nonrefundable fee as set forth in the uncodified fee schedule adopted by the town council must accompany all sign permit applications.

(4) Bond. The applicant for any sign except a minor sign must submit a bond in an amount and from an issuer approved by the town recorder to protect the town from the cost of removing the sign should it no longer be allowed under the laws of the town, state or federal government. If the permit is issued a condition of the permit must be that the bond is maintained and increased or decreased based upon the then current estimates of the costs of removal of the sign. If the sign is removed without cost to the town the town must release the bond but may execute upon it should the town be held responsible for or incur any cost in removing the sign.

(5) Duration and revocation of permit. If a sign is not installed within six (6) months following the issuance of a sign permit the permit must be void. The town may revoke a sign permit under any of the following circumstances:

(a) The town determines that information in the application was materially false or misleading;

(b) The sign as installed does not conform to the sign permit application;

(c) The sign violates this code, the zoning ordinance, building code, or other applicable law, regulation, or ordinance; or

(d) The code official/zoning administrator determines that the sign is not being properly maintained or has been abandoned. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-207. Appeals and variances. (1) Appeals. If the town recorder denies a permit the applicant may appeal to the board of mayor and aldermen. The decision of the town recorder will be accorded a presumption of correctness.

(2) Variances. Variances shall be considered and granted in the manner provided in article 9 of this zoning ordinance. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-208. Specific sign regulations for residential districts. The following sign regulations apply to Residential Districts.

(1) Size. (a) When a sign is authorized on a property, the sign must not exceed three (3) square feet in area. Where attached dwellings exist on a property the total square footage of signs must not exceed two (2) square feet per dwelling unit and must not exceed a total of fifteen (15) square feet in area per structure.

(b) For residential developments (including subdivision identification) the maximum size and number of signs that the owner or

owners of the residential development may erect and maintain at the entrances to the development must be controlled according to the following:

- (i) Residential developments four (4) acres or less in area may have a sign or signs with a total area of no more than thirty-two (32) square feet.
- (ii) Residential developments over four (4) acres but less than forty (40) acres in area may have a sign or signs which have a total area of no more than forty-eight (48) square feet.
- (iii) Residential developments of forty (40) acres or more in area may have a sign or signs with a total area of no more than one hundred two (102) square feet.
- (2) Location. Permitted signs may be anywhere on the premises, except to the extent that they may impair the sight triangle at any intersection.
- (3) Height. The following maximum heights must apply to signs:
 - (a) If ground-mounted, the top must not be over four feet (4') above the ground; and
 - (b) If building mounted, must be flush mounted and must not project above the roof line.
- (4) Illumination. Illumination may not be used in residential districts.
- (5) The following signs are not allowed. Highway signs, portable signs, marquee signs, digital billboard, outdoor advertising signs, and projecting signs. temporary signs that might fall within the definition of "highway sign" are not prohibited by this section provided they comply with § 14-205.
- (6) Commercial uses lawfully operating in a residential district must comply with § 14-210(6) and (7). (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-209. Specific sign regulations for commercial districts. The following sign regulations apply to commercial districts except for VC-1 Village Center.

- (1) Number and size. For each lot or parcel a sign at the listed size may be authorized as follows:
 - (a) Signs must not exceed twenty-five (25) square feet.
 - (b) Along Taft Highway signs must not exceed the following area requirements based on the speed limit and number of traffic lanes of the adjacent public street:

Maximum Speed Limit	No. of traffic lanes	Max. Sq. Footage of sign
30 mph or less	3 or less	32 sq. ft.
35 mph or more	3 or less	50 sq. ft.

(c) Two (2) or more lots or parcels having a combined linear frontage of eighty-five feet (85') may combine their sign areas allowed by § 14-210(1)(b). For the purpose of providing one common free-standing or ground-mounted sign. The sign must not exceed one hundred fifty (150) square feet.

(d) Corner Lots. Where a lot fronts on more than one (1) street, only the square footage computed for each street frontage must face that street frontage.

(e) If not otherwise regulated as to maximum sign area in this code, signs are governed by the following:

Maximum Sign Area	Street Frontage
20 sq. ft.	85 ft. or less
25 sq. ft.	86-90 ft.
30 sq. ft.	91-99 ft.
35 sq. ft.	100 ft. or more

(f) Highway signs. Highway signs must be permitted only on lots bordering Taft Highway within a Commercial District. In determining these limitations, the following must apply:

(i) Minimum spacing between signs on the same side of the highway must be five hundred feet (500').

(ii) For the purpose of applying the spacing requirements of subsection (1) above, the following must apply:

(A) Distances must be measured parallel to the centerline of the highway;

(B) Measurements for the spacing between signs must be based on when the construction of the sign:

(1) Received final approval by the code official measuring from the first sign to have received that approval; or

(2) If the code official has not given final approval to a sign that will be limited by the spacing requirement once it is constructed, then

(a) Measured from the first sign given a building permit that is not cancelled or void at the time of measurement; or

(b) When no permit has been issued that is still valid, measured from the first fully complete application for a building permit

received by the code official that has not been cancelled or which is void; and

(c) A back-to-back, multiple signs on one (1) freestanding pole, double-faced or V-type sign must be considered as one (1) sign.

(2) Location. (a) Flat wall signs may be located on any wall of the building.

(b) Freestanding signs must have a minimum clearance of eight feet, six inches (8' 6") above a sidewalk and fifteen feet (15') above driveways.

(c) One (1) freestanding or ground-mounted sign per lot or parcel except as provided in §§ 14-209(1)(b) and 14-210(1)(f). may be located anywhere on the premises except as follows:

(i) A ground-mounted sign must not be located in a required side yard, rear yard or within five feet (5') of a street right-of-way.

(ii) A freestanding sign must not be located in a required side or rear yard. A freestanding sign may project up to the street right-of-way provided there is a minimum ground clearance of eight feet, six inches (8' 6") and provided the location complies with the Manual on Uniform Traffic Control Devices.

(d) Marquee signs or signs located on or attached to marquees must have a minimum clearance of not less than eight feet six inches (8' 6"),. The maximum vertical dimension of signs must be determined as follows:

Height above Grade	Vertical Dimension
8' 6" up to 10'	2' 6" high
10' up to 12'	3' high
12' up to 14'	3' 6" high
14' up to 16'	4' high
16' and over	4' 6" high

(e) Wall signs must not extend above the top of a parapet wall or a roofline at the wall, whichever is higher.

(f) Permitted highway signs may be allowed anywhere on the premises except in a required side yard, rear yard or within twenty feet (20') of a street right-of way.

(3) Height. (a) Ground-mounted signs must not exceed four feet in (4') height from ground level.

(b) Freestanding signs are subject to the following restrictions:
 (i) The maximum height of any freestanding sign above the average grade elevation surrounding the sign shall not exceed the following:

(A) Eight feet (8') where the sign face does not exceed forty (40) square feet;

(B) Ten feet (10') where the sign face does not exceed sixty (60) square feet; or

(C) Twelve feet (12') where the sign face exceeds sixty (60) square feet.

(ii) The bottom edge of the sign shall not exceed four feet (4') in height from the lowest grade elevation at the base of the sign.

(iii) The maximum width of any freestanding sign shall not exceed the following:

(A) Fifteen feet (15') where the sign face does not exceed forty (40) square feet;

(B) Twenty feet (20') where the sign face does not exceed sixty (60) square feet; or

(C) Twenty-five feet (25') where the sign face exceeds sixty (60) square feet.

(c) Highway signs must not exceed thirty-five feet (35') in height from ground level.

(4) Content. (a) Any of the signs pursuant to this section may be changeable copy signs.

(b) The primary identification sign as allowed under § 14-205(3) for each firm must contain its street number. The street number must be clearly visible from the street right-of-way.

(5) Illumination. Illumination if used must not be blinking, fluctuating or moving. Light rays must shine only upon the sign and upon the property within the premises.

(6) Temporary signs if allowed under § 14-205(7) and in addition where an establishment is licensed to serve food, the restaurant owner may display a menu that is used in the restaurant and that is no larger than three (3) square feet:

(a) In the window of the restaurant; or

(b) Attached to a wall on a portion of a building occupied by the restaurant:

(i) if it is enclosed in a casing that is architecturally compatible with the building design and color; and

(ii) Extends no more than three inches (3") in depth away from the wall to which it is attached.

(7) Window signs. Window signs are allowed in all commercial districts, but must not exceed ten percent (10%) of the gross glass area including menus and:

(a) For public safety purposes where directed by the police must be located on areas of the window to protect the occupants or a police responder;

(b) As required by a licensing agency if the business is required to have a license to operate and the licensing agency restricts or requires window signs. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-210. VC-1 Village Center Zone. Signs used for this zone are allowed as follows:

(1) Only one (1) sign of one hundred fifty (150) square feet must be permitted for centers less than five (5) acres and greater than one (1) acre.

(2) A maximum of four (4) signs of sixty (60) square feet must be permitted for complexes for five to fifty (5-50) acres.

(3) Individual businesses are allowed a face building mounted sign pursuant to § 14-210(1)(a) and (b). (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-211. Supplemental criteria in all districts. (1) Temporary signs. Temporary signs are subject to the following standards:

(a) Must not on one property exceed a total of sixteen (16) square feet in area;

(b) Must not be located within any public right-of-way whether dedicated or owned in fee simple or as an easement;

(c) Must only be located on property that is owned by the person whose sign it is and must not be placed on any utility pole, street light, similar object, or on public property;

(d) Must not be illuminated except as allowed in herein based on the district in which the sign is located; and

(e) Must be removed within ten (10) days after the election, sale, rental, lease or conclusion of event which is the basis for the sign under § 14-205(7) or if a different standard is required in § 14-205(7) must be removed within the time period required by that section.

(2) Bench signs. On street benches provided:

(a) The benches must not be higher than four feet (4') above ground;

- (b) The sign must be limited to fourteen (14) square feet in area;
- (c) The benches are not located closer than five feet (5') to any street right-of-way line;
- (d) Benches are located in a manner not to obstruct vision;
- (e) Must be included as part of the total permitted sign area of the premise on which it is located unless located in the public right-of-way.

(3) Integral signs. There are no restrictions on sign orientation. Integral sign must not exceed seventy-two (72) square feet per façade. Integral signs may be illuminated externally but must not be illuminated internally.

(4) Private traffic direction. Illumination of signs erected as required by the Manual on Uniform Traffic Control Devices must be in accordance with § 14-212. Horizontal directional signs flush with paved areas are exempt from these standards.

(5) Original art display. Original art displays are allowed provided that they meet the following requirements:

- (a) Must not be placed on a dwelling;
- (b) Must not extend more than six inches (6") from the plane of the wall upon which it is painted or to which it is affixed;
- (c) Must be no more than sixty-four (64) square feet in size, per lot or parcel;
- (d) The property owner must not be compensated for the display of the original art or the right to place the original art on site; and
- (e) Must not be illuminated. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-212. Illumination. No sign can be erected or maintained without a permit or which, by use of lights or illumination, creates a distracting or hazardous condition to a motorist, pedestrian or the general public. In addition:

(1) No exposed reflective type bulb, par spot or incandescent lamp, which exceeds twenty-five (25) watts much be exposed to direct view from a public street or highway, but may be used for indirect light illumination of the display surface of a sign.

(2) When neon tubing is employed on the exterior or interior of a sign, the capacity of such tubing must not exceed three hundred (300) milliamperes rating for white tubing or one hundred (100) milliamperes for any colored tubing.

(3) When fluorescent tubes are used for the interior illumination of a sign, such illumination must not exceed:

- (a) Within residential districts: Illumination may not be used in residential districts.

(b) Within land use districts other than residential:

Illumination equivalent to eight hundred (800) milliamperere rating tubing behind a plexiglass face spaced at least nine inches (9"), center to center.

(4) An applicant for a permit to illuminate a sign must submit a plan to the town recorder showing the illumination plan including the effect of the illumination on any other property that might be affected by the light and how the illumination conforms aesthetically to the site and the neighborhood.

(a) The application must be reviewed to determine the effect on other properties and the aesthetics of the site and the neighborhood.

(b) The application must not be approved if the effect on other properties would create adverse results and must not be approved if the plan does not conform to the aesthetics of the neighborhood or the site.

(5) In a residential district, the property owner may use string lights or rope lights to decorate the residence as well as natural objects without a permit provided:

(a) String and rope lights must be designed to meet GCFI standards and installed in accordance with the National Electric Code.

(b) String light bulbs and rope lights must be of standard wattage and designed for outdoor use.

(c) String and rope light bulbs may only be white or clear.

(d) String and rope lights must be securely hung from a sturdy fixture.

(6) Outdoor lighting of eating or drinking establishments, such as restaurants, cafes, coffee houses, and bars must comply with this section and string lights and rope lights may only be used in outdoor patio areas. All string and rope lights must be turned off when the establishment is closed.

(7) Automated teller machines. Where Automated Teller Machine (ATM) signs are allowed, signs may be placed on the ATM subject to the following requirements:

(a) The sign must be an integral part of the ATM;

(b) May not exceed two and one-half (2 1/2) square feet in total size, including any border or background color. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 *Ch9_11-09-21*)

14-213. Prohibited signs. The following signs or lights are prohibited which:

(1) Are of a size, location, movement, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal;

(2) Contain or consist of banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners, or other similarly moving devices or

signs which may move or swing as a result of wind pressure. These devices when not part of any sign are similarly prohibited, unless they are permitted specifically by other legislation;

(3) Have blinking, flashing or fluttering lights or other illuminating devices which exhibit movement, except digital billboards as permitted pursuant to this code;

(4) Are roof signs;

(5) Are visible from a limited access highway except as allowed as highway signs;

(6) Would be an original art display but does not have the permission of the owner of the property on which it is located or is graffiti; or

(7) Are portable signs that do not comply with the location, size or use restrictions of this code.

(8) Are graffiti or clutter signs.

(9) Are abandoned signs. (Ord. #110, Jan. 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-214. Procedures. Applications for a sign permit must be processed through the town recorder or building inspector and shall be accompanied by the following:

(1) An application fee in an amount set by resolution of the board of mayor and alderman.

(2) A scale drawing or a grid of the sign showing all faces and supporting structures and, for signs to be erected upon a building, a drawing of the building face, which drawing includes all existing and proposed signs;

(3) A site plan of the property showing width of business facade(s) and the locations and sizes of all existing and proposed signs;

(4) Samples of proposed colors and materials;

(5) A description of the type and amount of illumination. (Ord. #110, Jan 1990, as replaced by Ord. #2020-334, Dec. 2020 **Ch9_11-09-21**)

14-215. Nonconformity and modification. (1) Except as provided in § 14-216(3) below, signs lawfully in existence on the date the provisions of this code were first advertised, which do not conform to the provisions of this code, but which were in compliance with the applicable regulations at the time they were constructed, erected, affixed or maintained must be regarded as nonconforming.

(2) For the purpose of amortization, nonconforming signs may be continued from the effective date of this code for a period not to exceed the shorter of the period the signs were allowed under any prior code or ten (10) years, whichever is less.

(3) Signs which were unlawful under the prior ordinance and which do not conform to this code must be removed immediately.

(4) Temporary signs, including snipe signs and graffiti that do not comply with this code must be removed immediately. (as added by Ord. #93-159, Jan. 1994, and replaced by Ord. #2020-334, Dec. 2020 ***Ch9_11-09-21***)

14-216. Compliance. Any sign which is altered, relocated, replaced or must be brought immediately into compliance with all provisions of this code. (as added by Ord. #2020-334, Dec. 2020 ***Ch9_11-09-21***)

CHAPTER 3

STORMWATER ORDINANCE

SECTION

- 14-301. General provisions.
- 14-302. Definitions.
- 14-303. Waivers.
- 14-304. Stormwater system design; construction and permanent stormwater management.
- 14-305. Permanent stormwater management; operation, maintenance, and inspection.
- 14-306. Existing locations and ongoing developments.
- 14-307. Illicit discharges.
- 14-308. Enforcement.
- 14-309. Penalties.
- 14-310. Appeals.
- 14-311. Application fee.
- 14-312. Reimbursement of costs.
- 14-313. Payment of costs.

