

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 REPEALED.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.
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- 20-216. Risk of use.
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- 20-218. Violations.
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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)