14-301. General provisions. 1. Purpose. It is the purpose of this chapter to:

a. Protect, maintain, and enhance the environment of the Town of Walden and the public health, safety and the general welfare of the citizens of the town, by controlling discharges of pollutants to the town's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the town;

(b) Enable the town to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations, 40 CFR 122.26 for stormwater discharges;

(c) Allow the town to exercise the powers granted in Tennessee Code Annotated, § 68-221-1105, which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

(iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;

(v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

(viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administering entity. The Town of Walden shall administer the provisions of this chapter.

(3) Stormwater management ordinance. The intended purpose of this ordinance is to safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of stormwater. (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-302. Definitions. For the purpose of this chapter, the following definitions shall apply:

Words used in the singular shall include the plural, and the plural shall include the singular; and words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "Administrative or civil penalties." Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the town declares that any person violating the provisions of this chapter may be assessed a civil penalty by the

town of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(2) "As built plans" means drawings depicting conditions as they were actually constructed.

(3) "Best Management Practices (BMPS)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(4) "Borrow pit" is an excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity for the purpose of this permit.

(5) "Buffer zone" means a setback from the top of water body's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies. The goal of the water quality buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration and evapotranspiration. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than one (1) square mile will require buffer widths of thirty feet (30') minimum. Streams or other waters with drainage areas greater than one (1) square mile will require buffer widths of sixty feet (60') minimum. The 60-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location. The MS4 must develop and apply criteria for determining the circumstances under which these averages will be available. A determination that standards cannot be met may not be based solely on the difficulty or cost associated with implementation. Every attempt should be made for development and redevelopment activities not to take place within the buffer zone. If water quality buffer widths as defined above cannot be fully accomplished on-site, the MS4 must develop and apply criteria for determining the circumstances under which alternative buffer widths will be available. A determination that water quality buffer widths cannot be met on site may not be based solely on the difficulty or cost of

implementing measures, but must include multiple criteria, such as: type of project, existing land use and physical conditions that preclude use of these practices.

(6) "Buffer zone requirements" (a) "Construction" applies to all streams adjacent to construction sites, with an exception for streams designated as impaired or exceptional Tennessee waters, as designated by the Tennessee Department of Environment and Conservation ("TDEC"). A 30-foot natural riparian buffer zone adjacent to all streams at the construction site shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state located within or immediately adjacent to the boundaries of the project, as identified using methodology from Standard Operating Procedures for Hydrologic Determinations (see rules to implement a certification program for Qualified Hydrologic Professionals, TN Rules Chapter 0400-40-17). Buffer zones are not primary sediment control measures and should not be relied on as such. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area. The 30-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than fifteen feet (15') at any measured location.

(b) Buffer zone requirements for discharges into impaired or exceptional waters: A 60-foot natural riparian buffer zone adjacent to the receiving stream designated as impaired or exceptional waters shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state (e.g., perennial and intermittent streams, rivers, lakes, wetlands) located within or immediately adjacent to the boundaries of the project, as identified on a 7.5-minute USGS quadrangle map, or as determined by the director. Buffer zones are not sediment control measures and should not be relied upon as primary sediment control measures. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be established between the top of stream bank and the disturbed construction area. The 60-foot criterion for the width of the buffer zone can be established on an

average width basis at a project, as long as the minimum width of the buffer zone is more than twenty-five feet (25') at any measured location.

(c) "Permanent" new development and significant redevelopment sites are required to preserve water quality buffers along waters within the MS4. Buffers shall be clearly marked on site development plans, grading permit applications, and/or concept plans. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than one (1) square mile will require buffer widths of thirty feet (30') minimum. Streams or other waters with drainage areas greater than one (1) square mile will require buffer widths of sixty feet (60') minimum. The 60-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location.

(7) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

(8) "Common plan of development or sale" is broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.

(9) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility. The estimated design rainfall amounts, for any return period interval (i.e., 2-year, 5-year, 25-year, etc.) in terms of either 24-hour depths or intensities for any duration, can be found by accessing the following NOAA National Weather Service Atlas 14 data for Tennessee: http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=tn. Other data sources may be acceptable with prior written approval by TDEC Water Pollution Control.

(10) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(11) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

(12) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

(13) "Erosion" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.

(14) "Erosion Prevention and Sediment Control Plan (EPSCP)" means a written plan (including drawings or other graphic representations) that is designed to minimize the erosion and sediment runoff at a site during construction activities.

(15) "Hotspot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. The following land uses and activities are deemed stormwater hot spots, but that term is not limited to only these land uses:

- (a) Vehicle salvage yards and recycling facilities;
- (b) Vehicle service and maintenance facilities;
- (c) Vehicle and equipment cleaning facilities;
- (d) Fleet storage areas (bus, truck, etc.);
- (e) Industrial sites (included on Standard Industrial Classification code list);
- (f) Marinas (service and maintenance);
- (g) Public works storage areas;
- (h) Facilities that generate or store hazardous waste materials;
- (i) Commercial container nursery;
- (j) Restaurants and food service facilities;
- (k) Other land uses and activities as designated by an appropriate review authority.

(16) "Illicit connections" means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(17) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 14-307(2).

(18) "Improved sinkhole" is a natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under TDEC's Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures, and crevices (such as those commonly associated with weathering of limestone).

(19) "Inspector." An inspector is a person that has successfully completed (has a valid certification from) the "Fundamentals of Erosion

Prevention and Sediment Control Level I" course or equivalent course. An inspector performs and documents the required inspections, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. An inspector may also have the following responsibilities:

(a) Oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit (ARAP) or corps of engineers permit for construction activities in or around waters of the state;

(b) Update field SWPPP's;

(c) Conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measurements have been installed; and

(d) Inform the permit holder of activities that may be necessary to gain or remain in compliance with the Construction General Permit (CGP) and other environmental permits.

(20) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

(21) "Maintenance" means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

(22) "Maintenance agreement" means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(23) "Municipal Separate Storm Sewer System (MS4)" means the conveyances owned or operated by the town for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains, and where the context indicates, it means the municipality that owns the separate storm sewer system.

(24) "National Pollutant Discharge Elimination System (NPDES) permit" means a permit issued pursuant to 33 U.S.C. 1342.

(25) "Off-site facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.

(26) "On-site facility" means a structural BMP located within the subject property boundary described in the permit application for land development activity.

(27) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(28) "Person" means any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(29) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storms sewer system.

(30) "Sediment" means solid material, both inorganic and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

(31) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds.

(32) "Soils report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees conducting the investigation.

(33) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(34) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(35) "Stormwater entity" means the entity designated by the town to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the town.

(36) "Stormwater management" means the programs to maintain quality and quantity stormwater runoff to pre-development levels.

(37) "Stormwater management facilities" means the drainage structures, conduits, ponds, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(38) "Stormwater management plan" means the set of drawings and other documents that comprise all the information and specifications for the

programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

(39) "Stormwater Pollution Prevention Plan (SWPPP)" means a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the current Tennessee Erosion and Sediment Control Handbook. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee's water quality regulations. All SWPPP's shall be prepared and updated in accordance with section 3 of the General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.

(40) "Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.

(41) "Structural BMPs" means facilities that are constructed to provide control of stormwater runoff.

(42) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

(43) "Waste site" means an area where waste material from a construction site is deposited. When the material is erodible, such as soil, the site must be treated as a construction site.

(44) "Water quality buffer" see "Buffer."

(45) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(46) "Watershed" means all the land area that contributes runoff to a particular point along a waterway.

(47) "Waters" or "waters of the state" means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.

(48) "Wetland(s)" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs, and similar areas.

(49) "Wet weather conveyances" are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for drinking water supplies; and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months. (Rules and Regulations of the State of Tennessee, chapter 1200-4-3-.04(3)). (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-303. Waivers. (1) General. No waivers will be granted any construction or site work project. All construction and site work shall provide for stormwater management as required by this ordinance. However, alternatives to the 2010 NPDES General Permit for Discharges from Small Municipal Storm Sewer Systems primary requirement for on-site permanent stormwater management may be considered if:

(a) Management measures cannot be designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must be one hundred percent (100%) managed with no discharge to surface waters.

(b) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter. Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the town.

(2) Downstream damage, etc. prohibited. In order to receive consideration, the applicant must demonstrate to the satisfaction of the Town of Walden that the proposed alternative will not lead to any of the following conditions downstream:

(a) Deterioration of existing culverts, bridges, dams, and other structures;

(b) Degradation of biological functions or habitat;

- (c) Accelerated streambank or streambed erosion or siltation;
- (d) Increased threat of flood damage to public health, life or property.

(3) Grading permit not to be issued where alternatives requested. No grading permit shall be issued where an alternative has been requested until the alternative is approved. If no alternative is approved, the plans must be resubmitted with a stormwater management plan that meets the primary requirement for on-site stormwater management. (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-304. Stormwater system design; construction and permanent stormwater management. (1) MS4 stormwater design or BMP manuals.

(a) Adoption. The town adopts as its MS4 stormwater design and best management practices (BMP) manuals for stormwater management, construction and permanent, the following publications, which are incorporated by reference in this ordinance as if fully set out herein:

(i) TDEC Erosion Prevention and Sediment Control Handbook; most current edition.

(ii) The Nashville-Davidson County Metro Stormwater Management Manual (Best Management Practices (BMP) Manual -Volume 4) or any manual issued by TDEC (Note: this selection is provided as a suggestion only in cooperation with the University of Tennessee's Water Resources Center.)

(iii) A collection of MS4 approved BMPs developed or collected by the MS4 that comply with the goals of the MS4 permit and/or the CGP.

(b) The town's BMP manual(s) include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. These include town approved BMPs for permanent stormwater management including green infrastructure BMPs.

(c) The town manual(s) may be updated and expanded from time to time, at the discretion of the Town of Walden, based on improvements in engineering, science, monitoring and local maintenance experience, or changes in federal or state law or regulation. Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(2) Land development. This section shall be applicable to all land development, including, but not limited to, site plan applications, subdivision

applications, land disturbance applications and grading applications. These standards apply to any new development or redevelopment site that meets one (1) or more of the following criteria:

(a) One (1) acre or more:

(i) New development that involves land development activities of one (1) acre or more;

(ii) Redevelopment that involves other land development activity of one (1) acre or more;

(b) Projects or developments of less than one (1) acre of total land disturbance may also be required to obtain authorization under this ordinance if:

(i) The Town of Walden has determined that the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;

(ii) The Town of Walden has determined that the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state;

(iii) Changes in state or federal rules require sites of less than one (1) acre that are not part of a larger common plan of development or sale to obtain a stormwater permit;

(iv) Any new development or redevelopment, regardless of size, that is defined by the Town of Walden to be a hotspot land use; or

(v) Minimum applicability criteria set forth in item (a) above if such activities are part of a larger common plan of development, even multiple, that is part of a separate and distinct land development activity that may take place at different times on different schedules.

Note: Any discharge of stormwater or other fluid to an improved sinkhole or other injection well, as defined, must be authorized by permit or rule as a Class V underground injection well under the provisions of the TDEC Rules, chapter 1200-4-6.

(3) Submittal of a copy of the NOC, SWPPP and NOT to the local MS4.

Permittees who discharge stormwater through an NPDES-permitted MS4 who are not exempted in section 1.4.5 (Permit Coverage through Qualifying Local Program) of the Construction General Permit (CGP) must provide proof of coverage under the Construction General Permit (CGP); submit a copy of the Stormwater Pollution Prevention Plan (SWPPP); and at project completion, a copy of the signed Notice of Termination (NOT) to the Town of Walden. Permitting status of all permittees covered (or previously covered) under this

general permit as well as the most current list of all MS4 permits is available at the TDEC's Data Viewer web site.

Copies of additional applicable local, state or federal permits (i.e., ARAP, etc.) must also be provided upon request.

If requested, these permits must be provided before the issuance of any land disturbance permit or the equivalent.

(4) Stormwater Pollution Prevention Plan (SWPPP) for construction stormwater management. The applicant must prepare a storm water pollution prevention plan for all construction activities that complies with subsection (5) below. The purpose of this plan is to identify construction/contractor activities that could cause pollutants in the stormwater, and to describe measures or practices to control these pollutants during project construction.

(5) Stormwater pollution prevention plan requirements. The erosion prevention and sediment control plan component of the SWPPP shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. If necessary, the plan shall be phased so that changes to the site during construction that alter drainage patterns or characteristics will be addressed by an appropriate phase of the plan. The plan shall be sealed by a registered professional engineer or landscape architect licensed in the state of Tennessee. The plan shall also conform to the requirements found in the MS4 BMP manual, and shall include at least the following:

(a) A project description. Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(b) A topographic map with contour intervals of five feet (5') or less showing present conditions and proposed contours resulting from land disturbing activity.

(c) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.

(d) A general description of existing land cover. Individual trees and shrubs do not need to be identified.

(e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied

concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.

(f) Approximate limits of proposed clearing, grading and filling.

(g) Approximate flows of existing stormwater leaving any portion of the site.

(h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(i) Location, size and layout of proposed stormwater and sedimentation control improvements.

(j) Existing and proposed drainage network.

(k) Proposed drain tile or waterway sizes.

(l) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development; when water is concentrated, what is the capacity of waterways, if any, accepting storm water off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

(m) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation, and including the construction of any sediment basins or retention/detention facilities or any other structural BMPS.

(n) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(o) Specific details for the construction of stabilized construction entrance/exits, concrete washouts, and sediment basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the town. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day to the satisfaction of the town.

Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

(p) Proposed structures. Location and identification of any proposed additional buildings, structures or development on the site.

(q) A description of on-site measures to be taken to recharge surface water into the ground water system through runoff reduction practices.

(r) Specific details for construction waste management. Construction site operators shall control waste such as discarded building materials, concrete truck washout, petroleum products and petroleum related products, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. When the material is erodible, such as soil, the site must be treated as a construction site.

(6) General design performance criteria for permanent stormwater management. The following performance criteria shall be addressed for permanent stormwater management at all development sites:

(a) Site design standards for all new and redevelopment require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must be one hundred percent (100%) managed with no discharge to surface waters.

(b) Limitations to the application of runoff reduction requirements include, but are not limited to:

(i) Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;

(ii) Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;

(iii) Presence of sinkholes or other karst features.

(c) Pre-development infiltration capacity of soils at the site must be taken into account in selection of runoff reduction management measures.

(d) Incentive standards for redeveloped sites. A ten percent (10%) reduction in the volume of rainfall to be managed for any of the following types of development. Such credits are additive such that a maximum reduction of fifty percent (50%) of the standard in the paragraph above is possible for a project that meets all five (5) criteria:

(i) Redevelopment;

(ii) Brownfield redevelopment;

(iii) High density (>7 units per acre);

(iv) Vertical density, (Floor to Area Ratio (FAR) of 2 or >18 units per acre); and

(v) Mixed use and transit oriented development (within one-half (1/2) mile of transit).

(e) For projects that cannot meet one hundred percent (100%) of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology documented to remove eighty percent (80%) total suspended solids (TSS) unless an alternative provided under this ordinance is approved. The treatment technology must be designed, installed and maintained to continue to meet this performance standard.

(f) For projects that cannot meet one hundred percent (100%) of the runoff reduction requirements, the Town of Walden may allow runoff reduction measures to be implemented at another location within the same USGS 12-digit Hydrologic Unit Code (HUC) as the original project. Off-site mitigation must be a minimum of 1.5 times the amount of water not managed on site. The off-site mitigation location (or alternative location outside the 12-digit HUC) and runoff reduction measures must be approved by the Town of Walden. The town shall identify priority areas within the watershed in which mitigation projects can be completed. The town must create an inventory of appropriate mitigation projects, and develop appropriate institutional standards and management systems to value, evaluate and track transactions. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.

(g) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the MS4 BMP manual.

(h) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(i) Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices. In addition, stormwater from a hot spot land use may not be infiltrated.

(j) Prior to or during the site design process, applicants for land disturbance permits shall consult with the Town of Walden to determine if they are subject to additional stormwater design requirements.

(k) The calculations for determining peak flows as found in the MS4 BMP manual shall be used for sizing all stormwater facilities.

(7) Minimum volume control requirements. (Note: the volume control requirements are by the MS4 and not the TDEC MS4 permit). In accordance with § 14-301(1)(c)(iii) the MS4 may establish standards to regulate the quantity of stormwater discharged, therefore:

(a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the MS4 BMP manual.

(b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the Town of Walden may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(8) Permanent stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the Town of Walden to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

(a) A topographic base map of the site, which extends a minimum of one hundred feet (100') beyond the limits of the proposed development and indicates:

(i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;

(ii) Current land use including all existing structures, locations of utilities, roads, and easements;

(iii) All other existing significant natural and artificial features;

(iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading.

(b) Proposed structural and non-structural BMPs.

(c) A written description of the site plan and justification of proposed changes in natural conditions may also be required.

(d) Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the MS4 BMP manual. These calculations must show that the

proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the MS4 BMP manual. Such calculations shall include:

- (i) A description of the design storm frequency, duration, and intensity where applicable;
- (ii) Time of concentration;
- (iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
- (iv) Peak runoff rates and total runoff volumes for each watershed area;
- (v) Infiltration rates, where applicable;
- (vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
- (vii) Flow velocities;
- (viii) Data on the increase in rate and volume of runoff for the design storms referenced in the MS4 BMP manual; and
- (ix) Documentation of sources for all computation methods and field test results.

(e) Soils information. If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(9) Maintenance and repair plan. The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(10) Buffers and buffer zones. Buffer and buffer zones shall be those buffers and buffer zones as those terms are defined in § 14-302(5) and (6), above, and shall meet the requirements contained in those provisions.

- (a) Construction. (i) Construction requires buffer zone widths of a minimum of thirty feet (30'). The thirty foot (30') criterion for the width of the buffer zone can be established on an average width basis. As long as the minimum width of the buffer zone is

fifteen feet (15'). The buffer zone shall meet all the other applicable requirements of § 14-302(5) and (6).

(ii) Construction on impaired or exceptional waters requires buffer zone widths of a minimum of sixty feet (60'). The sixty feet (60') criterion for the width of the buffer zone can be established on an average basis at a project as long as the minimum width of the buffer is more than thirty feet (30') at any measured location. The buffer zone shall meet all the other applicable requirements of § 14-302(5) and (6).

(b) Permanent. (i) More than one (1) square mile drainage area will require buffer zones of a minimum of sixty feet (60'). The sixty foot (60') criterion for the width of the buffer zone can be established on an average width basis, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location.

(ii) Less than one (1) square mile drainage area will require buffer zones of a minimum of thirty feet (30'). The thirty foot (30') criterion for the width of the buffer zone can be established on an average width basis, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location. The buffer zone shall meet all the other applicable requirements of § 14-302(5) and (6). (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-305. Permanent stormwater management; operation, maintenance, and inspection. (1) As built plans. All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the Town of Walden is required before any performance security or performance bond will be released. The town shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the town.

(2) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall stabilize. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased.

Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than fifteen (15) days after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

(i) Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or

(ii) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within fifteen (15) days.

(b) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.

(c) The following criteria shall apply to revegetation efforts:

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(iv) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and

what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in § 14-306.

(4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the town during inspection of the facility and at other reasonable times upon request.

(5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the town, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the town shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the town may take necessary corrective action. The cost of any action by the town under this section shall be charged to the responsible party. (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-306. Existing locations and ongoing developments. (1) On-site stormwater management facilities maintenance agreement.¹

(a) Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance agreement that runs with the land, the owners of property must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities.

¹Appendix A to Ordinance #2013-295 contains a sample maintenance agreement that runs with the land. Appendix A is of record in the recorder's office. Numerous other maintenance agreements are available from MTAS and Tennessee cities.

(b) The maintenance agreement shall:

(i) Assign responsibility for the maintenance and repair of the stormwater facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(ii) Provide for a periodic inspection by the property owners in accordance with the requirements of subsection (5) below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this ordinance. The property owners will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the state of Tennessee, who will submit a signed written report of the inspection to the Town of Walden. It shall also grant permission to the town to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(iii) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manual.

(iv) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the Town of Walden.

(v) Provide that if the property is not maintained or repaired within the prescribed schedule, the Town of Walden shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the Town of Walden cost of performing the maintenance shall be a lien against the property.

(2) Existing problem locations--no maintenance agreement.

(a) The Town of Walden shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges

from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(b) **Inspection of existing facilities.** The town may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the town's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(3) **Owner/operator inspections--generally.** The owners and/or the operators of stormwater management practices shall:

(a) Perform routine inspections to ensure that the BMPs are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The Town of Walden may require submittal of this documentation.

(b) Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five (5) years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect, licensed in the state of Tennessee. Complete inspection reports for these five year inspections shall include:

- (i) Facility type;
- (ii) Inspection date;
- (iii) Latitude and longitude and nearest street address;
- (iv) BMP owner information (e.g. name, address, phone number, fax, and e-mail);

(v) A description of BMP condition, including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation;

(vi) Photographic documentation of BMPs; and

(vii) Specific maintenance items or violations that need to be corrected by the BMP owner along with the deadlines and reinspection dates.

(c) Owners or operators shall maintain documentation of these inspections. The Town of Walden may require submittal of this documentation.

(4) Requirements for all existing locations and ongoing developments.

The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in § 14-305(2)(c)(i), (ii), (iii) and on a schedule acceptable to the town.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c) Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.

(d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(e) Stormwater runoff shall, at the discretion of the town, be controlled to the maximum extent practicable to prevent its pollution.

Such control measures may include, but are not limited to, the following:

(i) Ponds

(A) Detention pond

(B) Extended detention pond

(C) Wet pond

(D) Alternative storage measures

(ii) Constructed wetlands

(iii) Infiltration systems

(A) Infiltration/percolation trench

(B) Infiltration basin

(C) Drainage (recharge) well

(D) Porous pavement

(iv) Filtering systems

(A) Catch basin inserts/media filter

- (B) Sand filter
- (C) Filter/absorption bed
- (D) Filter and buffer strips
- (v) Open channel
 - (A) Swale

(5) Corrections of problems subject to appeal. Corrective measures imposed by the Town of Walden under this section are subject to appeal under § 14-310 of this chapter. (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-307. Illicit discharges. (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the town's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the MS4 any discharge that is not composed entirely of stormwater or any discharge that flows from stormwater facility that is not inspected in accordance with § 14-306 shall be an illicit discharge. Non-stormwater discharges shall include, but shall not be limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non-stormwater discharge to the MS4 is prohibited except as described as follows:

- (a) Uncontaminated discharges from the following sources:
 - (i) Water line flushing or other potable water sources;
 - (ii) Landscape irrigation or lawn watering with potable water;
 - (iii) Diverted stream flows;
 - (iv) Rising ground water;
 - (v) Groundwater infiltration to storm drains;
 - (vi) Pumped groundwater;
 - (vii) Foundation or footing drains;
 - (viii) Crawl space pumps;
 - (ix) Air conditioning condensation;
 - (x) Springs;
 - (xi) Non-commercial washing of vehicles;
 - (xii) Natural riparian habitat or wetland flows;
 - (xiii) Swimming pools (if Dechlorinated--typically less than one (1) PPM chlorine);
 - (xiv) Firefighting activities;
 - (xv) Any other uncontaminated water source.

(b) Discharges specified in writing by the town as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge if the town has so specified in writing.

(d) Discharges authorized by the Construction General Permit (CGP), which comply with section 3.5.9 of the same:

(i) Dewatering of work areas of collected stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);

(ii) Waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves site;

(iii) Water used to control dust in accordance with CGP section 3.5.5;

(iv) Potable water sources including waterline flushings from which chlorine has been removed to the maximum extent practicable;

(v) Routine external building washdown that does not use detergents or other chemicals;

(vi) Uncontaminated groundwater or spring water; and

(vii) Foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).

(3) Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into, the MS4, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the Town of Walden in person or by telephone, fax, or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Town of Walden within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(6) No illegal dumping allowed. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the town. (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-308. Enforcement. (1) Enforcement authority. The Town of Walden shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section. Authorized measures include:

(a) Verbal warnings. At a minimum, verbal warnings must specify the nature of the violation and the required corrective action.

(b) Written notices. Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.

(c) Citations with administrative penalties. The MS4 has the authority to assess monetary penalties, which may include civil and administrative penalties.

(d) Stop work orders. Stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.

(e) Withholding of plan approvals or other authorizations. Where a facility is in noncompliance, the MS4's own approval process

affecting the facility's ability to discharge to the MS4 can be used to abate the violation.

(f) **Additional measures.** The MS4 may also use other escalated measures provided under local legal authorities. The MS4 may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.

(2) **Notification of violation.** (a) **Verbal warning.** Verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.

(b) **Written notice.** Whenever the Town of Walden finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the Town of Walden may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to Town of Walden. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(c) **Consent orders.** The Town of Walden is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsections (d) and (e) below.

(d) **Show cause hearing.** The Town of Walden may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(e) **Compliance order.** When the Town of Walden finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, it may issue an order to the violator directing that, following a specific time period, adequate structures or devices be

installed and/or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(f) Cease and desist and stop work orders. When the Town of Walden finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the town may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:

(i) Comply forthwith; or

(ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation; including halting operations except for terminating the discharge and installing appropriate control measures.

(g) Suspension, revocation or modification of permit. The Town of Walden may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the town. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the Town of Walden may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(h) Conflicting standards. Whenever there is a conflict between any standard contained in this chapter and in the BMP manual adopted by the town under this ordinance, the strictest standard shall prevail. (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-309. Penalties. (1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the town, shall be guilty of a civil offense.

(2) Penalties. Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the town declares that any person violating the provisions of this chapter may be assessed a civil penalty by the Town of Walden of not less than fifty dollars (\$50.00) and not more than five thousand dollars

(\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) Measuring civil penalties. In assessing a civil penalty, the Town of Walden may consider:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c) The economic benefit gained by the violator;
- (d) The amount of effort put forth by the violator to remedy this violation;
- (e) Any unusual or extraordinary enforcement costs incurred by the town;
- (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
- (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the town may recover:

- (a) All damages proximately caused by the violator to the town, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.
- (b) The costs of the town's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.

(5) Referral to TDEC. Where the town has used progressive enforcement to achieve compliance with this ordinance, and in the judgment of the town has not been successful, the town may refer the violation to TDEC. For the purposes of this provision, "progressive enforcement" shall mean two (2) follow-up inspections and two (2) warning letters. In addition, enforcement referrals to TDEC must include, at a minimum, the following information:

- (a) Construction project or industrial facility location;
- (b) Name of owner or operator;
- (c) Estimated construction project or size or type of industrial activity (including SIC code, if known);
- (d) Records of communications with the owner or operator regarding the violation, including at least two (2) follow-up inspections, two (2) warning letters or notices of violation, and any response from the owner or operator.

(6) Other remedies. The town may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(7) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-310. Appeals. Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the town's governing body.

(1) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Public hearing. Upon receipt of an appeal, the town's governing body, or other appeals board established by the town's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the town's governing body shall be final.

(3) Appealing decisions of the town's governing body. Any alleged violator may appeal a decision of the town's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #2003-234, April 2004, and replaced by Ord. #2013-295, Sept. 2013)

14-311. Application fee. In connection with any review of a permit application submitted pursuant to this title, including but not limited to land disturbance applications, the town shall be entitled to seek reimbursement from any applicant of the actual costs incurred by the town in connection with the town's review and approval of the respective application. The amount paid to the town as reimbursement pursuant to this section shall not exceed five thousand dollars (\$5,000.00). (as added by Ord. #Ord. #2014-297, Jan. 2014)

14-312. Reimbursement of costs. In addition to the payment of the application fee as set forth more particularly in § 14-311, the town shall also be entitled to seek reimbursement from any land owner and/or applicant that has obtained a land disturbance permit pursuant to this title to cover actual costs

incurred by the town in connection with the monitoring and/or inspection of any project by town officials or consultants in order to insure compliance with the terms of the land disturbance permit and/or the requirements of this title. The amount paid to the town as reimbursement pursuant to this section shall not exceed five thousand dollars (\$5,000.00) in the aggregate for any single project. (as added by Ord. #Ord. #2014-297, Jan. 2014)

14-313. Payment of costs. (1) All actual charges to be reimbursed to the town pursuant to §§ 14-311 and 14-312 shall be paid within fifteen (15) days from the date of billing by the town. In the event the reimbursement charges are not paid timely, any permit issued by the town, the town's stormwater board and/or Hamilton County shall become void.

(2) The reimbursements required under this chapter are not deemed to be a tax, but are to offset actual expenses incurred by the town related to an owner, developer, and applicant seeking development of lands within the town. (as added by Ord. #Ord. #2014-297, Jan. 2014)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.
8. RULES OF THE ROAD.
9. REGISTRATION AND DRIVER'S LICENSE VIOLATIONS.
10. REQUIRED EQUIPMENT ON VEHICLES.

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. [Renumbered.]
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Reckless driving.
- 15-104. One-way streets.
- 15-105. Unlaned streets.
- 15-106. Laned streets.
- 15-107. Yellow lines.

¹Municipal code reference

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

²State law reference

Under Tennessee Code Annotated, sections 55-8-101--187, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, section 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, section 55-10-101 et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, section 55-50-504; and drag racing, as prohibited by Tennessee Code Annotated, section 55-10-501.

- 15-108. Miscellaneous traffic control signs, etc.
- 15-109. Unauthorized traffic control signs, etc.
- 15-110. Presumption with respect to traffic control signs, etc.
- 15-111. School safety patrols.
- 15-112. Driving through funerals or other processions.
- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Vehicles and operators to be licensed.
- 15-119. Passing.
- 15-120. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-121. Delivery of vehicle to unlicensed driver, etc.

15-101. [Renumbered.] This section was redesignated and amended by Ord. #96-174 (Feb. 1996), § 2, as code section 15-1001.

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose.

15-103. Reckless driving.¹ Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (Ord. #46, Oct. 1979)

15-104. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction.

15-105. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the town for one-way traffic.

¹See State Law concerning municipal regulation of D.U.I. at sections 55-10-303, 55-10-307, 55-10-401, of the Tennessee Code Annotated.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn.

15-106. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary.

15-107. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street.

15-108. Miscellaneous traffic control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the town unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle willfully to violate or fail to comply with the reasonable directions of any police officer.

15-109. Unauthorized traffic control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of

¹Municipal code reference

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: sections 15-505 through 15-509.

State law reference

Tennessee Code Annotated, sections 55-8-110 through 55-8-112.

vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking, or device or any railroad sign or signal.

15-110. Presumption with respect to traffic control signs, etc. When a traffic control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper town authority.

15-111. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals.

15-112. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated.

15-113. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place.

15-114. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks.

15-115. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

15-116. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half ($\frac{1}{2}$) hour after sunset and one-half ($\frac{1}{2}$) hour before sunrise, there shall be displayed in place of the flag a

red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle.

15-117. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle.

15-118. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law."

15-119. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety.

15-120. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.

(1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor capacity that does not exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc).

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section.

15-121. Delivery of vehicle to unlicensed driver, etc.

(1) Definitions. (a) "Juvenile" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(b) "Adult" shall mean any person eighteen years of age or older.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(e) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the Town of Walden unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the town in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the town.

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police.

15-202. Operation of authorized emergency vehicles.¹ (1) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(2) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(3) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles: section 15-501. Per TCA title 55, chapter 9, section 201, title 55, chapter 8, section 101, title 55, chapter 9, section 415, and title 55, chapter 8, section 132.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman.

CHAPTER 3

SPEED LIMITS

SECTION

15-301. General speed limit.

15-302. At intersections.

15-303. In school zones.

15-301. General speed limit. It shall be unlawful and a misdemeanor for any person to drive a vehicle at a speed in excess of thirty (30) miles per hour upon any road which is in and which is maintained by the Town of Walden, Tennessee, unless another speed limit is posted. Signs shall be posted at appropriate places giving notice of this speed limit.

The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law but not upon returning from an emergency call, may lawfully drive said emergency vehicle in excess of said thirty (30) miles per hour speed limit, but shall drive said emergency vehicle upon the roads of Walden so as not to endanger life or property. Such provisions shall not protect such driver from the consequences of his reckless disregard for the safety of others. (Ord. #122, May 1990)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets.

15-303. In school zones. Pursuant to Tennessee Code Annotated, section 55-8-152, the town shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

In school zones where the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school, or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving.

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway.

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center lines of the two roadways.

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

15-405. U-turns. U-turns are prohibited.

¹State law reference

Tennessee Code Annotated, sec. 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic control signals generally.
- 15-508. At flashing traffic control signals.
- 15-509. At pedestrian control signals.
- 15-510. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles.

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic control signal indication to proceed.

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

- (1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.
- (2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.
- (3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety.

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted.

15-507. At traffic control signals generally. Traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

- (1) Green alone, or "Go":
 - (a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
 - (b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.
- (2) Steady yellow alone, or "Caution":
 - (a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.
 - (b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that generally a right turn on a red signal shall be permitted at all intersections within the town, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right of way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn shall not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the town at intersections which the town decides require no right turns on red in the interest of traffic safety.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal.

15-508. At flashing traffic control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the town it shall require obedience by vehicular traffic as follows:

(a) "Flashing red (stop signal)." When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) "Flashing yellow (caution signal)." When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in section 15-504 of this code.

15-509. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the town, such signals shall apply as follows:

(1) "Walk." Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) "Wait or Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing.

15-510. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency.

¹State law reference

Tennessee Code Annotated, section 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Regulation by parking meters.
- 15-607. Lawful parking in parking meter spaces.
- 15-608. Unlawful parking in parking meter spaces.
- 15-609. Unlawful to occupy more than one parking meter space.
- 15-610. Unlawful to deface or tamper with meters.
- 15-611. Unlawful to deposit slugs in meters.
- 15-612. Presumption with respect to illegal parking.
- 15-613. Forest State Natural Area.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this town shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the town has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street.

15-602. 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 which has a trailer attached thereto or which has a length in excess of twenty-four (24) feet.

15-603. 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 such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space.

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or town, nor:

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15') of a fire hydrant;

(5) Within a pedestrian crosswalk;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;

(8) Within fifty feet (50') of the nearest rail of a railroad crossing;

(9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted;

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is (a) physically handicapped, or (b) parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under Tennessee Code Annotated, title 55, chapter 21.

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone.

15-606. Regulation by parking meters. In the absence of an official sign to the contrary which has been installed by the town, between the hours of 8:00 A.M. and 6:00 P.M., on all days except Sundays and holidays declared by the board of mayor and aldermen, parking shall be regulated by parking meters

where the same have been installed by the town. The presumption shall be that all installed parking meters were lawfully installed by the town.

15-607. Lawful parking in parking meter spaces. Any parking space regulated by a parking meter may be lawfully occupied by a vehicle only after a proper coin has been deposited in the parking meter and the said meter has been activated or placed in operation in accordance with the instructions printed thereon.

15-608. Unlawful parking in parking meter spaces. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked in a parking space regulated by a parking meter for more than the maximum period of time which can be purchased at one time. Insertion of additional coin or coins in the meter to purchase additional time is unlawful.

No owner or operator of any vehicle shall park or allow his vehicle to be parked in such a space when the parking meter therefor indicates no parking time allowed, whether such indication is the result of a failure to deposit a coin or to operate the lever or other actuating device on the meter, or the result of the automatic operation of the meter following the expiration of the lawful parking time subsequent to depositing a coin therein at the time the vehicle was parked.

15-609. Unlawful to occupy more than one parking meter space. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a parking meter space or otherwise so that such vehicle is not entirely within the designated parking meter space; provided, however, that vehicles which are too large to park within one space may be permitted to occupy two adjoining spaces provided proper coins are placed in both meters.

15-610. Unlawful to deface or tamper with meters. It shall be unlawful for any unauthorized person to open, deface, tamper with, willfully break, destroy, or impair the usefulness of any parking meter.

15-611. Unlawful to deposit slugs in meters. It shall be unlawful for any person to deposit in a parking meter any slug or other substitute for a coin of the United States.

15-612. 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.

15-613. Forest State Natural Area. (1) Parking a vehicle at any time on Falling Water Trail or that portion of Forest Park Drive that lies north of the

southern terminus of Falling Water Trail, except in areas marked and lined for parking, is prohibited.

(2) Parking a vehicle in the area marked and lined for parking near the entrance to Falling Water Forest State Natural Area between the hours of sunset and sunrise is prohibited.

(3) Vehicles parked in violation of this chapter may be towed away on order of a Walden Police Officer. The owner of said vehicle will be responsible for towing and storage charges.

(4) Qualified groups or individuals may have these restrictions waived for specific periods by submitting a written request to the Board of Mayor and Aldermen, specifying the purpose of the requested waiver and the specific times involved. The Board of Mayor and Aldermen may by resolution delegate authority to grant said waivers to one or more of its members. The waivers shall be in writing, with a copy filed at the Town Hall. (Ord. #30, Feb. 1979)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Deposit of driver license in lieu of bail.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the town court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address.

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued.

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle 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 within thirty (30) days during the hours and at a place specified in the citation.

If the offense is a parking meter parking violation, the offender may, within thirty (30) days, have the charge against him disposed of by paying to the town recorder a fine of one dollar (\$1.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after thirty (30) days, but before a warrant for his arrest is issued, his fine shall be

¹State law reference

Tennessee Code Annotated, section 7-63-101 et seq.

three dollars (\$3.00). For other parking violations the offender may similarly waive his right to a judicial hearing and have the charges disposed of out of court, but the fines shall be three dollars (\$3.00) within thirty (30) days and five dollars (\$5.00) thereafter, except for the violation of parking in a handicapped parking space under section 15-604 (13) of this code, for which the offender may be punished according to the general penalty provisions of this code of ordinances.

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been issued and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of.

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, section 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, sections 55-16-103 through 55-16-109.

15-706. Deposit of driver license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any town ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the town court of this town in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than

the time necessary for an appropriate adjudication of the matter in the town court, and shall state such period of validity on its face.

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the town court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with provisions of Tennessee Code Annotated, section 55-7-401 et seq.

CHAPTER 8

RULES OF THE ROAD

SECTION

- 15-801. Failure to obey police officer.
- 15-802. Interference with official traffic-control devices or railroad signs or signals.
- 15-803. Driving to left of center of roadway.
- 15-804. No-passing zones.
- 15-805. Driving on divided highways.
- 15-806. Vehicle entering highway from private road or driveway.
- 15-807. Overtaking and passing school or church bus--Markings--discharging passengers.
- 15-808. Putting glass, nails and other substances on highway prohibited--penalty.
- 15-809. Use of off-road vehicles on the highway.
- 15-810. Child restraint device--violations--penalty.
- 15-811. Use of safety belts in passenger vehicles.
- 15-812. Minimum speed regulation--impeding flow of traffic.
- 15-813. Headlights on motor vehicles--operation during inclement weather.
- 15-814. Multiple beam road lighting equipment--failure to dim lights.
- 15-815. Following too closely.

15-801. Failure to obey police officer. No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control or regulate traffic. (as added by Ord. #96-174, § 1, Feb. 1996)

15-802. Interference with official traffic-control devices or railroad signs or signals. No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia or other part or such device, sign or signal. (as added by Ord. #96-174, § 1, Feb. 1996)

15-803. Driving to left of center roadway. (1) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

(a) When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within three hundred feet (300') or such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(b) When approaching with one hundred feet (100') of or traversing any intersection or railroad grade crossing; or

(c) When the view is obstructed upon approaching within one hundred feet (100') of any bridge, viaduct or tunnel.

(2) The foregoing limitations shall not apply upon a one-way roadway. (as added by Ord. #96-174, § 1, Feb. 1996)

15-804. No-passing zones. Every driver of a vehicle shall obey the signs or markings on the roadway, where such signs or markings are in place and clearly visible to an ordinarily observant person, which indicate the beginning and ending of those portions of the highway where passing or driving to the left of the roadway is safe. (as added by Ord. #96-174, § 1, Feb. 1996)

15-805. Driving on divided highways. Whenever any highway has been divided into two (2) roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway and no vehicle shall be driven over, across, or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space or at a cross-over or intersection established by public authority. (as added by Ord. #96-174, § 1, Feb. 1996)

15-806. Vehicle entering highway from private road or driveway. The driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right-of-way to all vehicles approaching on the highway. (as added by Ord. #96-174, § 1, Feb. 1996)

15-807. Overtaking and passing school or church bus--markings--discharging passengers. (1) (a) The driver of a vehicle upon a highway, upon meeting or overtaking from either direction any school bus which is stopped on the highway for the purpose of receiving or discharging any school children, shall stop the vehicle before reaching such school bus, and the driver shall not proceed until the school bus resumes motion or is signaled by the school bus driver to proceed or the visual signals are no longer actuated. The provisions of this subsection shall also apply to a school bus with lights flashing and stop sign extended and marked in accordance with this subsection that is stopped upon property owned, operated, or used by a school or educational institution, if such bus is stopped for the purpose of receiving or discharging any school children outside a protected loading zone.

(b) All motor vehicles used in transporting school children to and from school in the Town of Walden are required to be distinctly marked "School Bus" on the front and rear thereof in letters of not less than six inches (6") in height, and so plainly written or printed and so arranged as to be legible to persons approaching such school bus, whether traveling in the same or opposite direction.

(c) (i) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(ii) For the purpose of subsection (1), "separate roadways" means roadways divided by an intervening space which is not suitable to vehicular traffic.

(d) Except as otherwise provided by the preceding sections, the school bus driver is required to stop such school bus on the right-hand side of such road or highway, and the driver shall cause the bus to remain stationary and the visual stop signs on the bus actuated, until all school children who should be discharged from the bus have been so discharged and until all children whose destination causes them to cross the road or highway at that place have negotiated such crossing.

(e) The preceding subdivision of this subsection shall not be applicable to the vehicles of street railway companies while such vehicles are being used for the transportation of school children within the Town of Walden or its environs in the area over which the Town of Walden or one of its regulatory agencies has regulatory jurisdiction. A "street railway company" is a company operating streetcars, gasoline or electric or other self-propelled coaches for transportation of passengers within the Town of Walden's corporate limits and its environs.

(2) (a) (i) The driver of a vehicle on a highway upon meeting or overtaking from either direction any church bus which is stopped on the highway for the purpose of receiving or discharging passengers shall stop the vehicle before reaching such church bus and the driver shall not proceed until such church bus resumes motion or is signaled by the church bus driver to proceed or the visual signals on the bus are no longer actuated.

(ii) The provisions of this subsection shall not apply unless the church bus has the same type of safety equipment indicating the bus has stopped as is required for school buses.

(b) All motor vehicles in transporting passengers to and from churches in the Town of Walden are required to be distinctly marked "Church Bus" on the front and rear thereof in letters of not less than six inches (6") in height and so plainly written or printed and so arranged as to be legible to persons approaching such church bus, whether traveling in the same or the opposite direction.

(c)(i) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a church bus which is on a different roadway or when upon a controlled-access highway and the church bus is stopped in a loading zone which is

a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(ii) For the purpose of subdivision (2)(c)(i), "separate roadways" means roadways divided by an intervening space which is not suitable to vehicular traffic.

(d) Except as otherwise provided by this subsection, the church bus driver is required to stop such church bus on the right-hand side of the road or highway, and the driver shall cause the bus to remain stationary and the visual stop signs on the bus actuated until all passengers who should be discharged from the bus have been so discharged and until all passengers whose destination causes them to cross the road or highway at that place have negotiated such crossing. (as added by Ord. #96-174, § 1, Feb. 1996)

15-808. Putting glass, nails and other substances on highway prohibited--penalty. (1) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such highway.

(2) Any person who drops, or permits to be dropped or thrown upon any highway any _____¹ or injurious material shall immediately remove the same or cause it to be removed.

(3) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. (as added by Ord. #96-174, § 1, Feb. 1996)

15-809. Use of off-road vehicles on the highway. (1) Off-highway motor vehicles may be operated or driven upon a highway but only as follows:

(a) On a two-lane highway, only to cross such highway at an angle of approximately ninety degrees (90⁰) to the direction of the roadway and at a place where a quick and safe crossing may be made;

(b) With respect to the crossing of a highway having more than two (2) lanes, or a highway having limited access, such off-highway motor vehicles may cross such highways, but only at a place designated by the department of transportation or the Town of Walden with respect to highways under their respective jurisdictions as a place where such motor vehicles, or specified types of such motor vehicles, may cross the

¹The attachment to Ord. #96-174 (Feb. 1996) from which these provisions were taken was not legible and a legible copy could not be obtained by the codifier.

highways, and such vehicles shall cross such highways, only at such designated places and only in quick and safe manner; and

(c) The department of transportation and the Town of Walden with respect to highways under their respective jurisdictions may designate, by the erection of appropriate signs of a type approved by the department, places where such motor vehicles, or specified types of such motor vehicles, may cross any highway having more than two (2) lanes or having limited access.

(2) Off-highway motor-driven cycles may be moved, by non-mechanical means only, adjacent to a roadway, in such a manner so as to not interfere with traffic upon the highway, only for the purpose of gaining access to, or returning from, areas designed for the operation of off-highway vehicles, when no other route is available. The department or Town of Walden may designate access routes leading to off-highway parks as suitable for the operation of off-highway vehicles, if such access routes are available to the general public only for pedestrian and off-highway motor vehicle travel.

(3) An off-highway motor vehicle is a vehicle which is not driven or moved on the public highway and is limited to:

(a) Any motorcycle commonly referred to as a "dirt bike";

(b) Any snowmobile or other vehicle designed to travel exclusively over snow or ice;

(c) Any motor vehicle commonly referred to as a "sand buggy," "dune buggy," or "all terrain vehicle"; or

(d) Similar types of motor vehicles designed primarily for off-highway use. (as added by Ord. #96-174, § 1, Feb. 1996)

15-810. Child restraint device--violations--penalty. Any person transporting a child under four (4) years of age in a motor vehicle upon a road, street or highway is responsible for providing for the protection of the child and properly using a child passenger restraint system meeting federal motor vehicle safety standards. Nothing in this subsection restricts a mother from removing the child from the restraint system and holding the child when the mother is nursing the child, or attending to its other physiological needs. (as added by Ord. #96-174, § 1, Feb. 1996)

15-811. Use of safety belts in passenger vehicles. (1)(a) No person shall operate a passenger motor vehicle unless such person and all passengers four (4) years of age or older are restrained by a safety belt at all times the vehicle is in forward motion.

(b) No person four (4) years of age or older shall be a passenger in a passenger motor vehicle in the Town of Walden, unless such person is restrained by a safety belt at all times the vehicle is in forward motion.

(2) (a) The provisions of this section shall apply only to the operator and all passengers occupying the front seat of a passenger motor vehicle.

(b) If the vehicle is equipped with a rear seat which is capable of folding, the provisions of this section shall only apply to front seat passengers and the operator if the back seat is in the fold down position.

(3) As used in this section, unless specified otherwise, "passenger car" or "passenger motor vehicle" means any motor vehicle with a manufacturer's gross vehicle weight rating of eight thousand five hundred pounds (8,500 lbs.) or less, that is not used as a public or livery conveyance for passengers. "Passenger car" or "passenger motor vehicle" does not apply to motor vehicles which are not required by federal law to be equipped with safety belts.

(4) This chapter section does not apply to:

(a) A passenger or operator with a physically disabling condition whose physical disability would prevent appropriate restraint in such safety seat or safety belt; provided, that such condition is duly certified in writing by a physician who shall state the nature of the handicap, as well as the reason such restraint is inappropriate;

(b) A passenger motor vehicle operated by rural letter carrier of the United States Postal Service while performing the duties of a rural letter carrier;

(c) Utility workers, water, gas and electric meter readers in the course of their employment; or

(d) A newspaper delivery motor carrier service while performing the duties of a newspaper delivery motor carrier service; provided, that this exemption shall only apply from the time of the actual first delivery to the customer until the last actual delivery to the customer. (as added by Ord. #96-174, § 1, Feb. 1996)

15-812. Minimum speed regulation--impeding flow of traffic. (1) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law.

(2) Whenever the department of transportation or the Town of Walden within its respective jurisdiction determines on the basis of an engineering and traffic investigation that slow speeds on any part of a highway consistently impedes the normal and reasonable movement of traffic, the department or the Town of Walden may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

(3) Wherever there exists, at or near the top of any hill or grade, a turnout, passing bay or parking area adjacent to and to the right of any traffic lane of any state or federal highway within the state of Tennessee, any person driving or operating a truck or other slow-moving vehicle upon such traffic lane shall drive such truck or other slow-moving vehicle into and stop the same upon such turnout, passing bay or parking area and permit faster-moving vehicles following such truck or other slow-moving vehicle whose progress is being

retarded to pass; provided, that such turnout, passing bay or parking area is marked by a traffic sign. (as added by Ord. #96-174, § 1, Feb. 1996)

15-813. Headlights on motor vehicles--operation during inclement weather. (1) (a) The headlights of every motor vehicle shall be so constructed, equipped, arranged, focused, aimed, and adjusted, that they will at all times, and under normal atmospheric conditions and on a level road produce a driving light sufficient to render clearly discernable a person two hundred feet (200') ahead, but shall not project a glaring or dazzling light to persons in front of such headlights. Such headlights shall be displayed during the period from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise; during fog, smoke, or rain and at all other times when there is not sufficient light to render clearly discernable any person on the road at a distance of two hundred feet (200') ahead of such vehicle.

(2) Operation of headlights during periods of rain, as required in this section, shall be made during any time when rain, mist, or other precipitation, including snow, necessitates the constant use of windshield wipers by motorists.

15-814. Multiple beam road lighting equipment--failure to dim lights. Whenever the road lighting equipment on a motor vehicle is so arranged that the driver may select at will between two (2) or more distributions of light from headlights or lamps or auxiliary road lighting lamps or lights, or combinations thereof, directed to different elevations, the following requirements shall apply while driving during the times when lights are required:

(1) When there is no oncoming vehicle within five hundred feet (500'), the driver shall use an upper distribution of light; provided, that a lower distribution of light may be used when fog, dust, or other atmospheric conditions make it desirable for reasons of safety, and when within the confines of the Town of Walden where there is sufficient light to render clearly discernable persons and vehicles on the highway at a distance of five hundred feet (500') ahead and when following another vehicle within five hundred feet (500'); and

(2) When within five hundred feet (500') of an oncoming vehicle, a driver shall use a distribution of light so aimed that the glaring rays therefrom are not directed into the eyes of the oncoming driver. (as added by Ord. #96-174, § 1, Feb. 1996)

15-815. Following too closely. (1) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(2) The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another motor truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that

an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.

(3) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision does not apply to funeral processions.

(4) No motor truck of more than one and one-half (1 1/2) ton rated capacity shall approach any other motor truck of like or greater capacity proceeding in the same direction on any of the highways of this state without the corporate limits of the Town of Walden at a distance nearer than three hundred feet (300'), except in overtaking and passing such other trucks, or unless one (1) or both of such trucks shall have come to a stop or except in rendering assistance to a disabled or partly disabled truck. (as added by Ord. #96-174, § 1, Feb. 1996)

CHAPTER 9

REGISTRATION AND DRIVER'S LICENSE VIOLATIONS

SECTION

15-901. Driving or moving unregistered vehicle.

15-902. Display of registration plates.

15-903. License required.

15-906.¹ License to be carried and exhibited on demand.

15-901. Driving or moving unregistered vehicle. (1) It is a violation of this chapter section for any person to:

(a) Drive or move or for any owner knowingly to permit to be driven or moved upon any highway any vehicle of a type required to be registered, which is not registered or for which the appropriate fee has not been paid; or

(b)(i) Operate or for any owner knowingly to permit to be operated on lands, other than a highway, an off-highway motor vehicle for which certificate of title has not been issued or for which the appropriate fee has not been paid.

(ii) An off-highway motor vehicle is a vehicle which is not driven or moved on the public highway and is limited to:

(A) Any motorcycle commonly referred to as a "dirt bike";

(B) Any snowmobile or other vehicle designed to travel exclusively over snow or ice;

(C) Any motor vehicle commonly referred to as a "sand buggy," "dune buggy," or "all terrain vehicle"; or

(D) Similar types of motor vehicles designed primarily for off-highway use.

(c) When application accompanied by proper fee has been made for a certificate of title for a vehicle, it may be operated temporarily pending issuance of a certificate of title upon displaying a duplicate application therefore, duly verified by the county clerk of the county in which the vehicle has been registered, which shall be prepared by the county clerk, upon request, without the payment of additional fee. (as added by Ord. #96-174, § 1, Feb. 1996)

15-902. Display of registration plates. (1) The registration plate issued for passenger motor vehicles shall be attached on the rear of the vehicle. The

¹Ord. #96-174 (Feb. 1996) specified for these sections to be numbered as they appear here.

registration plate issued for those trucks with the manufacturer's ton rating not exceeding three-quarters (3/4) ton and have a panel or pickup body style, and also those issued for all motor homes, regardless of ton rating or body style thereof, shall be attached to the rear of the vehicle. The registration plate issued for all other trucks and truck tractors shall be attached to the front of the vehicle. All dealers' plates and registration plates issued to motorcycles, trailers or semi-trailers shall be attached to the rear of the vehicle.

(2) Every registration plate shall at all times be securely fastened in a horizontal position to the vehicle for which it is issued so to prevent the plate from swinging and at a height of not less than twelve inches (12") from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible and shall be maintained free from foreign materials and in a condition to be clearly legible. (as added by Ord. #96-174, § 1, Feb. 1996)

15-903. License required. (1) No person, except as hereinafter expressly exempted, shall drive any motor vehicle upon a highway in the Town of Walden unless such person has a valid driver license for the type or class of vehicle being driven;

(2) No person, except as hereinafter expressly exempted, shall steer or, while within the passenger compartment of such vehicle, exercise any degree of physical control of a vehicle being towed by a motor vehicle upon a highway within the corporate limits unless such person has a valid driver license for the type or class of vehicle being towed;

(3) No person shall receive a driver license unless and until such person surrenders to the department all valid licenses in such person's possession, issued to that person. (as added by Ord. #96-174, § 1, Feb. 1996)

15-906.¹ License to be carried and exhibited on demand. (1) Every licensee shall have such licensee's, operator's or chauffeur's license in immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of the Walden Municipal Court, or a Walden police officer; provided, that it is unlawful for any Walden law enforcement officer to demand the exhibition of such licenses, unless the operator of the motor vehicle is then engaged in, or immediately prior to such demand, has been engaged in, a violation of any ordinance of the Town of Walden or statute law of this state. Any police officer of the Town of Walden thereof, has the right to demand the exhibition of the license of any operator of a motor driven cycle, as defined in subsection (2), and effect the arrest of any person so found to be in violation of this section.

¹Ord. #96-174 (Feb. 1996) specified for these sections to be numbered as they appear here.

(2) "Motor-driven cycle" means every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred twenty-five cubic centimeters (125cc);¹ (as added by Ord. #96-174, § 1, Feb. 1996)

¹This is how § 15-906 ends in the attachment to Ord. # 96-174.

CHAPTER 10

REQUIRED EQUIPMENT ON VEHICLES

SECTION

- 15-1001. Motor vehicle requirements.
- 15-1002. Horns--bells, sirens or exhaust whistles on emergency vehicles.
- 15-1003. Mufflers.
- 15-1004. Windshield wipers.
- 15-1005. Brakes--equipment required on various type vehicles.
- 15-1006. Bumpers.
- 15-1007. Lights on vehicles other than motor vehicles.
- 15-1008. Lights required on motor vehicles.
- 15-1009. Motor vehicle windows with tinting, reflecting or sun screen material.
- 15-1010. Loose material hauled in open truck bed.
- 15-1011. Mudguards on trucks.

15-1001. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating equipment as is prescribed and required by the following sections 15-1002 through 15-1011. (as added by Ord. #96-174, § 1, Feb. 1996)

15-1002. Horns--bells, sirens or exhaust whistles on emergency vehicles.

(1) Every motor vehicle, when operated upon any road, street or highway within the corporate limits shall be equipped with a horn in good working order capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet (200'), and it is unlawful, except as otherwise provided in this section, for any vehicle to be equipped with or for any person to use upon a vehicle any siren, exhaust, compression or spark plug whistle or for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.

(2) Every police, fire department and fire patrol vehicle, and every ambulance and emergency repair vehicle of public service companies used for emergency calls, shall be equipped with a bell, siren, or exhaust whistle of a type approved by the department of the Town of Walden. Members of volunteer fire departments residing outside of the Town of Walden may equip vehicles, to be used in fire patrol work, with warning devices of the type approved by the department or by the sheriff of the county in which the vehicles are to be operated.

(3)(a) Members of regular or volunteer fire departments may equip their privately owned vehicles to be used in responding to a fire alarm or other

emergency with warning devices approved by the local fire chief, upon written certification to the local sheriff or police chief that such person is a member of such department. In the event such warning devices are abused or used for other than their intended purpose by a member of the fire department, the local fire chief shall revoke such member's privilege of using such warning devices and shall notify, in writing, the local sheriff or police chief of such revocation. (as added by Ord. #96-174, § 1, Feb. 1996)

15-1003. Mufflers. (1) No person shall drive a motor vehicle on any road, street or highway unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

(2) It is unlawful to use a "muffler cutout" on any motor vehicle upon any road, street or highway. (as added by Ord. #96-174, § 1, Feb. 1996)

15-1004. Windshield wipers. Every motor vehicle having a windshield shall be equipped with two (2) windshield wipers for cleaning rain, snow or other moisture from the windshield in order to provide clear vision for the driver, unless one (1) windshield wiper cleans to within one inch (1") of each side of windshield. (as added by Ord. #96-174, § 1, Feb. 1996)

15-1005. Brakes--equipment required on various type vehicles. (1) Every motor vehicle, other than a motorcycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two (2) separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two (2) wheels. If these two (2) separate means of applying brakes are connected in any way, they shall be so constructed that failure of any one (1) part of the operating mechanism shall not leave the motor vehicle without brakes on at least two (2) wheels.

(2) Every motorcycle, and bicycle with motor attached, when operated upon a highway shall be equipped with at least one (1) brake, which may be operated by hand or foot.

(3) Every trailer or semitrailer of a gross weight of three thousand pounds (3,000 lbs.) or more when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and the brakes shall be so designed and connected that in case of an accidental breakaway of the towed vehicles, the brakes shall be automatically applied.

(4) Every new motor vehicle, trailer, or semitrailer sold after May 21, 1937, operated upon the highways shall be equipped with service brakes upon all wheels of every such vehicle, except trucks and truck tractors having three (3) or more axles need not have brakes on the front wheels, unless such vehicles

are equipped with at least two (2) steerable axles, the wheels of one (1) such axle need not be equipped with brakes, except any motorcycle, and except that any semitrailer of less than one thousand five hundred pounds (1,500 lbs.) gross weight need not be equipped with brakes.

(5) The requirements of subsection (3) and (4) shall not apply to trailers which are not required to be registered and licensed and which are used by or on behalf of farmers:

(a) Transporting farm products or livestock from farm to market;

(b) Transporting products, equipment, materials or supplies used in agricultural pursuits from market to farm or in their transfer from farm to farm or from one (1) part of a farm to another part of the same farm; or

(c) Delivering such trailer to any farm. (as added by Ord. #96-174, § 1, Feb. 1996)

15-1006. Bumpers. (1) No person shall operate a motor vehicle on any road, street or highway unless the vehicle is equipped with a bumper or other energy absorption system with an analogous function.

(2)(a) No person shall operate a passenger vehicle, except a four-wheel drive recreational vehicle, of a type required to be registered under the laws of this state upon a public highway or street modified by reason of alteration of its altitude from the ground if its bumpers, measured to any point on a load-bearing member on the horizontal bumper bar, are more than twenty-two inches (22") above the ground, except that no vehicle shall be modified to cause the vehicle body or chassis to come in contact with the ground or expose the fuel tank to damage from collision or cause the wheels to come in contact with the body under normal operation, and that no part of the original suspension system; be disconnected to defeat the safe operation of the suspension system; provided, that nothing contained in this section shall prevent the installation of heavy duty equipment to include shock absorbers and overload springs; and provided further, that nothing contained in this section shall prevent a person from operating a motor vehicle on a public highway with normal wear of the suspension system if normal wear does not affect the control of the vehicle.

(b) No person shall operate a four-wheel drive recreational vehicle of a type required to be registered under the laws of this state upon a public highway or street modified by reason of alteration of its altitude from the ground if its bumpers, measured to any point on a load-bearing member on the horizontal bumper bar, are not within the range of fourteen inches (14") to thirty-one inches (31") above the ground, except that no vehicle shall be modified to cause the vehicle body or chassis to come in contact with the ground or expose the fuel tank to damage from

collision or cause the wheels to come in contact with the body under normal operation, and that no part of the original suspension system be disconnected to defeat the safe operation of the suspension system; provided, that nothing contained in this section shall prevent the installation _____¹ duty equipment to include shock absorbers and _____¹ and provided further, that nothing _____¹ shall prevent a person from operating a motor vehicle on a public highway with normal wear of the suspension system if normal wear does not affect the control of the vehicle. In the case of a four-wheel drive vehicle where the thirty-one inches (31") limitation is exceeded, the vehicle will comply with this section if the vehicle is equipped with a drop bumper. Such a drop bumper must be bolted and welded to the frame of the vehicle and be made of a strength equal to a stock bumper.

(3) This section does not apply to freight motor vehicles and/or other vehicles which have designs which would intrinsically preclude conformity with this provision. This section also shall not apply to any vehicle which has an unaltered and undamaged stock bumper or energy absorption system as supplied by the manufacturer of the vehicle.

(4) Any law enforcement officer charged with the enforcement of traffic laws and regulations may stop and inspect motor vehicles which appear to be operated in violation of this section. If, upon inspection, the vehicle is found to be in violation of this section, the operator shall be issued a citation stating the particulars of the violation and, in general, the repairs necessary to bring the vehicle into compliance with this section. The citation shall also state a time and place for appearance in a court of competent traffic jurisdiction, not less than fourteen (14) days from the date of the issuance of the citation.

(5) If the vehicle is found not to be in compliance with this section, the operator shall be fined not less than two hundred fifty dollars (\$250). Upon conviction of a second or subsequent offense involving the same vehicle for substantially the same defect, the registration of the vehicle and the driver licenses of the operator and the owner of the vehicle, if such persons are different, shall be suspended for one (1) year. The vehicle may, however, be operated for the purpose of traveling to and from an establishment or location where the repairs are to be performed.

(6) Nothing in this section shall be construed to establish standards higher than those formulated by the United States department of transportation for bumpers on passenger motor vehicles sold within the United States. (as added by Ord. #96-174, § 1, Feb. 1996)

¹The attachment to Ord. #96-174 (Feb. 1996) from which these provisions were taken was not legible and a legible copy could not be obtained by the codifier.

15-1007. Lights on vehicles other than motor vehicles. (1) Every vehicle other than a motor vehicle, when traveling upon a state highway, state aid road or other road, highway or street under the control of the state of Tennessee, the federal government or any political division thereof, dedicated, appropriated or open to public use or travel, and within the Town of Walden's corporate limits, shall be equipped with a light attached to and on the upper left side of such vehicle, capable of displaying a light visible five hundred feet (500') to the front and five hundred feet (500') to the rear of such vehicle under ordinary atmospheric conditions, and such light shall be displayed during the period from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise and at all other times when there is not sufficient light to render clearly discernible any person on the road or highway at a distance of two hundred feet (200') ahead of such vehicle.

(2) Cotton wagons used exclusively to transport cotton shall not be required to display the light described in subsection (1), but shall display:

(a) A red tail lamp on the lower left corner of the rear of such wagon; and

(b) A triangle-shaped slow-moving vehicle identification emblem meeting Standard S276.8 of the American Society of Agricultural Engineers. Such emblem shall be placed on the lower left corner of the rear of such wagon. The user of a cotton wagon shall be responsible for the proper function of the symbol or light, except for any malfunction resulting from the act or omission of another person.

(3) Horse drawn vehicles which are used on the highways primarily as a means of transportation shall:

(a) Be equipped on the top with a battery powered white strobe light of a type approved for rural mail carriers under Tennessee Code Annotated § 55-9-413 and shall have at least one hundred (100) square inches of reflector tape placed on the rear of the vehicle; or

(b) Be equipped with two (2) reflective type lanterns, one to be placed on the left side of the vehicle and one to be placed on the right side of the vehicle with the lantern on the right side to be placed at least twelve inches (12") higher than the lantern on the left, and shall also have a minimum of one hundred (100) square inches of reflector tape placed on the rear of the vehicle, thirty-six inches (36") of reflector tape placed on each side of the vehicle, and twenty-four inches (24") of reflector tape placed at the highest point of the left front of the vehicle. (as added by Ord. #96-174, § 1, Feb. 1996)

15-1008. Lights required on motor vehicles. (1) (a) Every motor vehicle other than a motorcycle, road roller, road machinery or farm tractor shall be equipped with at least two (2) and not more than four (4) headlights, with at least one (1) on each side of the front of the motor vehicle.

(b) Auxiliary road lighting lamps may be used, but not more than two (2) of such lamps shall be lighted at any one (1) time in addition to the two (2) required headlights.

(c) No spotlight or auxiliary lamp shall be so aimed upon approaching another vehicle that any part of the high intensity portion of the beam therefrom is directed beyond the left side of the motor vehicle upon which the spotlight or auxiliary lamp is mounted, nor more than one hundred feet (100') ahead of such motor vehicle.

(2)(a) Every motor vehicle shall be equipped with two (2) red tail lamps and two (2) red stoplights on the rear of such vehicle, and one (1) tail lamp and one (1) stoplight shall be on each side, except that passenger cars manufactured or assembled prior to January 1, 1968, and motorcycles and motor-driven cycles shall have at least one (1) red tail lamp and one (1) red stoplight.

(b) The stoplight shall be so arranged as to be actuated by the application of the service or foot brake and shall be capable of being seen and distinguished from a distance of one hundred feet (100') to the rear of a motor vehicle in normal daylight, but shall not project a glaring or dazzling light.

(c) The stoplight may be incorporated with the tail lamp.

(3) Each lamp and stoplight required in this section shall be in good condition and operational.

(4)(a) No vehicle operated in the Town of Walden shall be equipped with any flashing red light which displays to the front of such vehicle, except school buses, authorized law enforcement vehicles only when used in combination with a flashing blue light, and emergency vehicles used in firefighting, including ambulances, emergency vehicles used in firefighting which are owned or operated by the division of forestry, firefighting vehicles, rescue vehicles, privately owned vehicles of regular or volunteer fire fighters, or other emergency vehicles used in firefighting owned, operated, or subsidized by the governing body of the Town of Walden.

(b) Any emergency rescue vehicle owned, titled and operated by a state chartered rescue squad, a member of the Tennessee Association of Rescue Squads, privately owned vehicles of regular or volunteer fire fighters, and marked with lettering at least three inches (3") in size and displayed on the left and right sides of the vehicle designating it an "Emergency Rescue Vehicle," any authorized civil defense emergency vehicle displaying the appropriate civil defense agency markings of at least three inches (3"), and any ambulance or vehicle equipped to provide emergency medical services properly licensed as required in the state of Tennessee and displaying the proper markings, shall also be authorized to be lighted in one (1) or more of the following manners:

- (i) A red light visibar type with P.A. system;
- (ii) A red oscillating type light; and
- (iii) Blinking red lights, front and rear.

(c) Any vehicle, other than an emergency vehicle authorized by this section to display flashing red lights, or authorized law enforcement vehicle using red and blue lights in combination, which displays any such lights shall be considered in violation of this provision. (as added by Ord. #96-174, § 1, Feb. 1996)

15-1009. Motor vehicle windows with tinting, reflecting or sunscreen material. It is unlawful for any person to operate, upon a public highway, street or road, any motor vehicle registered in this state, in which any window, which has a visible light transmittance equal to, but not less than that specified in the Federal Motor Vehicle Safety Standard No. 205, has been altered, treated or replaced by the affixing, application or installation of any material which:

- (1) Has a visible light transmittance of less than thirty-five percent (35%); or
- (2) With the exception of the manufacturer's standard installed shade band, reduces the visible light transmittance in the windshield below seventy percent (70%). (as added by Ord. #96-174, § 1, Feb. 1996)

15-1010. Loose material hauled in open truck bed. (1) Any truck, or other motor vehicle, with an open bed, which is operated on any highway, road, or street open for public use within the Town of Walden's corporate limits, shall be loaded so that any loose material transported therein remains at least four inches (4") below the walls of such open bed, measured at the front, back and side walls; but such load may be piled higher in the center of such open bed. "Loose material" includes any substance which could spill, drop off, or blow away from the open bed when the vehicle is operated. "Loose material" does not include materials such as sand or salt which are purposefully discharged from truck beds to clear roadways or improve traction, and shall not include water sprayed on streets for purposes of sanitation.

(2)(a) A charge for violation of this section shall be brought against the hauler whose vehicle is found in violation; however, the hauler may recoup one-half (1/2) of the fine from the producer or loader of the material hauled in violation of this section.

(3) As used in this section, "hauler" includes both the owner and the driver of a vehicle, and both parties shall be jointly liable. Only one (1) fine shall be imposed on a hauler, regardless of the difference between ownership and operation, and the party or parties paying the fine shall have a right of recoupment against the producer or loader either in whole or in accordance with such producer's or loader's share of payment.

(4)(a) This section shall not include farm produce going to market.

(b) The provisions of this section shall not apply to motor vehicles which transport crushed stone, field dirt and rocks, soil, bulk sand, coal, phosphate muck, asphalt, concrete, or other building materials, forest products, unfinished lumber, agricultural lime and

agricultural products and which are loaded in compliance with the four inch (4") requirement of this section. Such exemption shall not apply to any load if any law enforcement officer sees any part of such material blowing off such vehicle. (as added by Ord. #96-174, § 1, Feb. 1996)

15-1011. Mudguards on trucks. (1) No person shall operate upon a public highway or street any motor vehicle, including a separate truck tractor (normally used in a tractor-trailer combination), or combination of vehicles having a carrying capacity in excess of three thousand pounds (3,000 lbs.), if such motor vehicle or combination of vehicles is not equipped with rear fenders, mudflaps or mudguards of such size as to substantially prevent the projection of rocks, dirt, water or other substances to the rear. Such fenders, flaps or guards shall be of the type approved by the Commissioner of Safety.

(2) This section shall have no application to farm vehicles, or vehicles used by farmers to haul produce from farm to market, nor shall it apply to vehicles used exclusively for hauling logs. (as added by Ord. #96-174, § 1, Feb. 1996)

TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.
3. CURB CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials.

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet.

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

Property maintenance regulations: title 13.

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any private property owner or occupant of private property in the Town of Walden to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (Ord. #89, Oct. 1985)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign.

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law.

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes.

16-108. Obstruction of drainage ditches. (1) The Board of Mayor and Alderman of the Town of Walden shall appoint a Driveway Drainage Inspector. It shall be the responsibility of such inspector to coordinate with the Building Inspection Department of Hamilton County, Tennessee, which department also serves as the Building Inspector for the Town of Walden, to inspect each new construction site within fifteen (15) days after a building permit is issued, to inform the owner of the property of the requirements for installation of driveways, and to make a subsequent inspection to determine that each driveway installed has been constructed in accordance with the specifications set out in the Subdivision Regulations of the Town of Walden, upon notification from the property owner or his agent that such construction is complete and ready for inspection.

¹Municipal code reference
Building code: title 12.

Each property owner shall be charged and shall pay a total fee of twenty-five dollars (\$25.00) for such driveway inspections.

The Driveway Drainage Inspector shall receive the sum of twenty dollars (\$20.00) for each final inspection made by him for completed construction of each driveway, or driveways, from each separate property owner's property. The remaining portion of the fee in the amount of five dollars (\$5.00) shall be retained by the Town of Walden to cover the expenses of administering this program of driveway drainage inspection.

(2) It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way. (Ord. #97, Oct. 1986, as modified)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk.

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the town recorder.

16-111. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk or street or alley in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk or street or alley. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section.

16-112. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk.

CHAPTER 2

EXCAVATIONS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Safety restrictions on excavations.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, including utility districts to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter. It shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the town recorder is open for business, and the permit shall be retroactive to the date when the work was begun.

16-202. Applications. Applications for such permits shall be made to the town recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the town recorder within twenty-four (24) hours of its filing.

16-203. Fee. The fee for such permits shall be twenty dollars (\$20.00).

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the town recorder a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and, laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the town recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the town recorder a surety bond in such form and amount as the town recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration.

16-205. Safety restrictions on excavations. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation 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.

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this town shall restore the street, alley, or public place to its original condition except for the surfacing, which shall be done by the town but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the town recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the town, an accurate account of the

expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel.

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance 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 recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate.

16-208. 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 recorder.

16-209. Supervision. The person designated by the board of mayor and aldermen shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the town and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences.

CHAPTER 3

CURB CUTS

SECTION

- 16-301. Permit required.
- 16-302. Requirements.
- 16-303. Application contents and fee.
- 16-304. Exercise of police power.
- 16-305. Violation; penalties.

16-301. Permit required. A "curb cut permit" shall be required for any curb cut made to any public right-of-way within the town and will be issued only upon the submission of a curb cut permit application (the "application").¹ (as added by Ord. #2013-296, Sept. 2013)

16-302. Requirements. (1) All curb cuts and the location of such curb cuts shall be approved by the board of mayor and aldermen of the town (the "board") or a designee of the board that has experience in the field of traffic engineering/analysis, such designee to include without limitation a traffic engineer with the Tennessee Department of Transportation. When determining whether to approve any such curb cut permit, the board or its designee shall consider customary traffic standards and best practices and may consider without limitation the following:

- (a) The lot size and the adequate number of curb cuts;
- (b) The need to locate curb cuts as far as practically possible from intersections;
- (c) The width of the applicable driveways;
- (d) The need to have driveways located perpendicular to the street line; and
- (e) The need to have adequate sight lines.

(2) All curb cuts on state roads shall require approval from the Tennessee Department of Transportation. The board, or its designee, may impose reasonable conditions upon the issuance of a curb cut permit or deny such curb cut permit if it finds that the granting of the curb cut permit would result in, create, or constitute a detriment to the town and the safety and welfare of its citizens. (as added by Ord. #2013-296, Sept. 2013)

16-303. Application contents and fee. The application shall be submitted a minimum of ten (10) days prior to any work being performed with respect to the curb cut and shall include the following:

¹The application for a curb cut permit is of record in the recorder's office.

- (1) A map identifying the location of the proposed curb cut.
- (2) A statement whereby the property owner agrees to defend, indemnify and hold harmless the town from any liability arising from the permitted activity and agreeing to abide by any conditions imposed upon the curb cut permit, the provisions of this chapter and all other laws, rules and regulations of the town.
- (3) In the case of curb cuts on non-residential properties, a traffic study prepared by an engineer licensed under the laws of the State of Tennessee. (as added by Ord. #2013-296, Sept. 2013)

16-304. Exercise of police power. This chapter is enacted as an exercise of the town's police powers and shall not be construed to impose any duty by the town or the board to the property owner or to any member of the public, nor shall any curb cut permit be construed as a waiver of any violation of ordinance or any rules and regulations of the town or the State of Tennessee. (as added by Ord. #2013-296, Sept. 2013)

16-305. Violation; penalties. It shall be a misdemeanor for any person, corporation or other organization to violate any of the provisions of this chapter or the conditions imposed upon any curb cut permit issued hereunder, which shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00). (as added by Ord. #2013-296, Sept. 2013)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

(RESERVED FOR FUTURE USE)

¹Refuse and trash disposal is conducted by Mountain Sanitation, a private contractor.

TITLE 18

WATER AND SEWERS¹

CHAPTER 1

WATER QUALITY PROGRAM RULES AND REGULATIONS

SECTION

18-101. Hamilton County water quality rules and regulations.

18-101. Hamilton County water quality rules and regulations.² The Hamilton County water quality rules and regulations are included by reference as if fully set out herein.

¹NOTE: Water and Sewer services are provided to the residents of the Town of Walden by the Walden Ridge Utility District.

²The Hamilton County water quality rules and regulations (and any amendments) may be viewed in the office of the recorder.

TITLE 19

ELECTRICITY AND GAS¹

(RESERVED FOR FUTURE USE)

¹NOTE: The Electric Power Board of Chattanooga provides electric power for the residents of Walden.

Gas service is provided by the Chattanooga Gas Company.

See title 9 of this municipal code for cable television provisions.

TITLE 20

MISCELLANEOUS

CHAPTER

1. AIR POLLUTION CONTROL.
2. RECREATIONAL FACILITIES.
3. SWIMMING POOLS.
4. AMATEUR RADIO STATIONS, TELECOMMUNICATIONS AND WIRELESS COMMUNICATION FACILITIES.
5. FALLING WATER FALLS STATE NATURAL AREA.
6. MABBITT SPRINGS NATURAL AREA PROHIBITED ACTIVITIES.
7. REPEALED.

CHAPTER 1

AIR POLLUTION CONTROL

SECTION

20-101. Air pollution control.

20-101. Air pollution control. (1) The Chattanooga-Hamilton County Air Pollution Control Regulations (as amended) are hereby adopted as the Air Pollution ordinance for the Town of Walden,¹ Tennessee, and are included herein by reference.

¹The Walden Air Pollution Ordinance (and any amendments) may be viewed in the office of the recorder.

CHAPTER 2

RECREATIONAL FACILITIES

SECTION

- 20-201. No alcoholic beverages.
- 20-202. No glass containers.
- 20-203. No gum or hard candy.
- 20-204. No smoking.
- 20-205. Shoes required.
- 20-206. No littering.
- 20-207. Certain age restrictions.
- 20-208. Unruly conduct.
- 20-209. Recorded music.
- 20-210. Supervision of children.
- 20-211. Zip line.
- 20-212. Park closing.
- 20-213. Skate boards and roller skates.
- 20-214. Destruction of property.
- 20-215. Pets.
- 20-216. Risk of use.
- 20-217. Special use permit.
- 20-218. Violations.
- 20-219. Additional rules and regulations.
- 20-220. Severability.

20-201. No alcoholic beverages. No person shall possess or drink any alcoholic beverages (including, but not limited to, beer, wine or hard liquor) on any of the recreational facilities adjacent to the Walden Town Hall. (Ord. #96-180, July 1996)

20-202. No glass containers. No person shall possess or use any glass containers on any of the recreational facilities adjacent to the Walden Town Hall. (Ord. #96-180, July 1996)

20-203. No gum or hard candy. No gum or hard candy may be chewed or consumed by any person or child while on any of the recreational facilities adjacent to the Walden Town Hall. (Ord. #96-180, July 1996)

20-204. No smoking. No smoking (cigarettes, pipes or cigars) shall be permitted on any of the recreational facilities adjacent to the Walden Town Hall because of the presence of children and the hazard of fire. (Ord. #96-180, July 1996)

20-205. Shoes required. All persons shall be required to wear shoes at all times while on any of the recreational facilities adjacent to the Walden Town Hall. (Ord. #96-180, July 1996)

20-206. No littering. No person shall litter any of the recreational facilities adjacent to the Walden Town Hall. All persons generating trash or other refuse while using such recreational facilities shall deposit or place such trash and refuse in one or more of the garbage cans located within such recreational facilities. (Ord. #96-180, July 1996)

20-207. Certain age restrictions. The Tot Lot within the Pumpkin Patch is limited to children ages 2-5 and the parents or guardians of such children and shall be so posted. The big sliding board within the Pumpkin Patch shall be used only by children ages 5 and older and shall be so posted. (Ord. #96-180, July 1996)

20-208. Unruly conduct. No person shall engage in any unruly conduct within the recreational facilities adjacent to the Walden Town Hall which, for purposes of this chapter shall be deemed to mean conduct which is intended, or which can be reasonably be expected, to (1) cause danger to themselves or others, (2) threaten or intimidate other persons using such recreational facilities, or (3) unreasonably interfere with the ability of other persons to use and enjoy such recreational facilities. (Ord. #96-180, July 1996)

20-209. Recorded music. No radios, tape players, CD players or other electronic device playing recorded music (individually and collectively, and "electronic device") shall be permitted to be used within any of the recreational facilities adjacent to the Town Hall except (1) electronic devices whose sound is being transmitted solely through a head-set for a person using such electronic device, and (2) within the picnic pavilion provided that (a) sound volume at which such electronic device is played at a reasonable level and in any event does not carry more than twenty-five (25) feet beyond any side of the picnic pavilion, and (b) no other persons using the picnic pavilion object to the use of such electronic device. If any person objects to such electronic device being used and so advises the user thereof, such electronic device shall not be permitted to be used thereafter within the picnic pavilion while such persons are present. (Ord. #96-180, July 1996)

20-210. Supervision of children. All children ages twelve (12) and under shall be supervised by their parent, guardian or other adult having temporary custody of such child, or a family member of such child age sixteen (16) or older. The parent, guardian or other adult responsible for supervision of any child under the age of twelve (12) shall be responsible for ensuring the compliance by such child with the provisions of this chapter. (Ord. #96-180, July 1996)

20-211. Zip line. Use of the zip lines within the Pumpkin Patch shall be limited to one person at a time on each line and shall be so posted. (Ord. #96-180, July 1996)

20-212. Park closing. The recreational facilities adjacent to the town hall shall close at sunset and no persons shall use or otherwise be present on such grounds after sunset. (Ord. #96-180, July 1996)

20-213. Skate boards and roller skates. No person shall use skate boards or roller skates within the recreational facilities adjacent to the town hall. (Ord. #96-180, § 13, July 1996)

20-214. Destruction of property. Defacement, destruction, removal or disturbance of the shelters, signs, equipment, natural features or other property on the recreational facilities adjacent to the town hall shall be prohibited. (as added by Ord. #09-282, Oct. 2009)

20-215. Pets. No pets of any kind are allowed on the recreational facilities adjacent to the town hall. (as added by Ord. #09-282, Oct. 2009)

20-216. Risk of use. All users of the recreational facilities adjacent to the town hall are using the facilities at their own risk and agree that the Town of Walden shall not be held responsible for any injury or loss that may occur as a result of such use. (as added by Ord. #09-282, Oct. 2009)

20-217. Special use permit. A special permit is required for the use of the recreational facilities adjacent to the town hall by a group of fifteen (15) or more persons or for any activity that is disruptive or potentially disruptive to the operations of the recreational facility. A special use permit must be obtained from the town recorder or other designated representative and such permit may, at the discretion of the town recorder or other designated representative, contain restrictions on the date and time of usage. In addition, a fee in such amount as determined by the board of mayor and aldermen from time-to-time may be required in connection with the issuance of the special use permit. A special use permit must be obtained no later than seven (7) days prior to the scheduled date. Refunds for the special use permit fee will be given if written notice of a cancellation is given to the town recorder or other designated representative within five (5) days of the scheduled date. (as added by Ord. #09-282, Oct. 2009)

20-218. Violations. Each violation of this chapter may be punished by fines not less than one dollar (\$1.00) nor more than fifty dollars (\$50.00). In addition to the payment of fines for any violations, failure to follow the rules and regulations for the recreational facilities adjacent to the town hall could cause

the violator's right to use the park to be suspended or terminated. (Ord. #96-180, July 1996, as renumbered by Ord. #09-282, Oct. 2009)

20-219. Additional rules and regulations. The board of mayor and aldermen for the Town of Walden may adopt from time to time such additional rules and regulations relating to the use of recreational areas adjacent to the town as they deem necessary. (as added by Ord. #09-282, Oct. 2009)

20-220. Severability. If any section or provision of this chapter is found unenforceable for any reason, such finding shall not affect the remaining section or provision of this chapter. (Ord. #96-180, July 1996, as renumbered by Ord. #09-282, Oct. 2009)

CHAPTER 3

SWIMMING POOLS

SECTION

20-301. Definitions.

20-302. Building permit required.

20-303. Electrical requirements.

20-304. Final inspection; enclosure.

20-305. Violations; penalty.

20-301. Definitions. The term "swimming pool" is hereby defined as a receptacle for water or an artificial pool of water having a depth at any point of more than two (2) feet intended for the purpose of immersion or partial immersion therein. (Ord. #97-183, § 1, Jan. 1997)

20-302. Building permit required. No public or private swimming pool installations, alterations, or repair work shall be commenced until a building permit shall first have been obtained from the town. Construction is to be done in accordance with the Standard Building Code where applicable. (Ord. #97-183, § 2, Jan. 1997)

20-303. Electrical requirements. All electrical wires, lights, electric motors and similar electrical apparatus in or around private residential swimming pools shall be constructed and maintained in accordance with the requirements of Article 680 of the National Electrical Code. (Ord. #97-183, § 3, Jan. 1997)

20-304. Final inspection; enclosure. (1) Swimming pools shall not be filled with water until the fence and gates have been approved by the building inspector. For the safety of others, before final inspection, the pool shall be completely enclosed with a wall, fence or other substantial structure not less than four feet (4') in height above ground level or otherwise constructed as to be difficult to climb. All gates shall be equipped with self closing, self latching devices. Self closing and self latching devices must be kept in good working order.

(2) Private swimming pool installations must be complete, completely filled with water and in operation before final inspection. (Ord. #97-183, § 4, Jan. 1997)

20-305. Violations; penalty. (1) It shall be unlawful to construct, maintain, install or enlarge any swimming pool in the Town of Walden except in compliance with all of the provisions of this chapter.

(2) A violation of any provision of this chapter may be punished by fine not to exceed fifty dollars (\$50.00) per violation with each day's violation to constitute a separate offense. (Ord. #97-183, § 5, Jan. 1997)

CHAPTER 4

AMATEUR RADIO STATIONS, TELECOMMUNICATION AND
WIRELESS COMMUNICATION FACILITIES

SECTION

- 20-401. Definitions.
- 20-402. Purpose and goals.
- 20-403. Applicability.
- 20-404. Registration of WCFs, amateur radio stations and telecommunication facilities
- 20-405. Development standards.
- 20-406. Approval procedure.
- 20-407. Temporary communication facilities.
- 20-408. Shared facilities and co-location policy.
- 20-409. Existing WCFs, amateur radio stations and TCFs.
- 20-410. Coordination with federal law.
- 20-411. Severability.
- 20-412. Repeal of laws in conflict.

20-401. Definitions. (1) "Antenna array." An antenna array is one or more devices used for the transmission and/or reception of electromagnetic signals, which may include omni-directional antennae, directional antennae, parabolic antennae, microwave dishes or horns and other types of equipment for the transmission and/or receipt of such signals. The antenna array does not include the support structure defined below.

(2) "Attached wireless communication facility, attached amateur radio station or attached telecommunication facility." An attached WCF, attached amateur radio station or attached TCF is an antenna array that is attached to an existing building or structure ("attachment structure"), which structures shall include but not be limited to utility poles, signs, water towers, with any accompanying pole or device ("attachment device") which attaches the antenna array to the existing building or structure and associated connection cables, and an equipment facility which may be located either inside or outside of the attachment structure.

(3) "Co-location/site sharing." Co-location/site sharing shall mean the use of a common WCF, amateur radio station or TCF or common site by two or more wireless license holders or by one wireless license holder for more than one type of communications technology and/or placement of a WCF, amateur radio station or TCF on a structure owned or operated by a utility or other public entity.

(4) "Equipment facility." An equipment facility is any structure used to contain ancillary equipment for WCFs, amateur radio stations and TCFs

which include cabinets, shelters, a build-out of an existing structure, pedestals, and other similar structures.

(5) "Height." When referring to a WCF, amateur radio station or TCF, height shall mean the distance measured from the surface of the naturally occurring terrain to the highest point on the WCF, amateur radio station or TCF, including the antenna array.

(6) "Review process." As used herein, review process shall mean that process set forth in section 20-406.

(7) "Set back." Set back shall mean the required distance from the property line of the parcel on which the WCF, amateur radio or telecommunication facility is located to the support structure.

(8) "Support structure." A support structure is a structure designed and constructed specifically to support an antenna array, and may include a monopole, self-supporting (lattice) tower, guy-wire support tower and other similar structures. Any attachment device which is used to attach an attached WCF to an attachment structure shall be excluded from the definition in regulations applicable to support structures.

(9) "Telecommunications facility" or "TCF." A facility, other than a WCF or an amateur radio station, that transmits and/or receives electromagnetic signals and may include omni-directional antennae, directional antennae, parabolic antennae, microwave dishes or horns, and other types of equipment for the transmission and/or receipt of such signals.

(10) "Temporary communication facility." Temporary communication facility shall mean a WCF, amateur radio station or TCF which is to be placed in use for a limited period of time, is not deployed in a permanent manner, and does not have a permanent foundation.

(11) "Wireless communication facility" or "WCF." A facility for the transmission and or reception of wireless communication services, usually consisting of an antenna array, transmission cables, an equipment facility, and a support structure to achieve the necessary elevation.

(12) "Wireless communication facility." A WCF is any unstaffed or staffed facility for the transmission and or reception of wireless communication services, usually consisting of an antenna array, transmission cables, an equipment facility, and a support structure to achieve the necessary elevation. (Ord. #98-199, June 1998, as amended by Ord. #99-208, July 1999, and Ord. #2015-306, Oct. 2015)

20-402. Purpose and goals. The purpose and intent of this chapter is to provide a uniform and comprehensive set of standards for the placement of WCFs, amateur radio stations and TCFs. The regulations contained herein are designed to protect and promote the public health, safety, community welfare and the aesthetic quality of the Town of Walden; while at the same time not unduly restricting the development of needed WCFs, amateur radio stations and TCFs.

The goals of this chapter are to:

- (1) Protect the visual character of the town from the potential adverse effects of WCFs, amateur radio stations and TCFs;
- (2) Provide a range of locations for WCFs, amateur radio stations and TCFs in a variety of zones;
- (3) Within each zone, provide clear performance standards addressing the siting of WCFs, amateur radio stations and TCFs;
- (4) Encourage the location of WCFs, amateur radio stations and TCFs on existing structures, including utility poles, signs, water towers, buildings and other WCFs and TCFs; and
- (5) Encourage co-location and site sharing of new and existing WCFs, amateur radio stations and TCFs. (Ord. #98-199, June 1998, as amended by Ord. #99-208, July 1999)

20-403. Applicability. (1) All WCFs, amateur radio stations and TCFs operative on the effective date of this chapter¹ shall be allowed to continue their present usage. Routine maintenance shall be permitted on such existing WCFs, amateur radio stations and TCFs. New construction other than routine maintenance shall comply with the requirements of this chapter.

(2) A WCF, amateur radio station or TCF that has received town approval prior to the effective date of this chapter,¹ in the form of either a building permit or conditional use exception, but has not yet been constructed or placed in operation shall be considered an existing facility so long as such approval is current and not expired.

(3) Relationship to other ordinances. This chapter shall supersede all conflicting requirements of other codes and ordinances regarding the locating and permitting of WCFs, amateur radio stations and TCFs. (Ord. #98-199, June 1998, as amended by Ord. #99-208, July 1999)

20-404. Registration of WCFs, amateur radio stations and telecommunication facilities. (1) Registration requested. All telecommunications carriers and providers that offer or provide any telecommunications services for a fee directly to the public, either within the Town of Walden, or outside the corporate limits from telecommunications facilities within the town by way of a WCF, along with all amateur radio operators and those owning or operating TCFs, shall register with the town pursuant to this section on forms to be provided by the town recorder, which shall include the following:

- (a) The identity and legal status of the registrant, including any affiliates.

¹These provisions were taken from Ordinance No. 99-208 which passed final reading July 19, 1999.

(b) The name, address and telephone number of the individual, officer, agent or employee responsible for the accuracy of the registration statement.

(c) A narrative and map description of the registrant's existing or proposed WCF, amateur radio station or TCF within the town.

(d) A description of the telecommunications services, if any, that the registrant intends to offer or provide, or is currently offering or providing, to persons, firms, businesses or institutions within the town.

(e) Information sufficient to determine that the applicant has applied for and received any construction permit, operating license, or other approvals required by the Federal Communications Commission (FCC) to provide telecommunications services or amateur radio operations within the town.

(f) Such other information as the town recorder may reasonably require.

(2) Registration fee. Each application for registration as a telecommunications carrier or provider or amateur radio operator shall be accompanied by a fee of one hundred fifty dollars (\$150.00) as set forth by resolution of the board of mayor and aldermen.

(3) Purpose of registration. The purpose of registration under this section is to:

(a) Provide the town with accurate and current information concerning the telecommunications carriers and providers who offer or provide telecommunications services within the town, that conduct amateur radio operations within the town or that own or operate TCFs within the town;

(b) Assist the town in the enforcement of this chapter;

(c) Assist the town in the collection and enforcement of any license fees or charges that may be due the town; and

(d) Assist the town in monitoring compliance with local, state and federal laws. (Ord. #98-199, June 1998, as amended by Ord. #99-208, July 1999)

20-405. Development standards.

(1) Height standards.

(a) Attached WCFs, amateur radio stations and TCFs.

(i) Wholesale and light industry zone (M-2). In any wholesale and light industry zone, an attached WCF, amateur radio station or TCF shall not add more than twenty (20) feet to the existing building or structure to which it is attached and shall not exceed a maximum height of fifty-five (55) feet.

(ii) Local business zone (C-2). In any local business zone, an attached WCF, amateur radio station or TCF shall not add more than twenty (20) feet to the existing building or structure to

which it is attached and shall not exceed a maximum height of fifty-five (55) feet.

(iii) Urban residential zone (R-2A). In any urban residential zone, an attached WCF, amateur radio station or TCF shall not add more than twenty (20) feet to the existing building or structure to which it is attached and shall not exceed a maximum height of fifty-five (55) feet.

(iv) Rural residential zone (R-R). In any rural residential zone, an attached WCF, amateur radio station or TCF shall not add more than twenty (20) feet to the existing building or structure to which it is attached and shall not exceed a maximum height of fifty-five (55) feet.

(v) Single family residential zone (R-1). In any single family residential zone, an attached WCF, amateur radio station or TCF shall not add more than twenty (20) feet to the existing building or structure to which it is attached and shall not exceed a maximum height of fifty-five (55) feet.

(vi) Agricultural zone (A-1). In any agricultural zone, an attached WCF, amateur radio station or TCF shall not add more than twenty (20) feet to the existing building or structure to which it is attached and shall not exceed a maximum height of fifty-five (55) feet.

In any proposed site in a zone not mentioned above, the maximum height for WCFs, amateur radio stations and TCFs, whether attached or with support structures, shall be thirty-five (35) feet.

(b) WCFs, amateur radio stations and TCFs with support structures.

(i) Wholesale and light industry zone (M-2). In any wholesale and light industry zone, the maximum height for WCFs, amateur radio stations and TCFs shall be fifty-five (55) feet.

(ii) Local business zone (C-2). In any local business zone, the maximum height for WCFs, amateur radio stations and TCFs shall be fifty-five (55) feet.

(iii) Urban residential zone (R-2A). In any urban residential zone, the maximum height for WCFs, amateur radio stations and TCFs shall be thirty-five (35) feet.

(iv) Rural residential zone (R-R). In any rural residential zone, the maximum height for WCFs, amateur radio stations and TCFs shall be thirty-five (35) feet.

(v) Single family residential zone (R-1). In any single family residential zone, the maximum height for WCFs, amateur radio stations and TCFs shall be thirty-five (35) feet.

(vi) Agricultural zone (A-1). In any agricultural zone, the maximum height for WCFs, amateur radio stations and TCFs shall be thirty-five (35) feet.

In any proposed site in a zone not mentioned above, the maximum height for WCFs, amateur radio stations and TCFs, whether attached or with support structures, shall be thirty-five (35) feet.

(2) Set back standards.

(a) Deleted. This subsection was deleted by Ord. #99-213, Nov. 9, 1999.

(b) Equipment facilities. All equipment facilities shall meet the setback requirements for buildings for the underlying zone in which they are located.

(c) WCFs, amateur radio stations and TCFs. WCFs, amateur radio stations and TCFs shall be located not closer than a distance equal to one hundred percent of the height of the WCF, amateur radio station or TCF from any adjoining lot line. Guy-wires and appurtenant equipment and buildings shall comply with the setback requirements of the underlying zoning district in which the tower is located.

(3) Landscaping and screening.

(a) Generally. In order to minimize the visibility of tower facilities, a natural screen shall be erected if not already provided at the perimeter of the property on all four sides, so as to provide the maximum feasible screening as determined by the board of mayor and aldermen. Any natural screen shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound, shall be a minimum of ten (10) feet in height when planted, shall have a growth potential of at least twenty (20) feet, and shall be planted in staggered rows spaced fifteen to twenty (15-20) feet apart. In addition, a fence may be added which shall be a minimum of four and one-half (4 1/2) feet in height and shall be of a style of construction that provides a visual shield of the facilities. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer.

(b) Maintenance of landscape screen and fencing. The required landscape screening, and fencing if utilized, must be maintained at all times in a condition satisfying the requirements of this section by the owner of the lot on which the WCF, amateur radio station or TCF is located or the party owning or operating the WCF, amateur radio station or TCF, or both. This requirement includes the obligation to replace any and all parts of the landscape screen and/or fencing that may be destroyed by weather or other force or event. Any dead or diseased plant

material shall be replaced with new plantings that meet the requirements of this section. In the event that such landscape screen and/or fencing is not maintained as required by this section, the owner of the lot on which the WCF, amateur radio station or TCF is located and the owner or operator of the WCF, amateur radio station or TCF shall be jointly and severally liable for the cost incurred by the town in providing such maintenance.

(c) Performance bond required. Any party which owns or operates a WCF, amateur radio station or TCF shall be required to obtain and provide to the town, at the time of application for the requisite permit, a performance bond ensuring compliance with the requirements of this section.

(4) Aesthetics/placement, materials and colors.

(a) WCFs, amateur radio stations and TCFs. Every WCF, amateur radio station and TCF, and any support structure, shall be of neutral colors that are harmonious with, and that blend with, the natural features, buildings and structures surrounding such WCF, amateur radio station, TCF and support structures; provided, however, that directional or panel antennae and omni-directional or whip antennae located on the exterior of a building that will also serve as a support structure shall be of colors that match, and cause the antennae to blend with, the exterior of the building.

(b) Equipment facilities. Equipment facilities shall, to the extent practicable, use materials, colors and textures that will blend with the natural setting and built environment.

(5) Lighting. WCFs, amateur radio stations and TCFs shall not be artificially lighted, except for:

(a) Shielded security and safety lighting. Security and safety lighting of equipment buildings if such lighting is appropriately down-shielded to keep light within the boundaries of the site; and

(b) Federally required lighting. Such lighting of the WCF, amateur radio station or TCF as may be required by the Federal Aviation Administration ("FAA"), FCC, or other applicable authority installed in a manner to minimize impacts on adjacent residences.

(6) Signs. No advertising material or signage other than warning or equipment information shall be allowed on any antenna or tower. This prohibition shall include attachment to an antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.

(7) Noise. No equipment shall be operated at a WCF, amateur radio station or TCF so as to produce noise in excess of 50 dBA between the hours of 10 p.m. and 7 a.m. Any noise measurements shall be made at the property line of the impacted site. When instrumentation cannot be placed at the property line, the measurement shall be made as close thereto as is reasonable. However,

noise measurements shall not be made at a distance less than twenty-five feet from a noise source.

(8) Security fencing. WCFs, amateur radio stations or TCFs with support structures shall be enclosed by a security fence not less than six (6) feet in height and the support structure shall be equipped with an appropriate anti-climbing device; provided, however, that the governing authority may waive such requirements, as it deems appropriate; however, nothing herein shall prevent security fencing which is necessary to meet other requirements of state or federal agencies.

(9) Radio frequency emissions.

(a) Federal preemption. The Telecommunications Act of 1996 ("TCA") gives the Federal Communication Commission ("FCC") sole jurisdiction in the field of regulation of radio frequency ("RF") emissions and WCFs, amateur radio stations and TCFs which meet the FCC standards shall not be conditioned or denied on the basis of RF impacts.

(b) Ongoing information. In order to provide information to its citizens, copies of ongoing FCC information concerning WCFs and radio frequency emission standards shall be made available. Applicants for WCFs, amateur radio stations and TCFs shall be required to provide information on the projected power density of the facility and how this meets the FCC standards.

(10) Appurtenant equipment and buildings.

(a) Antennae mounted on structures or roof tops. The equipment cabinet or structure to be used in association with an antenna may be located on a roof provided that such equipment or structure is placed as unobtrusively as possible. Equipment storage buildings or cabinets shall comply with all applicable building and zoning code requirements.

(b) Antennae mounted on utility poles, light poles or towers. The equipment cabinet or structure used in association with an antenna shall be sited in accordance with the development standards of the underlying zoning district. Equipment cabinets or structures shall be screened from view by an evergreen hedge or other suitable vegetation, except where the use of non-vegetative screening would better reflect and complement the architectural character of the surrounding neighborhood.

(11) Abandonment and obsolescence. Any WCF, amateur radio station or TCF that is not operated for a continuous period of three (3) months shall be considered abandoned, and the owner of such WCF, amateur radio station or TCF shall remove the WCF, amateur radio station or TCF within 60 days of receipt of notice from the governing authority notifying the owner of such abandonment. If such WCF, amateur radio station or TCF is not removed within said 60 days, the governing authority may remove the WCF, amateur radio station or TCF and the owner of the lot on which the WCF, amateur radio station or TCF is located and the owner or operator of the WCF, amateur radio

station or TCF shall be jointly and severally liable for the cost incurred by the town as a result of such removal. If there are two or more users of a single WCF, amateur radio station or TCF then this provision shall not become effective until all users cease using the WCF, amateur radio station or TCF. (Ord. #98-199, June 1998, as amended by Ord. #99-208, July 1999)

20-406. Approval procedure.

(1) Hearing body. The body that shall review and approve WCFs, amateur radio stations and TCFs pursuant to a hearing body review shall be the board of mayor and aldermen.

(2) Application contents. Each applicant requesting a permit subject to a hearing body review shall submit a scaled plan and scaled elevation view and other supporting drawings, prepared, approved, signed and sealed by a licensed professional engineer registered in the State of Tennessee, along with calculations and other documentation showing the location and dimensions of the WCF, amateur radio station or TCF and all improvements associated therewith, including information concerning support structure specifications, antenna location, equipment facilities and landscaping. Each applicant shall also submit a scaled drawing of any existing adjacent structures, a site plan addressing drainage from the site, and if relevant, documentation and supporting drawings regarding topography and existing vegetation. The hearing body may require additional information relevant to its consideration of whether the application meets the development standard.

(3) Notice. Notice of the application and a public hearing by the hearing body shall be given in accordance with the procedures under the zoning ordinance for notice of applications and hearings before the hearing body.

(4) Hearing. The hearing body shall render a decision on the application under the hearing body review after a public hearing is held in accordance with procedures specified by the zoning ordinance or regulations adopted by the hearing body.

(5) Review criteria. The review criteria to be applied by the review body are the development standards set forth in section 20-405, provided that in locations where the visual impact of the WCF would be minimal, the applicable development standards may be reduced or waived so long as the approval of the WCF meets the purpose and goals of this chapter as set forth in section 20-402.

(6) Findings. All decisions rendered by the hearing body under a hearing body review shall be supported by findings of fact and conclusions of law based upon substantial evidence in the record.

(7) Timing of decision. The hearing body shall render its decision within 60 days of application, unless the hearing body can demonstrate that more time is required and that the time extension is agreed to by the applicant.

(8) Appeals. Any person, firm, or corporation aggrieved by any decision of the board of mayor and aldermen may appeal as provided by law to a court of competent jurisdiction.

(9) Conditional use permits ("CUP").

(a) Approval body. The body that shall review and approve conditional use permits shall be the board of mayor and aldermen.

(b) Application contents. Each applicant requesting a CUP under this chapter shall submit a scaled plan and scaled elevation view and other supporting drawings, prepared, approved, signed and sealed by a licensed professional engineer registered in the State of Tennessee, along with calculations and other documentation showing the location and dimensions of the WCF, amateur radio station or TCF and all improvements associated therewith, including information concerning support structure specifications, antenna location, equipment facilities and landscaping. Each applicant shall also submit a scaled drawing of any existing adjacent structures, a site plan addressing drainage from the site, and if relevant, documentation and supporting drawings regarding topography and existing vegetation. The hearing body may require additional information relevant to its consideration of whether the application meets the development standard.

(c) Notice. Notice of the application and a public hearing by the hearing body shall be given in accordance with the procedures under the zoning ordinance for notice of applications and hearings before the approval body.

(d) Hearing. The approval body shall approve the application for a CUP after a public hearing is held in accordance with procedures specified by the zoning ordinance or regulations adopted by the approval body.

(e) Conditional use criteria.

(i) Development standards. Every application for a CUP shall be reviewed for compliance with the development standards set forth in section 20-405; provided that the applicable development standards may be reduced or waived so long as the approval of the WCF, amateur radio station or TCF meets the goals and purpose of section 20-402. The development standards may be increased as provided in subsection e(ii) below.

(ii) Conditional use conditions. The approval body may impose conditions in addition to the development standards if all of the following findings have been made:

(A) The WCF, amateur radio station or TCF would result in probable significant adverse visual impacts on nearby residences.

(B) The conditions are based upon the purpose and goals of this chapter as set forth in section 20-402 and other adopted policies or regulations of the jurisdiction.

(C) The conditions are reasonable and capable of being accomplished.

(f) Findings. All decisions rendered by the approval body under a CUP shall be supported by findings of fact and conclusions of law based upon substantial evidence in the record.

(g) Timing of decision. The approval body shall render its decision within 60 days of application, unless the approval body can demonstrate that more time is required and the time extension is agreed to by the applicant.

(h) Appeals. Any person, firm, or corporation aggrieved by any decision of the board of mayor and aldermen may appeal as provided by law to a court of competent jurisdiction. (Ord. #98-199, June 1998, as amended by Ord. #99-208, July 1999, and Ord. #2015-306, Oct. 2015)

20-407. Temporary communication facilities. Temporary communication facilities are permitted, upon the approval of the board of mayor and aldermen, for a term not to exceed 30 days with a possible 30 day extension. (Ord. #98-199, June 1998, as amended by Ord. #99-208, July 1999)

20-408. Shared facilities and co-location policy.

(1) FCC licensed wireless communication providers, amateur radio operators and owners or operators of TCFs are encouraged to construct and site WCFs, amateur radio stations and TCFs with a view towards sharing facilities with other utilities, to co-location with other existing WCFs, amateur radio stations and TCFs and to accommodating the future co-location of other WCFs, amateur radio stations and TCFs where technically, practically, and economically feasible.

(2) FCC licensed wireless communication providers proposing a new WCF, amateur radio station or TCF with a support structure shall demonstrate that a reasonable attempt was made to find a co-location site acceptable to engineering standards and that none was practically or economically feasible. (Ord. #98-199, June 1998, as amended by Ord. #99-208, July 1999)

20-409. Existing WCFs, amateur radio stations and TCFs. (1) All WCFs, amateur radio stations and TCFs operative on the effective date of this chapter¹ shall be allowed to continue their present usage. Routine maintenance shall be permitted on such existing WCFs, amateur radio stations and TCFs.

¹These provisions were taken from Ordinance No. 99-208 which passed final reading July 19, 1999.

New construction other than routine maintenance shall comply with the requirements of this chapter.

(2) A WCF, amateur radio station or TCF that has received town approval prior to the effective date of this chapter¹ in the form of either a building permit or conditional use exception, but has not yet been constructed or placed in operation shall be considered an existing facility so long as such approval is current and not expired. (Ord. #98-199, June 1998, as amended by Ord. #99-208, July 1999)

20-410. Coordination with federal law. Whenever the governing authority finds that the application of this chapter would unreasonably discriminate among providers of functionally equivalent personal wireless services or prohibit or have the effect of prohibiting the provision of personal wireless services, a conditional use permit waiving any or all of the provisions of this chapter may be granted. (Ord. #98-199, June 1998, as amended by Ord. #99-208, July 1999)

20-411. Severability. If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not effect the validity of the remaining portions hereof. (Ord. #98-199, June 1998, as amended by Ord. #99-208, July 1999)

20-412. Repeal of laws in conflict. This chapter supersedes all ordinances or parts of ordinances adopted prior hereto which are in conflict herewith, to the extent of such conflict. (Ord. #98-199, June 1998, as amended by Ord. #99-208, July 1999)

CHAPTER 5

FALLING WATER FALLS STATE NATURAL AREA

SECTION

20-501. Class I State Natural Area.

20-502. Prohibited activities.

20-503. Violation and penalty.

20-501. Class I State Natural Area. 1. The area designated as the Falling Water Falls Designated State Natural Area has been established pursuant to those provisions in Tennessee Code Annotated, § 11-14-108, amended for the purpose of designating Falling Water Falls State Natural Area in Hamilton County, Tennessee, as a Class I State Natural Area. The said natural area comprises an area of approximately 136 acres, of which 9.2 acres are located in the Town of Walden. Pursuant to those provisions in Tennessee Code Annotated, § 11-14-111, the Tennessee Department of Environment and Conservation shall seek the cooperation of the Town of Walden, in conjunction with an agreement with the State of Tennessee Department of Environment and Conservation for the purpose of planning, development, and administration of the said portion of the natural area in the Town of Walden.

2. Certain provisions relating to said natural area are set forth in the agreement between the Tennessee Department of Environment and Conservation and the Town of Walden by documents entered into on the day of _____ (month/year). (as added by Ord. #2000-223, Oct. 2000)

20-502. Prohibited activities. The following items, activities and/or uses thereof are hereby prohibited in the natural area:

1. Horses
2. Motorized vehicles including ATV's and motorcycles
3. Mountain bikes
4. Littering
5. Collecting plants, animals, and all other natural features
6. Hiking off of designated trails
7. Pets
8. Firearms
9. Hunting and trapping
10. Camping
11. Open fires
12. Rock climbing and rappelling
13. Use of the natural area between dusk and dawn
14. Consumption or possession of alcoholic beverages, controlled substances, and other intoxicating drugs or chemicals
15. No smoking. (as added by Ord. #2000-223, Oct. 2000)

20-503. Violation and penalty. Introducing any of foregoing devices and/or uses or engaging in any of the foregoing prohibited activities are hereby declared to be unlawful and the violation of the provisions hereof are hereby declared to be subject to the general penalty clause of the code of ordinances of the Town of Walden, Tennessee. (as added by Ord. #2000-223, Oct. 2000)

CHAPTER 6

MABBITT SPRINGS NATURAL AREA PROHIBITED ACTIVITIES

SECTION

20-601. Prohibited activities.

20-602. Violation.

20-601. Prohibited activities. The following items, activities and/or uses thereof are hereby prohibited in said natural area:

1. Motorized vehicles including ATV's and motorcycles;
2. Mountain bikes;
3. Littering;
4. Collecting plants, animals, and all other natural features;
5. Hiking off of designated trails;
6. Firearms;
7. Hunting and trapping;
8. Camping;
9. Open fires;
10. Rock climbing and rappelling;
11. Use of the natural area between dusk and dawn;
12. Consumption or possession of alcoholic beverages, controlled substances, and other intoxicating drugs or chemicals;
13. Smoking;
14. And other use that may be viewed as reasonably disruptive to the natural area. (as added by Ord. #2002-233, Nov. 2002)

20-602. Violation. Introducing any of the foregoing devices and/or uses or engaging in any of the foregoing prohibited activities are hereby declared to be unlawful and the violation of the provisions hereof are hereby declared to be subject to the general penalty clause of the code of ordinances of the Town of Walden, Tennessee. (as added by Ord. #2002-233, Nov. 2002)

CHAPTER 7

(this chapter was repealed by Ord. #2016-309, April 2016)

Final ready

ORDINANCE NO. 93-150

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION OF THE ORDINANCES OF THE TOWN OF WALDEN, TENNESSEE

WHEREAS, some of the ordinances of the Town of Walden are obsolete, and

WHEREAS, some of the other ordinances of the Town of Walden are inconsistent with each other or are otherwise inadequate, and

WHEREAS, the Board of Mayor and Aldermen of the Town of Walden, 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 Walden Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF WALDEN, TENNESSEE, THAT:

Section 1. Ordinances Codified. The ordinances of the Town of Walden 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, as amended on second reading are ordained and adopted as the "Town of Walden 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 of Walden or authorizing the issuance of any bonds or other evidence of the Town of Walden's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of the Town of Walden; any ordinances 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 of Walden; 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 of Walden.

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, wherever in the municipal code, including the codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or any offense or a misdemeanor, or wherever in the municipal code the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of the municipal code shall be punishable by a penalty of not more than Fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section 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.

When any person is fined for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate offense.

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.

